

The Inspection Panel

Investigation Report

India: Mumbai Urban Transport Project (IBRD
Loan No. 4665-IN; IDA Credit No. 3662-IN)

December 21, 2005

About The Panel

The Inspection Panel was created in September 1993 by the Board of Executive Directors of the World Bank to serve as an independent mechanism to ensure accountability in Bank operations with respect to its policies and procedures. The Inspection Panel is an instrument for groups of two or more private citizens who believe that they or their interests have been or could be harmed by Bank-financed activities to present their concerns through a Request for Inspection. In short, the Panel provides a link between the Bank and the people who are likely to be affected by the projects it finances.

Members of the Panel are selected “*on the basis of their ability to deal thoroughly and fairly with the request brought to them, their integrity and their independence from the Bank’s Management, and their exposure to developmental issues and to living conditions in developing countries.*”¹ The three-member Panel is empowered, subject to Board approval, to investigate problems that are alleged to have arisen as a result of the Bank having ignored its own operating policies and procedures.

Processing Requests

After the Panel receives a Request for Inspection it is processed as follows:

- The Panel decides whether the Request is *prima facie* not barred from Panel consideration.
- The Panel registers the Request—a purely administrative procedure.
- The Panel sends the Request to Bank Management, which has 21 working days to respond to the allegations of the Requesters.
- The Panel then conducts a short 21 working-day assessment to determine the eligibility of the Requesters and the Request.
- If the Panel does not recommend an investigation, and the Board of Executive Directors accepts that recommendation, the case is considered closed. The Board, however, may approve an investigation against the Panel’s recommendation if warranted.
- Three days after the Board decides on whether or not an investigation should be carried out, the Panel’s Report (including the Request for Inspection and Management’s Response) is publicly available at the Bank’s Info Shop and the respective Bank Country Office.
- If the Panel recommends an investigation, and the Board approves it, the Panel undertakes a full investigation, which is not time-bound.

¹ IBRD Resolution No. 93-10; IDA Resolution No. 93-6.

- When the Panel completes an investigation, it sends its findings and conclusions on the matters alleged in the Request for Inspection to the Board as well as to Bank Management.
- The Bank Management then has six weeks to submit its recommendations to the Board on what actions the Bank would take in response to the Panel's findings and conclusions.
- The Board then takes the final decision on what should be done based on the Panel's findings and the Bank Management's recommendations.
- Three days after the Board's decision, the Panel's Report and Management's Recommendation are publicly available through the Panel's website and Secretariat, the Bank's Project website, the Bank's Info Shop and the respective Country Office.

Table of Contents

ABOUT THE PANEL	I
TABLE OF CONTENTS	III
FIGURES, TABLES, BOXES AND PICTURES	VI
ACKNOWLEDGEMENTS	VIII
ABBREVIATIONS AND ACRONYMS	IX
EXECUTIVE SUMMARY	XI
PART I: INTRODUCTION.....	1
CHAPTER 1 INTRODUCTION.....	2
A. EVENTS LEADING TO THE INVESTIGATION.....	2
1. <i>Requests for Inspection.....</i>	<i>2</i>
2. <i>Management Response.....</i>	<i>8</i>
3. <i>Eligibility of the Request.....</i>	<i>12</i>
4. <i>The Board Decision.....</i>	<i>13</i>
B. DESCRIPTION OF THE PROJECT.....	13
1. <i>The Setting</i>	<i>13</i>
2. <i>The Project Objectives.....</i>	<i>14</i>
3. <i>Financing and Legal Structure of the Project.....</i>	<i>15</i>
4. <i>The Project Design.....</i>	<i>16</i>
5. <i>Resettlement under the Rail Component.....</i>	<i>21</i>
6. <i>Resettlement under the Road Component.....</i>	<i>22</i>
C. APPLICABILITY OF BANK OPERATIONAL POLICIES AND PROCEDURES TO THE PROJECT.....	23
D. THE INVESTIGATION.....	24
PART II: SOCIAL COMPLIANCE.....	25
CHAPTER 2 THE PROJECT HISTORY AND FRAMEWORK.....	26
A. RETROSPECTIVE VIEW ON THE HISTORY OF THE PROJECT.....	26
1. <i>Two Projects for Mumbai: the Resettlement Project and the Infrastructure Project.....</i>	<i>26</i>
2. <i>Recommendation and Decision to Merge the Two Projects</i>	<i>40</i>
3. <i>Conclusion.....</i>	<i>46</i>
4. <i>Public Consultation and Information Regarding the Merger Decision.....</i>	<i>47</i>
5. <i>Issues Regarding Information Given to the Bank’s Executive Directors</i>	<i>47</i>
5.1 <i>Differing Estimates of Number of People to be Resettled</i>	<i>47</i>
5.2 <i>Basis for Merging the Two Projects.....</i>	<i>49</i>
5.3 <i>Non-Disclosure of Resettlement Risks.....</i>	<i>49</i>
6. <i>Insufficient Risk Analysis.....</i>	<i>51</i>
7. <i>Downsizing the Organizational Set-Up for Resettlement.....</i>	<i>51</i>
B. THE CURRENT POLICY AND INSTITUTIONAL FRAMEWORK.....	54
1. <i>The R&R Policy Framework for MUTP and the Link with the Slum Rehabilitation Provisions.....</i>	<i>54</i>
2. <i>The Resettlement Action Plan.....</i>	<i>57</i>
3. <i>Differences between Rail and Road Components of Project</i>	<i>57</i>
4. <i>Institutional Capacity and Delegation of Responsibilities to NGOs</i>	<i>58</i>
CHAPTER 3 PLANNING FOR DISPLACEMENT AND RESETTLEMENT	62
A. SURVEYS OF PROJECT AFFECTED PEOPLE, BASELINE INCOME AND IMMOVABLE ASSETS	62
1. <i>The Surveys.....</i>	<i>62</i>
2. <i>Entities Conducting the Surveys.....</i>	<i>64</i>
3. <i>Methodology Used for Surveys</i>	<i>64</i>

4.	<i>Consequences of Problems in Methodology</i>	70
4.1	<i>Conflicting Descriptions of Affected Population</i>	70
4.2	<i>Problems in Assessing the Costs and Feasibility of Resettlement</i>	75
4.3	<i>Failure to Develop Appropriate Baseline to Assess Impoverishment Risks and Other Effects</i>	76
4.4	<i>Neglecting Community Assets</i>	76
5.	<i>Issues in Relation to Shopkeepers and Other Commercial PAPs</i>	77
6.	<i>Private Ownership of Land and Shops at the Old Locations</i>	79
B.	ACCESS TO INFORMATION AND CONSULTATION WITH PAPs	83
1.	<i>Access to Information</i>	83
2.	<i>Consultation under the Project</i>	89
C.	SELECTION OF RESETTLEMENT SITES	92
1.	<i>Acquisition of Resettlement Sites</i>	94
2.	<i>Consideration of the Requesters' Proposals for Alternative Sites</i>	98
D.	MECHANISMS FOR RESOLVING GRIEVANCES	99
1.	<i>The Structure of the Grievance Redressal Mechanism</i>	100
2.	<i>The Functioning of the Grievance Redressal Mechanism</i>	102
CHAPTER 4 THE SPECIAL CASE OF THE SHOPKEEPERS		106
A.	ASSESSMENT OF THE SITUATION AND NEEDS OF SHOPKEEPERS	108
1.	<i>Commercial Rehabilitation Needs</i>	108
2.	<i>Differences between Rail and Road Components of Project</i>	109
3.	<i>The Number of Shopkeepers and Shops Needed</i>	109
B.	THE PROPOSED NEW SHOPS	111
1.	<i>The Non-Strategic Location of New Shops</i>	111
2.	<i>Limited Floor Space</i>	112
3.	<i>The Equipment of the Shops, Commercial Licenses, Inventory</i>	115
C.	ASSESSMENTS OF EMPLOYEE PAPs	115
D.	IMPACTS OF ADDITIONAL ROAD WIDENING	119
E.	CONCLUSION	120
CHAPTER 5 INCOME RESTORATION		122
A.	ECONOMIC REHABILITATION	124
1.	<i>Assessment and Risk Analysis of Income Loss</i>	124
2.	<i>Income Loss Due to Reduced Earnings/Job Losses</i>	127
B.	EFFECTS ON INCOME OF COSTS AND EXPENSES ASSOCIATED WITH RESETTLEMENT	133
1.	<i>Erosion of Income from Higher Travel Expenses</i>	133
2.	<i>Costs of Shifting</i>	134
3.	<i>Maintenance Costs at the Resettlement Sites</i>	135
C.	IMPACT OF INCOME EROSION AND LOSS ON THE MOST VULNERABLE	138
D.	ADDRESSING EFFECTS ON INCOMES AND LIVING STANDARDS	139
1.	<i>Compensation for Lost Employment and other Economic Losses</i>	139
2.	<i>Training of PAPs and Employment Opportunities of PAPs in the Project</i>	141
3.	<i>Ration Cards</i>	141
4.	<i>The Capacity to Rehabilitate and Improve PAPs' Standard of Living</i>	142
E.	CONCLUSION	142
CHAPTER 6 CONCERNS RELATED TO THE RESETTLEMENT SITES AND LIVING CONDITIONS		145
A.	BUILDING SERVICES, QUALITY AND FUNCTIONING	147
1.	<i>Design and Construction Quality of Buildings</i>	147
2.	<i>Water, Sewerage Systems and Waste Disposal</i>	148
3.	<i>Electricity, Elevators, Parking and Security</i>	151
4.	<i>Housing Cooperatives</i>	152
5.	<i>Provision of Social Services</i>	154
B.	INSTITUTIONAL CAPACITY FOR POST-RESETTLEMENT	156
C.	TRANSFER AND RIGHTS REGARDING THE NEW FLATS AND SHOPS	157

1.	<i>Sale or Lease of Flats Acquired under Resettlement.....</i>	<i>157</i>
2.	<i>Property Rights Regarding Flats and Shops at Resettlement Sites</i>	<i>158</i>
PART III: ENVIRONMENTAL COMPLIANCE		160
CHAPTER 7 ENVIRONMENTAL COMPLIANCE		161
A.	ENVIRONMENTAL IMPACT ASSESSMENT.....	161
1.	<i>Environmental Screening.....</i>	<i>161</i>
2.	<i>Preparation of Environmental Assessments in the Project Cycle.....</i>	<i>161</i>
3.	<i>Environmental Assessment of Resettlement Sites.....</i>	<i>163</i>
4.	<i>Integrated Consideration of Natural and Social Aspects.....</i>	<i>166</i>
5.	<i>Independence and Competence of the Entities Conducting Environmental Assessment</i>	<i>167</i>
6.	<i>Consideration of Alternatives under OP 4.01</i>	<i>168</i>
7.	<i>Conclusion.....</i>	<i>169</i>
B.	ENVIRONMENTAL PROBLEMS AT THE PROJECT / RESETTLEMENT SITES	169
1.	<i>Waterways.....</i>	<i>169</i>
2.	<i>Air Quality / Industrial Emissions.....</i>	<i>170</i>
3.	<i>Deonar Municipal Solid Waste Dump</i>	<i>170</i>
4.	<i>Deonar Abattoir.....</i>	<i>171</i>
5.	<i>Solid Waste Management at Resettlement Sites.....</i>	<i>172</i>
6.	<i>Management of Storm Water Drains.....</i>	<i>172</i>
7.	<i>Radioactive Waste from the Bhabha Atomic Research Center (BARC).....</i>	<i>173</i>
8.	<i>Destruction of Mangroves and Other Trees</i>	<i>173</i>
9.	<i>Environmental Problems at the Resettlement Sites.....</i>	<i>174</i>
PART IV: PROJECT SUPERVISION		176
CHAPTER 8 PROJECT SUPERVISION		177
A.	RESPONSIBILITY FOR PROJECT IMPLEMENTATION AND SUPERVISION.....	178
B.	SOCIAL PROBLEM IDENTIFICATION AND CORRECTIVE ACTIONS	180
1.	<i>Assessment of Numbers of People to be Resettled and Costs.....</i>	<i>180</i>
2.	<i>Shopkeepers and Other Commercial Issues.....</i>	<i>182</i>
3.	<i>Institutional Capacity of NGOs and MMRDA for Resettlement.....</i>	<i>183</i>
4.	<i>Grievance Mechanism.....</i>	<i>185</i>
5.	<i>Income Restoration.....</i>	<i>186</i>
6.	<i>Post Resettlement Issues.....</i>	<i>187</i>
C.	ENVIRONMENTAL PROBLEM IDENTIFICATION AND CORRECTIVE ACTIONS	190
D.	CONSULTATION WITH AFFECTED PEOPLE DURING SUPERVISION.....	193
E.	SUPERVISION: STAFF EXPERTISE AND MISSION COMPOSITION.....	193
1.	<i>Mission Frequency and Duration</i>	<i>193</i>
2.	<i>Staff and Mission Expertise.....</i>	<i>194</i>
F.	RECENT STEPS TO COMPLY	195

FIGURES, TABLES, BOXES AND PICTURES

Figures

- Figure 1.1: Cost of MUTP and Bank Financing by Component
- Figure 1.2: The Policy Framework for R&R Under the MUTP
- Figure 3.1: Resettlement Budget and Estimated Project Affected Persons
- Figure 4.1: Information in Project Documents Regarding the Number of Affected Shopkeepers and Shops Needed in MUTP
- Figure 8.1: Supervision Structure for MUTP
- Figure 8.2: Composition of Experts on Missions

Tables

- Table 1.1: Permanent Resettlement Sites by Location and Option
- Table 3.1: Conflicting Estimates of Numbers of People Displaced by MUTP
- Table 4.1: Wage-Worker PAPs: Returns from 8 Business Associations
- Table 6.1: MUTP Resettlement Sites - the Status of the Water Supply (May 2005)
- Table 7.1: Weighting of Attributes of Sites for Resettlement

Boxes

- Box 1.1: The Flooding in Mumbai in July 2005
- Box 2.1: Land Rights Uncertainties for Shopkeepers: The Case of Powai ITT
- Box 3.1: The Participatory Approach and "Chalk-Marks" Method of Survey
- Box 3.2: Changing Projects and Places - MUTP and MUIP
- Box 3.3: Land Rights in Mumbai
- Box 3.4: Problems with a PIC
- Box 3.5: TDRs as a Mechanism to Acquire Land to Resettle Displaced Persons
- Box 3.6: The Case of Rahul Nagar
- Box 4.1: Group Discussion with Wage Employees in Project Affected Business
- Box 5.1: Re-Housing without Income: A Vendor
- Box 5.2: Main Findings of the TISS Report on Income Erosion
- Box 5.3: Income Loss by Mankhurd Poultry Trader
- Box 5.4: Income Loss by Widow in Plastic Flower Business
- Box 5.5: Food Crisis for Maid & Ex-Rickshaw-Wallah
- Box 6.1: Grievances in First Weeks of Relocation - Mankhurd B (May 2005)
- Box 6.2: Renting the New Flats to Make Ends Meet

Pictures

- Picture 1.1: Lumber Shop along SCLR Road
- Picture 3.1: Drains along Mankhurd Resettlement Site
- Picture 4.1: Panel Chairperson Visiting Textile Shop at SCLR
- Picture 4.2: A Typical Textile Shop at SCLR
- Picture 7.1: Waste Dump near Mankhurd

ANNEXES

- Annex A: Table of Findings
- Annex B: Situation after Relocation: Baseline Data
- Annex C: Biographies

MAPS

- Map 1: IBRD 33538R – MUTP Project Location
- Map 2: IBRD 33539R – MUTP: Santa Cruz – Chembur Link Road
- Map 3: IBRD 33314R – MUTP: Santa Cruz Chembur Link Road, Shopkeepers’ Locations
- Map 4: IBRD 33540R - MUTP: Mankhurd Site
- Map 5: MUTP: Road and Rail Projects (Courtesy of MMRDA)

Acknowledgements

The preparation of this Report would not have been possible without the support and valuable contributions of many people and organizations. The Panel wishes to thank the Requesters, local NGOs, and individuals who met with the Panel in the Project areas, National and State Government officials in New Delhi and Mumbai, MMRDA officials and staff, and the NGOs SPARC, NSDF and SRS. The Panel also wishes to extend its gratitude to former and current Bank staff. The Panel especially expresses its appreciation to the representatives of the Requesters for arranging visits with affected people and for showing the Panel areas of concern to them, to MMRDA officials and staff for their cooperation in providing documents, discussing points of concern, and facilitating the Panel's work in the Project area, and to SPARC, NSDF and SRS for their cooperation. The Panel thanks Bank staff especially for their assistance in obtaining documents, for providing the Panel with information, responding promptly to written requests, and for assisting with logistical arrangements.

The Panel is grateful for the expert advice provided by Professor Michael Cernea, anthropology and sociology, Professor Alan Rew, anthropology and sociology, Professor Richard Fuggle, environmental sciences, and Dr. Renu Modi, sociology. The Panel appreciates the professionalism exhibited by them during the field visits and office consultations.

Finally, the Panel wishes to convey its gratitude and appreciation to the members of its Secretariat for their resourceful handling of this investigation, particularly to Eduardo Abbott, Anna Sophie Herken, Peter Lallas and Zachary Liscow for their expertise and professional assistance.

ABBREVIATIONS AND ACRONYMS

BARC	Bhabha Atomic Research Centre
BEST	Bombay Electricity and Suburban Transport Corporation
BSES	Baseline Socio-Economic Survey
BTO	Back to Office Report
BURP	Bombay Urban Resettlement & Rehabilitation Project
CBO	Community Based Organization
CEMP	Community Environmental Management Plan
CO	Country Office
CTS	Comprehensive Transport Study
EA	Environmental Assessment
EEH	Eastern Express Highway
EMCB	Environmental Management and Capacity Building
EMP	Environmental Management Plan
ERR	Economic Rates of Return
FLGRC	Field Level Grievance Redressal Committee
FSI	Floor Space Index
GNRs	Gazi Nagar Requesters
GoI	Government of India
GoM	Government of the State of Maharashtra
GNSS	Gazi Nagar Sudhar Samiti
HWS	Hanuman Welfare Society
IBRD	International Bank for Reconstruction and Development
ICR	Implementation Completion Report
IDA	International Development Association
IM	Implementation Manual
IMP	Independent Monitoring Panel
INT	Institutional Integrity (Department of Institutional Integrity)
IR	Indian Railway
ISR	Implementation Status Report
JHRSS	Jai Hanuman Rahiwasi Sewa Sangh
JVLR	Jogeshwari-Vikhroli Link Road
MCGM	Municipal Corporation of Greater Mumbai
MHADA	Maharashtra Housing Area and Development Authority
MIG	Middle Income Group
MLEA	Micro-Level Environmental Assessment
MMR	Mumbai Metropolitan Region
MMRDA	Mumbai Metropolitan Regional Development Authority
MRCC	Mumbai Regional Congress Committee
MRVC	Mumbai Railway Vikas Corporation
MSRDC	Maharashtra State Roads Development Corporation
MURP	Mumbai Urban Resettlement Project

MUTP	Mumbai Urban Transport Project
MVECS	Motor Vehicle Emission Control Strategy
NGO	Non-Governmental Organization
NSDF	National Slum Dwellers Federation
PAD	Project Appraisal Document
PAH	Project Affected Household
PAP	Project Affected Person
PCD	Project Concept Document
PIA	Project Implementation Agency
PIC	Public Information Center
PID	Project Information Document
PHRD	Japan Policy and Human Development Fund
PMU	Project Management Unit
PLEA	Program Level Environmental Assessment
PPF	Project Preparation Facility
R+C	Residential plus Commercial Structure
R&R	Resettlement and Rehabilitation
RAP	Resettlement Action Plan
RIP	Resettlement Implementation Plan
RoB	Road-Over-Rail Bridge
SASIN	South Asia India
SATIS	Station Area Traffic Improvement Schemes
SLEA	Sector Level Environmental Analysis
SCLR	Santa Cruz-Chembur Link Road
SLGRC	Senior Level Grievance Redressal Committee
SPARC	Society for Promotion of Area Resources Centers
SRA	Slum Rehabilitation Authority
SRS	Slum Rehabilitation Society
TDR	Transfer of Development Rights
TTL	Task Team Leader
UDD	Urban Development Department
USOA	United Shop Owners Association
WEH	Western Express Highway

MEASUREMENTS

ha	hectare
km	kilometer
m	meter
m ²	square meter
sq. ft.	square foot

Executive Summary

Introduction

The Inspection Panel received four successive Requests for Inspection related to the India: Mumbai Urban Transport Project (MUTP)². According to the PAD, the objectives of the Project are to *“facilitate urban economic growth and improve quality of life by fostering the development of an efficient and sustainable urban transport system including effective institutions to meet the needs of the users in the Mumbai Metropolitan Region”*.

The Project consists of three components: improvement of Mumbai’s rail transport system, improvement and extension of the road-based transport system, and resettlement and rehabilitation of affected persons. All four Requests for Inspection pertain to the proposed construction and improvement of east-west connecting roads within the road-based transport component and to the proposed resettlement and rehabilitation of persons affected by the road component. The first three Requests concern the 6 km Santa Cruz-Chembur Link Road (SCLR), while the last Request addresses similar issues related to the 11 km Jogeshwari-Vikhroli Link Road (JLVR). The Requesters are economically diverse, and represent low and middle income shopkeepers and other affected residents of Mumbai.

Chronology of Requests for Inspection

On April 28, 2004, the Inspection Panel received the first Request for Inspection (First Request) related to the MUTP from members of the United Shop Owners Association (USOA). The Requesters are small shop owners whose commercial premises are located in the Kismat Nagar area, Kurla West, in the city of Mumbai. Management submitted its Response to the First Request on May 27, 2004.

The Panel received a second Request for Inspection (Second Request) on June 24, 2004, which related to the same Project. This Second Request was submitted by three organizations located in the city of Mumbai – the Hanuman Welfare Society, the Gazi Nagar Sudhar Samiti and the Jai Hanuman Rahiwasi Sewa Sangh – on their own behalf and on behalf of about 350 residents living in the area known as Gazi Nagar in the Kurla West District of Mumbai.³ On July 28, 2004, Management submitted its Response to the Second Request.

² Referred to as either the “Project” or “MUTP”, depending on the context.

³ On November 1, 2004, the Panel received a letter from the Aman Chawl Welfare Association asking that the Association be added to the second group of Requesters. The Association represents 118 Project

On June 29, 2004, the Panel sent to the Board of Executive Directors a recommendation to approve the Panel submitting a single Report and Recommendation on whether or not an investigation of the issues raised in either the First or Second Requests or both was warranted. The Board approved the Panel's recommendation on a non-objection basis on July 13, 2004. The Panel found the Requests and Requesters eligible, and as previously approved by the Board, submitted one single report to the Board on September 3, 2004, which recommended an investigation.

On September 24, 2004, the Board approved on a non-objection basis the Panel's recommendation to conduct an investigation into the matters alleged in the Requests for Inspection.

On November 29, 2004, the Panel received another Request for Inspection (the "Third Request"), related to the Project, and submitted by the Bharathi Nagar Association on their behalf and on behalf of the residents living in the area known as Bharathi Nagar in Mumbai⁴. Shortly after, on December 23, 2004, the Panel received a "Fourth Request" for Inspection, submitted by the organization Ekta Wyapari Jan Seva Sangh, acting on its own behalf and on behalf of residents and shopkeepers of the area of Bandrekar Wadi, Bhavbani Chowk in the Jogeshwari district of Mumbai. Fifty-eight members of the organization living in the area signed the Request.⁵

On December 29, 2004, the Panel notified the Executive Directors, the President and Management that it had received the Third and Fourth Requests. On December 29, 2004, after careful review of the Third and Fourth Requests, the Panel recommended that, for reasons of economy and efficiency, these two Requests should be processed jointly with the two previous Requests as they all related to the same component of the Project. The Board approved the Panel's recommendation on a non-objection basis on January 11, 2005.⁶

affected people. On February 19, 2005, 21 more residents asked to be added to the Request. All parties of the Gazi Nagar Request will be called the Gazi Nagar Requesters.

⁴ According to MMRDA (Mumbai Metropolitan Regional Development Authority), the Bharati Nagar Requesters are not affected anymore due to the realignment of the road. However, the Panel was not able to get official written confirmation from the Bank in this regard. According to the Requesters they have only received verbal assurances that the area will not be demolished. They have not seen a Map from MMRDA showing the revised road alignment. The Requesters have applied for a certified copy of the relevant documents from the MMRDA so that they can be assured that their area will not be demolished.

⁵ On January 24, 2005 the Inspection Panel received a letter from the Pratap Nagar Welfare Association, a non-governmental organization located in the area called Pratap Nagar, representing 41 residents and shopkeepers. For reasons of economy and efficiency, the Inspection Panel added the Association and members to the processing of the four Requests.

⁶ The Panel verified the eligibility of the Third and Fourth Requests during its visit to Mumbai in February 2005.

The Requesters and the Substance of the Claims

The Requests are similar in substance and allege the same violations of Bank Operational Policies and Procedures. The Requesters claim that they will suffer adverse effects as the result of the Bank's failure to follow its Operational Policies and Procedures related to their resettlement and rehabilitation under the Project. The Requesters claim that the Project fails to provide adequate income restoration and adequate resettlement arrangements. The shopkeepers among the Requesters fear that they will suffer irreparable damage to their businesses.

With regard to the Project design for the road component, the first Request also demands that the widening of the road be limited to the original proposed width of 39.0 meters as set forth in the MUTP Project approved by the Bank. The Requesters ask the Bank not to approve MMRDA's proposed widening of the road to 45.7 meters, which they claim would displace more shopkeepers and inhabitants bordering the road and force them away from their customer base.

The Requesters also claim that they will be harmed by the Project's Resettlement and Rehabilitation (R&R) policy that entitles them to an area of only 225 square feet regardless of the actual area of their current premises. They dispute the quality and accuracy of the pre-displacement surveys. They contend that their structures have not been surveyed properly, because the resettlement survey took into account only the length and breadth of their present structures, not the height, even though the structures are three dimensional and often have an upper level.

The Requesters further state that they have not been provided with proper information regarding the portions of their commercial premises that will be affected by the Project. Some of the Requesters object to the classification of their current area as a "slum," which has a specific status within the State regulations.

Complaints related to Resettlement Sites

Under the Project, the persons submitting the first three Requests are to be moved to a resettlement site called Mankhurd. The Requesters object on economic and environmental grounds to being removed to this site, arguing that it is unsuitable and too far away (nearly 15 km) from their current location. They claim that if they are relocated there, they will suffer irreparable damage to their well-established businesses. Instead, they ask to be relocated to alternative sites available near their present location.

The Requesters also complain about the environmental conditions of the resettlement site in Mankhurd and allege that the location is amongst the most polluted areas in Mumbai. They report that it is located near Mumbai's main municipal dump, from which they fear the spread of diseases. They add that many huge open drains pass through this area, which carry the city's waste, including blood, excreta and wastes from animals butchered at the nearby abattoir as well as drainage water, and cause bad odors. The Requesters also fear that the drains carry radioactive wastewater from the nearby Bhabha Atomic

Research Centre (BARC) and that the BARC might pose other risks to them. The Requesters further argue that chemical factories and refineries in the area could cause serious and enduring health and environmental hazards.

The Fourth Request also alleges that thousands of trees have been cut unlawfully in the JVLR road component of the Project and that these have not been replaced or replanted.

Complaints Related to Housing and Living Conditions

The Requesters claim that the design and construction of the buildings at the proposed resettlement site are of very bad quality and that they are hazardous and likely to cause health and social problems. They further claim that the people to be resettled will not be able to afford the maintenance charges of the new high-rise buildings.

Complaints Related to Income and Living Standard Restoration

The Requesters assert that the Project's resettlement component fails to provide income restoration, which will cause significant harm to them. The Requesters indicate that the proposed relocation would cause them to lose their current customers and thus their businesses, cause their supporting networks and kin to disperse, and result in a very significant loss of income. The shopkeepers express strong concerns about the effects on their businesses and income of Project decisions regarding relocation sites and the size and setting of the replacement commercial areas.

Complaints Related to Access to Information, Consultation and Grievance Redress Procedures

The Requesters also assert that they were never consulted or given an opportunity to participate at any stage of project planning or R&R planning and that their attempts to raise their concerns and grievances were not successful. According to them, the authorities and the Bank have failed to address their grievances. They claim that the Bank failed to disclose information to them and that the Project-related Public Information Centers (PICs) have not been working properly. They also express concerns regarding Bank supervision.

Response from Bank Management

Management submitted two Responses. The Response to the First Request (the "First Response") was sent to the Panel on May 27, 2004; the Response to the Second Request (the "Second Response") was sent on July 28, 2004. The First Management Response was especially significant because it revealed a very large increase in the number of people displaced by the MUTP, from 80,000 at appraisal (2002) to approximately 120,000 at the beginning of 2004, and in the number of displaced families, from 19,200 in 2002 to 23,000 in 2004 with 3,000 affected shops. Management attributed the increase to later more detailed assessments and to changes in the scope of certain sub-components.

In its Responses, Management asserted that implementation of the R&R component has gone well. The Project Affected Persons (PAPs) will receive title to their space in the resettlement area, which Management indicates they did not have before and which it claims is an important Project benefit. However, Management acknowledged that the relocation of middle-sized businesses poses more complex problems than the relocation of small, household-based shops. Management argued that the maximum size limit had to be set at 225 sq meters, because of limited space availability and high land costs in Mumbai. Concerning the survey of the actual area of the USOA Requesters' shops, Management contended that an on-the-ground survey to measure the size of affected shops has been conducted.

In response to the Requesters' objection to the choice of Mankhurd as the relocation site and their preference for an alternative site, Management stated that other sites were either not suitable or, if available, were allocated to buildings of higher value use. In Management's view, the Mankhurd site constituted one of the best options available, mainly because of its proximity to a railway station.

Management emphasized that it expects living conditions at Mankhurd to be considerably better than the conditions to which the Requesters are currently exposed. Management was not aware of information showing that the Mankhurd site is excessively polluted or at risk of being polluted. Management believed that the Requesters would be able to pay the expected maintenance charges with the interest generated from the return on a one-time grant that would be paid to them. Management considered that the supervision of resettlement had been regular and intensive through Delhi-based supervision complemented by assistance from Headquarters.

However, in the Second Response Management identified several serious weaknesses in implementation. Issues that needed urgent attention and required follow up included, *inter alia*: establishing cooperatives and completing other post-resettlement activities in the housing areas; strengthening implementation capacity in MMRDA; improving the dialogue and focusing on problem solving with shopkeepers; and strengthening the grievance redress procedures.

With regard to the Requesters' allegations concerning income erosion and restoration, Management stated that the measures for economic rehabilitation described in the Resettlement Action Plan (RAP) are consistent with the provisions of the R&R Policy. It indicated that it did not anticipate a significant impact on PAPs and assumed that income opportunities lost would be replaced by similar ones in the resettlement area. However, Management recognized the need for the local authority to carry out a survey a year after relocation to determine whether or not income restoration has been achieved. Management also stated that the social and economic network and kin groups of the PAPs would be largely retained at the new locations.

Management emphasized that consultations with PAPs were held and would continue. The Response referred to consultations at the resettlement site on the draft layout plan, building plans, and proposed site amenities, and stated that the feedback from PAPs was

being incorporated into the final designs of the resettlement sites. Nevertheless, Management recognized the lack of specific consultations to discuss alternatives for road alignment or structural design, as well as insufficiencies in documenting the consultation process overall and in outreach to the Requesters. Management accepted the Requesters' critique of the condition of the Project's Public Information Centers (PICs), but stated that conditions had been and will be further improved. According to Management, supervision has been carried out regularly by a high level interdisciplinary team of Bank staff, and the Bank has allocated a very high supervision budget to this Project.

With regard to the grievance process, Management acknowledged that communication of the grievance procedures may not have been adequate and that the grievance mechanism itself needs to be improved. Management rated the overall implementation progress on the infrastructure Project satisfactory, despite its delays. However, the Bank rated safeguard management performance as unsatisfactory, in part because of the lack of timely handling of grievances.

This report concludes the Panel's investigation into the matters alleged in the Request for Inspection. The Panel's current chairperson, Edith Brown Weiss, led the investigation. Four expert consultants/advisers on social issues and environmental assessment assisted the Panel in the investigation.

This report examines the merits of the claims presented in the Requests. It also considers Management's response to the claims. In the investigation the Panel reviewed relevant Project documents and other materials from the Requesters, Bank staff, MMRDA officials, non governmental organizations (NGOs), and other sources. The Panel interviewed Bank staff in Washington and in the Bank office in New Delhi, visited the Project areas on three occasions, met with the Requesters and other PAPs throughout the area, and met with local, state, and national authorities. The Panel also gathered considerable data during its field visits to the Project sites with which to evaluate the Requesters claims, and conducted extensive interviews with PAPs at selected sites.

With respect to the Project, the Panel assessed whether the Bank complied with the following applicable operational policies and procedures:

OMS 2.20	Project Appraisal
OP/BP 4.01	Environmental Assessment
OD 4.30	Involuntary Resettlement
OP/BP 10.00	Investment Lending: Identification to Board Presentation
OP/BP 10.04	Economic Evaluation of Investment Operations
OP/BP 13.05	Project Supervision
World Bank Policy on Disclosure of Information	

The MUTP is financed by World Bank Loan 4665-IN and Credit 3662-IN from the International Development Association (IDA). On August 5, 2002, India (the "Borrower") and the Bank entered into the Loan Agreement, which provided for the

equivalent of US \$463 million to finance about 49% of the total Project cost. On the same date, the Borrower and IDA entered into a Development Credit Agreement, which provided for SDR 62.5 million, equivalent to about US \$79 million, to finance the Resettlement and Rehabilitation component, Part C, of the Project. The closing date for both the loan and the credit is June 30, 2008. According to the Project documents, the road-based transport component of the Project amounts to US \$183.02 million, with the IBRD Loan financing US \$150.47 million of this. The Resettlement and Rehabilitation (R&R) component amounts to US \$100.08 million, of which the IDA credit finances US \$79 million.

Four legal agreements are relevant to the Project: the IBRD Loan Agreement, the IDA Development Credit Agreement; the Maharashtra Project Agreement and the Mumbai Railway Vikas Corporation Project Agreement. All agreements were signed on August 5, 2002. The Loan and Credit Agreements became effective on November 6, 2002.

Context

The Panel recognizes the urgent need for improvement in the transport infrastructure in Mumbai. Likewise the Panel recognizes the difficult challenge in resettling an estimated 120,000 or more people in Mumbai. This is the largest urban resettlement Project that the Bank has undertaken in India or elsewhere (except in China). There is no doubt that the Project is intended significantly to advance needed economic development in Mumbai and that large numbers of people will benefit from it. The Panel is concerned with the Requests from those people who claim that as a result of their displacement by the Project, they have been or will be harmed and that the harm and associated costs to them have been ignored, contrary to the Bank policy.

Preparation for the Project began in 1995. Given the magnitude of the displacement, the Bank was preparing at that time two separate, inter-linked Projects: one for transport infrastructure and one for resettlement and rehabilitation. The Bank recognized that the Projects involved significant risks. The decision in 1999 to combine the two Projects into one Project, with the resettlement and rehabilitation Project becoming a subcomponent of the infrastructure Project, was a landmark decision which has had major adverse implications for the capacity to implement the Project, as detailed in the Panel's Report.

The resettlement and rehabilitation part of the Project relates to both a rail and a road component. The rail component was implemented first. The problem of the middle income shopkeepers and other Requesters arose as a result of the road component, since they were affected by the widening of the roads and construction of various road elements. Bank Management's framework for the problems raised by the rail and the road components was the same and did not differentiate between the two, although the resettlement and rehabilitation issues were in part different. With Bank agreement, the Borrower turned to local nongovernmental organizations to implement the resettlement aspects of both components of the Project.

The Bank Project in Mumbai is part of a larger Mumbai effort to build transportation infrastructure in Mumbai and to further develop the city. As part of this effort, many tens of thousands of additional people are being resettled who are not part of the Bank project. People interviewed by the Panel hoped that the safeguards built into Bank-financed projects would be extended to other activities not financed by the Bank. In the Project before us, these hopes have not been realized, as newspapers reported early in 2005 the widespread demolition of slum dwellings not included within the Bank Project, which left occupants without any place to live. On September 20, 2005, the Panel received a letter from Medha Patkar and Simpreet Singh detailing serious alleged problems with the MUTP works and their implementation.

The Panel is aware that after the first Request was filed with the Inspection Panel, the Bank has devoted high level attention to the Project and has taken significant steps to try to bring the Project into compliance with its policies and procedures. The Panel commends staff for these efforts. The Panel also acknowledges the cooperation of staff with the Panel during its investigation. The Panel hopes that its Investigation Report will contribute to better implementation of the Project in line with the Bank's policies and procedures, address the Requesters' concerns and will be relevant for other such Projects.

FINDINGS

SOCIAL COMPLIANCE

The Development of the MUTP

Two Projects for Mumbai: the Resettlement and the Infrastructure Project

The MUTP began in 1995 as two full scale Twin Projects, in line with Bank policy for large scale resettlement operations. One project was for transport (engineering) infrastructure (MUTP) and one for resettlement, the Mumbai Urban Rehabilitation Project (MURP), with appropriate attention to the distinct design, content and staff requirements for each one. This approach recognized the complexities and magnitudes involved in the two sets of fully different activities.

After three years of preparation, with interruptions, the then India Country Department decided in April 1999 to change course and merge the two distinct projects into one, by downgrading resettlement and rehabilitation from a full scale project to a "component" within the MUTP infrastructure project. In this merger, however, the Project's R&R issues, which had been correctly identified, were not resolved. Also, the merger entailed another institutional change: it reallocated the responsibility for implementing resettlement away from the urban development branch of the Mumbai Municipality back to the transportation authority (MMDRA). The preparation and content of the entire resettlement operation was scaled down. The scaling down had major long term consequences, for there were no staff trained for resettlement planning and operations for 100,000 people within the nodal (engineering) State agency.

Arguably, many of the compliance issues raised by the Requesters can be traced to the effects of the merger decision and to subsequent decisions taken before and at the time of Project appraisal concerning due diligence procedures (population survey, housing survey, income assessment survey, etc.) required for Project planning and implementation and to undue optimism about being able to bring the unresolved difficulties to closure. The decision to merge the two projects led to a Project in which the R&R component was critical for the success of the Project, but which, on closer examination, was not ready for implementation when the Project was launched. Also, the estimate of the number of people to be resettled was reduced dramatically, as was the cost estimate for resettlement. Moreover, the reference to the problem of shopkeepers, initially present in the separate Project, seems to have been dropped from consideration after the merger. This last item is one that apparently prompted the shopkeepers to approach the Panel with a Request for Inspection. The Project now faces significant difficulties in meeting Bank policies with respect to the shopkeepers.

The decision to merge the projects set the MUTP on two radically uneven paths, as the two Projects were very unequal in their preparation and readiness for Bank appraisal at the time of the merger, and remained so subsequently. The merger obscured this unevenness. Moreover, the merger diverted attention away from the institutional capacity required for effective resettlement, which had been correctly identified and initially provided for when the projects were separate under two specialized administrative bodies. The resettlement Project was intended to ensure that the people to be resettled would have a comparable or better standard of living after resettlement, but under the MUTP the resettlement component evolved into one focused primarily on restoration of housing, without explicit provisions for income-maintenance among the affected and vulnerable population, including the shopkeepers.

The Panel notes that the magnitude of the resettlement process (at least 80,000 people indicated at time of appraisal) was unprecedented in both the Bank's and India's urban project histories. Given the size and complex nature of the resettlement, the merger of the two Projects under the circumstances was unwarranted and was not consistent with Bank policy and procedures. Where resettlement is large enough, OD 4.30 provides that its planning, implementation and Bank financing can be provided "*... as a free-standing resettlement project with appropriate cross-conditionalities.*" The Policy highlights that such an approach may "*...better focus country and Bank attention on the effective resolution of resettlement issues.*" **The Panel finds that the resettlement in Mumbai, because of its size and complexity, was precisely the type of resettlement that, under OD 4.30, was intended to be addressed as a free-standing Project. While the Bank initially broadly complied with OD 4.30, it did not do so after the merger of the two Projects.**

Risk Analysis of Resettlement

Before the merger of the two projects, internal documentation highlighted many significant risks associated with the resettlement of some 20,000 families. The PAD, however, is silent on resettlement and impoverishment risks. Rather, the PAD notes

routine project risks such as delays in transfer of funds or equipment delivery as the risks to be considered and addressed. The larger resettlement risks noted in the Resettlement Action Plan (RAP) are not mentioned. **The Panel is concerned that the lack of sufficient analysis and consideration of the many risks of resettlement may be at the root of many problems facing the people affected by the Project.**

This insufficient analysis weakened the RAP itself, as risk analysis usually mobilizes the design and resources of a project to counter the identified risks and is also of great importance to the Borrower, project stakeholders and project implementation. **The Panel finds that in omitting these risks from key Project documentation and analysis, the Bank failed to comply with the requirements of risk analysis in Bank Policies, including OMS 2.20 on Project Appraisal and OP/BP 10.04 on Economic Evaluation of Investment Operations, and weakened the ability of the Project to meet the provisions of Bank's Policy on Involuntary Resettlement in OD 4.30.**

Differences between Rail and Road Components of Project

The Panel also notes that the R&R part of the Project has itself two components: resettlement connected with the railroad infrastructure, and that connected with the roads. The Bank failed to recognize that there were differences between the two components which would affect many aspects of the resettlement process: the kinds of people to be resettled; the survey procedures and baseline preparations; the timetables; measurement of impacts; and income restoration needs.

In particular, the road component has significant effects on shopkeepers along the roads to be widened. Many of them are middle-income shopkeepers, who have brought the Requests to the Inspection Panel. Moreover, the assumption that the NGOs that had dealt with the resettlement in the rail component would also be able to handle the resettlement of the PAPs affected by the road component was problematic and is the reason for many of the failures in R&R implementation.

The Panel finds that the Bank failed to recognize the substantial differences between the rail and the road components and to incorporate these differences into Project preparation and implementation. The differences involved both the identification of those affected by the road widening and road construction, the surveying of their assets, and their requirements for resettlement. The Panel finds that for the substantially different sub-categories of populations, the Bank did not ensure that the Project design met the Bank's Policy OD 4.30.

Institutional Capacity and Delegation of Responsibilities to NGOs

According to the Project design, almost all direct responsibility for R&R field operations was delegated outside of government to the NGOs Society for Promotion of Area Resource Centers (SPARC)/ National Slum Dwellers Federation (NSDF) in India. The Panel was informed that the contract with these NGOs was awarded on a sole source basis. The Panel notes that a different, smaller NGO, Slum Rehabilitation Society (SRS),

conducted the surveys for the JVLR section of the road component. **The Panel appreciates the effort to involve local NGOs in the Project, but is concerned about the transfer of the main implementation responsibilities from the State Government and municipal agencies to NGOs with insufficient institutional capacity and knowledge to deal with the overwhelming magnitude of the responsibilities transferred.**

In the process, the NGOs became in effect small agencies contractually employed by the government, with substandard capacity, decreasing status, and declining abilities to act as exponents of the local civil society. While the primary NGOs had demonstrated effectiveness in relating to people living in slums along the railroads, they did not have a similar history with regard to those displaced by the widening and construction of roads, in particular the middle income shopkeepers. The needs of the latter for space and for income restoration and for their associated employees are different from those living along the railroads.

Differing Estimates of Numbers of People to be Resettled

Effective resettlement requires accurate data on the numbers of people to be resettled and the numbers of businesses affected. Initially, in 1996 when resettlement and rehabilitation was a separate project from infrastructure, Bank staff estimated that about 225,000 people needed to be resettled and 45,000 residential units were needed. After the R&R project was merged into the infrastructure project, the estimates dropped dramatically to 80,000 people and to 13,000 households, as given in the separate Resettlement Project (MURP) Project Information Document in 1999.

In the May 2002 PAD the size of population to be resettled remained as 80,000 people, the number that the Board had before it when it approved the Project, although the number of households had increased to 19,200. The Panel notes that during preparation and appraisal, the Country Department realized that the magnitude of the entailed resettlement was considerably larger than the 80,000 mentioned and even envisaged another follow-up resettlement project in 12-18 months time, which, however, never materialized.

The Panel notes that 80,000 people to be resettled is an extraordinarily large number in itself, but did not yet reflect the full size of the necessary resettlement. During implementation, and shortly before the Requesters submitted their complaints to the Panel, the Bank supervision mission in April 2004 reported that the number of people displaced and to be resettled under MUTP was in fact larger, by about 40,000 persons. This brought the total number of PAPs to about 120,000, an increase of about 50%. The increase alone is larger than entire resettlement components in many other Bank projects in India.

Despite the increases in affected people, which meant a significant change in the scope of the Project resettlement component, the Bank did not re-assess the Project to confirm that the Project, as modified, was still justified, that the requirements of the Bank's policies

were met, and that the implementing arrangements were still satisfactory, as required by BP 13.05. The Bank did not set in place comprehensive measures, as warranted by the Bank's policy, for assessing the implications and the actions necessary to address the very substantial increment in the number of people to be resettled. **The Panel finds that the Bank, as a result, failed to comply with the basic policies of OD 4.30 regarding the preparation, appraisal and implementation of resettlement operations. The Panel further finds that this constitutes a failure by the Bank to comply with OP/BP 13.05 on Project Supervision, and the provisions of OD 4.30 on monitoring and supervision.**

To its surprise, the Panel observes that the Bank's October 2005 Aide Memoire on its Mid Term Review and Supervision Mission indicates that there has been only a "marginal increase" of 4% in the number of Project Affected Households (PAHs), raising the figure from 19,200 households to 20,000 households affected by the Project. This differs significantly from the previous figures noted in the Bank's earlier documents, particularly the figures in April 2004, which indicated a 50% increase in the number of PAPs. Clarification in this regard is urgently needed, especially since the numbers are sometimes given for Project affected people and other times for Project affected households, or families without consistent correlation between the two.

With regard to the shopkeepers, the Panel found different estimates in different documents of the number of commercial units that need to be constructed, without recognition or explanation of the discrepancy in estimates. The Panel finds that this is not consistent with OD 4.30 or with OP/BP 13.05. The Panel hopes that the new Business Needs Study, mentioned below, will address this issue.

The Panel also notes that while the cost of the engineering components of MUTP has continuously increased during preparation to over US\$ 800 million, the cost of the resettlement operation stayed the same at US\$ 100 million, despite the substantial increase in the number of people affected. Only after the Requests, in October 2005, were the figures updated for the R&R component. The Bank's October 2005 Aide Memoire on its Mid Term Review and Supervision Mission states that the new cost of completing the R&R component is US\$ 124 million, as compared to US\$ 100 million at appraisal. According to the Aide Memoire, this increase is a result of monetizing Transfer of Development Rights (TDR) for acquisition of land and construction of apartments to resettle PAPs. It appears to be mostly an accounting change in the way items long included in costs, but not monetized previously, are now reflected, and does not appear to represent an increase in financing for resettlement. The Aide Memoire indicates that this additional cost may be borne entirely from the counterpart fund portion.

The Aide Memoire also indicates that the IDA resources allocated for resettlement have not been fully spent. **The Panel is concerned that this may lead to the shifting of funds away from other resettlement needs, which would compound issues of compliance with the relevant policies, and urges further clarification on this point.** While the Panel is not the appropriate body to undertake a financial audit of the R&R

budget and expenditures, the apparent incongruence between the changes in the magnitude of the Project component and the non-commensurate changes in the budget allocations may warrant a specialized re-examination by the Bank of these aspects.

Surveys of Project Affected People, Baseline Income and Immovable Assets

The Panel notes the importance of accurate baseline data to the resettlement of PAPs. Without reliable, accurate baseline data, neither the Borrower nor the Bank is able to monitor the progress on resettlement or to determine whether the objectives of Bank resettlement policy have been met. It is essential to have reliable baseline data on the population of affected households and people, their immovable assets, and their income.

The local authority, MMRDA, hired local NGOs to carry out surveys to gather this data. During its investigation, the Panel found serious problems in the methods used. There was structural imprecision in the methodology for population counting on-the-ground. The survey of commercial structures addressed the size of the shops and their construction, and generally ignored any internal upper stories. The socio-economic survey did not give adequate attention to income variations and levels.

The Panel found that the NGOs lacked capacity to deal with these tasks at such a large scale, and is concerned that they did not receive adequate training. When the Panel, during its field work, asked to examine the survey forms, their low quality and sometimes *prima facie* inaccuracy was apparent.

The flaws in gathering data appear to have resulted in major misstatements about the overall size of the displacement, and eventually in a loss of control by Bank staff over the aggregate proportions of displacement under this Project. **The Panel finds that surveys of the affected population, the immovable assets affected by resettlement, and the income of affected people were significantly deficient and did not provide reliable baseline data, which does not comply with OD 4.30 on Involuntary Resettlement.**

Some of the Requesters told the Panel (and offered documentation) that they have title to the land and to their premises for which they need to be compensated when they are resettled. **The Panel finds that the Bank failed to address the lack of R&R capacity within MMRDA to deal with the complex, case-by-case tenure issues. This is not consistent with OD 4.30.**

Consultation with PAPs and Access to Information

The purpose of consultation is to take into account people's opinion and concerns. Consultations have to be held early in the process to allow for input to be considered in the Project. Consequently, meaningful consultation is possible only when options are given to the PAPs and when authorities are open to transforming inputs into choices. Both Management and MMRDA claim that there were no alternative resettlement sites available, primarily because of the reliance on Transfer of Development Rights (TDRs) to determine the choice of sites. Options involving government and other land were not

considered. **The Panel finds that neither the PAPs nor the shopkeepers were consulted in advance about resettlement sites. The shopkeepers were not consulted about any possible alternatives to the resettlement sites for their shops. This does not comply with OD 4.30 and OP 4.01. The Panel also finds that there was a lack of meaningful consultation on other elements of the Project, such as alternative alignments of the road.**

The Panel notes that certain consultations did take place subsequent to the selection of resettlement sites with regard to the characteristics of the buildings and shops, which led to increased height for certain shops or space on the ground level for a limited number of shops. This is consistent with OD 4.30 and OP 4.01. But not all the shopkeepers entitled to consultation were included.

OD 4.30 also requires disclosure of information about the Project to PAPs. Although there were provisions to provide information to the PAPs through Public Information Centers (PICs), the Panel finds that these did not operate effectively during the crucial period when people needed to be informed about the Project. The dissemination of substantive information about the Project was neither timely nor effective. PICs were originally located at MMRDA and the resettlement site, distant from affected communities. Moreover, even when other PICs closer to the affected areas were established, the Panel found them either to be closed or not to contain usable information. **The Panel finds that the disclosure of information on the MUTP has been inadequate and does not comply with OD 4.30. The Panel notes the Bank's effort to improve the performance of the PICs since April 2004.**

Grievance Redress Procedures

The Panel observes that the Bank recognized that a *“well-structured grievance procedure with authorities, responsibilities and procedures for appeal needs to be built into the system. Specific offices where applications can be made and the period within which a response would be obtained needs to be specified. Facilities to record the grievances and maintain the records should be defined”*. However, **the Panel finds that the grievance system lacks clear responsibilities, procedures and rules and has not been independent. Moreover, many PAPs have learned only recently about the existence of a grievance system and were not aware of the details of the process.** In other cases, they have been frustrated with the alleged lack of objectivity and independence of the grievance mechanisms.

The Panel notes that after its eligibility visit, MMRDA took significant steps to improve the grievance procedures, but finds that the Bank has not ensured that the grievance mechanism is independent and objective. The Panel notes that Requesters and other PAPs complain that there is no independent person on the grievance system when the initial complaint is determined, and they do not accept the members of the Independent Monitoring Panel as independent persons.

Shopkeepers and Other Commercial Issues

The Requesters complain that the Project has ignored the separate needs of the middle-income shopkeepers and treated them the same as slum dwellers. **The Panel finds that the Bank overlooked the middle-income shopkeepers in planning for the resettlement and failed to notice the differences in their situation from that of others to be resettled. This does not comply with OD 4.30.**

The Project files show that when the resettlement component was initially a separate Project, the distinct issues resulting from the socio-economic circumstances of the shopkeepers (and other small-business operators) were identified. The Panel finds, however, that when the infrastructure and resettlement projects were merged into one Project, the issue of the middle-income shopkeepers was lost. The Panel finds that Bank Management assumed that the rail component would raise the same problems as the road component, which resulted in overlooking the fact that many of the road PAPs are middle-income shopkeepers.

The Panel finds that many of the new shops will be much smaller than the shops that the Requesters had before, which may make it impossible for some to carry on their businesses. In addition, the poor location of the shops, which previously faced major roads, will likely reduce the number of customers for many of the businesses and thus significantly decrease the income of the shopkeepers. The new location also presents other conditions that could have severe negative effects on the ability of the shopkeepers to achieve their former income earning capacity and production levels, as required by the Bank Policy. The site lacks adequate water supply, has major sewerage and pollution problems, and the customer base appears to be much less than at the existing locations of the shopkeepers. **The Panel is very concerned that unless further actions are taken, the shopkeepers will be put in significantly worse conditions as a result of the relocation. This would not comply with Bank Policy.**

The Panel also finds that with regard to the middle-income shopkeepers, no appropriate assessment of employee PAPs was undertaken. The employees who are not resident in the area but rather support family in rural areas have not been adequately addressed. This does not comply with OD 4.30.

Importantly, however, the Panel finds that this year, following the Request to the Panel, the Bank has endeavoured to address the special needs of the shopkeepers. In late August 2005, it commissioned a Business Needs Study as a pilot exercise to help in developing options and solutions for shopkeepers with businesses exceeding 225 square feet or with locational needs and, as of December 12, 2005, has agreed at MMRDA's request to extend the survey to include all of the approximately 550 shopkeepers on the SCLR. As of the date of the Panel's Report, the Bank is working with the Borrower to try to address the issues of concern to the shopkeepers. The Panel notes that the Requesters have previously conveyed to the Panel significant concerns about these efforts. **The Panel considers that the successful completion of the Business Needs Study and**

subsequent implementation of measures and necessary changes likely to result from the study, may help bring the Project into compliance with some of the provisions of Bank resettlement policy discussed in this section.

Proposed Road Widening and its Displacement Effects

The Requesters complain that they are being forced to move because of a change in the technical design of the Santa Cruz Link Road (SCLR). MMRDA has proposed to widen the road from 39 meters to 45.7 meters. The change is not part of the original design of the MUTP approved by the Bank.

Bank policies require that involuntary resettlement should be minimized wherever possible. **Thus the Bank needs to consider viable alternative project designs, e.g., realignment of roads. The Panel finds that the Bank has not ensured so far that the planning of MUTP addressed this requirement.**

Subject to Bank policy and procedures, the Bank may approve on a no-objection basis changes in the technical design of the Project, or it may reject such changes. The Panel has been informed that the Bank has agreed in principle to finance the resettlement costs resulting from the decision to widen the road from 39 m to 45.7 m, subject to MMRDA providing the Bank with a satisfactory final RIP. **As of December 13, 2005, the Bank had not issued a ‘No Objection’ statement because it was still reviewing the final draft of the supplemental RIP for the SCLR widening.** According to Management, MMRDA submitted the supplementary EMP for the SCLR in the last week of October and Management approved it with conditions and was still reviewing MMRDA’s response to the conditions. **This position of withholding the “No Objection” complies with the provisions of OD 4.30. The Panel notes that in considering further action on the proposed road widening, the Bank will need to assess the proposal, and possible alternatives to it, in compliance with OD 4.30 and other relevant policies.**

Income and Living Standard Restoration and Improvement

A core element of OD 4.30 is to achieve *‘improvement or at least restoration of . . . former living standards and income earning capacity with particular attention paid to the need of the poorest groups to be resettled.’* The Policy adds that “[t]he resettlement plan should, where feasible, exploit new economic activities made possible by the main investment requiring the displacement.”

In the present Project, the Bank assumed that jobs would not be a problem in Mumbai and thus did not anticipate major income losses. As a result, Management paid scant attention to income restoration. In its Second Response, Management states that the impact on PAPs is *“chiefly of housing and not of loss of jobs or income.”* This view can be traced back to the Project Appraisal Document (PAD), which states that *“[l]oss of income and livelihood opportunities is not a major issue in this Project”* The PAD highlights 13 main risks of the Project, but none address reduced diversity in

sources of livelihood, loss of days worked, loss of income to females, and impacts on petty trade or rental incomes.

The evidence demonstrates, however, that income loss and impoverishment risks are major problems in this resettlement action. This particularly applies to shopkeepers, as described above. It also is expected to be the case for other PAPs from the road component as they are relocated, unless significant changes are made .

In this regard, the Panel found that many PAPs already relocated from the rail component are experiencing major job losses and earnings disruptions, especially women, small-scale traders and low-paid daily workers. The distance of the new sites cuts off many from their previous work; transport often is not feasible. Management assumptions that work would be plentiful have not been borne out. These problems apply especially to the most vulnerable. Many PAPs also face higher costs at the new sites, including for building maintenance and utilities.

The combination of lesser incomes and higher costs is having major effects on living standards. Some PAPs are forced to rent out their flats and, as a consequence, may jeopardize their right to the offered housing. Some families are pulling children out of school; others are losing water and electricity connections due to inability to make payments. PAPs with home-based commercial activities must choose between either a residential or a commercial unit at the new sites, which constrains their ability to maintain or improve their living standards.

The Project has taken some steps in relation to these problems, including providing for a travel allowance and access to a Community Revolving Fund. The Panel notes these efforts, but its investigation indicates that they are falling far short of what is needed to meet the provisions of OD 4.30, and that there are significant problems and delays in implementation.

The RAP, approved by the Bank, also promised to provide the equivalent of one year's income during the transition period to PAPs who lose their livelihoods permanently. The Panel found little mention of this in subsequent documents, however, and is not aware that any such payment has been made. In addition, the RAP does not contain economic analysis of the displacement and resettlement operation. The budget for the resettlement plan is about compensation, rather than financing for training courses or other productive income-generating activities.

If income and living standard restoration had been adequately considered, the design of the PAD and RAP could have included requirements that contractors should employ and train large numbers of the affected people, which would have helped them to acquire new skills and sources of earnings. This would have been in line with the provisions of OD 4.30, and could have built on Bank experience in resettlement and good practice. In addition, the absence of or inadequacy of baseline income surveys make it difficult to monitor incomes during implementation, and even more difficult to assess at the end whether the objective of income and living standard restoration has been achieved.

The Panel finds that the failure to address income and living standard restoration for the PAPs in the road component does not comply with OD 4.30. The Panel finds that this problem, particularly for the shopkeepers and their employees and for vulnerable individuals whose livelihoods are now at risk due to the relocation, needs urgent attention by the Bank. The Panel notes that the recently commissioned Business Needs Study is intended to cover some of these issues.

Housing and Living Conditions at the Resettlement Sites

The Requesters claim that the housing to be provided at the resettlement sites is of very poor quality, that the space between buildings is miniscule, that parking space is inadequate, and that there are no elevators. They further claim that the resettlement sites lack sufficient access to schools, medical facilities, and religious sites.

The Panel finds that the Bank has complied with OD 4.30 with regard to the quality of the housing edifices. The buildings are not of substandard quality, and the measured space between buildings does not depart from local requirements.

The Panel notes, however, that there are other issues that have not been addressed. Importantly, sewerage and water connections are not working properly and there are no collections for garbage and waste. The Panel finds that this does not comply with OD 4.30. In addition, the Panel observed that as of the time of its investigation, the resettlement sites lacked adequate access to social services, such as schools, medical facilities and religious sites, and maintenance costs for the buildings and utility services were high. Finally, the Panel notes the need for sufficient parking space for commercially-related vehicles to meet the needs of the resettled people with commercial businesses.

Post Resettlement Issues

Management has indicated that an Implementation Manual, which sets forth the details of the plans for operating the resettlements, would be prepared. **The Panel notes that as of November 2005, the Implementation Manual was still not complete, even though people have already been moved to the resettlement sites. This is not consistent with the provisions of OD 4.30.**

The Requesters are concerned about the conditions at the resettlement sites and about being able to continue their productive work. According to the Project plan, the developer is to deposit a one-time payment of 20,000 rupees per PAH. This money is then to be transferred to the housing cooperatives at the resettlement site, and the interest made available to PAHs to assist with maintenance costs.

The Panel notes that the housing cooperatives must be legally established before they are eligible to receive the funds. As of November 2005, the Panel finds that most cooperatives have not been registered, and that the one-time payment of 20,000

rupees has not been transferred to the housing cooperatives. The Panel is concerned that the utility and maintenance charges begin as soon as the units are completed, which may be prior to resettlement for the PAHs and significantly before any moneys are available from a community fund to cover the costs. **The Panel notes many other problems associated with operations at the resettlement sites, as detailed in the text of this Report.**

The NGOs SPARC /NSDF, who were responsible for conducting most of the surveys for resettlement, were also awarded the contract for implementing resettlement, though they did not have prior experience or sufficient capacity for handling a program of such magnitude. **The Panel was informed that the contract was awarded on a sole source basis. NSDF indicated to the Panel that it does not generally keep receipts of or otherwise document expenditures.**

The Panel finds that the Bank did not ensure that the requisite institutional capacity was in place for implementing and monitoring operational arrangements at the resettlement location after the PAHs have been resettled. This does not comply with OD 4.30.

ENVIRONMENTAL COMPLIANCE

Environmental Assessment

The environmental safeguard policies of OP 4.01 require environmental screening and proper environmental assessment. Many of the issues raised by the Requesters can be attributed to inadequate early environmental assessments of the problems and impacts associated with resettlement. Notable omissions include the following: no scoping of affected parties, which led to a failure to recognize shopkeepers as a separate category of affected persons with particular needs different from other PAPs; no systematic consideration of alternative sites for resettlement; and no assessment of existing environmental conditions at the proposed sites. **The Panel finds that the Environmental Assessment (EA) of the Project did not meet all of the requirements established in OP 4.01, as discussed below.**

Environmental Screening.

The Bank assigned the Mumbai Urban Transport Project to Category A under OP 4.01. **The Panel finds this to be appropriate and in compliance with OP 4.01.**

Preparation of Environmental Assessments in the Project Cycle

The Environmental Assessment Process started early in the Project cycle, which complies with OP 4.01. The EA consideration of the Jogeshwari-Vikhroli Link Road (JVLR) was completed before Project appraisal as required by Bank policy. **However, the final Environmental Assessment for the Santacruz-Chembur Link Road portion of the MUTP was not completed until April 2003. This was well after initiation of the Project and does not comply with OP 4.01.**

The Environmental Assessment for resettlement was to have been done through a hierarchical structure of Resettlement Action Plans (RAP), Community Environmental Management Plans (CEMP), and Resettlement Implementation Plans (RIP). The tiered structure of environmental reporting has meant that environmental issues related to resettlement have not been considered in a timely manner. This is now contributing to Project delays. A number of the CEMPs and the RIPs had not been finalized in 2003 and 2004 respectively. They were thus not available early in the Project cycle. Environmental Assessment of resettlement was deferred to later stages in the Project and is in some cases still incomplete. **As a consequence, the necessary documentation to ensure that “all environmental consequences are recognized early in the project cycle”, as required by OP 4.01, was not available.**

Environmental Assessment of Resettlement Sites

The sites considered for resettlement were obtained through the use of Transfer of Development Rights (TDRs), by which an owner provides a plot of land for the construction of resettlement buildings in exchange for receiving credits that the owner can use for developing property elsewhere. In evaluating the sites offered by land owners through this method, the Bank did not require environmental considerations to be included as one of the criteria for making the selection. Both Bank and MMRDA staff spoke of “a weighted points system” that had been used to rank sites that private landowners had offered to the Project for resettlement purposes. The attributes considered in the points system did not include the existing environmental and social conditions at the proposed resettlement sites. No absolute or comparative study was made of the conditions under which households to be resettled are currently living and the conditions under which it is proposed that they live.

As a result, ambient environmental conditions and socio-economic factors such as the proximity of the Mankhurd site to the Deonar municipal waste disposal site, and the large drainage canals flanking the Mankhurd site, were not taken into consideration. These are the features now causing concern to those being resettled to the new sites. **An environmental assessment that does not consider ambient environmental and social conditions when identifying sites for resettlement fails to meet the requirements of the Bank’s OP 4.01.**

The Panel notes that the Bank in its October 2005 Aide Memoire recognizes that the environmental conditions at R&R sites are not good, especially for solid waste management and sanitation, and indicates that it would be appropriate to use Project funds to manage the environment at resettlement sites, provided there was agreement with the communities on sharing the operation and maintenance costs in the future.

Integrated Consideration of Natural and Social Aspects

The early focus of the MUTP Environmental Assessment was almost exclusively on bio-physical concerns of the infrastructure component of the Project. Assessment of resettlement was not a priority, despite the large number of persons due to be resettled under the MUTP. The Strategic Level Environmental Assessment (SLEA) assessed four environmental components: Air Quality, Noise, Ecological and Social Component. The SLEA deems air quality to be the main environmental component affected by transportation, with potential impacts determined through computer based modeling. The social aspects of the MUTP, particularly of Resettlement and Rehabilitation are conspicuous by their near-absence in the Consolidated Environmental Assessment. **In the MUTP, consideration of natural and social aspects of the environment in an integrated way has not occurred. This is not consistent with the intent and spirit of OP 4.01.**

Consideration of Alternatives

OP 4.01 requires an analysis of alternatives. The Bank did not conduct any systematic comparative analysis of road alignment and of resettlement alternatives. In the case of roads, alternative micro-alignments within the existing road reserves, as well as alternative road widths and configurations, could have been analyzed. For resettlement, systematic identification and comparison of resettlement sites, consideration of different locations for residential and business needs, and systematic comparison of layout and construction alternatives on the various sites would have been possible. **Although policy level alternatives were considered for the MUTP as a whole, the analysis of alternatives did not extend to the road component and to the individual resettlement sites. These omissions directly affect the lives of households and businesses that will be displaced by the Project. Since the Bank did not subject the road component and the individual resettlement sites to the safeguards set forth in OP 4.01, it did not comply with OP 4.01.**

Environmental Problems at the Resettlement Sites

Waterways

The Requesters claim that the Mankhurd site is near open waterways which will flood and that standing waters will harbor water-borne diseases. **The Panel finds that the Mankhurd resettlement site is not inherently more at risk of flooding, of health problems from standing waters (that would harbor mosquitoes), or of water-borne diseases than most of the city of Mumbai.** The Requesters living at S G Barve Marg and Kismat Nagar currently live as close to the Mahim river as they will to the waterways at Mankhurd. However, as noted below, the Mankhurd site may be at increased risk of health problems because of its proximity to the Deonar municipal waste dump.

Air quality / Industrial Emissions

The Requesters contend that emissions from the nearby Rashtriya Chemicals & Fertilizers (RCF) and other chemical factories and refineries factories make the Mankhurd resettlement location *‘amongst the highest polluted areas in Mumbai city.’* The Panel visited different resettlement sites in Mumbai in assessing this claim. **The Panel finds that while the air pollution is serious, the Mankhurd site is not the closest resettlement location in terms of proximity to industries with atmospheric emissions or at greatest risk.**

Deonar Municipal Solid Waste Dump

The Requesters point out that the Mankhurd site is near the Deonar, Mumbai’s largest waste dump, and claim that this will contaminate the site and cause various health problems for the residents. The Deonar dump covers 80 hectares; about 5,000 tons of garbage are dumped there daily. There is no provision for separating the wastes that go to the Deonar site. **The Panel notes that the Mankhurd resettlement and transit sites are only about 1.5 - 2 km from Mumbai’s largest waste dump. A drainage line from the dumping grounds leads to the waterway that passes through the Mankhurd resettlement sites.** Leachate from the dump will thus affect the quality of the waterway. The Panel did not see sumps or boreholes to intercept such leachate. **The Panel finds that in selecting the resettlement sites, no consideration was given to the proximity of the Mankhurd site to Mumbai’s largest waste dump or to the implications of this. As noted previously, the Panel finds that the Environmental Assessment did not consider ambient environmental and social conditions when identifying sites for resettlement, which does not comply with OP 4.01**

To improve conditions for the residents of the Mankhurd resettlement site, the Panel notes that the Deonar solid waste dump could be made better if it were operated as closely as possible to a sanitary landfill until such time as it is closed entirely. The quality of life of the residents of Mankhurd could be considerably improved by proper compaction and covering of waste materials on a daily basis, interception and treatment of leachate emanating from the dump and pumping this to the municipal waste water treatment facility. Further, enforced access control, regulation and separation of the type of wastes accepted at the facility, and establishment of managed composting and recycling facilities would improve the quality of life both for those currently scavenging the dump to earn a livelihood and for those living in close proximity to the dump.

Deonar Abattoir

The Requesters fear that the Mankhurd watercourses carry blood and excreta from the abattoir to the Mankhurd resettlement site. **The Panel finds this is most unlikely, as the watercourse passing next to the abattoir is not the one that borders the Mankhurd permanent resettlement site.**

Solid Waste Management at Resettlement Sites

The Requesters are concerned about waste disposal at the resettlement site. In the Panel's visits to occupied resettlement sites, the Panel noted that in all those sites visited domestic waste was prevalent in the spaces between tenements, especially in the drains adjacent to resettlement sites. Even in the newly occupied Mankhurd A site, waste lay next to the water tanks, and there were no containers for the disposal of garbage. **The Panel finds that while Bank documents indicate considerable effort to communicate that it is important for tenement residents to have effective on-site waste management, the issue urgently still needs to be addressed with the PAPs that have been or will be resettled.**

Management of Storm Water Drains

The Requests express concerns about huge open drainages that pass through Mankhurd, carrying the city's waste and drainage water to the nearby creek. Management acknowledges that there are two large drains 8 to 10 meters in width, one of which is 30 meters from the proposed resettlement site. According to Management, the drains carry a mixture of storm water, sewage and other wastes; there are no reports of odor from the drains. Management refers to the duty of the Municipal Corporation of Greater Mumbai (MCGM) to clean these drains once a year before the monsoon and to information that the drains are well-built to drain excess storm water. However, Management's Response concedes that based on a visual assessment, water quality has deteriorated. Management also states that a retaining wall will be constructed along the banks of the drains to define the boundary and that other actions will be taken to prevent erosion.

The Panel finds that to protect the quality of life of people being resettled to Mankhurd and to improve the aesthetics of the site, a frequent, deliberate and planned maintenance schedule for the storm drains is needed. The annual removal of silt and debris from the channels immediately before the onset of the monsoon is inadequate to prevent the accumulation of waste throughout the year. **Similarly, the on-site and municipal sewers must be connected and efficiently maintained to prevent the overflow of sewage to the storm water drains.**

Radioactive Waste from the Bhabha Atomic Research Center (BARC)

The Requesters are concerned that radioactive waste from the BARC will negatively affect the PAPs and the resettlement sites at Mankhurd. They fear that the BARC might have negative impacts on them and stress that they lack information about the activities of BARC. The BARC facilities are downstream of the watercourses draining the resettlement sites and, in the view of the Panel's expert, **the residents of the resettlement sites have no greater risk of exposure to radioactive emissions in the event of a nuclear reactor accident than other residents of Mumbai.**

Destruction of Mangroves and Other Trees

The Requesters claim that “*mangroves are being destroyed rapidly ... in broad daylight*” at the Mankhurd resettlement site and that *thousands of trees have been unlawfully and illegally cut by the implementing agencies and their agents along the route of the JVL and in the entire MUT project*”. **The Panel notes the ongoing concern by the Bank for mangrove habitat protection in the Project, as reflected in its missions and in the contract awarded to undertake compensatory planting of mangrove saplings for mangroves destroyed during the rail link. During its visits, the Panel did not witness widespread destruction of present-day mangrove habitat at the Mankhurd site. Neither the Mankhurd site nor its immediate surroundings are currently populated with mangroves (although some trees were noted in nearby tidal creeks).** While some trees may have been deliberately or inadvertently destroyed, this would not amount to widespread destruction.

As regards other trees, the Bank itself noted in May 2005 that there were major deviations in implementing the EMP in JVLR. During its February and May 2005 visits, the Panel found that the required compensatory tree planting is far behind schedule. The Panel was informed that Bank staff are following up on this issue. The October 2005 Aide Memoire of the Bank, however, does not clarify what actions are being taken. **Based on this report and other data, the Panel is concerned that the responsive actions relating to the loss of Mangrove and other trees are not adequate.**

PROJECT SUPERVISION

The Requesters claim that the Bank has failed to supervise the resettlement plan with respect to their livelihoods, education of children, social and economic networks, infrastructure, among other items, which does not comply with OD 4.30 and OP/BP 13.05. The Bank has a responsibility to supervise resettlement operations. OD 4.30 (31) provides that “[*R*]esettlement components should be supervised throughout implementation ... Complete recovery from resettlement can be protracted and can often make it necessary to continue Bank supervision until well after populations have been relocated.” Management contends that a high level interdisciplinary team of Bank staff has carried out intensive supervision.

Responsibility for Project Implementation and Supervision

The World Bank structure for supervising projects in India involves two separate lines of authority: those for the sector and those for the country. For the MUTP, the social development specialist, environmental specialist, and transport specialists (in India and in Headquarters) and the External Affairs Officer assist the Task Team Leader (TTL) in the supervision of the Project, but they report to different managers. Except for a transport specialist located in Washington, D.C., all are located in the World Bank Country Unit in India.

The TTL reports to the Sector Manager for Energy and Infrastructure. If there are problems in the Project, the Sector Manager raises them with the Sector Director, who may raise them with the Country Director. Although the Sector Manager may raise Project related issues with the Borrower and implementing agencies, it is the Country Director or Regional Vice President who raises issues that may have broader implications for Country - Bank relations. The direct line of authority for both the Social Development Specialist and the Environmental Specialist is to the Sector Manager for Environment and Social Development. The External Affairs Officer's direct line of authority is to the Communication Advisor. The organizational chart included in this report clarifies the formal relationships of authority of the staff involved in this Project. **While the Panel understands that this matrix structure is widely applied by the Bank to Projects of this nature, the Panel finds that in dealing with problems as they emerge, this structure may sometimes delay Bank actions and dilute accountability.**

Problem Identification and Corrective Actions

The Panel observed that there have been many problems associated with the Project. With regard to some, such as the environmental management capacity of MMRDA, Bank staff identified the problem of lack of capacity and Bank Management followed up to ensure actions were taken. Other problems, such as some of those raised by the Requesters, were identified early on by the specialists involved in the Project, but were not given adequate attention. The Panel notes the problems associated with the surveys conducted for the road component, the preparation of an implementation manual, the inadequate institutional capacity of the NGO selected to be responsible for post-resettlement operations, the disclosure of Project information to PAPs and shopkeepers, and the grievance redress procedures. Still other problems were not recognized. **The Panel thus finds that the Bank did not comply with OP/BP 13.05 and OD 4.30 in the supervision of the Project.**

As noted above, the estimates of the number of people to be resettled and to a lesser extent the number of businesses affected by the Project shifted significantly over time. The Bank did not re-assess the Project or take adequate responsive measures in light of these shifting estimates. **The Panel finds that this does not comply with OP/BP 13.05.**

With regard to the problem of middle income shopkeepers displaced by the widening of the road, the Panel observed that the March 2004 Aide Memoire reported that the mission found that *"some misgivings of a certain group of affected shopkeepers on the SCLR alignment were essentially the result of inadequate information."* **The Panel finds that the Bank failed to identify the special problems of shopkeepers affected by the road widening and alignment and to take corrective action until the Request was filed with the Panel. This did not comply with OP/BP 13.05**

With regard to income restoration, the Panel found that successive supervision missions failed to correct the Bank's initial assessment that income restoration was not a potential problem for resettlement of people affected by the road component, and thus did not take

corrective actions until after the Request was submitted to the Panel. **This does not comply with OP/BP 13.05.**

With regard to institutional capacity to implement resettlement, the Panel notes that although the Bank identified the problem of a lack of institutional capacity in MMRDA and the designated NGOs to implement resettlement, it did not adequately follow up with efforts to remedy it until after the Request was filed. **The Panel notes that the contract with SPARC/NSDF does not include adequate provisions for monitoring use of funds.**

Supervision: Staff Expertise and Mission Composition

Although adequate in number, most general supervisory missions are dominated by infrastructure specialists. The Panel notes that only one social specialist from the Country Unit was normally involved in supervising the Project throughout the implementation period, and only one other in the preparation period after the two Projects merged. This occurred despite the size and the importance of the resettlement component and the increase in problems associated with it. **The Panel observes that despite the significance of resettlement issues, the supervision staff in this aspect of the Project generally remained constant at only one social expert in the Country Unit. During the investigation, it was brought to the attention of the Panel that the position of Sector Manager for Social Development in the South Asia Region, which is especially relevant to resettlement issues, was vacant for more than two years during Project implementation.**

Responsibilities to the Board

The Panel found, with some surprise, that the PAD, the main document given to the Bank's Board of Directors in requesting project and loan approval, contained incorrect information on several key issues. With respect to the number of potentially affected persons, the PAD contained an estimate significantly lower than the number suggested in then existing Project documentation. In addition, the PAD did not inform the Board of several significant risks raised by the very large resettlement operation, especially to vulnerable populations, that had been highlighted in internal documents. **The Panel finds that these failures in providing information to the Board were a critical flaw in procedure that undercut the ability of the Board to make informed decisions, and were not consistent with OMS 2.20, BP 10.00 Annex E, and OP/BP 10.04.**

Recent Steps to Comply

The Panel notes that after the Requests were filed, the Bank's attention to the problems in the R&R for the road component increased dramatically, and received high level attention. Since then, the Bank has taken a number of actions to address some of the concerns raised in the Requests, culminating in those outlined in the latest Aide Memoire of October 2005 and the December 2005 agreement to expand the coverage of the Business Needs Study. The Panel appreciates these efforts and

regards them positively. In particular, the Panel notes the initiative of the Country Unit in July 2004 to begin to try to address the concerns of the shopkeepers with MMRDA and the Requesters, the greater attention of Country Unit staff to monitoring implementation, and the concern of Bank staff at headquarters and in the field to the issues and to finding ways to resolve them and to bring the Bank into compliance.

The Panel observes, however, that there are still many issues outstanding, including the final delineation and implementation of the measures needed for SCLR shopkeepers to bring the Bank into compliance with OD 4.30.

The Panel finds that in the initial design of the Project, the Bank was careful to comply with Bank policies and procedures. However, as indicated above, after the two separate Projects for Infrastructure and for Resettlement and Rehabilitation were merged into one Project, the Bank did not comply with a number of important policy and procedures. This has had important ramifications for the Project. Now the pendulum appears to have shifted, and concerned Bank staff are making significant efforts to bring the Bank into compliance. The Panel finds it essential that these efforts continue, and notes the recent significant concerns raised by the Requesters relevant to implementation and compliance. The Panel acknowledges the importance of transport infrastructure to the development of Mumbai, and hopes that its report will help to ensure that the Project complies with Bank policies and procedures.

PART I: Introduction

Chapter 1 Introduction

A. Events Leading to the Investigation

1. Requests for Inspection

1. The Inspection Panel received four successive Requests for Inspection related to the India: Mumbai Urban Transport Project (hereinafter referred to as the “Project” or “MUTP”). As described below,⁷ the Project has been partly financed under an IBRD Loan and under an IDA Credit. The objectives of the Project are to “*facilitate urban economic growth and improve quality of life by fostering the development of an efficient and sustainable urban transport system including effective institutions to meet the needs of the users in the Mumbai Metropolitan Region.*”⁸ The Project consists of three components: (1) improvement of Mumbai’s rail transport system; (2) improvement and extension of the road-based transport system; and (3) resettlement and rehabilitation (“R&R”) of affected persons.⁹
2. All four Requests for Inspection pertain to the proposed improvement of east-west connecting roads within the road-based transport component and to the proposed resettlement and rehabilitation of persons affected by this component. The Requesters represent shopkeepers and other affected residents of Mumbai. They are from a diverse economic background, which ranges from the lower to the middle income earning groups. The first three Requests specifically refer to the development of the Santa Cruz-Chembur Link Road (“SCLR”), while the last Request addresses similar issues related to the larger Jogeshwari-Vikhroli Link Road (“JLVR”). Management submitted separate responses to the first two Requests.
3. **The First Request (the “USOA Request”)**: On April 28, 2004, the Inspection Panel received a Request for Inspection related to the Project.¹⁰ This Request (the “First Request”) was submitted by the United Shop Owners Association (USOA), a non-governmental organization located in the city of Mumbai, India, on its own behalf and on behalf of 118 residents of Mumbai who claim to be adversely

⁷ See below Chapter 1B.

⁸ World Bank: Energy and Infrastructure Sector Unit, Project Appraisal Document on a Proposed Loan in the Amount of US\$463.0 Million and a Credit in the Amount of SDR62.5 Million (US\$79.0 Million Equivalent) to India for the Mumbai Urban Transport Project 3 (India Country Management Unit, South Asia Region) Report No. 24004-IN, May 21, 2002 [hereinafter “PAD”].

⁹ Project Information Document (PID) for Mumbai Urban Transport Project, January 16, 2002, p. 5 [hereinafter “PID for MUTP, January 2002”].

¹⁰ The Request was supplemented with a letter addressed to the Executive Secretary of the Panel dated April 27, 2004, confirming the contents of the Request and attaching a copy of a further letter sent to the Bank office in New Delhi, dated April 13, 2004, raising the issues contained in the First Request.

affected by the Project (the “USOA Requesters”).¹¹ On April 29, 2004, in accordance with the Resolution establishing the Inspection Panel (the “Resolution”),¹² the Panel notified the Executive Directors and the President of the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA)¹³ that it had received the Request, which constituted registration of the Request under the Panel’s Operating Procedures.¹⁴ The Panel received Bank Management’s Response to the First Request on May 27, 2004 (the “First Response”).¹⁵

4. The USOA Requesters are small and medium-sized shop owners whose commercial premises are located in the Kismat Nagar area, Kurla West, in the city of Mumbai. They claim that they were instructed by the implementing agency of the Project, the Mumbai Metropolitan Region Development Authority (“MMRDA”), to move their commercial structures from their current location to a distant location without consultation and without their consent. They state that they have suffered adverse effect due to negligence and failure of the Bank to follow its operational policies and procedures with respect to their eviction and relocation, and rehabilitation under the Project component known as SCLR. With regard to the Project design itself, the USOA Requesters also demand that the envisaged widening of the road be limited to its original proposed width of 39.0 meters, and not be expanded to the new proposed width of 45.7 meters.
5. The USOA Requesters object that their commercial structures are being removed from their current location to a place called Mankhurd. They claim that Mankhurd is too far (nearly 15 km) from their present location, and that if relocated there, they will suffer irreparable damage to their well-established businesses. Instead, they demand that if needed, they should be relocated to alternative sites closer to their present location.
6. In particular, the USOA Requesters assert a failure to provide income restoration under the Project’s resettlement component which will cause significant harm to them. They express their disagreement with the Project R&R that entitles them only to an area of 225 square feet regardless of the actual area of their current premises affected by the Project. They further state that they have not been provided with proper information regarding the portions of their commercial premises that will be affected by the Project.
7. The USOA Requesters assert that they were never consulted and never participated at any stage of Project planning or implementation and that their attempts to have their concerns heard were not successful. They declare that they

¹¹ In this Report, these Requesters are referred to both as “USOA Requesters” and “First Requesters.”

¹² IBRD Resolution No. 93-10, IDA Resolution No. 93-6, the Resolution Establishing the Inspection Panel, September 22, 1993.

¹³ For the purposes of this report, the IBRD and IDA are collectively referred to as “the Bank.”

¹⁴ See The Inspection Panel, Operating Procedures, August 19, 1994, ¶ 17.

¹⁵ Bank Management Response to Request for Inspection, India: Mumbai Urban Transport Project (IBRD Loan No. 4665-IN; IDA Credit No. 3662-IN). See Chapter 1A.

have raised the matters of their complaint with Bank Management several times, but the Bank has failed to take care of their grievances. Additionally, they express concerns with regard to Bank supervision.

8. **The Second Request (the “Gazi Nagar Request”)**: On June 24, 2004, the Panel received a second Request for Inspection (the “Second Request”) dated June 22, 2004, relating to the same component of the Project. This Second Request was submitted by three nongovernmental organizations located in the city of Mumbai, India – the Hanuman Welfare Society, the Gazi Nagar Sudhar Samiti and the Jai Hanuman Rahiwasi Sewa Sangh – on their own behalf and on behalf of about 350 residents living in the area known as Gazi Nagar in the Kurla West District of Mumbai.¹⁶ On November 1, 2004, the Panel received a letter from the Aman Chawl Welfare Association asking that the Association be added to the second group of Requesters.¹⁷ The Association represents 118 Project affected people.¹⁸ On June 29, 2004, in accordance with the Resolution, the Panel notified the Executive Directors and the President of the IBRD and the IDA that it had received the Second Request, which constituted registration of the Request under the Panel’s Operating Procedures. The Panel received Bank Management’s Response (the “Second Response”)¹⁹ to the Second Request on July 28, 2004.



Picture 1.1 Lumber Shop along SCLR Road

¹⁶ In this Report, these Requesters are referred to both as the “Gazi Nagar Requesters” and the “Second Requesters.”

¹⁷ Upon receipt of the letter, the Panel notified the Regional Vice President that it was adding the Adam Chawl Welfare Association and its members to the processing of the existing Request. The Panel requested that Management inform the Panel if it had any comments or information that the Panel should consider.

¹⁸ On February 19, 2005, 21 additional residents asked to be added to the request. All parties of the Gazi Nagar Request will be called the Gazi Nagar Requesters.

¹⁹ Bank Management Response to Request for Inspection, India: Mumbai Urban Transport Project (IBRD Loan No. 4665-IN; IDA Credit No. 3662-IN).

9. The Gazi Nagar Requesters claim that they are likely to suffer irreparable harm due to omissions and failure by the Bank to comply with its own policies and procedures with respect to the design, appraisal, and implementation of the SCLR component of the Project financed by the Bank. They further claim that they have been deprived of their rights to participation and consultation with regard to the Project and in the resettlement process. They also assert that the Bank and MMRDA failed to disclose Project and R&R information to them.
10. More specifically, the Gazi Nagar Requesters assert that the Mankhurd resettlement site is too far away from Gazi Nagar and that there is sufficient space available in other nearby places for resettlement.
11. As to the environmental condition of the resettlement site, the Gazi Nagar Requesters allege that Mankhurd is considered amongst the most highly polluted areas in Mumbai. They note that the site is near a huge dumping ground, from which they fear the spread of diseases. They add that much huge, open drainage pass through this area carrying the city's waste and drainage water, and causing bad odors. These Requesters also fear that the drains carry radioactive wastewater from the nearby Bhabha Atomic Research Centre (BARC) and that the BARC might pose other risks. They also argue that chemical factories and refineries in the area could cause health and environmental hazards.
12. In terms of the construction and design of the buildings at the proposed resettlement site, the Gazi Nagar Requesters describe them as being of very bad quality and inviting health related problems, fire hazards and social troubles. Moreover, the Request challenges the affordability of the maintenance charges that the Requesters must pay in the resettlement housing.
13. The Gazi Nagar Requesters assert that the Government of Maharashtra, the Government of India and the Bank's office in New Delhi have all failed to deal with their grievances satisfactorily. They further claim that the Bank has failed to supervise the design of the resettlement plan.
14. **The Third Request (the "Third Request"):** On November 29, 2004, the Panel received another Request for Inspection (the "Third Request") dated November 4, 2004, related to the Project. On December 29, 2004, the Panel notified the Executive Directors, the President and Management that it had received the Third Request.
15. This Third Request was submitted by a local non-governmental organization, the Bharathi Nagar Association, on its own behalf and on behalf of the residents living in the area known as Bharathi Nagar in the Chembur district of Mumbai.²⁰

²⁰ In this report, these Requesters are referred to both as the "Bharati Nagar Requesters" and the "Third Requesters."

- The Third Request's claims closely resemble those of the first two Requests. The Request asserts a lack of disclosure of information, lack of consultation and participation, failure to provide adequate income restoration, improper living conditions at the resettlement site, and lack of supervision.
16. More specifically, the Bharathi Nagar Requesters express their concern about the environmental condition of the Mankhurd area and its proximity to the municipal dumping ground, from which they fear the spread of diseases and viral and bacterial infections. They also fear possible impacts and emissions by chemical factories, refineries and BARC, which, according to them, are near the resettlement site. Furthermore, these Requesters claim that the resettlement site is near a creek and two huge open drains that carry wastes and sewage as well as blood, excreta and wastes from animals butchered at the nearby abattoir.
 17. The Bharathi Nagar Requesters also argue that the proposed resettlement site is surrounded by slums where all sorts of crime and prostitution flourish. With regard to the construction and building of the new housing, they claim that the new structures are too small and lack sufficient security and living standards. They allege that there is insufficient space between the multi-story buildings at the resettlement site, which results in a lack of light and proper ventilation, and causes potential fire hazards.
 18. One of the Bharathi Nagar Requesters' main concerns relates to the restoration of income. They claim that whereas nearly 80 % of their premises measure about 500 sq.ft in area, the buildings on the resettlement site provide only an area of 225 sq. ft.
 19. Moreover, these Requesters allege that the Government of the State of Maharashtra (GoM), the Government of India (GoI) and the World Bank have failed to address their grievances. They further claim that the Bank has failed to supervise the design of the resettlement plan.
 20. According to the Bharathi Nagar Requesters, MMRDA informed them that their case is solved due to the realignment of the road. In May, 2005, MMRDA also informed the Panel that the Bharathi Nagar Requesters were not affected anymore. However, the Panel was not able to get official written confirmation in this regard. Similarly, the Requesters explained to the Panel that they have only received verbal confirmation that the area will not be demolished but have not received allotment letters or seen a Map from MMRDA showing the revised road alignment. Management stated that a part of the Bharathi Nagar area is still affected by the SCLR, while another part will not be affected. Management was not able to confirm that the structures of the Requesters are not going to be affected.²¹ The Panel notes that urgent clarification regarding their situation is needed.

²¹ Management e-mail to the Panel, dated September 22, 2005.

21. **The Fourth Request (The “Fourth Request”):** On December 23, 2004, the Panel received another Request for Inspection (the “Fourth Request”) dated December 4, 2004, related to the same Project. Unlike the first three Requests that focused on issues related to the SCLR, the fourth Request addressed the JVLR. On December 29, 2004, the Panel notified the Executive Directors, the President and Management that it had received the Fourth Request. This Fourth Request was submitted by a local non-governmental organization, Ekta Wyapari Jan Seva Sangh. The group stated that it was acting on its own behalf and on behalf of residents and shopkeepers of the area of Bandrekar Wadi, Bhavbani Chowk in the Jogeshwari district of Mumbai. Fifty eight members of the organization who live in this area signed the Request.²²
22. The Fourth Request’s claims are similar to those of the first three Requests. The Ekta Wyapari Jan Seva Sangh Requesters also assert a failure to provide adequate income restoration, improper living conditions at the resettlement site, and lack of supervision. They also allege that their rights to participation and consultation have been denied and that they did not receive proper information. They claim that they have complained to the World Bank’s New Delhi Office but received no satisfactory reply.
23. The Fourth Request also alleges that thousands of trees and mangroves have been cut unlawfully in the Project and have not been replaced or replanted.
24. These Requesters object to the classification of their current area as a slum and the consequent application of slum rehabilitation provisions. They argue that they pay various types of government taxes and thus cannot be termed as squatters or slum dwellers.
25. With regard to the housing at the proposed resettlement site, they complain that the quality and equipment of the buildings are inadequate and that required standards have not been met. Moreover, the Fourth Requesters assert that the resettlement scheme only took into account the length and breadth of their present structures and forgot to count the upper levels, whereas their structures are three dimensional. They further allege that the maintenance charges that are set for the new premises are excessive. The Requesters allege that they will suffer significant harm from the Project due to the failure to provide income restoration and the failure to compensate adequately for the loss of extra income they now receive from leasing extra space in their premises and for the remodeling of these premises.

²² On January 24, 2005, the Inspection Panel received a letter from the Pratap Nagar Welfare Association, a non-governmental organization located in the area called Pratap Nagar, representing 41 residents and shopkeepers. For reasons of economy and efficiency, the Inspection Panel added the Association and its members to the processing of the Fourth Requests. In this report, these Requesters are referred to both as the “Ekta Wyapari Jan Seva Sangh” Requesters and the “Fourth Requesters.”

26. Several other groups and persons expressed their concerns regarding the MUTP, bringing forward similar claims as the Requesters.²³ These include the well-known activist Medha Patkar, a central organizer and strategist of Narmada Bachao Andolan (NBA), a people's movement organized to stop the construction of a series of dams planned in India, and Simpreet Singh of the National Alliance of People Movements (NAPM). They detailed to the Panel serious alleged problems with regard to the MUTP works and their implementation. These included: threats and use of force against PAPs; accusations of corruption against the NGO staff and authorities involved in R&R; serious drainage problems caused by the MUTP, which were part of the serious effects of the Mumbai Flooding in 2005; and the failure of the MUTP to protect PAPs residences and their livelihoods.²⁴

2. Management Response

27. Management provided the Inspection Panel with separate responses to the First Request and to the Second Request. Management did not submit additional responses to the Third and Fourth Requests.
28. **Management Response to the First Request (the "First Response"):** On May 27, 2004, the Panel received Management's Response to the First Inspection Panel Request, which is briefly summarized below.
29. In its first response, Management maintains compliance with Bank policies and procedures. It explains that the Bank has requested changes to the original MUTP Resettlement & Rehabilitation Policy ("hereinafter "R&R Policy") to bring it into line with OD 4.30.²⁵ The First Response also notes that the R&R component of the Project reckons the numbers of affected houses at 23,000 and the number of affected shops at 3,000, or approximately 120,000 people.²⁶ Prior to this, according to Project documents, the number of affected households and businesses included in the R&R component was only 19,200. Management attributes the increase to more detailed assessments being carried out and to changes in the scope of certain Project components. Management asserts that implementation of the R&R component has gone well.²⁷ However it acknowledges that unlike relocation of small, household-based shops, relocation of middle-sized business poses more complex problems.

²³ To support their claims the First Requesters provided the Panel with a booklet entitled "Bulldozing Rights" published in June 2005 by the Indian People's Tribunal on Environment and Human Rights that investigates the slum demolitions in 2004-2005 in Mumbai. The report is divided into four parts which, *inter alia*, focus on the following aspects: depositions given by affected persons; politics of demolition; relevant housing policies and laws; as well as conclusions and recommendations.

²⁴ Information given by Medha Patkar in meeting during Panel visit in May 2005 and in letter from Medha Patkar and Simpreet Singh received by the Panel on September 20, 2005.

²⁵ First Response, p. 7, ¶ 20.

²⁶ *Ibid.*, p. 5, ¶ 17.

²⁷ *Ibid.*, p. 7, ¶ 22.

30. In response to the Requesters' allegations concerning the lack of income restoration and the Bank's failure to comply with its policies and procedures on involuntary resettlement, Management states that the measures for economic rehabilitation that are described in the Resettlement Action Plan (RAP)²⁸ are consistent with the provisions of the R&R Policy. According to Management, all businesses whose shops are affected will receive ownership title to a new shop in the resettlement area.²⁹ However, Management recognizes that the needs of medium-sized shopkeepers with specialized premises and strategic locations may not have been sufficiently addressed so far, but that surveys to determine whether income restoration was achieved a year after the allotment will be undertaken.³⁰
31. In response to the Requesters' concern over the discrepancies between the size of the area they currently occupy and the smaller size of the allocated areas, Management confirms that all resettled businesses will receive equivalent space up to 225 square feet. Management argues that the maximum size limit is set because of limited space availability and high land costs in Mumbai. As to the survey of the actual area of the USOA Requesters' shops, Management states that this was conducted by the NGO retained by MMRDA for the Project, as part of the baseline socio-economic survey.
32. Management does not share the Requesters' concerns about the quality and equipment of the new buildings, and claims that the living conditions at Mankhurd are expected to be considerably better than those that the Requesters experience at present and that the housing units and shops have been approved by the competent authorities. According to Management, PAPs³¹ will be able to pay the expected maintenance charges with the interest resulting from a one-time grant that will be paid to them.
33. With respect to the Requesters' objection to the choice of Mankhurd as a relocation area and their preference for alternative sites, Management explains that other sites were either not suitable or not available. According to Management, the Mankhurd site constitutes one of the best options available, mainly because of its infrastructure and its proximity to the Mankhurd railway station.

²⁸ Mumbai Urban Transport Project, Resettlement Action Plan, April 2002 [hereinafter "RAP"]. When citing from the Resettlement Action Plan (RAP) the Panel refers to the entire document called "Resettlement Action Plan" RP75 April 2002 (rev.).

²⁹ Government of Maharashtra, Resettlement and Rehabilitation Policy for MUTP, March 1997 (as amended in December 2000), p. 15 [hereinafter "MUTP R&R Policy or R&R Policy"]. The R&R policy is also included as Annex 1 in the RAP and references to R&R Policy may also be indicated as a page or paragraph of the RAP.

³⁰ Ibid.

³¹ According to the MUTP R&R Policy, ¶ 5, p. 4, "*Project Affected Persons includes households, business units including their workers and owners of assets like land and buildings affected by MUTP shall considered as PAPs and may include;[sic] non-resident land owners (including farmers and horticulturist); non-resident lessees, tenants or sub-tenants of buildings; squatters (non-resident structure owners, resident structure owners, tenants); pavement dwellers. Household for this purpose means all the males/females, their family members and relatives staying in a house/tenement/hut.*"

34. Concerning the USOA Requesters' demand for the restoration of the road width from 45.7 meters to 39 meters, Management responds that in the initial design of the Project the road width was planned to be 39 meters and that they had not yet approved the increase in design width.³²
35. Management emphasizes that several consultations with affected people were held, during which the Project impacts and resettlement conditions were discussed. It states that MMRDA has held several focused meetings with the affected shopkeepers and that a local NGO called Society for the Promotion of Area Resources Center (SPARC) is holding consultations on an ongoing basis.
36. Referring to the USOA Requesters' concerns about access to information about the Project, Management states that resettlement documents related to the SCLR are available at the Public Information Centers (PIC) on site. Management adds that as a result of a March 2004 Bank supervision mission, MMRDA established a PIC near the USOA Requesters' shops.
37. With regard to the Requester's concerns about Bank supervision, Management states that "*supervision is being carried out regularly with a high level interdisciplinary team of Bank staff*", and that the Bank has allocated a very high budget for supervision.³³
38. **Second Management Response (the "Second Response"):** On July 28, 2004, Management submitted its response to the Second Request (the "Second Response"). As in the First Response, Management claims compliance with Bank policies and procedures. However, though Management rates progress in implementation, despite delays, as satisfactory, it rates safeguard management performance as unsatisfactory.³⁴ Management claims that "*[d]eficiencies in reporting, lack of timely handling of grievances, and inadequate performance of the Independent Monitoring Panel (IMP) have also contributed to the unsatisfactory rating.*"³⁵
39. As in the First Response, Management expresses its satisfaction with the general implementation of the R&R component of the Project.³⁶
40. Management does not share the Requesters' concerns about the environmental aspects of the resettlement site, and asserts that the living conditions at Mankhurd are expected to be considerably better than the conditions to which the Requesters are currently exposed. Management further states that it is not aware of any

³² As of November 2005, the Bank had not yet given a non-objection to MMRDA's proposal to widen the road.

³³ First Response, Annex 1, item 8.

³⁴ Second Management Response, p. 5, ¶ 13.

³⁵ Second Management Response, p. 5-6, ¶ 13.

³⁶ *Ibid.*, p. 9, ¶ 23.

information showing that the Mankhurd site “*is excessively polluted or is at risk of being polluted.*”³⁷ Management does not agree with the Requesters’ concerns relating to health risks from the dump and the open drains.

41. Concerning highway design alternatives, Management responds that options for alternative alignments were limited. As for resettlement site alternatives, Management states that alternatives are not available. Management argues that the alternative sites suggested by the Requesters were found not to be feasible or were unavailable for resettlement purposes.
42. Management assumes that the major impact from the Project will be the need for resettlement housing. With regards to income restoration, Management does not anticipate a significant impact on the residents due to a loss of jobs. As for the possibility of people losing site-specific opportunities to supplement their income, according to Management such opportunities will be replaced by similar ones in the Mankhurd resettlement area. Management expects that the “*social and economic network and kin groups [of the PAPs] will be largely retained in the new location.*”³⁸
43. In response to the Requesters’ claims relating to poor building construction, Management says that the competent authorities have approved the designs and layouts of the buildings. As for the Requesters’ concerns over the maintenance charges, Management asserts that the Project will contribute a one-time grant, which will be placed in a fixed account, the interest on which will be used to subsidize maintenance charges and taxes. Management also recognizes that this information may not have been sufficiently communicated to PAPs.
44. Management considers that the supervision of resettlement has been regular and intensive, through New Delhi-based supervision complemented by assistance from headquarters. Management identified several issues that needed urgent attention and required follow up, and advised MMRDA about, *inter alia*, establishing cooperatives and completing other post-resettlement activities in the housing areas; strengthening implementation capacity in MMRDA; improving the dialogue with and focusing on problem solving with shopkeepers; and strengthening the grievance redress procedures.
45. With regard to the grievance procedures, Management contends that the Requesters did not use the grievance mechanism available under the Project, possibly because they were insufficiently informed about it. However, Management acknowledges that “*consultations as well as communication of the grievance procedures have likely not been adequate and that the grievance mechanism itself needs revamping.*”³⁹

³⁷ Ibid., p. 23, Annex 1, item 1.

³⁸ Second Management Response, p. 25, Annex 1, item 4.

³⁹ Second Management Response, p. 27, Annex 1, item 8.

46. Regarding the Requesters' concerns about consultation and participation, Management states that a series of consultations were held during Project preparation and that these consultations focused primarily on environment and resettlement issues.⁴⁰ Management acknowledges the lack of specific consultations to discuss alternatives for alignment or structural design, except consultations for R&R purposes.
47. Concerning the Requesters' complaints about the lack of disclosure of information, Management asserts that drafts of the RAP, the final RAP and the RIP were disclosed. Nevertheless, Management acknowledges insufficiencies in documenting the consultation process overall and the outreach process to the Requesters and adds that the Bank is working with MMRDA to ameliorate the situation. Management agrees with the Requesters critique about the condition of the PIC but states that conditions have improved and that there will be further improvements to the PIC.

3. Eligibility of the Request

48. To determine the eligibility of the Requests and the Requesters the Panel reviewed the Request for Inspection and Management Response and visited Mumbai and New Delhi from June 22 - 27, 2004.⁴¹
49. During their visit, the Panel Chairperson, Professor Edith Brown Weiss, together with the Panel's Executive Secretary, Mr. Eduardo Abbott met with the Requesters, National and State government officials, representatives of MMRDA, and local NGOs. The Panel also interviewed World Bank staff responsible for the Project. As the second Request for Inspection was submitted to the Panel during its field visit to Mumbai, no further visits were required to ascertain the eligibility of the Second Request.
50. **Joint Processing of the Four Requests submitted to the Panel:** On June 29, 2004, along with the Notice of Registration for the Second Request, the Panel submitted to the Executive Directors a memorandum entitled India: Mumbai Urban Transportation Project (Loan No. 4665-IN; Credit No. 3662-IN) Simultaneous Processing of Requests for Inspection.⁴² In this memorandum, the Panel recommended that the Board approve the Panel submitting a single Report and Recommendation on whether an investigation of the issues raised in either the First or Second Requests or both was warranted. The Board approved the Panel's recommendation on a non-objection basis on July 13, 2004.
51. The Panel determined that the First and Second Request fulfilled the eligibility requirements set forth in the Resolution establishing the Inspection. Because the Requests and the Management Response contain conflicting assertions and

⁴⁰ Ibid., p. 24, Annex 1, item 3.

⁴¹ The visit was made after the First Request had been received.

⁴² INSP/R2004-0005.

interpretations concerning the issues, the facts, compliance with bank policies and procedures, actual harm, and potential harm, the Panel recommended an investigation to the Board of Executive Directors on September 3, 2004.

52. Subsequently, after careful review of the Third and Fourth Requests, the Panel concluded that, while they were submitted by different groups of affected people, in substance they raise related issues concerning the same Project, and that, therefore, for reasons of economy and efficiency, these Requests should be processed jointly with the two previous Requests.⁴³ Further, the Panel recommended proceeding as follows: a) provide copies of the Third and Fourth Request to Management and ask for any comments or information that the Panel should consider relating to the new requests; b) verify eligibility during the investigation visit; c) address the eligible claims presented in these additional requests in the context of the investigation already approved by the Board; and d) advise the new Requesters accordingly.⁴⁴ The Board approved the Panel's recommendation on a non-objection basis on January 11, 2005.
53. The Panel verified the eligibility of the Third and Fourth Request during the Panel visit to Mumbai in February 2005.

4. The Board Decision

54. On September 24, 2004 the Board approved the Panel's recommendation to conduct an investigation into the matters alleged in the Requests for Inspection. The Requests, the Management Responses, and the Panel's Report and Recommendation were made public shortly after the Board decided to authorize the inspection sought by the Requesters.⁴⁵ On January 11, 2005, the Board approved the Panel's recommendation to process the Third and Fourth Requests as part of the Panel's investigation into the initial two Requests.

B. Description of the Project

1. The Setting

55. Mumbai is the largest urban area in India and one of the largest and most crowded cities in the world. The City of Mumbai is situated on a north-south aligned peninsular between the Arabian Sea to the west and the Thane River to the east. The southern end of the tapering peninsular is known as Island City and contains the Central Business District and port of the City of Mumbai. The broader northern parts of the peninsular are administratively divided into the so-called western and eastern suburbs. Urban growth has spread beyond the boundaries of

⁴³ Unless the context otherwise requires, the Requesters of all Requests for Inspection are collectively referred to as "the Requesters."

⁴⁴ Inspection Panel Memorandum to the Board of Executive Directors: "India: Mumbai Urban Transport Project, Processing of Additional Requests for Inspection related to the Project," INSP/R2004-0008.

⁴⁵ The First and Second Requests have been made public.

- the Municipal Corporation of Greater Mumbai to form a Mumbai Metropolitan Region (MMR). The population of the MMR is about 14 million and extends over an area of 1,467 sq. km.⁴⁶
56. The geography of Mumbai has led to both road and rail routes being aligned north to south. The two railways, the Central Railway and the Western Railway transport about 6 million passengers daily. Buses transport close to 4 million persons every day.⁴⁷ The MMR depends very much on public transport, rail and bus services provide for 88 % of the region's motorized trips.⁴⁸
 57. The road network is also orientated north-south. In the Island City, there are three north-south corridors. The western corridor is dominated by car traffic. The central corridor carries considerable bus and pedestrian traffic, while the eastern corridor serves the adjoining docks and is dominated by truck traffic. In the suburbs there are two north south corridors comprising two pairs of roads on either side of both the Western and Central railways. There are few east-west links connecting the north-south corridors, particularly in the suburbs. The underdevelopment of east-west road links reduces the capacity of the overall road primary system.⁴⁹
 58. The outcome of the large number of commuters and the limited road and rail network is extreme congestion and very long travel times for journeys within the city of Mumbai. The overall situation has led to many problems in the Mumbai Transport System.

2. The Project Objectives

59. The MUTP was initiated to address the transport problems in this city. In Mumbai, the responsibilities for the general direction of urban development and urban transport lie with the GoM through the Mumbai Metropolitan Region Development Authority ("MMRDA").
60. In 1994, a Comprehensive Transport Study ("CTS") was carried out with Bank assistance.⁵⁰ The aim of the CTS was to assess future travel demand and to determine investment needs and assist in policy formulation. Among other recommendations, the CTS underlined the priority of expanding suburban rail capacity, improving east-west connectivity, and having better traffic management. According to the PAD, the 1994 CTS provides the framework within which the scope of the Project has been designed.⁵¹

⁴⁶ PAD, p. 5.

⁴⁷ The figures for road and rail journeys are not additive as many commuters use both road and rail to reach their destinations.

⁴⁸ PAD, p. 5.

⁴⁹ PAD, p. 5.

⁵⁰ PAD, p. 6.

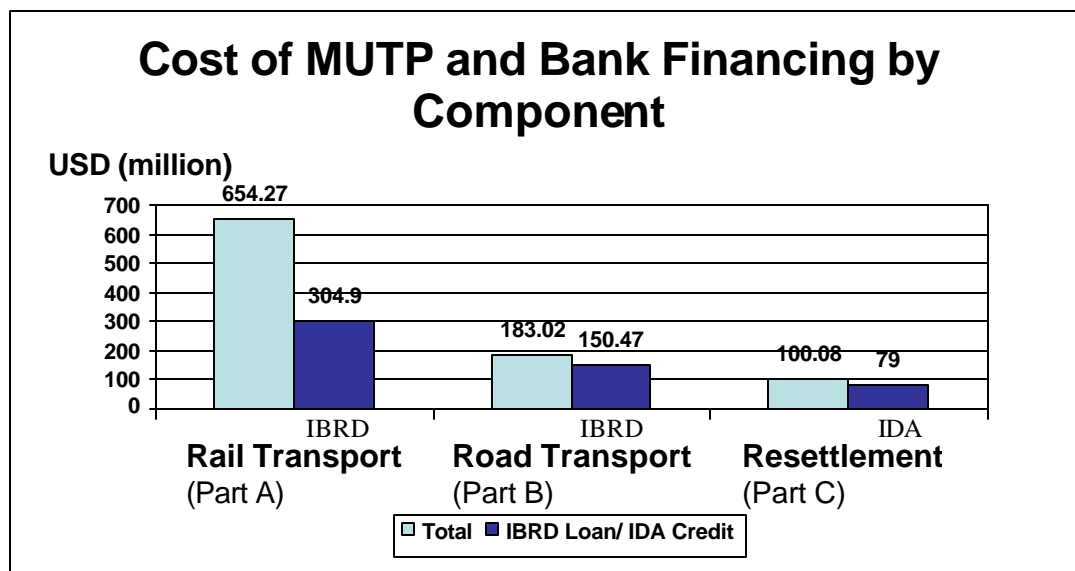
⁵¹ PAD, p. 15.

61. As already described above, the objectives of the MUTP, which has been partly financed under an IBRD Loan and an IDA Credit are “to facilitate urban economic growth and improve quality of life by fostering the development of an efficient and sustainable urban transport system including effective institutions to meet the needs of the users in the Mumbai Metropolitan Region (MMR).”⁵² The MUTP is a major infrastructure project that involves the resettlement of more than an estimated 120,000 persons.⁵³

3. Financing and Legal Structure of the Project

62. On August 5, 2002, the Bank entered into a Loan Agreement with India (the “Borrower”) providing for a US\$ 463 million equivalent to finance about 49% of the total project cost (the “Loan Agreement”).⁵⁴ Also, on August 5, 2002, IDA entered into a Development Credit Agreement with India providing for a SDR 62.5 million equivalent (about US\$ 79 million) to finance Part C (the resettlement and rehabilitation component) of the Project (the “Credit Agreement”).⁵⁵ The closing date for both the loan and the credit is June 30, 2008.⁵⁶

Figure 1.1: Cost of MUTP and Bank Financing by Component



Source: PAD, p. 11.

⁵² PAD, p. 3.

⁵³ For a more detailed discussion on the number of PAPs, see Chapter 3A of this report.

⁵⁴ Loan Agreement (Mumbai Urban Transport Project) between India and International Bank for Reconstruction and Development (IBRD), August 5, 2002, Loan Number 4665-IN [hereinafter “Loan Agreement”].

⁵⁵ Development Credit Agreement (Mumbai Urban Transport Project) between India and International Bank for Reconstruction and Development (IBRD), August 5, 2002, Credit Number 3662-IN [hereinafter “Credit Agreement”].

⁵⁶ Loan Agreement Article II §2.03; Credit Agreement, Article II § 2.03.

63. Four legal agreements are relevant to the Project: IBRD Loan Agreement, IDA Development Credit Agreement, Maharashtra Project Agreement and the Mumbai Railway Vikas Corporation Project Agreement. All agreements were signed on August 5, 2002. The Loan and Credit Agreements became effective on November 6, 2002.
64. According to the agreements between the IBRD and IDA with the GoM, the GoM undertook, *inter alia*, to carry out Parts B and C of the Project,⁵⁷ through State Project Implementation Agencies (PIAs) on terms that include, *inter alia*, environmental and social safeguards (the “Maharashtra Project Agreement”).⁵⁸
65. MMRDA is the coordinating agency for the implementation process for the entire Project and implements the Project mainly through other agencies, such as the Mumbai Railway Vikas Corporation (MRVC), Bombay Electricity and Suburban Transport Corporation (BEST), Maharashtra State Roads Development Corporation (MSRDC), Municipal Corporation of Greater Mumbai (MCGM). Because of the several agencies involved in the implementation process, each of the project components has its own institutional development and capacity building sub-components.⁵⁹

4. The Project Design

66. The Project as described in the Project Appraisal Document (PAD) includes the following three main components:
 - a. Rail transport (USD 654.27 million, of which USD 304.90 million are financed by IBRD Loan): aiming to improve the capacity and performance of Mumbai’s suburban rail network by, *inter alia*, procurement of new rolling stock, upgrading existing rolling stock, and improving track capacity and telecommunication systems;⁶⁰
 - b. Road-based transport (USD 183.02 million of which 150.47 million financed by the IBRD Loan): improving the capacity, efficiency and safety of the road network; traffic management and regulation; supporting investment in management, signals, and East-West connecting roads; and improvement of the bus system;⁶¹
 - c. Resettlement and rehabilitation (R&R) (USD 100.08 million of which USD 79 million is financed by the IDA credit): implementing the RAP to resettle the persons that are affected by the first two components of the Project. It

⁵⁷ Part B is the Road-based Component; Part C is the Resettlement and Rehabilitation Component.

⁵⁸ Maharashtra Project Agreement, dated August 5, 2002, Article II, Section 2.01.

⁵⁹ PAD, p. 24.

⁶⁰ PAD, p. 11, 41-43.

⁶¹ PAD, p. 10-11, 44.

includes constructing or purchasing of around 19,200 tenements of 225 square feet each to resettle persons displaced by the Project's main investment components, involving around 6000 transit houses as an interim measure, the acquisition of land for civil works, and payment of compensation for economic losses and other rehabilitation benefits.⁶²

67. The Requests for Inspection address issues related to the road and R&R components.
68. **The Rail Transport Component:** The Rail transport component is the major element of the Project and aims to improve capacity and performance of the suburban railway system. This is to be effected through procurement of new rolling stock, upgrading existing rolling stock, increasing track capacity and improving signaling, electrical and telecommunication systems and relocating people living less than 10 meters from the railway tracks. The component also includes provision of technical assistance for railway maintenance, management, safety and control.⁶³
69. **The Road-based Component:** According to the PAD, the road based transport component consists of five sub-components: (1) Traffic management; (2) Road network strengthening; (3) BEST Program, which involves procurement of buses; (4) Institutional strengthening and capacity building; and (5) Incremental operating cost and taxes for the non-rail transport component. The four Requests list concerns with regard to the second sub-component, which relates to road work strengthening and which will thus be explained in more detail.
70. The road work strengthening sub-component focuses on three elements: (1) The construction of the Jogeshwari-Vikhroli Link Road (JVLR); (2) the construction of the Santacruz-Chembur Link Road (SCLR) and (3) three Road over Rail Bridges (ROBs).
71. The first three Requests were submitted with regard to the SCLR, one element of the road-based transport component. The SCLR will be 6 kilometers in length and “*will reduce congestion and diversion of traffic movements to other congested links*” in the city.⁶⁴ The works associated with the construction of the SCLR include approach roads, a major bridge crossing, and junction improvements at each end where the SCLR meets both the Eastern and Western Express Highways. The SCLR is planned in two phases: Phase I, funded by the Bank, which extends from the Mithi River to EEH (3.45 km) and Phase II, financed with MMRDA's own funds, which extends from the WEH to the Mithi River (3 km).⁶⁵

⁶² PAD, p.11, 47-48.

⁶³ PAD, p. 41-43.

⁶⁴ PAD, p. 45.

⁶⁵ Second Management Response, p. 11, ¶ 26.

72. The Fourth Request relates to the JVLR, which will be 11 kilometers in length and link the Eastern and Western Express Highways, connecting the Mumbai port area with the National Highway between Mumbai and New Delhi. The JVLR scheme involves improvements to the existing road to provide an arterial road with six lanes, including the widening of certain sections, traffic management and minor alignment improvements to the eastern section, junction improvements along the route and intersection improvements at WEH and EEH. The work is split up into three sections that would be implemented in two stages. The middle section, to be implemented in Stage Two, includes widening and realignment that links two flyovers (already under construction and not Bank financed). According to the PAD, Bank safeguard policies will apply to the whole 11 kilometers.⁶⁶
73. The CTS, prepared by the MMRDA in 1994, underlined that the investment priority should concentrate, *inter alia*, on improving east-west road links in the Mumbai suburbs. According to the PAD, “[t]he scope for considering alternative alignments for individual road sub-projects proposed in the project is limited. The roads have to follow the right of way reserved in the city master plan since in the areas not so reserved building construction has taken place. Nevertheless, where possible alternative alignments and designs of ROBs have been adopted which significantly reduce the social impact.”⁶⁷
74. The PAD states that MMRDA will implement the road transport component of the MUTP, assisted by MCGM, MSRDC and BEST.⁶⁸
75. **The Resettlement and Rehabilitation Component:** The third component in the MUTP relates to resettlement and rehabilitation. Originally, the R&R component was based on the estimation that a total of about 19,200 Project affected households (hereinafter “PAHs”) would be affected by the Project and would thus have to be resettled.⁶⁹ However, in April 2004, the Bank noted that the number of affected households and businesses had increased to about 23,800 families (ca. 20,000 households and 3,800 shops), embodying about 120,000 people. The increase of the total number of PAPs will be discussed in more detail later in this Report.⁷⁰
76. According to the RAP, out of an originally estimated total of 19,128 PAHs,⁷¹ 10,933 families were rehabilitated by June 2001, in a two stage⁷² resettlement

⁶⁶ PAD, p. 45.

⁶⁷ PAD, p. 88.

⁶⁸ PAD, p. 68.

⁶⁹ PAD, p. 47.

⁷⁰ See Chapter 3A of this report.

⁷¹ The RAP (p. 6) defines Project Affected Households as follows “*Project Affected Households includes households, business units including their workers and owners of assets like land and buildings affected by MUTP and may include; [sic] non-resident land owners (including farmers and horticulturist); non-resident lessees; resident landlord (including farmers and horticulturist); resident lessees, tenants or sub-tenants of buildings; squatters (non-resident structure owners, resident structure owners, tenants);*

process. Resettlement of this magnitude in a span of a year is unprecedented in an urban context in India, more so in a city like Mumbai where land is a scarce and prime commodity.

77. The bulk of the people actually or potentially displaced by MUTP are from low-income families. Many are migrants from other states – mainly from the south and the north of India. In some cases their livelihoods may be dependent on, or supplemented by, small-scale trade. Usually their main priority is to gain access to formal sector employment and to secure cheap housing nearby in order to keep travel times and costs to a minimum. The high price of land makes house ownership and even formal sector rental housing very difficult and so they rent or build shacks in the city's many unauthorized settlements, either on privately owned or publicly owned land.
78. The PAD refers to the necessity for resettlement, stating that “[m]ost of the affected persons are slum dwellers and squatters living in poor and unhealthy housing conditions and lack basic amenities. As a result of project intervention, the affected persons are expected to receive higher standards of alternative houses with improved basic amenities.”⁷³ It further states that “[l]oss of income and livelihood opportunities is not a major issue in this project since the affected persons will be relocated within a close proximity of the existing locations, thus enabling them to retain the site related opportunities. All those loosing [sic] petty shops and business units will be offered alternative shops to enable them to re-establish their shops.”⁷⁴
79. According to the PAD, the Resettlement and Rehabilitation component consists of 5 sub-components: (1) Procurement of Permanent Housing; (2) Construction of Transit Housing; (3) Land Acquisition; (4) Training, Monitoring and Impact Evaluation and (5) Incremental Operating Cost, Taxes for non-rail transport component and cash allowances to Project affected persons.⁷⁵ The PAD describes these sub-components as follows:
- Procurement or Construction of Permanent Housing. Some 19,200 housing units measuring 225 square feet to resettle the households displaced by the road and rail components of the MUTP.⁷⁶ Housing was to be procured under three options (see also table below).
 - Option "A" involved construction of tenements on government owned land, or on land procured through Transfer of Development Rights

pavement dwellers. Households for this purpose means all the males/females, their family members and relatives staying in a house/tenement/hut.”

⁷² This includes 6,901 PAHs in transit accommodation and 4,032 PAHs in permanent tenements at Antop Hill, Dharavi, Mankhurd and Wadala. See RAP, p. 8.

⁷³ PAD, p. 96, Additional Annex 13.

⁷⁴ PAD, p. 101, Additional Annex 13.

⁷⁵ PAD, p. 48-49.

⁷⁶ PAD, p. 48.

(TDR).⁷⁷ Contracts were awarded after competitive bidding by private real estate developers and construction companies. Approximately 4000 dwelling units will be developed using this option.

- Option "B" involved procurement of tenements on private land in return for TDRs. Approximately 12,000 units were planned to be developed under this option.
- Option "C" involved purchase of already built tenements from the Maharashtra Housing and Area Development Authority (MHADA). Approximately 4240 dwelling units will be acquired using this option. According to the PAD, this option was agreed to *“meet the timescale for the relocation of encroachers from the Harbor Line imposed by the Bombay High Court”*.⁷⁸

Table 1.1: Permanent Resettlement Sites by Location and Option

Location	Project Component	Acquisition Option
Anik-Chembur (Rockline Const.)	Road	B
Anik-Chembur (Runwal Const.)	Road	B
Antop Hill	Rail	C
Asgaonkar	Road	A
Dharavi	Rail	C
Ghatkopar	Road	A
Goregaon	Road	A
Kanjurmarg	Road	A
Majas	Road	A
Mankhurd “B”	Road	B
Mankhurd “C”	Rail	C
Wadala	Rail	C

Source: Community Environmental Management Plans (CEMPs) for Dharavi, Antop Hill, Wadala and Mankhurd, June 2002.

80. The SCLR Requesters are planned to be shifted to the Mankhurd B resettlement site, the Fourth Requester from the JVLR is to be scheduled to Ajgaonkar.
- Construction of Transit Tenements: This involved construction of 6,100 temporary tenements to relocate people from the safety zone of the Harbor Line in response to High court’s intervention.⁷⁹
 - Land Acquisition for Rail and Road Components: This involved procurement of land for both civil works and resettlement. The land required for rail components of the MUTP was acquired using the provisions of the Land

⁷⁷ For a discussion of TDRs, see Chapter 3C of this report.

⁷⁸ PAD, p. 48.

⁷⁹ PAD, p. 48.

Acquisition Act. In the case of the road and resettlement projects, the land was acquired using Transfer of Development Rights (TDRs). The World Bank did not finance either mechanism of land acquisition.⁸⁰

- **Training, Monitoring and Impact Evaluations:** This involved consultancy studies for undertaking an impact evaluation of the resettlement program. Other activities included NGO services for implementing the R&R program and organizing resettlement-training programs for NGOs and staff of the MMRDA.⁸¹

5. Resettlement under the Rail Component

81. Displacement along the railway tracks due to the upgrading of the rail segment was carried out between April 2000 and June 2001, under emergency situations. The displacement of 10,000 slum dwellings located dangerously close to railway tracks was necessitated following threats of withdrawal of train services along the Harbor line, due to increased concerns for the safety of passengers and slum dwellers.
82. A Mumbai High Court decision required that all dwellings within the safety zone of railway tracks had to be removed latest by March 2001.⁸² This ruling accelerated the pace of displacement and resettlement. However, despite the requirement that no PAH should spend more than three years in transit housing⁸³, there have been severe delays vis-à-vis the initial time. According to the Bank, in October 2005, about 500 PAHs were still living in transit housing, because they were subject to a ruling of the Grievance Redressal Committee regarding their eligibility.⁸⁴ The Bank states that this will be completed by December 15, 2005.⁸⁵
83. MMRDA, the project implementing agency, entrusted the Society for the Promotion of Area Resources Centre (SPARC) and its alliance partner, the Railway Slum Dwellers Federation (RSDF), a constituent unit of the National Slum Dwellers Federation (NSDF),⁸⁶ along with the CBOs with the responsibility of preparing the baseline socio-economic survey (BSES) and the Resettlement Action Plans (RAPs) and implementation of resettlement and rehabilitation (R&R) for the project affected persons (PAPs) living along the railway tracks.⁸⁷

⁸⁰ PAD, p. 48.

⁸¹ PAD, p. 48.

⁸² PAD, p. 11.

⁸³ PAD, p. 48.

⁸⁴ Aide Memoire, Mid Term Review Mission on October 17-26, 2005, p. 6, [hereinafter "Mid Term Review, October 2005"]. Review of the project files showed the high concern of Bank supervision missions, and repeated warnings given to executing agencies regarding imminent or already current transgressions.

⁸⁵ Mid Term Review, October, 2005, p. 6.

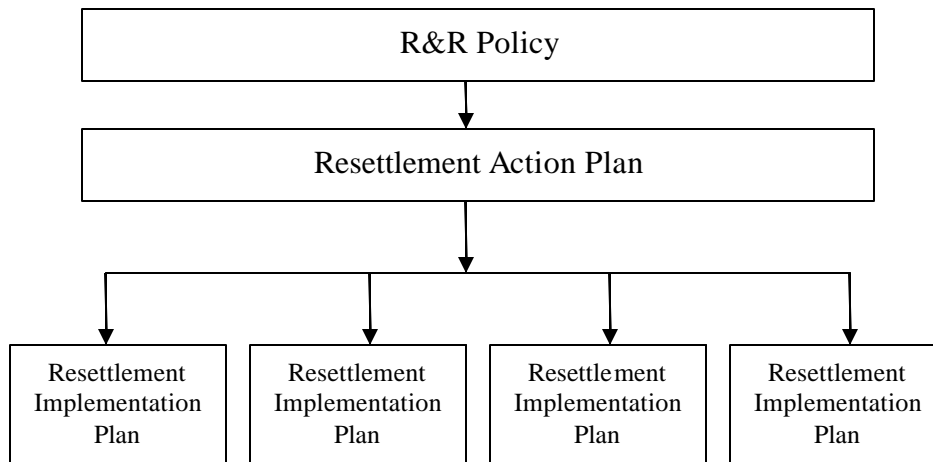
⁸⁶ The SPARC and the RSDF jointly had a long experience of working on issues of shelter and livelihoods among the urban poor.

⁸⁷ Tata Institute of Social Sciences, An Impact Assessment of the Initial Phase of R&R Implementation for the MUTP, November 2003, p. 1 [hereinafter "TISS"].

6. Resettlement under the Road Component

84. Resettlement has been guided by the MUTP R&R Policy of the GoM. In 1995, the GoM appointed a task force to prepare a policy framework for resettlement and rehabilitation of persons that are affected by the Project. The GoM first adopted that policy in 1997. The R&R policy was later amended to comply with the Bank's OD 4.30 and accepted by the Bank in February 2000.⁸⁸ This R&R Policy covers all affected people, whether affected by Bank-financed components or not.
85. The Resettlement Action Plan (RAP) covers the resettlement requirements under the Project, whereas specific Resettlement Implementation Plans (RIPs) deal with the requirements for each of the sub-projects. The RAP, prepared by MMRDA, addresses, *inter alia*, the estimated overall magnitude of land acquisition and the adverse impacts that have been associated with the Project.⁸⁹ It tackles details on policy provisions and the legal framework, magnitude of displacement, findings of surveys, organizational responsibilities, process, timetable for construction, and costs and budgets.⁹⁰
86. The RAP is complemented by specific Resettlement Implementation Plans (RIPs) for each component of the Project that MMRDA prepares with the assistance of the NGOs.⁹¹ These Plans include the more component-specific details, such as provisions on the design and construction of the houses, the payment of allowances and compensation, and specific time schedules.⁹²

Figure 1.2: The Policy Framework for R&R under MUTP



Source: PAD. (number of RIPs in this figure does not reflect actual number of RIPs)

⁸⁸ PAD, p. 98, Additional Annex 13.

⁸⁹ PAD, p. 99, Additional Annex 13.

⁹⁰ PAD p. 99.

⁹¹ PAD p. 99. See also TISS, p. 1.

⁹² PAD, p. 99, Additional Annex 13.

87. MMRDA oversees the implementation of the R&R component. The Society for Promotion of Area Resources Centers (SPARC), National Slum Dwellers Federation (NSDF) and the Slum Rehabilitation Society (SRS)⁹³ carry out baseline surveys, conduct consultations, prepare RIPs,⁹⁴ and are responsible for helping to ensure that various activities take place after resettlement.
88. According to Management, as of October 2005, 13,464 (77.5%) of the PAHs have been shifted to permanent houses and shops.⁹⁵ As of November 1, 2005, the Panel had not received any evidence that any of the Requester's houses have been demolished and that the Requesters have been moved to the resettlement sites.
89. However, the Panel observed that the situation in Mumbai had become more severe after the July 2005 flooding and that an increasing number of PAPs contacted the Panel to express concerns with regard to the MUTP.

Box 1.1: The Flooding in Mumbai in July 2005

The Flooding in Mumbai in July 2005

On July 26, 2005, Mumbai received a record rainfall, with 94.4 cm falling in the city's suburbs. The death toll in Maharashtra was reported to be about 1,000 or more; Mumbai was hardest-hit, with 500 casualties. Many linked the extremity of the flooding to infrastructure development, particularly the filling in of *nullas*, or drainage rivulets along roads, as roads are widened by MUTP and other development. Some even allege a corrupt "*unholy builder-politician nexus*", which would lead to overdevelopment in Mumbai's suburbs. Flooding has also been linked to the filling of the city's waterways with trash and encroachments, as well as the destruction of the city's mangroves.

The Panel received a large number of copies from letters that PAPs sent to authorities asking for compensation for losses that occurred due the flooding.

Source: Economic and Political Weekly, August 6, 2005 ("Mumbai: After the Deluge") and August 20, 2005 (Mumbai Floods: The Blame Game Begins)..

C. Applicability of Bank Operational Policies and Procedures to the Project

90. The policies that are applicable to the MUTP for the purpose of the Panel's investigation are:

OMS 2.20	Project Appraisal
OP/BP 4.01	Environmental Assessment
OD 4.30	Involuntary Resettlement

⁹³ PAD, p. 96, Additional Annex 13.

⁹⁴ First Management Response, p. 6, ¶ 19.

⁹⁵ Mid Term Review, October, 2005, p. 73.

OP/BP 10.00	Investment Lending: Identification to Board Presentation
OP/BP 10.04	Economic Evaluation of Investment Operations
OP/BP 13.05	Project Supervision
	World Bank Policy on Disclosure of Information

D. The Investigation

91. The purpose of the investigation was to establish whether the Bank has complied with its own policies and procedures in the design and implementation of the Mumbai Urban Transport Project. This Report concludes the Panel's investigation into the matters alleged in the Requests for Inspection.
92. The Panel's chairperson Edith Brown Weiss led the investigation. Four experts on environmental assessment and social issues assisted the Panel in the investigation in their respective fields: Professor Michael Cernea, anthropology and sociology; Professor Alan Rew, anthropology and sociology; Professor Richard Fuggle, environmental sciences, and Dr. Renu Modi, sociology.
93. Panel members Edith Brown Weiss and Tongroj Onchan, accompanied by Executive Secretary Eduardo Abbott visited Mumbai in February 2005.⁹⁶ The Panel conducted an additional visit in May 2005 to clarify and to verify information gathered in the course of the investigation.⁹⁷
94. In its investigation, the Panel identified and reviewed all relevant documents, including those that the Requesters, Bank staff, MUTP officials, and other sources provided to the Panel. The Panel also analyzed other evidence gathered during the field visits or otherwise in its research.
95. During its investigation the Panel interviewed Bank staff in Washington and in the Bank office in New Delhi, before and after visiting the Project affected areas. During its field visits, the Panel met extensively with the Requesters, with officials of the GoI and GoM, and with MUTP officials and staff, who had an open and frank dialogue with the Panel and were very helpful in assisting in its investigation. Consistent with its mandate, it independently visited the Project areas and consulted with affected people.

⁹⁶ During its visit to Mumbai in February 2005, the Panel also verified the eligibility of the Third and Fourth Request.

⁹⁷ The Assistant Executive Secretary Anna Sophie Herken and expert consultants Professor Alan Rew and Dr. Renu Modi visited Mumbai.

PART II: Social Compliance

Chapter 2 The Project History and Framework

A. Retrospective View on the History of the Project

96. As noted above, the MUTP seeks to address serious deficiencies in the existing urban transport system, including extreme congestion and extremely long travel times. The Panel recognizes the importance of taking action to meet these concerns. At the same time, the Requesters have identified a number of significant areas where they believe that the Bank has failed to comply with its Policies and Procedures in relation to this Project, to the harm of the affected people and communities. The discussion in this Chapter considers these issues, with a focus on social compliance
97. As in many other cases, project history holds the key to understanding many of the issues MUTP faces during implementation. In essence, project files show that in the mid-'90s the Bank started its work on this Project on a sound basis, with an approach broadly consistent with policy. However, a major decision made by the Country Department in 1999 and approved by the Regional Vice President unexpectedly reversed this course.
98. At that time, the Bank recommended discontinuing the development of a free-standing project on R&R, and recommended instead handling these very complex issues as a component of the infrastructure Project. In so doing, it moved away from a well-structured institutional basis to handle the major resettlement needs of the Project, abandoned some of the basic principles that guided the Bank's approach until then, disregarded the staff's findings, and overruled the staff's explicit recommendations.
99. The 1999 decision, which is discussed below, modified the Project's approach, structure and content, and shifted the Bank to a project path materially different from the original one. Arguably, many of the problems surfacing now in the Panel's investigation, in terms of departures from and lack of compliance with the Bank's involuntary resettlement policy and procedural requirements, are embodied and rooted in that 1999 reversal of Project course and decision.

1. Two Projects for Mumbai: the Resettlement Project and the Infrastructure Project

100. The MUTP began as "Twin Projects": one Project for building transport physical infrastructure and one for population resettlement, each with distinct objectives and designs, and with separate project preparation teams. The tasks lying ahead were of vast proportions, both socially and technically. The improvement of Mumbai's rail transport infrastructure was correctly assessed as indispensable for Mumbai's development. It also made necessary a very large-scale population

displacement and resettlement operation to secure the “right of way” areas needed for infrastructure.

101. The Bank based its initial decision to adopt a Twin Project approach upon the provisions of the resettlement policy OD 4.30 for the kind of operations of such vast magnitudes as those faced in Mumbai. This was because such operations typically cannot be handled by the same implementation agency, given the fundamental difference in their nature, substance, objectives, institutional capacity requirements, skills, staffing, and anticipated implementation challenges. Historically, for both the World Bank and India (not only Maharashtra) an urban involuntary resettlement project for 80,000 people (or likely more) was unprecedented.⁹⁸ After considerable analysis, the Bank and the Borrower agreed that a successful infrastructure project could be responsibly undertaken only if a full scale resettlement and rehabilitation project preceded the infrastructure’s construction and was carried out successfully.
102. The Twin Project strategy had been arrived at by the Bank in the immediately preceding five to six years as the appropriate approach for such a large scale resettlement operation. The approach was designed to handle resettlement through a full scale free-standing project, rather than as a secondary “component” subordinated to, and within, the main technical infrastructure project.
103. As described further below, many such projects with large scale resettlement operations carried out during 1980-1990 failed largely because resettlement was handled as a secondary component which did not benefit from the requisite institutional capacity, specialized staff, economic and social analysis, appropriate schedule and adequate financing. In those cases, resettlement operations failed to achieve policy objectives and resulted in many resettlers becoming worse off and impoverished. Moreover, improper resettlement capacity also adversely affected the timely implementation of the main infrastructural Project, causing substantial project delays, considerable losses and forgone benefits.
104. Bank Policy OD 4.30 on Involuntary Resettlement explicitly provided, for the first time, for free standing resettlement projects cross-linked to the technical projects that made the resettlement unavoidable. These resettlement projects are to be supported by a full staff-team and budget resources from the Borrower and

⁹⁸ The Bank supported previously, in 1985, another project for Mumbai Urban Transport with somewhat mixed results. Documents name that project as BUTPI (Bombay Urban Transport Project I) and, therefore, the current MUTP appears in the documents sometimes as BUTP II. Later, the name of the city was changed from Bombay to Mumbai and what was initially BUTP II became MUTP. In terms of experiences with urban resettlement, one other Bank-assisted project, the Maharashtra Emergency Rehabilitation Project, also dealt with urban relocation and accumulated a positive experience, particularly on the institutional side. In preparing the MURP, Bank staff deliberately attempted to build on that positive institutional experience, as it was “homegrown” in Maharashtra itself, but encountered difficulties in convincing the transportation agencies to replicate the experiences of the Earthquake Rehabilitation Project (Cr 2594 – IN), which was just closed in 1998.

the Bank, to enable specialized preparation, appraisal and supervision during implementation.

105. In particular, the first paragraph of OD 4.30 states that “ ... *planning and financing resettlement components or free-standing projects are an integral part of preparation for projects that cause involuntary displacement.*”⁹⁹ Paragraph 26 stresses that the planning, implementation and Bank financing of resettlement can be provided:

*“[i]f large enough, as a free-standing resettlement project with appropriate cross-conditionalities, processed and implemented in parallel with the investment project that causes the displacement. The latter approach may better focus country and Bank attention on the effective resolution of resettlement issues.”*¹⁰⁰

106. This Policy directive was fully validated soon thereafter in 1991-1992 through the lessons from the Independent Review¹⁰¹ requested by the Bank’s Board of the Narmada Sardar-Sarovar Project in India. That project had become the subject of a vast international debate centered on its forced population displacement and on the Bank’s and Borrowers’ performance in resettlement. The Review and the Bank’s analysis showed, *inter alia*, that the narrow and under-financed framework for the Project’s massive involuntary resettlement as a mere “*component*” in a big hydropower dam project was one of the key constraining factors that caused lack of institutional capacity, low implementation standards, transgression of Bank policy and procedures, and failure.
107. It also is worth recalling two other significant events that guided the early decision of the India Country Department. First, in April 1994, the Bank’s Board of Executive Directors had just approved the Bank’s first Twin Projects for a hydropower dam in China, the Xiaolangdi dam. One project dealt in its entirety with the dam’s infrastructure construction, and another full scale project dealt, in parallel, with the resettlement of the 160,000 inhabitants of the reservoir area.
108. The Bank’s Board had commended the China Country Department for this innovative approach and design, which placed the Xiaolangdi intervention on a much sounder and promising path than if its resettlement would have been squeezed into a “*component*” subordinated to the large technical infrastructure Project. The soundness of that decision was indeed fully confirmed 7 years later when the twin Xiaolangdi projects were completed successfully.¹⁰² The Bank’s

⁹⁹ OD 4.30, Involuntary Resettlement, June 1990, ¶ 1.

¹⁰⁰ *Ibid.*, ¶ 26.

¹⁰¹ Morse, Bradford, Berger, Thomas, D. Grumbel and Hugh Brody, Sardar Sarovar, Report of the Independent Review, Resources Futures Internationals, Inc. 1992.

¹⁰² See Implementation Completion Report for the Xiaolangdi Resettlement Project, June 29, 2004, (Report No. 29174).

India Country Office was therefore motivated during 1994-1995 to structure the new large undertaking in India, the Mumbai Project, as a Twin Project.

109. In addition, a Bank Task-Force review in 1993-1994 of 192 projects involving resettlement concluded that the Bank needs to “*diversify project vehicles*” for resettlement operations. The strategic conclusions adopted by World Bank Management from this Task Force Report on “*diversifying project vehicles*”, also discussed and endorsed in April 1994 by the Bank’s Board on “*diversifying project vehicles*”, stated:

*“The Bank will consider twin-project approaches for large scale civil works causing resettlement. Future infrastructural operations that displace a large number of people will normally be processed as twin projects...Treatment of major resettlement operations as full fledged projects will better mobilize the appropriate administrative framework and skills needed to carry out resettlement successfully.”*¹⁰³

110. Coming on the heels of the Bank’s problems with regard to resettlement in the Narmada Sardar Sarovar Project, both these instances – the Board’s strong approval of the twin Xiaolangdi Project, and the Board-approved conclusions of the 1994 Resettlement Task Force - - embodied clear guidance from the Board to Bank Management on how to handle future projects of such scope and complexity, consistent with existing policy.
111. This guidance initially was applied consistently by the India Country Department in the opening phase of MUTP preparation. However, in 1999 – as the record shows – the Country Department abruptly reversed course from Twin Projects to a single project, despite the above mentioned Bank policy and Board guidance.
112. The preparation of the Twin Projects started in 1995, when the Division Chief of South Asia India (SASIN) sought the approval of the then Country Director for a PPF (Project Preparation Facility) of US \$2 Million for the preparation of the Urban Transport Project.¹⁰⁴ In parallel a request was submitted by the Bank to Japan for a PHRD (Japan Policy and Human Development Fund) grant specifically for preparing the Resettlement and Rehabilitation project (Japan approved the grant).¹⁰⁵
113. Work started on Project preparation with two distinct teams. In November 1995, the team appointed for the R&R Project¹⁰⁶ visited Mumbai and had successful discussions with all relevant Indian agencies. (A separate preparation mission

¹⁰³ World Bank: Resettlement and Development, Report of the Task Force for the Bank-Wide Review of Involuntary Resettlement 1986-1993, ESSD Vice-Presidency, The Environment Department, p. 184.

¹⁰⁴ Office Memorandum from Division chief of SASIN to the Country Director, May 5, 1995.

¹⁰⁵ World Bank Technical assistance funding proposal to the Japanese Policy and Human Resources development fund for the Bombay Resettlement and Rehabilitation Project, March 24, 1995.

¹⁰⁶ Supported by two international consultants and by World Bank HQ and New Delhi Office staff, plus a consultant from EDI.

went out for the transportation infrastructure Project; this Report focuses on the activities regarding the Resettlement Project).

114. The November 1995 preparation mission reached agreement on a detailed Aide Memoire which defined the goals of the proposed Bombay R&R Project as: “(a) *build and strengthen an adequate institutional capacity in Bombay to manage resettlement and rehabilitation in connection with the urban infrastructure investment; (b) assist in actual R&R of the persons affected...by providing them with the means to improve, or at least restore, their former living standards.*”¹⁰⁷
115. The Aide Memoire recorded the agreement that GoM will prepare an R&R Policy which would: include all categories of impacts on PAPs and entitlements; issue a Technical Manual for project preparation and baseline surveys; and take a host of other specific steps towards preparing the full-scale free-standing Resettlement Project. The Panel notes the quality, breadth and specificity of this initial Aide Memoire for the Mumbai Urban Resettlement Project (MURP), which was well coordinated with the Aide Memoire for the MUTP.
116. **Early Detection of Shopkeepers and Small Industry Units:** Particularly relevant for the Panel’s current review is that this initial (1995) Aide Memoire detected early on the distinct situation of commercial units, small industrial units and local shopkeepers to be displaced. It is precisely the Project’s treatment of this social group, and the adverse impacts on their income streams, that certain Requesters allege as being not in compliance with Bank policy. The Aide Memoire flagged clearly the need to address differentially this group, stating:

*“The mission also noted that the Maharashtra resettlement policy was not clear in terms of the treatment of loss of commercial and industrial units. These establishments have a different set of problems and requirements than (other) households—such as finding a suitable location which will allow them to re-establish their income streams, land requirements, and make up for the loss of income resulting from the transition period...Regarding the commercial and industrial structures, the mission requested further clarification regarding the requirements for space for some of them which would exceed the 70 sq. m. limit recommended...since it was not clear how the small shops would be able to relocate themselves in a manner which would allow them to reestablish their income streams.”*¹⁰⁸

117. **Group size:** The number of shopkeepers was far from negligible. When this issue was identified in 1995, the exact numbers of shopkeepers were not yet available, but it was obvious to the Bank’s specialist staff that they were a large group. This was confirmed when the shopkeepers, at a much later date, were counted. The

¹⁰⁷ Aide Memoire, Bombay Resettlement and Rehabilitation Project Preparation Mission on November 25, 1995.

¹⁰⁸ Ibid., p. 5

- Panel found the first report on this number to come up only in the end of 2003, when the Bank claimed a requirement of 2,500 units for shops¹⁰⁹ and in April 2004, when the Bank's supervision mission indicates no less than 3,800 shopkeepers¹¹⁰ (with additional significant sets of uncounted employees).
118. Nevertheless, as will be discussed later in this Report, the MUTP did not make adequate arrangements to respect their entitlements and restore their livelihoods and status. The large group of shopkeepers is well organized socially. Its several professional organizations have now become Requesters in the present investigation.
119. The shopkeeper issue, and other issues, subsequently lost distinct project attention once the full-scale resettlement project was downgraded to a component in MUTP in 1999. But the issues were recognized as valid by the Borrower, and the Aide Memoire was able to report agreement between GoM and the Bank on the resulting further "*actions to be taken.*" The common conclusion of both the Bank and the Borrower at that time was that a Twin Project approach was indispensable for addressing the resettlement tasks and for the success of the transport infrastructure improvement.
120. **Demonstration Projects for Capacity Building (1995-1996):** Because Mumbai's transportation agencies were strictly technical engineering organizations, with no capacity for social resettlement, the Bank's preparation mission also proposed to undertake three demonstration projects "*as soon as possible*" on the sites of three bridges to be built by the project, to "*develop the hands-on experience*" and "*build an adequate capacity to manage R&R in connection with infrastructure investments.*"¹¹¹ The GoM agreed, and the mission defined "*the need for immediate institutional strengthening... as critical.*"¹¹²
121. **Project Information Document (1996):** Based on the agreements reached with GoM and endorsed by the Bank upon the mission's return to the headquarters, the Bank prepared a Project Information Document (PID)¹¹³ on February 29, 1996. The PID described the basic parameters of the emerging project, the Bombay Resettlement & Rehabilitation Project (BURP), to be carried out ahead of and in connection with the Bombay Urban Transport Infrastructure Project. According to this PID, the BURP was:

¹⁰⁹ Aide Memoire, dated October 30, 2003, p. 1, ¶ 59.

¹¹⁰ MUTP Back to Office Report, Mission on April 7 - 8, 2004. For more discussion on the number of shopkeepers. See also Chapter 4 of this report.

¹¹¹ Back to Office Report from Urban Resettlement Specialist, South Asia Energy and Infrastructure unit (SASEI) to Chief, SASEI Division, January 31, 1996, p. 2.

¹¹² Ibid.

¹¹³ Project Information Document, India: Bombay Resettlement and Rehabilitation Project, February 29, 1996 [hereinafter "PID for BURP, February 1996"]. The PID mentioned that the information was given on an evolving project and adjustments might still be made further in the course of project preparation.

*“to assist resettlement and rehabilitation in the State of Maharashtra, by: (a) formulating the comprehensive urban R&R strategy and creating the enabling institutional environment and management capacity for its implementation and (b) assisting in the actual R&R of the persons affected by infrastructure investment projects.”*¹¹⁴

122. The PID specified that BURP was *“established as the Bank’s first free-standing urban R&R project”* in India. It had three main components: (1) capacity building; (2) investment (financing the construction of residential units); and (3) a social development fund (SDF), to *“finance the rehabilitation of families who would have to relocate,...and would support income generating activities, vocational training, counseling, community banking mechanism.”*¹¹⁵
123. **Suspension of Project Preparation (March 1997):** The issues and the working plan were clear, and the Bank provided further assistance for both the resettlement Project and the transport infrastructure Project. Various actions concerning the resettlement policy, the institutional issues, and the technical infrastructure Project, however, were delayed.
124. In this context, the Bank informed the Borrower in 1997 that *“due to slow progress on resolving key issues, in particular the institutional framework for R&R implementation, the Bank is forced to stop its involvement in project preparation and dialogue until sufficient progress would be achieved.”*¹¹⁶
125. Subsequently, there was intensified follow up work on some of these issues. However, more attention was given to technical infrastructure issues, underestimating the institutional and economic issues relating to the resettlement.
126. Nevertheless, the partial progress made during the intervening time enabled the Ministry of Finance of India by mid-1998, at the request of GoM, to ask the Bank to resume work and review the advances made. Based on that request, and after an interruption of 18 months, the Bank authorized two new project review missions for October 1998.¹¹⁷ During those 18 months, Bank staff had developed well

¹¹⁴ PID for BURP, February 1996, p. 1-2.

¹¹⁵ Ibid., p. 1-2. The processing timetable indicated expected appraisal in December 1996, Board presentation in March 1997, and effectiveness in May 1997.

¹¹⁶ This decision is reflected in several documents on file, and was summarized again in the April 26, 1999, memorandum addressed to the Regional Vice President for the South Asia region, by the Bank’s Country Director for India, from which this statement is quoted.

¹¹⁷ The Bank informed the borrower that it regards the two overlapping review missions for the two projects as decisive for reaching a decision on the Bank’s involvement. On August 17, 1998, the Country Director wrote to India’s Ministry of Finance, *“Because of the past history I consider these as decisive missions which should assess the situation for the two projects: and, if at all possible, result in agreed project concepts for the two projects, including the tentative project scopes, implementation arrangements, institutional frameworks, and related policy measures. This should be accompanied by detailed and time-bound action plans for further project preparation and processing, including resolution of potential remaining issues. We would then review the findings and recommendations of the missions and make a decision regarding their inclusion in the lending program and authority to proceed with further Bank*

prepared, detailed concept papers on options to overcome the identified issues in both projects.

127. **Resumption of Project Preparation (October 1998):** The two distinct but simultaneous October 1998 missions carried out another in-depth assessment, and identified both addressed and unaddressed issues. Constructive and critical discussions took place with the Indian authorities at all relevant levels. These discussions laid out a candid assessment of the unsolved institutional capacity and technical issues, particularly for resettlement. The missions agreed with the Borrower on a new very detailed Aide Memoire, and left India with the Borrower's commitment to proceed further at sustained speed to create the institutional structures and other measures for the Twin Projects to go ahead.
128. The separate Aide Memoirs concluded with the Borrower reconfirmed the essential need for a Twin Project approach. The Panel wants to call attention in particular to the firmness of this Bank position, and to the Borrower's concurrence, because only a few months later the position of the Bank's India Country Department changed dramatically. At that time, the Bank abandoned the firm "*Twin Projects*" stand on which the Bank worked for the prior four years.
129. The principal conclusion of both missions was that the Twin Project approach needs to be continued. The Aide Memoire for the resettlement project stated in this respect:

*"No substantial improvement to the overall transport system in a densely populated city like Mumbai is possible without relocation and rehabilitation of substantial numbers of people. It was therefore concluded that it was essential to provide for a parallel project to handle rehabilitation of project affected people in a transparent and timely manner in accordance with a clearly defined policy acceptable to the Bank. The relative timing of approval and implementation of the two proposed projects must be carefully planned and executed to ensure that needed land is available on a component by component basis before start of related civil works can be authorized..."*¹¹⁸

130. The same point was made, most significantly, by the parallel "technical" Bank mission working on the engineering infrastructure project. The Panel satisfied itself that this was not a case of two different groups of Bank staff specialists – one mainly social, the other mainly engineering-technical – diverging in their assessments, but rather that the two teams fully concurred on substance and process, recommending the same critical path for further advance.

expenditures for project preparation/processing." (Letter of the Bank's Country Director to the Additional Secretary, Dept. of Economic Affairs, Ministry of Finance, August 17, 1998.)

¹¹⁸ Aide Memoire on Proposed MUTP, October 1998, p. 2.

131. In particular, priority was recognized for the MURP, while the engineering infrastructure project was seen by both missions as “dependent” on the implementation of the resettlement project. Moreover, the Bank’s teams each reached agreement with the Borrowers’ technical counterpart agencies that resettlement is of paramount importance, needs to be treated as a full scale project and also needs to be carried out properly ahead of the infrastructure MUTP project, which was defined as conditional on the MURP.
132. The Task Team Leader (TTL) for the engineering infrastructure project summarized this position in the BTO as follows:
- “As reflected in the Aide Memoire, the mission consistently stressed...firstly, that MUTP was absolutely linked with and dependent on MURP moving forward, since no major Bank-assisted investments could be made to improve the transport system in a densely populated city like Mumbai without the ability to relocate and rehabilitate PAPs in an orderly and transparent manner.”¹¹⁹*
133. The TTL concluded his BTO with a section on “recommendations”, in which he stated again:
- “The PCD (for MUTP) and post-mission communication would highlight the continued dependence of MUTP on prior action on MURP and, in the event of a ‘go’ decision, outline the project related actions which would have to be completed before any further Bank missions could take place.”¹²⁰*
134. The wording of the documents from the two missions indicates consensually that the Bank should not go ahead on the infrastructure Project in the absence of prior action to move forward on MURP, in order to ensure the ability to relocate and rehabilitate the PAPs in an orderly and transparent manner in such a densely populated urban area.. This of course put the imminence of the loan under a new time perspective, requiring *“related actions ... to be completed before any further Bank missions could take place”*.
135. At the same time, once back in headquarters, the two Bank teams proceeded to prepare advanced Project Concept Documents (PCDs) drafts for the two projects, MURP and MUTP, intended both for Bank managers and for handing out to the Borrower. The PCD drafts were also to assist in Borrower’s preparation work towards appraisal, by detailing the guidance summarized in the Aide Memoirs. The two PCD drafts were readied by March 15, 1999.

¹¹⁹ Back to Office report to SASIN Sector Unit Manager, on India: Mumbai Urban Transport Project, Review and Assessment, October 19, 1998, p. 2.

¹²⁰ Ibid., p. 3

136. The Panel reviewed in detail the PCD for the MURP and found it to be a significant further step. While there were still substantial gaps to fill, it was a clear prospective Project document, consistent with the October 1998 Aide Memoire. It outlined the path to follow, in close connection with the transport Project, and outlined candidly the still unresolved serious institutional issues.
137. The PCD also indicated that the resettlement operation to be undertaken was so vast that it may require two phases, with not one (MURP) but two Bank-assisted resettlement projects. It stated that a MURP II would need to be considered after one to two years, to continue the work of MURP I and support rehabilitation. Both the sector leader at the time and the team leader for the MURP considered the resolution of institutional issues to be indispensable and were concerned that without their resolution, the MUTP itself could not advance successfully and be consistent with Bank policy.
138. The staff was also concerned that should those issues not be addressed properly, the Project might eventually “*end up on the table of the Bank’s Inspection Panel.*”¹²¹
139. **The Costs of Resettlement:** The PCDs indicated the costs of the two Projects. For the infrastructure Project, the total cost was estimated at about US\$1100 million,¹²² with a massive Bank financing of about \$550 million. For the MURP, the cost estimated was about US \$100 million, i.e. about 9% of MUTP’s cost.
140. In 1996, the cost estimate for the resettlement Project had been US\$ 216 million,¹²³ with no breakdown of costs. The reduction in costs to US\$ 100 million, 55% of the initial¹²⁴ cost estimate, is dramatic. The document contains little information about criteria, reasons, or other analytical justification for the down-costing to less than half the initial estimate.
141. **Major Issues Facing the Resettlement:** The Panel reviewed carefully the March 1999 PCD. It concluded that it was indeed the most detailed document focused on Borrower’s organizational capability issues produced thus far in support of the Bank’s intervention, and written after a mature and documented staff-led analysis.
142. Among other things, staff indicated to the Country Department Managers and the Vice-President that the Bank should only go forward if it were satisfied that the needed institutional capacity is created by the Borrower, in order to ensure that

¹²¹ Panel Interviews with Bank Staff during March-May, 2005. The interviews are confirmed by the written record of the PCD for MUTP: that staff involved was so strongly concerned about the risks of failing and eventually ending up in front of the Panel that they included this in the PCD itself.

¹²² Project Concept Document for the Mumbai Urban Transport Project, December 18, 1998, [hereinafter “PCD for MUTP, December 1998”].

¹²³ PID for BURP, February 1996.

¹²⁴ Project Concept Document on a Proposed Loan to GOI for a Mumbai Urban Rehabilitation Project. March 15, 1999, South Asia Social Development Division, South Asia Region, March 15, 1999, [hereinafter “PCD for MURP, March 1999”].

the very large anticipated displacement and resettlement would be set on an adequate foundation. For this analysis, the staff chose strong terms, indicating both to Bank Managers and the Borrowing Government that the Maharashtra transportation sector was found to be “historically ineffective”¹²⁵ to handle resettlement operations.

143. The following is a summary of the issues on record, identified and discussed in the PCD, as “main sector oral issues”:

- **Historical Ineffectiveness and Weaknesses:** “The main sector issue is the history of ineffectiveness in resettling and rehabilitating families in Mumbai in a socially responsible and consultative manner for infrastructure projects.”¹²⁶
- **Institutional Lack of Capacity:** “The first (to be addressed) issue is the lack of institutional capacity, since a project of this nature and size has never been undertaken before in India in an urban context which would meet the requirements of the Bank’s R&R policy.”¹²⁷
- **Finding a Permanent Institution:** Determining what Government “...type of institution should be responsible for delivering timely resettlement and rehabilitation for the large scale investments in infrastructure required for Mumbai.”¹²⁸ The second issue is how to establish the institutional capacity... (as) the Bank has been working with GOM on establishing a permanent institution to handle all R&R issues...the PCD proposes that the project management unit be established.”¹²⁹
- **Lack of Consultation:** “The lack of consultation and involvement of the displaced families in the planning and implementation of the R&R has been a key factor in preventing successful relocation in the past.”¹³⁰
- **Financing Issues:** “...Until now Government Departments undertaking infrastructure investments did not adequately budget for the cost of resettlement and rehabilitation of the affected people.”¹³¹
- **Close Linkages:** “Another issue is the need for close linkages between the relocation program and the MUTP construction schedule.”¹³²
- **Inspection Panel:** “... the project is likely to come before the Inspection Panel, given the vocal and active nature of organization and individuals in Mumbai.”¹³³

¹²⁵ PCD for MURP, March 1999, p. 4.

¹²⁶ Ibid., p. 3.

¹²⁷ Ibid., p. 4.

¹²⁸ The Bank proposed to use the same institutional model that proved successful in an earlier Bank project for post-earthquake reconstruction in Maharashtra, which closed in that same year, 1998.

¹²⁹ PCD for MURP, March 1999, p. 4.

¹³⁰ Ibid., p. 3.

¹³¹ Ibid., p. 3.

¹³² Ibid., p. 5.

¹³³ Ibid., p. 5.

144. It is also worth noting that this PCD was submitted to the review of, and received clearance from, both the South Asia Social Development Unit¹³⁴ and the South Asia Environmental Unit.¹³⁵
145. **Proposed Institutional Framework to Address Resettlement Issues:** Practical solutions to those major issues were indispensable and they were found, discussed and agreed with the Borrower, and outlined clearly in the PCD. The Panel notes the careful description of the organizational set-up necessary to build up the State's capability for managing the resettlement operation at standards that would give confidence to the Bank that the transportation investments can be made consistent with Bank policy.
146. Those new organizational arrangements were intended to equip GoM with the capacity to remain in place beyond MURP and MUTP to meet future needs as well. Because coordination between the Twin Projects was essential, corresponding arrangements were devised in detail for a "*Cabinet Sub-committee*" for the Twin Projects, chaired by the Chief Minister and a "*Central Implementation Group (CIG) chaired by the Chief Secretary, empowered by the full authority of the GoM to monitor and guide both projects and provide quick decisions.*"
147. The main emphasis was put on establishing the "*implementing agency*" in the structure of a full-fledged Project Management Unit (PMU) for MURP, placed not in MMRDA but in an institution better suited for the R&R work: the Urban Development Department (UDD). The resettlement activities were to be "*carried out by a Project Management Unit (PMU) in the Urban Development Department of the GoM on behalf of the agencies implementing transport components under MUTP.*"¹³⁶
148. The strongly structured organizational set up for the resettlement project was designed in detail by the Bank in collaboration with GoM. It was described in the October 1999 Mission's Aide Memoire and in the 1999 PCD, after detailed discussion and agreement in Mumbai during the October mission.
149. The proposed project management implementing agency was to consist of five key units, and was also to serve as an institutional basis for future comparable

¹³⁴ Clearance Memo from the SASSD Sector Leader to the India CD Director, March 20, 1999.

¹³⁵ SASSEN- Clearance Memo for the Environmental Data Sheet, March 23, 1999.

¹³⁶ PCD for MURP, March 1999, p. 7. "*The PMU is the principal implementing agency for the proposed MURP and will be created by the GOM in the UDD [Urban Development Department] to undertake R&R activities connected with infrastructure development in MUTP. The PMU, headed by a Project Director of the rank of Secretary to Government, will be the principal project implementing agency. The project director will have full financial, administrative and technical powers delegated to him from GoM and other implementing agencies.... A parallel institutional structure to the PMU [will] be established for MUTP which would provide full cooperation and coordination.... All levels of management in the two PMUs [will] be at equal level of seniority to facilitate constant and continued interaction, sharing of information and decision making.*"

- resettlement operations foreseen as necessary in Mumbai, and elsewhere in urban Maharashtra. More specifically, the Mission stated that at the field level, the PMU will have a Project Manager with full responsibility for field operations and project implementation. It was planned that the Project Manager would be assisted by community development staff (including community participation function), in charge of land acquisition, information dissemination and external relations, NGOs and community workers. It was also stated that each site would be managed by a Site Manager, assisted by Site consultative committees comprised of project-affected families (beneficiaries). NGOs, CBOs, local businesses and corporations also were to be established.¹³⁷
150. The newly written PID anticipated appraisal of the MUTP in only 8 months (December 1999),¹³⁸ while appraisal for MURP required a longer time, and was anticipated only after one year, in March 2000.¹³⁹
 151. It was apparent, however, that on several key matters the Borrower had advanced the preparation of the Engineering Project much faster than that for the Resettlement Project. Many of the policy requirements for preparation had not been met. For example, no reliable population count or baseline income assessment for the to-be-displaced inhabitants had been done, and the shopkeeper issues identified earlier by the Bank had not advanced towards a solution tailored to their situation.
 152. According to the Bank's stated position, the Bank's large loan and project for transportation (MUTP, about US \$550 million) could go ahead only if the Bank was satisfied that the Borrower was able and ready to prepare for appraisal first the Resettlement Project (MURP, about US \$100 million), ahead of the Transportation Project. The reasons for this approach, and the steps needed to follow it through, were clearly outlined in the Aide Memoire.
 153. The Resettlement Project was not yet fully prepared on the Bank's side either. The PCD did not yet include any economic analysis of the displacement/resettlement costs. In addition, it had yet to include provisions for development activities and to spell out how to protect a number of people, including women likely to lose or to be moved away from their employment, from the adverse effects of further displacement.
 154. There was another unresolved issue relating to the host population already living at the sites earmarked for relocation. The Borrower had not assessed and reported their number, and it was still unknown to the Bank.¹⁴⁰ The "host communities"

¹³⁷ PCD for MURP, March 1999, p. 8.

¹³⁸ Project Information Document, Mumbai Urban Transport Project IN-50668, South Asia Regional Office, Urban Sector, April 1999, p. 1 [hereinafter "PID for MUTP, April 1999"].

¹³⁹ PID for MURP Urban Rehabilitation Project IN-PE-50641, South Asia Social Development Sector, March 1999, p. 1 [hereinafter "PID for MURP, March 1999"].

¹⁴⁰ See also Chapter 3A of this report.

also had to be relocated to make room for the bulk of the displaced persons to be re-housed in high-rise buildings on those sites.¹⁴¹

155. The Bank's India Country Department needed to devote further effort and time to overcome jointly with the Borrower these unresolved issues to help create the project capacity for resettlement, and to make certain that this massive urban displacement was placed on a firm institutional and planning basis.
156. On March 23, 1999, the Country Director convened and chaired an "informal review meeting" for the two PCDs. Four peer reviewers were involved and submitted written reviews, and many aspects were discussed.¹⁴² On the resettlement MURP, the peer reviewers consensually emphasized the complexity of its tasks and the lack of capacity

*"(...) to handle in one project the very large amount of R&R needed for some (transport) project components. The consensus of the meeting was that it would be desirable to...reduce as much as possible the extent [size] of R&R involved so as not to overburden the [still to be established] implementation capacity. This approach would reduce the implementation risks, particularly those related to R&R.... [Regarding the] institutional framework for R&R, the meeting agreed that development of a proper up front framework for R&R sufficiently staffed was essential for the success of the project."*¹⁴³

157. All four peer reviews reinforced the necessity of the full-scale project framework for the large displacement/resettlement at hand and none had any objection to the two-Project strategy. Moreover, the external peer reviewer who focused in greatest detail on the resettlement Project emphasized also the need of creating institutional capacity for R&R in all project implementing agencies, in addition to the special organizational apparatus of the resettlement project to be created in the Urban Development Department (UDD). The reviewer stated:

¹⁴¹ The PCD for the resettlement project noted: "An additional, presently unknown, number of families currently living in the proposed resettlement sites (host communities) will also be housed in apartments" (PCD for MURP p. 6).

¹⁴² Very serious issues were raised about the readiness of the transport project itself and whether it made sense to proceed with that intervention, which the present Report does not propose to explore as they are beyond its scope. For instance, the minutes on those issues indicate that divergent views were expressed at the review meeting as to whether it made sense to proceed with an urban transport project in Mumbai if GOM proceeded with construction of a downtown flyover program without prior consultation and adequate studies, because this would be a major deviation from a coherent policy and plan which lies at the core of the proposed project (Memorandum on India: MURP and MUTP – Minutes of Informal Review of Project Concept Documents, April 12, 1999, p. 2). Other issues were: the financial soundness of extending a Loan of over half billion US dollars; the absence of a clear project budget and cost structure in the Transport PCD; the fact that Maharashtra was a "non-reforming state" with what was described by the Bank as a "bad (and apparently deteriorating) fiscal situation," etc. (ibid.).

¹⁴³ Memorandum on India: MURP and MUTP – Minutes of Informal Review of Project Concept Documents, April 12, 1999, p. 3.

“(...) the big advantage of relieving the PMU (of the resettlement project) of the responsibility for construction (of infrastructure),...freeing it from the distractions and political pressure relating to awarding contracts, managing construction tenders... (and avoiding) that the tail of the engineering wing would wag the dog and construction would dominate the concerns of the PMU.”¹⁴⁴

158. The reviewer concluded by stressing:

“(...) the need to be clear about the real meaning of rehabilitation and the people-orientation of the resettlement project, and not allow the pace of rehabilitation to be artificially speeded up in the name of urgency of completing the transport investments.”¹⁴⁵

2. Recommendation and Decision to Merge the Two Projects

159. **Recommendation of the Country Director to Merge the Projects:** It is at this point that a major and abrupt change in orientation was introduced. It reversed the entire course of project preparations followed until then, premised, as stated, on the OD 4.30 policy guidance for twin projects in situations of “large projects” with massive displacement. Despite the fact that both PCDs were based upon the Twin Project approach, the then Country Department Director recommended the opposite approach for approval by the Bank’s then Regional Vice-President for South Asia.
160. The new recommendation was to prepare a single project, the infrastructure engineering MURP investment alone. The recommendation abandoned the separate but connected full Project for resettlement and transferred the population displacement & resettlement operation to the transportation agencies as a “component” in their infrastructure/engineering MURP. The recommendation was contrary to the course followed by the South Asia region for four years at significant costs. It was also contrary to the request of the GoI to the Bank for support of two inter-connected projects, and contrary to the commitment made by the Bank in disseminated information and consultations with the affected populations in Mumbai.
161. The explicit recommendation for setting aside the resettlement project was made by the Country Department Director to the Regional Vice-President in a formal memorandum (April 26, 1999), apparently preceded by a preliminary memo (dated April 9, 1999) and informal discussions. The Country Director recognized that many problems, particularly in resettlement, had not been satisfactorily addressed despite their “visibility” and importance, yet he derived a

¹⁴⁴ External peer reviewer’s Memorandum to the team leader of MURP Project, South Asia Social Development Division, March 1, 1999, p. 10.

¹⁴⁵ Ibid.

recommendation seemingly intended to diminish the resettlement's "visibility", rather than to cater to its importance:

*"The two projects presented in the PCDs have become high visibility projects frequently referred to in the press. As presented they involve substantial project risks and high non-project risks because of the complexity of the project, the large amount of R&R, the lack of a suitable institutional framework for handling R&R, the political and social sensitivity of R&R...The cost of completing project preparation and supervision would be high."*¹⁴⁶

162. It is difficult for the Panel to understand the basis for a recommendation to depart from the well-designed institutional structure to handle resettlement, before this structure was brought into existence, and at the same time to move ahead rapidly with the infrastructure Project. Yet this is exactly what was recommended through what was termed "critical modifications to the proposed project scope," to result in a "proposed reduced combined MUTP/MURP project."¹⁴⁷
163. Upon careful analysis, the Panel must conclude that the two reasons given for setting aside the MURP and downgrading the vast resettlement process into a component of MUTP, noted below, are unsubstantiated by the record. The record in this case shows a material increase in the resettlement magnitude included in the MUTP instead of the decrease announced. These "critical modifications" themselves, and their short- and long-term consequences, have been profoundly detrimental and enduring, and have led to many of the implementation problems that triggered the received complaints and the present review.
164. The Country Department Director needed the approval of the Regional Vice-President for: (a) eliminating one full project from the regional portfolio and transferring part of its content to another project; and (b) informing officially the client country of the Bank's intent to depart from the previously agreed Twin Project approach, and pursued during the prior joint work with the Borrower. The reasons and argument submitted for these purposes by the CD to the South-Asia Vice-President, at least on the formal record, were the following:

"I am recommending conditional approval to proceed with project preparation and policy/institutional dialogue on the key issues discussed in the PCD review meeting...However...I am recommending two major changes to the project concepts presented in the two PADs. Firstly, since the main development objective of MURP is now to address the R&R aspects of MUTP, we are now planning to proceed with only one project and combine the R&R with MUTP... Secondly, in order to minimize the project risks, I have asked the task leaders to review carefully the current

¹⁴⁶ Memorandum from the Country Director, India, to the Regional Vice President, South Asia Region: MURP and MUTP Project Concept Documents Review, April 26, 1999, p. 1.

¹⁴⁷ Ibid.

*scope and phasing of MUTP to keep R&R within manageable limits. Subject to your approval to proceed we would discuss this matter further with the authorities in order to jointly agree on a revised project scope.”*¹⁴⁸

165. No other reason is given, and no reference is made in that memorandum, to the policy implications of the reduction and, in general, to the demands of Bank Policy.
166. The first reason, namely that MURP’s objective is to carry out the resettlement needed for MUTP, can hardly be seen as a “reason”, since it was the long known premise of the MURP in the first place, its very *raison d’etre* and function for over four years. Until that point, this basic role and function had been precisely the justification for the opposite course: to process resettlement as a full-scale development project, given the very large size and complexity of the R&R endeavor, and to regard MUTP as dependent on MURP prior resettlement. This reason had been strongly affirmed¹⁴⁹ and re-affirmed repeatedly in statements of both Bank and Borrower, as described above. Both the GoM and the GoI, had requested Bank assistance to the Two Projects.
167. The second reason was factually incorrect. Contrary to what was stated, while the MURP full project, and its institutional set-up as a full project, were being reduced/downgraded to a “component,” the actual magnitude of displacement envisaged for the MUTP’s resettlement component was not reduced to “manageable limits.” Instead, it was increased above the size set in the PCD.
168. Before it was downgraded, the MURP proposed to resettle 13,032 PAHs.¹⁵⁰ The “component” included in the MUTP, however, was enlarged to 19,228 PAHs, as described in the RAP for the MUTP.¹⁵¹ Even that description was an understatement, as discussed elsewhere in this Report.¹⁵²
169. This is an instance of understating the real number of displaced people and using simultaneously two sets of very different data for the same displacement. Procedurally, the Panel finds this to be contrary to Bank policies. Moreover, this erroneous reporting is compounded by subsequent actions. For unexplained reasons, the PAD for MUTP, dated May 2002, presented to the Bank’s Board for approval of the Loan and the Project, significantly understates the number of individuals in the 19,228 PAHs reported as subject to forced displacement.

¹⁴⁸ Memorandum from the Country Director, India, to the Regional Vice President, South Asia Region: MURP and MUTP Project Concept Documents Review, April 26, 1999, p. 2.

¹⁴⁹ From day one, in 1995, the Bank defined on the record the goal and functions of the parallel full scale project as to: “(a) build and strengthen an adequate institutional capacity in Bombay to manage resettlement and rehabilitation in connection with the urban infrastructure investment” (Aide Memoire Bombay Resettlement and Rehabilitation Project, Preparation Mission, November 25, 1995).

¹⁵⁰ PCD for MURP, Annex 2, p. 1.

¹⁵¹ RAP, p. 25.

¹⁵² See Chapter 3A of this report.

170. The issue of incorrect information presented to the Board is addressed in later sections of this Report. It is noted here in light of its relationship to the initial rationale given by the Country Director to the Regional Vice-President.
171. Specifically, the PAD in 2002 reported a much higher number of PAHs (19,228) than the PCD (about 50% increase over the PCD's 13,000 PAHs), but at the same time it still reported the same number of individuals affected (80,000) as if "only" 13,000 PAHs would be displaced.¹⁵³
172. The Panel notes that this might have perpetuated the argument that the abolition of the Twin Resettlement Projects was linked to a reduction of displacement. It also, objectively, served to reduce the "visibility" and at the time of Board approval, the magnitude of displacement entailed under this Project.
173. This MUTP's appraisal understatement originates and is embedded, once again, in the history of the Project. It is difficult for the Panel to understand how such a distortion was possible, because the overall population data had been available in a succession of prior Bank documents, which the Panel was able to retrieve.¹⁵⁴
174. The change of course recommended by the Country Director, and both reasons given for renouncing the policy-based Twin Projects approach, do not stand up to scrutiny and the facts on the record. The entire Bank and Borrower course of work over four years was overturned toward a minimal option, likely to lower the profile of the resettlement tasks and take less time, so as to proceed ahead with the engineering infrastructure Project which was more advanced.
175. The recommendation did not solve any of the numerous issues identified and documented. Instead, it lowered the profile and the recognized importance of a huge resettlement endeavor to the status of a component, i.e., to a project vehicle which from the outset, and for over four subsequent years, was considered inadequate and inconsistent with OD 4.30 policy provisions, with much less capacity to accomplish what a full scale project had to accomplish. The consequences of that recommendation set the stage for a series of subsequent steps, analyzed further in this Report, amounting to a sharp slide in resettlement preparation, economic analysis, budgeting, and implementation, compared to Bank-policy requirements.
176. **Decision to Merge the Projects:** The review by the Regional Vice-President questioned the preparation results to that date, raised doubts and misgivings, and expressed reluctance about the Country Director's strategic orientation and the likely implications of "watering down" R&R and social aspects. The Vice-

¹⁵³ See both PCD for MURP and PAD for MUTP.

¹⁵⁴ Chapter 3A of this report will address in more detail aspects of the conflicting numbers and recurrent underestimates of the displaced people, along with their implications for the calculation of the compensation needed and the overall costs of the resettlement component.

President's review added to the list of what the resettlement preparation by the Borrower and the Bank had not yet done and had to do further.

177. Rather unexpectedly for that late stage in the project cycle, the Vice-President questioned and expressed deep misgivings about the choice by the Country Department of the MUTP Project for extending a huge Bank Loan to the Borrower.¹⁵⁵
178. However, it was perhaps felt that the Bank went already beyond the point of no return with this Project, and the Vice-President's pointed and fundamental questions remained unanswered.
179. With respect to resettlement, the Vice-President noted the absence of economic analysis of the displacement and resettlement operations in the proposed Project. This was a legitimate procedural expectation from a project required to help restore and possibly improve the livelihood of the displaced people, and certainly to protect them against the risks of losing their employment and becoming impoverished further:

“The R&R does not at present have any proposal for economic analysis. What appears under that heading is an intention to address some important economic issues that arise in resettlement, such as the desirability of resettling those displaced close to their original sites, so as to give them a chance to continue in their original employment, but there is not intention of applying an economic test of whether the project makes economic sense.... The urban transport project... in turn does not recognize that the resettlement costs are a necessary condition for the rail project to go forward, and does not propose to include the resettlement costs along with the costs of building the rail infrastructure, as would be appropriate. I strongly recommend that the R & R costs be included with the corresponding expenditures on transport infrastructure in calculating the ERR [economic rates of return] of the latter.”¹⁵⁶

180. This essential critique raises a host of issues directly relevant to the Requests for inquiry received by the Panel, which will be analyzed later in this Report in light of analysis of the RAP and implementation data. But it is important to note that the Twin Resettlement Project started by stating its economic development objectives.¹⁵⁷

¹⁵⁵ Memorandum of the Regional Vice-President, South Asia Region, to the Country Director, India and Sector Leader, on: Mumbai Urban Rehabilitation and Urban Transport Project. PCD Review, May 12, 1999.

¹⁵⁶ Ibid., p. 2.

¹⁵⁷ Indeed, the PCD stated verbatim this economic re-establishment and improvement goal without, however, undertaking basic requisite project economic and financial analysis, and without collecting the income data necessary for it. The PCD stated: *“The project will support economic growth and poverty reduction through the socially responsible resettlement and rehabilitation of families affected...allowing them to share in the benefits of the development. The affected families will be receiving higher standards of*

181. Despite these and other important critiques made in the review, the Regional Vice-President accepted at face value the justification given by the Country Director that resettlement would be reduced if the two Projects were combined. We know, as documented by the record, that that statement was not correct (see discussion above, and the PAD for the MUTP). The Vice-President did not examine the statement's foundation. Without further analysis and without any justification about ruling against Bank policy, the Vice-President granted the authorization: "*I endorse the choice of combined, smaller projects.*"¹⁵⁸ With this summary line a new project path began.
182. The Vice-President, however, sensed the deterioration risks looming behind this "merger" and the possible danger of a "slide down", risks which were obvious and indeed occurred as anticipated. The Vice-President explicitly warned the Country Director against the dilution of resettlement requirements and social benefits, requesting:
- "But the decision to keep R&R within manageable limits should not lead to watering down of the major social and environmental benefits outlined in the package...(and should) allow R&R costs to be incorporated in expenditures on transport infrastructure."*¹⁵⁹
183. **Discussions with the Borrower:** Immediately thereafter, the Country Director informed the GoI and the GoM about the Bank's decision to change course.¹⁶⁰ His memorandum acknowledges that GoI requested Bank support for "two projects,"¹⁶¹ and that the Bank had initially agreed, but now it conditioned this support on "important changes": "*We concluded that we should respond positively to the request from DEA (GOI, Ministry of Finance) for Bank assistance to the two projects, provided certain important changes and check points were agreed (as) outlined...*"¹⁶² and added "*Related to the proposed simplification of the first phase and reduction in the extent of the R & R involved we would propose to integrate R & R in the MUTP rather than treating MUTP and MURP as two separate projects.*"¹⁶³
184. The Bank's formal notification to GoI about its decision announced also one more change, as the Country Department backed off from another prior Bank

alternative houses with improved basic amenities free of cost and also assistance to rehabilitate themselves if their economic activities have been affected, in order that their standards of living will be equal to or improve to their pre-displacement standards" (emphasis added).

¹⁵⁸ Ibid., p. 1.

¹⁵⁹ Ibid., p. 2.

¹⁶⁰ Letter from the Country Director, India, to the GOI and GOM, "Proposed Mumbai Urban Transport Project (MUTP) and Proposed Mumbai Rehabilitation Project (MURP)—Regional Management Reviews Decision Meeting," June 10, 1999.

¹⁶¹ Ibid., p. 1.

¹⁶² Ibid., p. 1.

¹⁶³ Ibid., p. 4.

requirement: that of putting a strong Governmental organization in charge of managing and implementing the R& R processes.

3. Conclusion

185. The decision in April-May 1999 to merge the Twin Projects set them on a radically uneven path, as the two projects were very unequal in their preparation and readiness for Bank appraisal at the time of the merger, and remained so subsequently. The merger obscured this unevenness. Moreover, the merger diverted attention away from the institutional capacity required for effective resettlement, which had been correctly identified and initially provided for when the projects were separate. The resettlement Project was intended to ensure that the people to be resettled would have a comparable standard of living after resettlement, but under the MUTP the resettlement component evolved into one focused primarily on the restoration of housing.
186. The decision to renounce the full scale resettlement Project, MURP, canceled the fundamental orientation of the Bank's work, consistent with Bank Policy OD 4.30, that had been implemented by two large Bank staff teams over almost 4 years. The decision burdened the transport infrastructure MUTP and its agency with the added load of an enormous social process for which that agency did not have the institutional capacity. The importance of the massive resettlement operation was downgraded and its resolution consistent with policy was impaired by the merger decision.
187. Despite the imbalance, the Country Department reduced its staff allocation for the combined Project. While the two projects previously pursued were the distinct responsibilities of two distinct Regional Sectoral Units of the South Asia Region, the Social Development Unit and the Energy & Infrastructure Unit, the merged Project became solely the charge of the Infrastructure Unit, with only inputs of social staff.
188. The Panel notes that the magnitude of the resettlement process (at least 80,000 PAPs estimated at time of appraisal) was unprecedented in both the Bank's and India's urban project histories. Given the size and complex nature of the resettlement, the merger of the two Projects under the circumstances was unwarranted and was not consistent with Bank policy and procedures. Where resettlement is large enough, OD 4.30 provides that its planning, implementation and Bank financing can be provided "*as a free-standing resettlement project with appropriate conditionalities (to) ... better focus country and Bank attention on the effective resolution of resettlement issues.*" **The Panel finds that the resettlement in Mumbai, because of its size and complexity, was precisely the type of resettlement that, under OD 4.30, was intended to be addressed as a free-standing Project. While the Bank initially broadly complied with OD 4.30, it did not do so after the merger of the two projects.**

189. The Bank's decision to walk-away from the full-scale separate resettlement Project also severely diminished the Bank's subsequent policy leverage and room for operational action. By ignoring and reversing its own previous policy contents, the Bank gave an undesirable message to the Borrowing Government and to its agencies, discrediting the Bank's well-known policy of achieving resettlement with a development objective, rather than just a physical relocation and re-housing. It had profound negative consequences on the subsequent preparation and design of the RAP and on current implementation and resolution of the resettlement needs of the MUTP.

4. Public Consultation and Information Regarding the Merger Decision

190. The previous Bank Twin Project approach had been widely announced and known to the public in Mumbai.¹⁶⁴ In line with provisions for consultation and transparency in Bank Policies, the shift to combine the two Projects should have been brought to public attention as well, and primarily to the affected population. However, the Bank did not consult the Project area affected population before considering or deciding on a major departure from a previous policy position it had announced. After this decision was made, the Bank did not inform and explain it publicly to those affected.
191. **The Panel considers that by not consulting with and informing the very large number of PAPs of its change in approach, the Bank did not comply with the provisions on disclosure of information in Bank Policies.**

5. Issues Regarding Information Given to the Bank's Executive Directors

192. The Panel found that incorrect information on several key issues was communicated upward to the Bank's highest body, its Board of Executive Directors. The Project Appraisal Document (PAD) is the main document submitted to the Bank's Board to request and justify approval of the project and the loan. However, on several key points, the Panel's review found that the PAD on MUTP (2002), on the strengths of which the Board was asked to approve the Project, either gave incorrect information or did not fully inform the Board about the magnitude of displacement, the Project's history, and the risks caused by the Project to the displaced population.

5.1 Differing Estimates of Number of People to be Resettled

193. It was previously documented in the present Report that the justification given by the India Country Department for discontinuing in 1999 the stand-alone

¹⁶⁴ *"The two projects... have become high visibility projects frequently referred to in the press"* (Memorandum of the Country Director, India, to the Regional Vice President, South Asia Region: MURP and MUTP Project Concept Documents Review Meeting. April 26, 1999, p. 1).

resettlement and rehabilitation project was that the size of resettlement would be reduced. In 1999, the PCD for the resettlement project quantified the size of displacement at 13,000 families with 80,000 PAPs.¹⁶⁵ However, the final PAD submitted to the Board quantified the resettlement to be much larger in terms of real families and households displaced, yet stated that the number of individuals affected will remain at the same level of 80,000 PAPs.¹⁶⁶ The PAD states:

*“The project will affect about 80,000 persons (19,200 households) who will be displaced from their present habitat and in some instances from their source of livelihood.”*¹⁶⁷

194. The figure of 80,000 people in the PAD was incorrect. Instead of reducing the number of 13,000 families specified in the 1999 PCD, the MUTP project design of 2002 increased the real magnitude of displacement to about 19,200 PAHs. This new estimate was 50% higher than the initial estimate. Notwithstanding this higher estimate of affected families, the number of PAPs reported to the Board in the PAD was kept at the initial estimate of 80,000. In addition, the PAD does not supply any data on average family size in Mumbai, another standard indicator.¹⁶⁸
195. The number of people to be displaced represents a critical parameter for Board judgment on the adequacy of the project’s design for assuring sound resettlement. Throughout the long history of this project this was the lowest number mentioned, but it was an unreal one as confirmed on the record less than two years after Board project approval. The Country Department then applied the real and larger figure of 120,000 people, given in the supervision report of April 2004, after the Board review. Yet the Bank did not re-assess this additional large displacement, or re-examine and supplement the necessary budget for it. This much higher figure is proportionate with the increase in PAHs from 13,000 to about 19,200.
196. The Panel did not find in the Project files any document indicating that the Bank’s Board had been informed by Bank Management of this extraordinary jump in the number of persons displaced, compared to what the Board had known and approved. The new figure of 120,000 persons is recognized, however, in the Bank Management’s response to the Panel, dated May 27, 2004. Even at this stage, however, there existed difficulties with the figures, as Management reported that the figure of 120,000 PAPs derives from 20,000 households and 3,000 shops.¹⁶⁹
197. **In light of the above, the Panel concludes that at the time of Board examination and approval, in 2002, the Executive Directors were given incorrect and incomplete material information regarding the magnitude of**

¹⁶⁵ PCD for MURP, p. 13, ¶ 7.

¹⁶⁶ PAD, p. 30, ¶ 6.4.

¹⁶⁷ Ibid.

¹⁶⁸ In addition, the surveys conducted under the Project applied varying meanings given to the term PAHs, leading to notable anomalies in the census results. See Chapter 3.

¹⁶⁹ First Management Response, p. 5, ¶ 17.

the population that would be affected by the Project. This information was directly pertinent to the assessment of project quality and the sufficiency of social and economic safeguards included in the MUTP.

5.2 Basis for Merging the Two Projects

198. The Panel also found that the PAD supplied incorrect information to the Board on the project history and the reasons for which the initially prepared special resettlement project was discontinued and reduced to the status of a component in the infrastructure project. In particular, the PAD refers to views of the Borrower in explaining the basis for this new approach. It states:

“...Taking into account the reluctance of the Government of Maharashtra to adopt this broader approach and to ensure close co-ordination between transport and R&R, it was concluded that R&R related to MUTP should be addressed within MUTP itself.”¹⁷⁰

199. As documented earlier in the present Report, the evidence from Aide Memoires and numerous other Bank internal documents on file, confirms the opposite: namely, that agreement had been reached between the Bank and the GoM at the highest level about the principle and the content of the “twin project approach” and their management and related coordination. **The information reviewed by the Panel suggests that it was the decision of the Bank’s India Country Department, and not the disagreement of the GOM, that in 1999 suddenly reversed the prior five-year course of the Bank’s and the Borrower’s joint approach to the infrastructure project for Mumbai.**

5.3 Non-Disclosure of Resettlement Risks

200. The 2002 PAD also did not inform the Bank’s Board of Executive Directors explicitly of the severe specific risks of the massive displacement and relocation operation that already had been identified by the staff in internal documents. These risks were brought to the attention of Bank middle level managers.
201. In particular, several distinct and important risks were described, in clear tabulated format, in the Bank’s PCD, in its pre-final stage in March 1999, at a time when Twin Projects were the strategic goal. The resettlement risks were described candidly and in significant detail, and were of an economic, political, institutional, and reputational nature. They included the policy and reputational risks that the Project will “*fail to deliver satisfactory R&R that would meet the Bank’s policy standards,*” which ranked as “*high risk*”.¹⁷¹ However, none of these identified risks were disclosed and reported in the PAD submitted to the Bank Board in 2002.

¹⁷⁰ PAD, p. 16.

¹⁷¹ PCD for MURP, March 1999, p. 14-16. The analysis even highlighted the “*high risk*” that “*this project is likely to come before the Inspection Panel*” (PCD for MURP, March 1999, p. 15).

202. The Panel notes that this is not an instance when staff work might have simply failed to identify risks. The Panel's concern in the MUTP case is that advanced project documents testify that major specific risks had been identified, had been known and recorded in writing, but *were left out* from the most decisive project document - the PAD that was submitted to the Bank's Board of Directors for project approval.
203. In sum, the Panel concludes that *on three major matters*, essential for the Board's proper information and decision-making, the Bank's Country Department provided unsatisfactory and incorrect documentation on project content and loan approval. The first matter involved the number of people to be displaced. In this regard, Management failed to provide an estimate of the number of PAPs that corresponded with updated, increased estimates known during the Project. The second involved the basis for the decision made to discontinue the special resettlement project. The third matter involved the major risks of the resettlement operation, affecting a very large and most vulnerable population, mostly below the absolute poverty line even before the project start. Here, Management failed to bring these risks to the attention of the Board in the PAD.
204. In this regard, OMS 2.20 specifies the importance of formal risk analysis in the appraisal of projects involving large risks. It provides that: “. . . *for projects with marginal returns or large risks, further quantification of the risks through formal risk analysis is also desirable. Where necessary, the appraisal also includes recommendations regarding precautionary measures which should be undertaken to reduce the risks.*”¹⁷²
205. Bank Policy OP 10.04 on Economic Evaluation of Investment Operations indicates that the economic evaluation of the Bank needs to consider “. . . *the sources, magnitude, and effects of the risks associated with the projects*” through various steps.¹⁷³ BP 10.04 further indicates that the staff appraisal report needs to fully document “*the assumptions, methodology, and results of the project's financial and economic evaluations, risk analysis, and fiscal impact assessment.*”¹⁷⁴
206. In addition, BP 10.00 on Investment Lending and Identification to Board Presentation, Annex E, provides that the Memorandum and Recommendation of the President (MOP) is to summarize relevant project risks and other risks, including those that bear on the likelihood of project success.¹⁷⁵

¹⁷² OMS 2.20, Project Appraisal, ¶ 17, 61.

¹⁷³ OP 10.04, Economic Evaluation of Investment Operations, September 1994, ¶ 6. See also OMS 2.20, Project Appraisal.

¹⁷⁴ BP 10.04, Economic Evaluation of Investment Operations, April 1994, ¶, 4(d). More specifically, and among other things, the report “. . . *identifies the project's main risks and gives the results of the sensitivity analysis*” (ibid.).

¹⁷⁵ BP 10.00, Investment Lending: Identification to Board Presentation, June 1994, Annex E (Outline for a Memorandum and Recommendation of the President), ¶ 22.

207. In light of the above, the Panel concludes that, according to documents in the Project file, the presentation made in the PAD to the Bank's Board was incorrect and incomplete regarding the actual magnitude of the envisaged displacement and on several other important matters of Bank policy, strategy, and agreements reached with the GoM. **The Panel finds that the failures to provide information to the Board, noted above, were a critical flaw in procedure that undercut the ability of the Board to make informed decisions, and were not consistent with OMS 2.20, BP 10.00 Annex E, and OP/BP 10.04.**

6. Insufficient Risk Analysis

208. As described above, the section on risks contained in the PAD is silent on resettlement and the impoverishment risks to the 19,200 PAHs, as if the Project would not even contain a very large resettlement operation. Instead, it discusses only the routine Project risks, unrelated to its massive population displacement, such as the "risk of delays in transfer of funds from GoM to MMRDA", "risks of delays in equipment delivery", and other routine Project risks, none of which are of a social nature and none of which focus attention on the most deeply negatively affected population. Nor does the RAP mention the risks of resettlement identified and recorded in Bank internal documents. **The Panel is concerned that the lack of sufficient analysis and consideration of the many risks of resettlement may be at the root of many problems facing the people affected by the Project.**
209. This insufficient risk analysis weakens the plan itself, as risk analysis usually mobilizes the design and resources of the Project to counter directly the disclosed risks, and is also of great importance to the Borrower, the Project stakeholders, and to Project implementation. **The Panel finds that in omitting resettlement risks from key Project documentation and analysis, the Bank failed to comply with the requirements of risk analysis in Bank Policies, including OMS 2.20 and OP/BP 10.04, and weakened the ability of the Project to meet the policy provisions of OD 4.30.**

7. Downsizing the Organizational Set-Up for Resettlement

210. The Bank's retreat from MURP was accompanied by another change, which in turn further retreated from another agreement reached previously between the Bank and the GoM. The Letter sent by the Country Director to the Borrower included a point (not covered in the Regional Vice President's review and authorization) to downsize the organizational management of the very large involuntary resettlement process, and to place it, against staff advice, within an agency lacking capacity and expertise for this work.
211. At issue in this respect for the Panel is compliance with another, directly relevant key provision of OD 4.30, paragraph 6, regarding direct "Organizational Responsibilities" for resettlement. This provision anticipates circumstances where

entities executing technical infrastructure projects lack socio-cultural experience and the structure and staffing for resettlement's complex and sensitive issues. It allows for organizational options and alternatives, emphasizing as the guiding criterion the overriding need for organizational strength and competence commensurate with the situation at hand:

“The organizational framework for managing resettlement must be developed during preparation and adequate resources provided to the responsible institutions. The organization responsible for resettlement should be strengthened when entities executing infrastructure or other sector-specific projects lack the experience and outlook needed to design and implement resettlement. One alternative is to create a special resettlement unit within the project entity: this can facilitate the involvement of other line agencies. Another alternative is to entrust resettlement to the regional or town administration that knows the population and area, can mobilize local expertise, speaks the resettlers' language, and will ultimately be responsible for the integration of resettlers into the host population and area.”¹⁷⁶

212. In the case of the Mumbai Projects, repeated staff analyses weighed various options for an institutional set up suited to manage urban R&R. Finally, after considerable dialogue with the Borrower, a three day workshop specifically devoted to this subject matter was held at the end 1998, with the participation of Bank staff and high level officials in GoM. This intensive consultation concluded consensually that R&R management should not be in MMDRA, a transport agency, but instead should be organized through a dedicated R&R implementation agency within another Governmental body, with specific experience in social-urban problems: the Urban Development Department (UDD) of GoM.
213. This matter was highly consequential for the unfolding and implementation of R&R. It was also a major step toward building in the process some “institutional inheritance”: that is, to create what the Bank-assisted Project would leave behind as an enduring organizational capacity for GoM's future programs, which would be able to carry on other likely-to-be-needed urban resettlement processes.
214. The record shows that an explicit and detailed agreement was reached between the Bank and GoM on the institutional and management mechanisms for implementing resettlement:

“The GoM had approached the Bank for assistance with a proposal for a new agency to deal with resettlement and rehabilitation of families affected by infrastructure investments...The GoM requested the mission to extend its assistance to the GoM team in developing a proposal for an institutional arrangement which would address its fundamental

¹⁷⁶ OD 4.30, ¶ 6.

development objectives (for R&R). The mission spent nearly three days in a workshop with a group of GoM Secretaries to develop a satisfactory implementation arrangement. The draft plan was presented in a MURP Wrap-up Meeting on October 12, 1998, chaired by the Chief Secretary and in the presence of other key Secretaries and the officials of MMRDA. It was agreed in this meeting that—subject to further development of the concept and a detailed framework—the proposed institutional mechanism was acceptable to the GoM. The mission concurred that the proposal met the original set development objectives.”¹⁷⁷

215. In essence, the structure arrived at consensually by the Bank and GoM was an implementation Division to be created and located in the UDD of the GoM, with an internal structure comprising five functional sub-units.
216. Subsequently, the Country Director, in the letter to GoI and GoM, diminished the scope and the strength of the proposed resettlement implementation agency and placed it not in the UDD but back within the setting that had been avoided by both Bank staff and GoM as not well-suited for the task: MMRDA. The relevant statement of the CD follows: *“Although there is agreement on the outline of an institutional framework to deal with R&R, we now believe that for the short term a Project management unit would be more appropriate than a permanent division within the Urban Development Department.”¹⁷⁸*
217. The net immediate result of the reversal in the Project course was detrimental in various ways. The very large displacement/resettlement operation was placed back in the MMDRA, which was and is a technical-engineering group by its design and staffing, and not designed to address these types of social tasks. The envisaged direct organizational arrangements to be made within MMRDA for managing resettlement were vastly downsized compared to the UDD option. The arrangements were planned only as temporary, not permanent, with a reduced number of staff borrowed from other entities for a limited period. In addition, the PMU that was supposed to focus exclusively on resettlement was ultimately given the responsibility of planning, implementation, and *“overall coordination with all the implementing agencies and monitoring the progress of MUTP”* in its entirety.¹⁷⁹
218. These organizational arrangements were inadequate to meet the provisions of OD 4.30, particularly compared with what was initially planned. Among other things, the analysis of all Bank supervision reports over the first 3 years of project

¹⁷⁷ Aide Memoire, Proposed MURP Identification Mission on October 3-13, 1998, p. 2-3. (The proposed organizational arrangements were elaborated in even greater detail in Attachments 2 and 3 to the Aide Memoire.)

¹⁷⁸ Letter from the Country Director, India, to the GOI and GOM, on Proposed Mumbai Urban Transport Project (MUTP) and Proposed Mumbai Rehabilitation Project (MURP)—Regional Management Reviews Decision Meeting, June 10, 1999, p. 1.

¹⁷⁹ RAP, p. 7. See also *ibid.*, p.31-32.

implementation¹⁸⁰ indicates that issues of inadequate institutional capacity and performance, understaffing, lack of resettlement monitoring, etc. are the single most frequently reported non-performing component of the MUTP current set-up for resettlement. In the context of these institutional/organizational weaknesses, both the Independent Monitoring Panel (IMP) planned for MUTP and the grievance system have been non-functional.

219. **In light of the evidence on both process and outcomes in carrying out OD 4.30 provisions on “organizational responsibilities,” the Panel finds that the Bank has not met the requirements of this OD to develop an organizational framework with adequate resources provided to the responsible institutions.**
220. **Thus non-compliance has occurred despite good staff analytical work on institutional matters during the initial years of Project preparation. Serious errors in managerial judgment were compounded by failures to meet both the word and the spirit of OD 4.30.**

B. The Current Policy and Institutional Framework

1. The R&R Policy Framework for MUTP and the Link with the Slum Rehabilitation Provisions

221. Resettlement under the MUTP has been mainly guided by the R&R Policy for the MUTP by the GoM, which was accepted by the Bank in February 2000. This R&R Policy covers all affected people, whether affected by the Bank-financed components or not.
222. The Resettlement Action Plan (RAP) covers the resettlement requirements under the Project and is complemented by specific Resettlement Implementation Plans (RIPs) for each component of the Project. The RIPs include the more component-specific details, such as provisions on the design and construction of the houses, the payment of allowances and compensation and specific time schedules.¹⁸¹
223. During meetings with the Panel, the Requesters expressed their suspicion that, instead of the real needs of PAPs, the Project and the R&R Policy followed too closely the policies of the Slum Rehabilitation Authority (SRA). They believe that they have erroneously been categorized as “slum-dwellers” so that the Slum Rehabilitation Policies can be applied to them. As a consequence they claim that they have been subjected to inadequate policies.
224. OD 4.30 states *“For countries with a series of operations requiring resettlement, efforts to improve the policy, institutional, and legal framework for resettlement*

¹⁸⁰ See below Chapter 8 of this Report.

¹⁸¹ PAD, p. 99, Additional Annex 13.

should form part of the Bank's ongoing country and sector dialogue with the government."¹⁸²

225. The MUTP R&R policy was initially drafted in 1997, but was later amended with a view to complying with Bank policy. The Bank accepted the amended MUTP R&R policy in December 2000. The R&R policy consists of the main text and an appendix which summarizes the rehabilitation measures and entitlements in a table.
226. The Panel observes that the R&R Policy is very similar to the SRA provisions and includes a reduced set of entitlements for PAPs as compared to those expected under OD 4.30. The Panel further notes that the gap between OD 4.30 and MUTP practice has grown during implementation, and the intent of some of the policy provisions has not been given effect in operational planning and implementation. These problems are described in detail in Chapters 3-6 of this Report.

¹⁸² OD 4.30, ¶ 26.

Box 2.1: Land Rights Uncertainties for Shopkeepers : The Case of Powai IIT

Land Rights Uncertainties for Shopkeepers: The Case of Powai IIT

Major road improvements unfreeze the usually static social and economic relations between tenant, owners and government and create uncertainty for shopkeepers. If the shopkeepers are classified as “encroachers”, under SRA rules they will be resettled in a flat or shop of 225 sq. ft. If classified as landowners on private land, PAPs will be given compensation in either negotiable instruments of TDR or 60% of the equivalent of 5 years’ rent. Tenants paying rent to non-resident landlords may not know until very late in the process how they will be treated. The R&R management may also be uncertain as to how to proceed.

In the Times of India (Nov 16th 2004), MMRDA was cited as estimating that 10% of the shopkeepers opposite Powai IIT were land owners, while the BSES of July 2004, however, records all commercial units as ‘squatters’. The shopkeeper PAPs claim that they are legal owners and tenants not squatters. There seems to be limited capacity within MMRDA and the NGO supporting implementation, to deal with the complexities of documents and claims involved without relations becoming strained.

The shopkeepers told the Panel that they have been offered a deal allegedly under SRA provisions. A major Mumbai-based builder–Hiranandani – suggested a shopping mall on the next block. First, a Development Control ‘reservation’ for recreational grounds must be lifted. They are asked to petition the authorities to lift the reservation so that a plaza with offices on higher floors will result, with 325 shops of 225 sq ft on the 2nd and above floors to be allocated to them. The total ‘reservation’, now lifted, applied to 17 acres. The total area to be allocated to the shopkeepers is approximately 6,800 sq ft.

Under the relevant provisions of the SRA, the shopkeepers can only receive a maximum of 225 sq ft free of cost. They claim that they are not slum-dwellers and should be given compensation for their land loss in the form of equivalent replacement space in the shopping mall. At the time of the Panel visit, negotiations were underway but relations between the parties were subject to much strain, and very little was written down beyond the formal positions of the different parties.

Source: interviews with PAPs, Panel site visits, February and May 2005.

227. The Panel notes that many of the standards and entitlements that are listed in the R&R policy are equal to the SRA standards. For example, the 225 sq. ft. / 20.91 sq. m. space standard is a SRA standard.¹⁸³ The Panel is concerned that the strong

¹⁸³ See Guidelines for the Implementation of Slum Rehabilitation Schemes in Greater Mumbai, December 1997, Appendix IV, p. 17. According to this document, the GoM “has launched a comprehensive slum rehabilitation scheme by introducing an innovative concept of using land as a resource and allowing incentive floor space index (FSI) in the form of tenements for sale in the open market...” The text claims that, through necessary statutory amendments, the Government has established the Slum Rehabilitation Authority (SRA) to serve as a planning authority for all the slum areas in Greater Mumbai and to facilitate the slum rehabilitation schemes. The GoM amended the then Maharashtra Slum Areas (Improvement, Clearance and Redevelopment) Act of 1971 to provide for the creation of the Slum Rehabilitation

focus on the SRA might also be a reason for the failure to differentiate adequately between residential and commercial PAPs, because under the SRA scheme PAPs with shops are not differentiated from residential PAPs.

228. **The Panel notes that resettlement under the MUTP was strongly based on the respective provisions of the SRA, assuming that all PAPs would be slum-dwellers, and as a consequence failed to adequately identify the heterogeneity of the PAPs and their distinctive needs.**

2. The Resettlement Action Plan

229. The basic requirements for the contents of resettlement action plans are set forth in paragraph 5 of OD 4.30. As indicated therein, “[t]he content and level of detail of resettlement plans, which will vary with circumstances, especially the magnitude of resettlement, should normally include a statement of objectives and policies, an executive summary, and provision for the following...” Specific elements include: (a) organizational responsibilities; (b) community participation and integration with host populations; (c) socioeconomic survey; (d) legal framework; (e) alternative sites and selection; (f) valuation of and compensation for lost assets; (g) land tenure, acquisition, and transfer; (h) access to training, employment, and credit; (i) shelter, infrastructure, and social services; (j) environmental protection and management; and (k) implementation schedule, monitoring, and evaluation.
230. The RAP for the Project covers the resettlement requirements under the Project. Its provisions will be addressed later in this Report. **The RAP does not pay adequate attention to some of the most important aspects of resettlement, such as the restoration of income.**¹⁸⁴

3. Differences between Rail and Road Components of Project

231. Bank Management assumed that the rail component would raise the same problems as the road component, which resulted in overlooking the fact that many of the road PAPs are middle-income shopkeepers. The Bank failed to recognize that there were differences between the two components which would affect many aspects of the resettlement process. These included differences in the kinds of people to be resettled, the survey procedures and baseline preparations, the timetables, measurement of impacts, and income restoration. The particular consequences of this assumption on shopkeepers are noted in Chapter 5 of this Report.

Authority (SRA). SRA was created by the Government Notification, dated December 16, 1995, to function with effect from December 25, 1995.

¹⁸⁴ See discussion in Chapter 5 of this report.

232. The assumption that the NGOs that had dealt with the resettlement in the rail component would also be able to handle the resettlement of the PAPs affected by the road component was problematic and is the reason for many of the failures in R&R implementation.
233. **The Panel finds that the Bank failed to recognize the substantial differences between the rail and the road components and to incorporate these differences into Project preparation and implementation. The differences involved both the identification of those affected by the road widening and road construction, the surveying of their assets, and their requirements for resettlement. The Panel finds that for the substantially different sub-categories of populations, the Bank did not ensure that the Project design met the Bank's Policy OD 4.30.**

4. Institutional Capacity and Delegation of Responsibilities to NGOs

234. OD 4.30 also sets forth institutional responsibilities for resettlement, and for developing the necessary organizational framework to carry out resettlement. Paragraph 6 of OD 4.30 requires that

“[T]he responsibility for resettlement rests with the borrower. The organizational framework for managing resettlement must be developed during preparation and adequate resources provided to the responsible institutions. The organization responsible for resettlement should be strengthened when entities executing infrastructure or other sector-specific projects lack the experience and outlook needed to design and implement resettlement...There also may be considerable scope for involving nongovernmental organizations (NGOs) in planning, implementing, and monitoring resettlement.”

235. The indispensability of an effective institutional framework for the R&R task was also noticed in an early study that was prepared for the MURP. According to this study, the two critical requirements for success in any *future* R&R in Mumbai were: (1) a strong and comprehensive R&R policy from Government; and (2) a *“comprehensive R&R institutional mechanism... [involving] effective management of the R&R delivery system [and] enhanced inter-agency and inter-departmental coordination.”*¹⁸⁵
236. As described earlier in this Report, the issue of the institutional set up for the Project was first discussed intensively in Project planning. This led to the insight, in 1998, that R&R management should be placed in an R&R implementation agency within another Governmental body, with specific experience in social-urban problems: the UDD of GoM.

¹⁸⁵ TCS and TISS 1996, 29

237. However, as described above, the Bank reversed that decision and placed the resettlement task back in the responsibility of MMDRA, a technical-engineering group historically lacking the capacity and organizational structure to perform such social tasks. Furthermore, the envisaged direct organizational arrangements to be made within MMRDA for managing resettlement were vastly downsized compared to the UDD option. The PMU that was supposed to focus exclusively on resettlement was ultimately given the responsibility of planning, implementation, and “*overall coordination with all the implementing agencies and monitoring the progress of MUTP*” in its entirety.¹⁸⁶
238. MMRDA was not prepared to deal with a resettlement Project of that magnitude. MMRDA only had a small number of staff dedicated to R&R operations and staff were not well-trained for this task. An analysis of the Bank mission reports over the first three years of Project implementation indicates that issues of inadequate institutional capacity and performance, understaffing, lack of resettlement monitoring, etc. are the single most frequently reported non-performing components of the MUTP current set-up for resettlement.¹⁸⁷
239. The weak capacity of implementing agencies caused problems mainly with regard to social issues, but also caused problems with regard to environmental expertise. The need to improve institutional capacity through Environmental Management and Capacity Building (EMCB) consultants was recognized early by the Bank.¹⁸⁸ As a result of Management supervision, EMCB consultants were formally mobilized on June 23, 2003.¹⁸⁹
240. According to the Project design, almost all direct responsibility for R&R field operations was delegated outside of government to the nongovernmental organizations (NGOs) SPARC/NSDF in India. The Panel was informed that the contract with the NGOs was awarded on a sole source basis. A different, small NGO, SRS, was involved in conducting the surveys for the JVLR section. The connections that SPARC/NSDF had with communities that had to be resettled from railway tracks made them important actors in facilitating resettlement from the railway tracks.¹⁹⁰
241. While acknowledging the general involvement of NGOs, the Panel believes that this lack of adequate capacity in MMRDA was one of the major reasons why MMRDA decided to delegate key R&R implementation tasks to the NGOs

¹⁸⁶ RAP, p. 7. See also *ibid.*, p. 31-32.

¹⁸⁷ See also the MUTP Quality Enhancement Review (QER), November 10, 2000, [hereinafter “MUTP QER”] p. 9, which noted that the capacity of the implementing agencies might be severely constrained because of their limited capacity.

¹⁸⁸ Aide Memoire, Mission on March 4 – 14, 2002, dated April 4, 2002, p. 26. The plan was that, before Project negotiations, MMRDA would: (1) attain assistance from environmental management consultants to assist with all environmental work and (2) develop a comprehensive institutional capacity-building plan for all PIAs, including the NGOs.

¹⁸⁹ Aide Memoire, Environment Mission on June 23 – 28, 2003, p. 4.

¹⁹⁰ RAP, p. 19-20; PID, p. 4.

- SPARC/NSDF and SRS. Reliance for both the R&R concept and for its field operations increasingly began to be placed in these NGOs that had a track record in squatter relocation and slum rehabilitation.
242. Management’s opinion on the involvement of the NGOs is that “[t]he Project has implemented an innovative approach to resettlement to achieve the objectives of improving transport connectivity and raising the living standards of affected people. This approach entailed the involvement of the private sector and NGOs.”¹⁹¹ The RAP explained that the main NGO chosen to work for MMRDA was SPARC/NSDF, which previously had worked for Indian Railways to enumerate squatters on the railway land.¹⁹² The general assumption at the Bank was that “[b]oth SPARC and the Slum Dwellers Federation have a long standing relationship of trust with squatters on the railway lines which has enhanced their capacity to consult and organize the PAPs for relocation.”¹⁹³
243. Regarding the tasks of the NGOs, the RAP explains that “Apart from carrying out BSES and preparing RIP the NGOs will provide ‘Implementation Support covering the three phases of – prior to the move, during the moving and after the relocation.’”¹⁹⁴ The RAP then continues to list several key activities such as the preparation of legal documentation, allotments of units, public announcements, ensuring that the resettlement sites and buildings are developed, preparatory work for transfer of ration cards, transport of belongings to the resettlement site, help to register the cooperative societies, training of the community, providing support for employment and delivering compensation.¹⁹⁵
244. The NGOs who were responsible for conducting the surveys for resettlement were also given the responsibility for implementing resettlement, even though they did not have prior experience or sufficient capacity to handle a program of such magnitude. The Panel was informed that the contract for the implementation of the resettlement arrangements was awarded on a sole source basis.
245. In the process, the NGOs involved became in effect two small agencies contractually employed by the government, with insufficient capacity, decreasing status, and declining abilities to act as exponents of the local civil society. While the NGOs had demonstrated effectiveness in relating to people living in slums along the railroads, they did not have a similar history with regard to those displaced by the widening and construction of roads, in particular the middle income shopkeepers. The needs of the latter for space and for income restoration

¹⁹¹ Second Management Response, p. 7, ¶ 20.

¹⁹² RAP, p. 19-20.

¹⁹³ PID, p. 4.

¹⁹⁴ RAP, p. 20.

¹⁹⁵ Ibid. The RAP also refers explicitly to these NGOs by stating, “It has been decided to engage SRS and SPARC for providing implementation support for the entire road project” (ibid., p. 19). They also praised SPARC as being “...outstanding amongst them [NGOs] with nearly 15 years’ experience of working with the squatters communities along the railway tracks. ... SPARC also has associated professionals like architects and engineers” (ibid., p. 20).

- and for their associated employees were different from those living along the railroads.
246. A common complaint of those involved with MUTP resettlement is that the NGOs responsible for implementation of slum-dweller resettlement and rehabilitation are not professional bodies and do not possess a wide variety of technical competencies.¹⁹⁶
247. The Panel was told that Bank staff had expressed their disquiet to the MMRDA over the appointment of these NGOs to undertake Baseline Socio-Economic Studies as well as the EA required for the MUTP.¹⁹⁷ The NGOs were nonetheless appointed because of their previous record in mobilizing communities that needed to be resettled because of the rail component of the MUTP. Representatives of SPARC and NSDF acknowledged to the Panel their lack of competency to undertake certain assessments but indicated that, in their view, their familiarity with the communities involved and their stress on community participation made up for a lack of professional expertise.
248. During Panel visits, it became clear that these NGOs have few trained staff. The Panel noted that the NGO staff is overwhelmed with dealing with the allotment process, so no capacity is left to deal with other important resettlement issues such as the lack of water, the establishment of cooperatives etc.
249. Possible risks from overburdening the NGOs and the need to strengthen some areas in cooperation with NGOs had been pointed out by the Bank already early in the process. In November 2000, the Quality Enhancement Review for MUTP¹⁹⁸ stressed that the NGOs involved in the implementation of the resettlement component might not be sufficiently staffed. The lack of capacity of the NGOs was also recognized during Bank supervision.¹⁹⁹
250. **The Panel believes that the lack of capacity within MMRDA was one of the reasons why MMRDA delegated substantial parts of its responsibilities for R&R to outside NGOs. The Panel appreciates the effort to involve local NGOs in the Project, but it is concerned about the transfer of the main implementation responsibilities from the State Government and municipal agencies to NGOs with insufficient institutional capacity and knowledge to deal with the overwhelming magnitude of the responsibilities transferred.**

¹⁹⁶ Panel interviews with Bank staff, the Mumbai Metropolitan Regional Development Agency, the Society for the Promotion of Area Resources Centers (SPARC) and National Slum Dwellers Federation (NSDF).

¹⁹⁷ Interviews with Bank Staff, Mumbai and New Delhi, February 2005.

¹⁹⁸ MUTP QER, ¶ 7.

¹⁹⁹ The Aide Memoire for the October – November 2004 mission said that capacity of field staff has been strengthened by SPARC, and the professional capacity of MMRDA has been strengthened. However, the training plan for staff, NGOs and consultants and contractors associated with R&R implementation was not done, despite the deadline of April 30, 2004 (Aide Memoire, Mission on October 28 – November 5, 2004, dated November 29, 2004, p. 19).

Chapter 3 Planning for Displacement and Resettlement

A. Surveys of Project Affected People, Baseline Income and Immovable Assets

251. Bank Policy provides that resettlement plans should be based on recent information about the scale and impact of resettlement on the displaced population.²⁰⁰ This information is needed for proper implementation of resettlement, and provides a baseline against which the effects of resettlement can be measured. Surveys are the key instrument to acquire this information.
252. In the current Project, various surveys have been conducted. These surveys gathered information on affected populations as well as other socio-economic aspects such as incomes, commercial entities and assets.
253. The Requesters have complained that the surveys were inadequate and failed to reflect their true situation. The discussion below addresses this issue in some detail. In particular, it examines the methods used, and the results obtained. It also addresses issues relating to the capacity of the entities charged by the local authority with conducting the surveys.
254. As will be indicated, the Panel identified significant flaws in the methodology of the surveys, which affected their results. The Panel also has concerns that the entities carrying out the surveys lacked sufficient training and expertise to undertake surveys for such a large resettlement action. These problems affected the quality of the data and, by extension, the ability to implement the Project properly. They created particular problems for shopkeepers and other commercial PAPs, and also help to explain how the Bank and the Project eventually lost control over the numbers, scale and effects of this major resettlement action.

1. The Surveys

255. The Requesters as well as other PAPs complained to the Panel during its field visit about the way the population and baseline socio-economic (BSES) surveys have been conducted. They claim that they were not aware of the purpose of the surveys and that the surveys were incorrect because they often left out structures and persons. The Requesters claim that they were never able to verify the results

²⁰⁰ Paragraph 11 of OD 4.30 states that resettlement plans “*should be based on recent information about the scale and impact of resettlement on the displaced population. In addition to describing standard household characteristics, socioeconomic surveys should describe (a) the magnitude of displacement; (b) information on the full resource base of the affected population, including income derived from informal sector and nonfarm activities, and from common property; (c) the extent to which groups will experience total or partial loss of assets; (d) public infrastructure and social services that will be affected; (e) formal and informal institutions (such as community organizations, ritual groups, etc.) that can assist with designing and implementing the resettlement programs; and (f) attitudes on resettlement options. Socioeconomic surveys, recording the names of affected families, should be conducted as early as possible to prevent inflows of population ineligible for compensation.*”

- of the surveys, because according to them NGOs and MMRDA refused them access to the survey sheets.
256. These claims raise the question of whether the Project was based on a thorough assessment of the number of PAPs and whether funds were sufficient to provide relocation packages for each of the PAPs actually displaced when their homes and businesses were demolished.
257. In its First Response, Management indicated that the R&R component of the MUTP originally provided for resettlement of about 19,200 households and businesses but that the *“number of affected households and businesses subsequently increased to about 23,000 (approximately 20,000 houses and 3,000 shops, representing approximately 120,000 people) in April 2004 because of changes in the scope of some sub-projects and detailed assessments that update the preliminary numbers.”*²⁰¹
258. The Requesters also complained about the surveys of commercial structures. They stress that *“the scheme provides ‘Every PAH losing a commercial structure shall be eligible for an alternate place of commercial use of equivalent area’. We fail to understand how this aspect of the scheme will be implemented when till date the actual area is not surveyed, no notice is received for survey by any of the shop owners, the actual area to be taken of the respective shops in the scheme is not ascertained then how the scheme will be implemented in its true spirit.”*²⁰² Moreover, the Requesters assert that the survey only took into account the length and breadth of their present structures, leaving aside the upper floors, whereas their structures are three dimensional.²⁰³
259. During the Panel’s visits, the PAPs also complained about the way in which the baseline survey recorded information on their income. According to the PAPs, the BSES used single sum figures for their monthly wages, rather than recording the variable days of work they can access in a month as casual workers.
260. In addition, PAPs complained about a perceived lack of attention to recording accurately the secondary earnings of female members of the household. They criticize a failure of the baseline survey to record largely immovable industrial and commercial assets which will be destroyed on relocation, for example non-portable manufacturing equipment, and retail display cabinets and fittings and the classification of their businesses as household structures, not as enterprises, thus obscuring the loss of existing supplier and customer bases for the enterprise.
261. According to Management, *“[a]n on-the-ground survey to measure the size of affected shops was conducted by the NGOs as part of the baseline socio-economic data collected during the preparation of the RIP. This information was updated in*

²⁰¹ First Management Response, ¶ 17.

²⁰² First Request, ¶ 4.

²⁰³ Fourth Request, ¶ 3.

April 2004 to confirm details such as total shop area, affected portion and remaining portion of the shop for those affected in Phase 1 – Section 1 stretch of the road.”²⁰⁴ Management states that “[Annexes to the RIP prepared in April 2003 contain the list of affected shopkeepers, including details such as nature of activity, turnover, number of employees and year of establishment.”²⁰⁵

2. Entities Conducting the Surveys

262. As explained in Chapter 2 of this Report, MMRDA delegated the responsibility to conduct the surveys to local NGOs, in particular SPARC/NSDF and SRS. **These NGOs, however, have few trained staff and lacked sufficient capacities to deal with a task of such a large scale.** SPARC/NSDF emphasized that the people conducting the surveys mostly came from the community. SRS indicated that their staff that carried out the survey had an educational qualification up to Class X or XII.²⁰⁶
263. The Panel is concerned that the NGOs were not given adequate training about the Bank’s R&R requirements concerning the tenure of structures and land and how these link with population characteristics.²⁰⁷ The Panel has not seen evidence that the NGOs have developed skills in displacement planning or engineering interface work. When the Panel, during its field work, asked to examine the survey forms, their low quality and sometimes *prima facie* inaccuracy was apparent
264. The problems caused by the NGOs’ lack of capacity likely were aggravated by MMRDA staff’s problems in supervising because of their own lack of capacity. The Panel is not aware that any of the MMRDA staff interacting with the NGOs were familiar with census methodology or with the population dynamics and asset acquisition questions that needed to be asked.

3. Methodology Used for Surveys

265. **Surveys of Affected Populations:** The Panel found it important to analyze in more detail the method that was used for the population count. As described below, the flaws in the chosen methodology to prepare and carry-out ground-census work, and other problems, have severely affected the population surveys.
266. First, for the main NGOs which conducted the surveys, SPARC/NSDF and SRS, while their methodologies for demarcating structures were designed to stimulate community involvement, this involvement also made the process more subjective and less predictable. Second, the methodology for conducting the surveys was not

²⁰⁴ First Management Response, p. 16, Annex 1, item 4.

²⁰⁵ Ibid.

²⁰⁶ Interviews with SRS February and May 2005.

²⁰⁷ In an interview with the Panel in May 2005, SRS stated that its staff was trained for about two mornings before the survey started and then staff received another training session after the collection of the survey sheets. The Panel is not aware of any training for the SPARC staff.

- professional. Data were collected over several years without adjustment for the time lapses between different blocks of information and without a consistent definition of the household, the survey's unit of measurement.
267. In this regard, the census chose an unusual unit of assessment and then varied the meanings given to this 'unit.' The unit was called the '*Project Affected Household*' (PAH) in all key Project documents. This unit may not always be 'a household' in the standard use of this term. Rather, 'PAH' can mean, in practice, the collection of people that consent or volunteer to be included on the identity card compiled for the project affected structure that is finally included in the list of 'PAHs' sent to MMRDA. The people listed may be: a family living in the structure, co-residents found in the structure when the NGO worker visited, single workers sleeping there, or those normally present but currently absent.
268. This variation in use helps explain some notable anomalies in the census results; for example, some cells have almost no females listed in the 'PAHs,' some have very high numbers of 'female-headed PAHs,' and a large number are unoccupied or 'locked.' This variation means it is difficult to estimate PAPs simply by multiplying PAH numbers. It is even more problematic to calculate PAPs this way given that employees with a bed-space in their workshop or shop have been included as PAH member and wives and/or husbands living or working elsewhere may or may not be included depending on the NGO census worker's discretion.
269. Finally, as a result of several of these aspects, shopkeepers were largely ignored by the survey.
270. The NGOs that conducted the surveys used slightly different methods. While both SRS and SPARC marked the structures²⁰⁸, the Panel observed that SPARC put more emphasis on its "chalk-mark" methodology. SPARC explained to the Panel that they started the survey process by placing chalk marks on affected structures.²⁰⁹ This approach is described in more detail in the textbox below.

²⁰⁸ SRS informed the Panel that it had started the surveys in 1996 on JVLR. Since then, several alterations have been made including re-alignments and other proposed changes to the Project. In all, there were three phases of surveys done house to house in 2001-2003. The first step was a survey which marked all the structures (water, trees, footpaths, etc.) on a map. Then they numbered the structures and tried to identify the owners and ID number. Finally, SRS conducted the survey. They marked the structures, but not permanently. SRS told the Panel that its senior staff monitored and spot-checked the survey, but not in "a highly systematic way." (Interview with SRS in May 2005.)

²⁰⁹ Interview during the Panel field visit in February 2005.

Box 3.1: The Participatory Approach and "Chalk-Marks" Method of Survey

The Participatory Approach and "Chalk-Marks" Method of Survey

According to the NGOs, the BSES was designed as 'participatory.' The 'participatory' method used was explicitly designed to stimulate, even provoke, PAPs into discussion and then to try to resolve the dilemmas of families and neighbours over time by working through 'the difficulties.' PAP leaders and community-based organizations (CBOs) were to collect more agreed-upon and/or accurate information about their situation, choices and views.

The described method of consultation can be summarised, in theory, as follows: (1) challenge PAPs to 'participate' – through chalk-marks on structures; (2) convey information on likely project impacts and rights in varied informal meetings over time; (3) create consensus locally about structures and occupants to be relocated and examine any options; and (4) conclude the consultation with paint marks on structures (SPARC only), a survey of project affected household (PAHs), and the issuance of identity photos and cards.

SPARC explained to the Panel that it started the survey process by placing chalk marks on affected structures and mentioned that its field level surveyors were mostly people from the slums who had been trained on the job. According to SPARC, this chalk-marking event was intended to surprise the community and stimulate its members to ask questions about project purposes, impacts and their options as displaced and to-be-relocated people. After discussions between SPARC and neighbours, it was agreed that some structures given chalk marks were wrongly included in the potential project whereas others had been excluded from the census by mistake because of wrong assumptions about the use of the structure, the number and type of occupants and/or the date of construction. The discussions concluded with an agreed list of "project affected structures", the occupants' details recorded on survey forms, and the issuance of photo-identity cards.

Source: Interviews, Panel site visit, February 2005.

271. The Panel notes that this chalk-mark method has been problematic. The Panel is not aware of any adequate monitoring and checking that has been done. PAPs informed the Panel that during the survey there was massive confusion and that they were not aware of the purpose of the surveys and had not heard about MUTP at this time.²¹⁰ The methodology was designed to gain a list of structures based on a visual and subjective impression of the surveyors of what constituted an identifiable structure.
272. During site visits, some PAPs complained to the Panel that their structures were not numbered correctly or were missed out. The Panel noticed some cases in

²¹⁰ PAPs also informed the Panel that there was confusion because at the time of the survey they thought it would just be another survey about e.g. polio immunization or other government purposes. PAPs also reported that two different surveys were being conducted simultaneously (SPARC and the collector of the government of Maharashtra for photo-passes for slums).

- which structures were left out. The Panel notes that in some cases surveyors also checked documents of rent payment, water or electricity bills, commercial licenses and related papers to cross-verify the accuracy of the markings. The emphasis, however, seemed to be on gaining an agreed list of structures to be included in the official list of resettlement entitlements, rather than on the independently-judged characteristics of PAPs.
273. The Panel also notes that the clear-cut demarcation and identification of a structure, where one house ends and where the next begins, is difficult. In the view of the Panel, the methodology was based on a visual impression of what constituted an identifiable structure and therefore inaccuracies were inevitable.
274. The Panel further notes that the Requesters did not have adequate opportunities to access the results of the survey and thus could not verify what had been written in the survey sheets. They have repeatedly asked for access to the survey sheets but, according to the Requesters, MMRDA denied access to them. SRS informed the Panel that SRS staff sent the completed surveys directly to MMRDA and that the PAPs did not have access to them.²¹¹ Verification and correction is possible only if PAPs have access to the copy of the survey sheets.
275. During its field visit, the Panel learned that several other PAPs have also requested to see the final list of the surveys to create transparency and verify allotments, but according to them, SPARC and MMRDA refuse to publish the list.²¹² The Panel is concerned that verification of claims related to incorrect survey data becomes even more difficult once the affected structures are demolished.
276. In light of the above, a greater level of disclosure would have helped the community to detect errors and discrepancies early enough through verification. Additionally, the Panel notes that it would have been useful to provide copies to the PAPs and also to provide a public copy in the affected community for rechecking.
277. The improvised “participatory” method (on a matter where independent, professional, and unified objective measures are indispensable) substituted the population census with some form of self-reporting improvised by the affected groups themselves. The affected population was asked by the NGOs to “report” numbers of families to the best of their own subjective understanding on what there was to report, how and whom to count, what is a “family”, what is a “household” or what is a house structure, etc. When NGOs staffers counted house structures, they failed to record the presence of second floors. Thus, many social and physical “units” to be counted were mis-measured, reducing the entitlement of those displaced to a measure based only on floor-space. **The Panel finds that**

²¹¹ Panel interviews with SRS in May 2005.

²¹² Panel interviews with PAPs from Rahul Nagar in February and May 2005.

- this resulted inevitably in inexact physical data and in highly conflicting demographic estimates, with negative consequences for Project planning.**
278. **The Panel further finds that the methodology used for population counts from the early phases of preparation was structurally imprecise and flawed.** This is particularly surprising in a country like India, known universally for its excellence in statistical and census methodologies.
279. **In turn, Bank staff did not carry out their professional responsibility: they paid scant attention to the method of preparing population surveys, and were remiss in exercising quality-control from the preliminaries of the survey to their reported final results.** This confirms and explains the types of omissions, miscounting, and defective housing inventories and measurements that led to, and are described in, the complaints received by the Inspection Panel.²¹³
280. **Other Information Gathered in Baseline Socio-Economic Surveys:** The BSES should be the key instrument to compile an appropriate basis for a baseline against which to measure budgets, housing impacts, economic, health or educational set-backs through relocation, or the impact of re-housing.
281. Income restoration will be impossible to assess without correct baseline income data. If the baseline information is significantly incorrect, both impact assessment and remedy will be difficult to design and, moreover, PAPs may be denied access to the basic rehabilitation measures provided. If the income data is incorrect, PAPs may also find it difficult to prove their compensation claims.
282. The Panel found that the underlying problem of the survey is that it focused on structures and not so much on socio-economic issues. Both SPARC and SRS told the Panel that their instruction was to “*treat income data as non-essential*” and that they were only concerned about the enumeration of structures on the land. The NGOs had been instructed that the main aim of the BSES was to record project affected structures and to list the occupants of these so that correct housing entitlements could be allocated.
283. Differences in levels of income among the affected population were therefore not given any priority. Moreover, the survey did not cover land status. Instead the NGOs used the assumption that the land was public unless proven otherwise through documents, etc., and treated everyone as a slum-dweller.²¹⁴
284. The lack of attention shown to income variation and levels in the baseline survey tends to confirm the ‘tenement supply’ emphasis in the Project’s design and operation and the parallel lack of attention paid to the affordability of houses and building facilities after PAP relocation.²¹⁵ It also reflects the inequitable “one-

²¹³ See, for example, First Request, p. 3, ¶ 4.

²¹⁴ Panel interviews with SRS in May 2005.

²¹⁵ See also the Chapter 6 of this report.

- size-fits-all”²¹⁶ approach to entitlements, contrary to what is required by Bank policy.
285. If variations in income and assets would have been recorded accurately, it would have become obvious that a 225 square feet tenement for every PAH regardless of the size of the space that they had in the old sites will not match, let alone improve the quality of life for a section of the population. Many of the PAPs that are affected by the road-component value employment and amenity considerations more than housing.
286. Several of the complaints about this Project are from middle-income shopkeepers and from employees who have managed to locate themselves near roads and close to urban amenities. Although predominantly in casual employment, they are close to industrial employment centers and so are able to find work regularly throughout the months and for 20 to 25 days a month. Their family members can also find secondary employment locally as maids and as shop workers.
287. These road-side and near industrial estate employees will feel the negative impacts of relocation more strongly than many of the railway-settlers for whom access to employment may be less abundant. The BSES has made little attempt so far to investigate these variations in the income base.
288. With regard to the survey of commercial structures, SRS informed the Panel that the survey only addressed the size of the shops, and noted whether they were permanently constructed and how they were constructed (brick or stone etc.). During its field visit, the Panel noted discrepancies between the information that was gathered during surveys regarding the structures and the actual situation. For example, while the RIP data for the JVLR states that only a very small number of the structures are made of brick walls, the Panel estimates that about 90 % or even more structures are made out of brick. PAPs interviewed during field visits believed that the data in the RIP would describe their structures as “temporary” structures (no brick walls, plastic or temporary walls etc.) to declare them as slums.
289. Some PAPs also reported to the Panel that since they were not fully aware of the purpose of the survey, they understated or were reluctant to reveal information on income because of the fear that the information could be used against them by the tax department. PAPs repeatedly complained about the under-numeration of floor space and the under-enumeration of structures. The Requesters have claimed that there have been cases in which PAPs had a shop and a residence as two separate

²¹⁶ The Panel notes that the R&R Policy does not exactly describe a “one-size-fits-all approach” because it includes certain variations. However, PAPs have referred to the entitlement as a “one-size-fits-all-approach” because the entitlement is not based on the actual size of the flat/shop of the PAH but treats every PAP the same.

structures but that their two structures have been enumerated as a single structure in the BSES.²¹⁷

4. Consequences of Problems in Methodology

4.1 Conflicting Descriptions of Affected Population

290. The accumulation of flaws and errors in population counting methods, described above, evolved into misstatements about the overall size of the displacement entailed by MUTP. The most deleterious result was a loss of control by the Bank staff of the actual aggregate proportions of displacement under this Project.
291. The Bank's loss of control in keeping track of the size of the displacement is evident in how the overall displacement reported by Bank staff for MUTP gyrated from one mission to another, and in the profusion of contradictory and conflicting numbers used, sometimes in the same Bank document. In addition, the Panel found substantial divergences between the figures used by the GoM and the gradually decreasing figures included in Bank internal and appraisal documents as the appraisal neared.
292. The Panel found that a pervasive uncertainty persists up to the present day as to the real numbers of the "*to be displaced*" people. This uncertainty culminates in the significant, and most recent, change reported in supervision documents only two years after appraisal in April 2004, and reconfirmed in the Management Response to the Panel. These documents indicate increases in the number of displaced people in MUTP from the 77,000-80,000 PAPs in 2002 PAD to some 120,000 PAPs in 2004, before reaching even the midstream of implementation.²¹⁸
293. This problem of conflicting estimates surfaced again, most recently, in the figures contained in the Bank's Mid Term Review and Supervision Mission of October 2005. There, the Bank indicates that there has been only a "marginal increase" of 4% in the number of PAHs, raising the figure from 19,200 to 20,000 households affected by the Project. This differs significantly from the previous figures noted in the earlier documents, including the figures in April 2004 (reported above) which indicated around a 50% increase in the number of PAPs. These two sets of percentage-increases do not line up.
294. There are additional difficulties with the reported number of households. In April 2004, the number of PAHs is given at 20,000 and the number of businesses

²¹⁷ The USOA has complained that in one case four separate business set ups in a floor space of over 2000 sq feet have been given only a single ID in the BSES. They explained to the Panel that though there are four separate commercial sets ups with separate commercial licenses, income tax records, they share a common office space and have not partitioned the space, since large tables for screen printing had to be accommodated. Additionally, they used one main door for entry and exit; the other doors might have been closed during the time of survey and therefore might have given the impression of a single commercial establishment.

²¹⁸ Back to Office Report, Mission on April 7 - 8, 2004, p. 1.

(shops) at 3,800, for a total of 23,800. In October 2005, by comparison, the number of PAHs (20,000) appears to include both households and businesses: an Annex refers to 17,364 “households” and 2,550 shopkeepers.

295. While a limited degree of imprecision in early pre-survey phases could be understood, the **Panel observes an imprecision and variability of population data in this Project that exceeds any normal degree, and does not comply with OD 4.30.** Project documents show various significantly conflicting numbers with very sizeable differences left unexplained. The table below, based on data gathered by the Panel in successive project documents, illustrates this problem.

Table 3.1: Conflicting Estimates of Numbers of People Displaced by MUTP

Date of Estimate	Sources of Estimates	Number of People	Number of Families/ Households
1995 February	GoM, Housing Dept ²¹⁹	Approx. 130 - 155,000 ²²⁰	25,000 – 30,000 families
1996, February 29	World Bank PID ²²¹	225,000 persons ²²²	45,000 residential units
1997 March (repeated, 2000)	GoM MUTP R&R. Policy		25,000 to 30,000 families ²²³
1998 October	World Bank Miss. & MMRDA Aide Memoire	Approx. 169,700 people	30,000 families ²²⁴
1998 October	World Bank Miss. & MMRDA Aide Memoire ²²⁵	Approx. 169,700 people	32,629 families ²²⁶

²¹⁹ GoM, Housing Dept. Government Resolution No. Mis-1094 G 558, Slum 2, February 6, 1995.

²²⁰ Estimated at a conservative average family size of 5.2 persons. (Some Bank calculations used a 5.5 persons average family size, while other Bank calculations used a 5 or 5.05 person average family size.)

²²¹ PID for BURP, February 29, 1996, p. 1-2.

²²² The PID for BURP specified that the resettlement project “will finance the construction of about 45,000 residential units, to house about 225,000 persons that would be displaced due to infrastructural investments” (p. 1-2).

²²³ MUTP R&R Policy. The Policy states, “Preliminary estimates indicates that approximately 25,000 to 30,000 families will have to be relocated due to MUTP” (p. 1). Later in a presentation to the Panel in June 2004, MMRDA stated that more than 22, 8000 PAHs would need to be resettled.

²²⁴ Aide Memoire, MURP Identification Mission on October 3-13, 1998.

²²⁵ Ibid. (This is the same document, but it contained divergent numbers; see footnote below.)

²²⁶ Ibid. Of the 32,629 households, about 22,273 resided in 17 project sites, (based on socio-economic surveys), while at three other project sites, where surveys “were yet to be initiated, the likely number of

1999 March 15	World Bank – PCD for MURP	80,000 people ²²⁷	13,000 families
2002 May 21	World Bank PAD for MUTP	77,000 people ²²⁸	19,000 households
2002 May 21	World Bank PAD for MUTP	80,000 people ²²⁹	19,200 households
2004 April	World Bank Supervision Mission BTO	120,000 people ²³⁰	23,800 families

Source: Project Documents, as explained in the table.

296. The Table reflects enormous differences in the number of PAPs, sometimes ranging in several tens of thousands. These cast great skepticism on whether the Bank was able to control and handle the numbers, not only before appraisal but even after appraisal and during implementation. From one count to the other, the numbers increase with plus 50%, then decrease with 40-50%, only to jump up again with over 50%. And these differences refer to base-numbers in the table that already are in the vicinity of 100,000 people.

297. The analysis by the Panel found at least **two basic causes of the conflicting numbers that dominate the history of the MUTP’s displacement and resettlement component**, without ruling out the effects of other causes and circumstances compounding this unusual situation:

(1) First, as discussed previously in this section, the conflicting numbers result from the structural imprecision in the basic methodology employed by the hired NGOs for population counting on-the-ground. The Bank staff has not identified in time the issues of quality and methodology in the surveys and their deleterious effects on findings and planning. Often the unreliable demographic data were received late for a considerable number of Project sites subject to population displacement.

(2) Second, these flaws were compounded by incorrect understatements made by some Bank staff in positions of influence when the separate resettlement project was eliminated. The justification of a reduction in R&R size provided at that time to Bank Senior Management, as documented earlier in this

families to be affected was estimated at 10,356. Thus, the total nr. of families to be affected by the infrastructure investment is 32,629” (p. 7).

²²⁷ The PCD for MURP, March 1999, notes that “*these figures may change*” depending upon the number of MUTP sites.

²²⁸ PAD, p. 90.

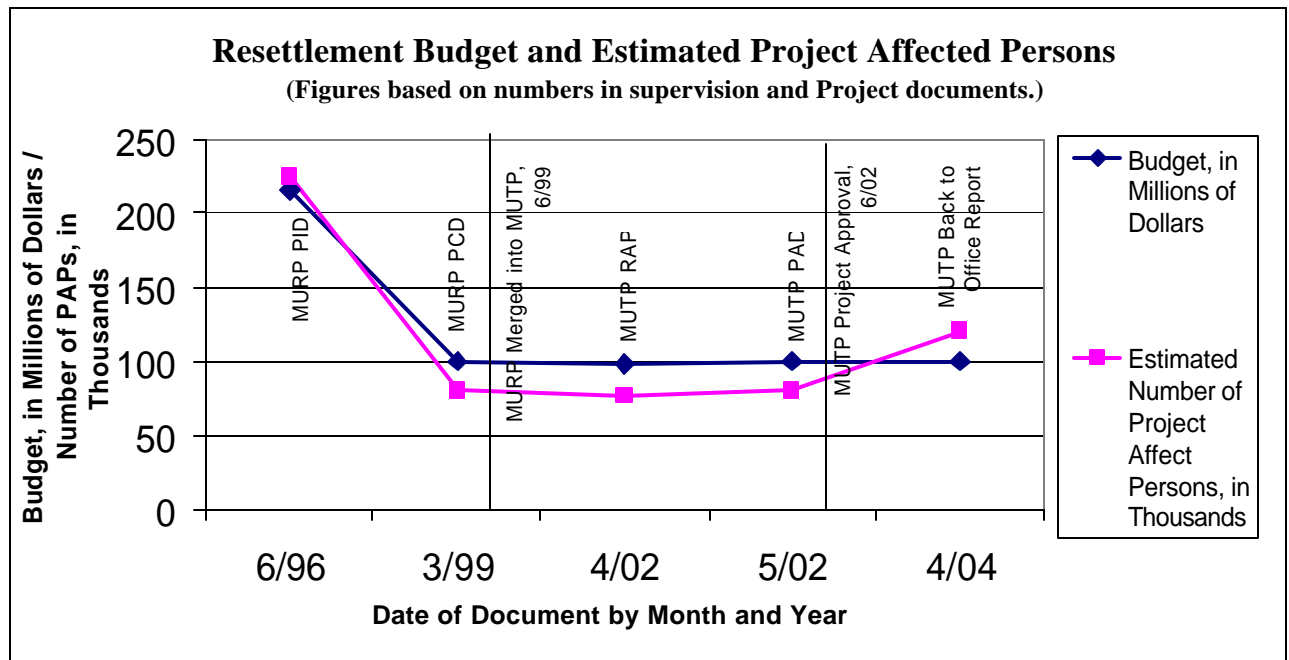
²²⁹ PAD, p. 30. These people, as the PAD notes, “*will be displaced from their present habitat and in some instances from their source of livelihood*” (p. 30).

²³⁰ Supervision Report of the World Bank Mission April 7-8, 2004. The team included staff of South Asia Dept. (Washington), the Social Development Department, ESSD, and the New Delhi Office.

Report,²³¹ was factually disingenuous. That incorrect assurance was perpetuated in the formal PAD, which added almost 50% to the number of families to be displaced from 13,000 to 19,200 families, but maintained the same understated number of only 80,000 displaced persons despite the increase of families. The understatement of MUTP displacement in the PAD has also misinformed the Bank's Board.

298. As indicated in Table 3.1, less than two years after Board approval one supervision mission reported that the real number of displaced people was not the 80,000 mentioned in the PAD but some 120,000 people. This startling 50% increase was received by the Country Department without significant management reaction on the record, without proper Board notification, and without any decision to reconsider the entire component's appraisal, cost, or organizational support arrangements. The Panel found this surprising since it is far from Bank expected and normal procedures, and believes that the increase during project implementation is much more significant than in any other Project.
299. The population data in the Figure below reads as an U shaped curve in which the initial figures were high, then dropped (proven as understatements) as the Project approached appraisal scrutiny and Board approval, following which the curve rises again.

Figure 3.1: Resettlement Budget and Estimated Project Affected Persons



Sources (from left to right):

(6/96) - MURP Project Information Document: resettlement budget (\$216 million, excluding \$145 million for the acquisition of land and nothing that the amounts may change, depending upon the number of MUTP sites), p. 1 / estimated PAPs (225,000), p. 2;

²³¹ See Chapter 2 of this Report.

(3/99) - MURP Project Concept Document: resettlement budget (\$100 million), p. 1 / estimated PAPs (80,000), p. 6;
(4/02) - MUTP Resettlement Action Plan: resettlement budget (\$97.47 million), p. 52 / estimated PAPs (77,000), p. 69;
(5/02) - MUTP Project Appraisal Document: resettlement budget (\$100.08 million), p.11 / estimated PAPs (80,000), p. 30. (Note that elsewhere (p. 90), the PAD states, "*MUTP will require resettlement of about 19000 households (77000 persons)*," whereas page 30 states, "*The project will affect about 80,000 persons (19,200 households) who will be displaced from their present habitat and in some instances from their source of livelihood.*");
(4/04) - Back to Office Report, Mission on April 7 – 8, 2004, undated: resettlement budget is not mentioned, so a constant amount from the previous mention (\$100 million) is assumed / estimated PAPs (120,000), p. 1.

300. In view of the above, **the Panel finds that the Bank has not complied with OD 4.30 with respect to a fundamental matter regarding the displacement/resettlement entailed by a Bank-assisted project, namely the correct assessment and reporting of the magnitude of the population affected.**
301. Normally, the requisite surveys and censuses are to be done by the Borrower, who supplies the demographic data to the Bank. The Bank, in turn, has the responsibility to ascertain the quality and reliability of the data received, and to use them in planning and project cost analysis. In addition, without demographic data and asset-inventories to calculate the actual financial costs of reconstruction and compensation, no reliable costs can be included in the Project budget.
302. Bank staff involved in Project preparation and in assessing the Borrower's data on population and assets failed in their responsibility to identify obvious flaws. While the professional competence of Bank staff to address such basic matters is very strong, and is recognized as among the highest in the resettlement field, such competence was not exercised and brought to bear properly in this case.
303. Another element not taken into account is the population growth rate, which is considerable given that some of the initial population surveys were made in 1996 and following years. The Panel has been unable to find any indication that the normal population growth rate corrections were imputed to early census date, as is the practice. For such large base numbers, the growth rate results in significant increases of population at the time of relocation, which was not accounted for in time.
304. PAPs have also claimed that to a certain extent the conflicting PAP numbers may be based on a lack of clear demarcation of MUTP and MUIP.²³² The PAPs claim that it is not clear which localities, improvement components and/or tasks fall under MUTP and which under MUIP. Additionally, there are varying estimates of

²³²See letter to the Panel, dated March 17, 2005, submitted by Pratap Nagar Welfare Association, in which the authors claim that they do not know whether they will be rehabilitated under MUIP or MUTP.

the size and purpose of MUIP.²³³ This might add to uncertainties in the total magnitude of people affected by the MUTP.

Box 3.2: Changing Projects and Places - MUTP and MUIP

Changing Projects and Places – MUTP to MUIP

Shiv Sagar Welfare Association members from Goregaon East (shopkeepers and residents) told the Panel their story: *‘We were surveyed as structures in the way of the road by SPARC and shown the resettlement sites, 2 km from our shops, for our relocation as PAPs of MUTP and told, “you will be given what you have; the new building will be good even after 100 years; don’t worry about maintenance.” Six months ago, all changed and we were suddenly told the Project was now MUIP and we must relocate to Vashi Naka at Chembur, 20-25 miles away. We see this as a great injustice and a MMRDA trick. We went to court but were denied. So to see the conditions at the new relocation site we decided 10 of us would visit it with a video camera to take pictures to show other association members and discuss what to do...’* They have sent a copy of their video to the Panel to show the living conditions that the World Bank is supporting. They oppose their classification as slum-dwellers by MMRDA and state that they are tenants on private land, have been paying their rents regularly to their landlord for the last 20 years and have been given valid licenses.

Source: Interview, Panel site visit, Mumbai, May 2005.

4.2 Problems in Assessing the Costs and Feasibility of Resettlement

305. Unreliable data on people and physical assets translated into inability to assess realistically the costs of displacement. The values of the real losses, the differing asset-endowment levels of various sub-categories of affected families, and the cost of resettlement were calculated for the reduced number reported in 1998, when the cost of the R&R component for 80,000 PAHs was evaluated at US\$ 100 million. The estimated cost remained the same at appraisal and in the PAD, despite the increased number.
306. The Panel notes that the relationship between the size of resettlement and the cost of the resettlement project/component raises another issue of concern.²³⁴ Obviously, the large increase in recognized affected population entails an increase in the component’s costs. The Panel notes that even after the 2004 “discovery” of an additional 50% displacement increase, no re-examination of the component and its costs has yet taken place.

²³³ Briefing to Panel by MMRDA staff.

²³⁴ The numbers have continuously varied, from 30,000 families (150,000 people) to be displaced, mentioned in 1998 preparation documents to only 13,000 families mentioned in 1999 preparation documents to almost 20,000 families (80,000 people) mentioned in the MUTP Staff Appraisal Report of 1992.

307. While the cost of the engineering components of MUTP has continuously increased during preparation to over US \$800 million, the cost of the resettlement operation stayed the same at US \$100 million, despite the substantial increase in the number of people affected. Only after the Requests, in October 2005, were the figures updated for the R&R component, but this appears to be mostly an accounting change in the way items long included in costs, but not monetized previously, are now reflected, and does not appear to represent an increase in financing for resettlement.²³⁵
308. **The Panel finds that the Bank, as a result, failed to comply with the basic provisions of OD 4.30 regarding the preparation, appraisal and implementation of resettlement operations.**

4.3 Failure to Develop Appropriate Baseline to Assess Impoverishment Risks and Other Effects

309. As indicated above, the methodologies used in the surveys were inadequate. They failed to adequately address the population characteristics of key PAP segments, for example, middle income shopkeepers, kiosk vendors, workshop operators, migrant workers moving between city and countryside and in and out of the State, etc.
310. The Panel finds that the way the BSES was designed and conducted did not provide an appropriate basis for a baseline against which to measure budgets, housing impacts, economic, health or educational set-backs through relocation, or the impact of re-housing. Without a diligent and concise BSES, it will be difficult to establish impoverishment risks or positive Project impacts. **The Panel finds that the BSES of the affected population, the immovable assets affected by resettlement, and the income of affected persons were significantly deficient and did not provide reliable baseline data, which does not comply with OD 4.30.**

4.4 Neglecting Community Assets

311. The methodological and institutional problems mentioned above have also led to the discounting of community assets. For example, in the Kismat Nagar area of the SCLR, the Panel found an abandoned medical practice and hospital and an abandoned school, which have not been recorded in the BSES.
312. The Panel is concerned about this unexplained loss and non-recording of social service facilities. One of the major problems in the adjustment of the relocated communities has been the failure to ensure that clinics and schools were built adjacent to the relocation colonies. **The Panel finds that the survey of**

²³⁵ See Chapter 8.B.

community assets has been inadequate and thus does not comply with OD 4.30.

5. Issues in Relation to Shopkeepers and Other Commercial PAPs

313. As noted above, the Panel has received several complaints alleging flawed counting of the population to be resettled, and faulty inventories of condemned physical assets, particularly housing and commercial structures. The complaints allege that the counts did not register all individuals, families or structures. Because of the central role that the shopkeepers and PAPs with commercial activity have played in the Requests, the Panel considers it important to dedicate a separate sub-section on the population census and the assets inventory to this distinct group.
314. The complaints of these distinct PAPs charge that the status of a distinct, lower-middle-class category of the affected population has not been recognized. They allege that, as a result, the needs and entitlements of this category are not treated and respected during resettlement in a way consistent with Bank policy. This collective category, who define themselves as poor, or “of uncertain means”, yet clearly distinct from slum dwellers or illegal squatters, consists of shopkeepers, small workshop and food-stalls owners, some semi-industrial units, and similar enterprises. Further, the Requesters complained to the Panel during its field visit about the way the BSES survey has been conducted. They claim that the surveys were incorrect, often not reflecting the real size of their commercial structures.
315. The issues raised by these specific complaints refer to several explicit requirements indispensable to adequate resettlement. These requirements are defined in the provisions of paragraph 11 of OD 4.30, noted above.
316. In light of these Bank Policy requirements, the Panel examined the Requesters’ complaints. The Panel’s analysis found that three distinct aspects are involved in the issues concerning the shopkeepers, workshop units owners, and the related occupational and economic groups: 1) the real magnitude and the counting of the groups involved; 2) whether or not the presence of these socio-economic groups in the affected area was known to the Bank in time for project planning; and 3) the relationship between this issue and the larger matter of surveying and assessing overall population magnitudes, status of assets, and differing income levels, in order to plan for full redress under MUTP. These analyses established the three aspects listed below, and which will be examined in sequence:
- a. The shopkeepers, workshop owners, and other lower-middle class groups affected by MUTP infrastructural works constituted a large number. The count given in Bank documents in 2004 is about 3800 families,²³⁶ or approximately 19,000-20,000 people. This MUTP sub-category alone is larger than the total population resettled under many other Bank-assisted projects.

²³⁶ Back to Office Report, Mission on April 7 - 8, 2004.

Moreover, this figure does not include all employees of these shops and semi-industrial units, some of whom sleep in the shop overnight, who make their living as working-hands and also are displaced.

- b. The presence of this social category was identified, known, and signaled by the Bank early in the Project preparation cycle, when the Twin Project approach was the strategy. It was omitted later, however.
 - c. The mis-counting of these shopkeepers and other owners and employees of private shops and units is part of the larger problem of how the total affected population was surveyed and counted during MUTP's Project preparation process.
317. As mentioned above, OD 4.30 requires carrying out (1) a reliable census of the magnitude of the population to be displaced, and (2) an inventory of material assets that would be condemned, demolished or otherwise lost by those affected (primarily land, houses, community buildings, businesses, auxiliary physical structures as storages, and immovable assets). These actions are indispensable for assessing relevant differences between sub-categories of affected families and equitable levels of compensation. They also create an objective reference baseline for comparison in evaluation later in the Project, following displacement.
318. **Early Identification of the Middle Income Population:** As noted earlier in this Report,²³⁷ the social differentiation of the affected population was noted by Bank staff early on in Project identification and preparation (as early as 1995). The Bank had identified explicitly the issues of the shopkeepers and small industrial workshop owners as a social group.
319. However, after the retreat from the Twin Projects, the Bank did not adequately follow-up on the situation of this socio-economic group and its distinct assets and productive activities. The Bank approved a RAP that did not adequately reflect their distinct economic status or different housing assets. The Panel addresses the "income stream" implications of this matter in more detail in Chapter 4 of this Report.²³⁸
320. In addition, a severe backlog was created in doing the population counts for a number of displacement sites that were previously included in the Project, but for which people were not counted in time for project appraisal. The formal appraisal of the Project, however, did not await resolution of this situation. As a result, the resettlement component was not ready for full planning and appraisal in time.²³⁹

²³⁷ See Chapter 2 of this Report.

²³⁸ See Chapter 4 of this Report.

²³⁹ See Chapter 2 of this Report.

321. Further, partly because of the broad and unconventional use of the term “household”, noted above, the population characteristics of certain PAP segments, such as shop-keeping and workshop operations, have been substantially distorted.
322. The Panel could find no evidence to confirm that adequate commercial surveys had adequately taken place, but found much evidence that the structures had been enumerated in the same way as shanty residential structures. This has led to much confusion among the survey organisations and within the PAP communities about the survey results. PAPs complain that their names are incorrect, the functions of employees and owners are often transposed, and the numbers of workers are often seriously understated because the NGO census worker did not ask about shift-time working patterns.
323. As a result of these flaws in methodology and approach, **the Panel concludes that the socio-economic situation of the distinct group of middle-income and lower-middle-income inhabitants of the affected MUTP areas was not recognized in preparation and planning for displacement, according to the requirements of Bank Policy and Procedures for resettlement.**
324. The Panel notes that in partial recognition of this unsatisfactory current situation, the Bank commissioned this year a “Business Needs Study” by an outside research institution to reassess the demographics, composition, and the “business needs” of this large population group of commercial shop owners, small industrial units’ owners, artisans, etc.
325. Whether the findings of this study will be adequately used for corrections and for restoring on-the-ground consistency in resettlement with Bank Policy cannot yet be assessed. But the Panel is pleased to recognize this initiative, taken in anticipation of the present Report, and emphasizes the need for substantive remedial action on the listed issues. **This also implies, importantly, that while the Business Needs Study is carried out and its outcomes are being expected, the affected groups – who complained about their impending and de-capitalizing involuntary displacement – should not be uprooted and relocated as originally envisaged, which would not comply with Bank policies.**

6. Private Ownership of Land and Shops at the Old Locations

326. The shopkeeper Requesters²⁴⁰ in particular raised many concerns about how the issues of land tenure, ownership and control are dealt with under the MUTP. In their communication with the Panel they also referred to the parallel complaints to the Panel of similar associations of small and medium-scale commercial and industrial enterprises who have not been formally registered as Requesters.²⁴¹

²⁴⁰ (‘United Shop Owners Association’ at SCLR and Ekta Wyapari Jan Seva Sangh at JVLR).

²⁴¹ These other complainants include, inter alia, Powai IIT Merchants Social Welfare Association, Mumbai General Merchants and Shiv Sagar.

327. Particularly, the shop-owners among the Requesters reject the categorization of their communities as slums.²⁴² They consider themselves traders and businessmen, contending that since they have paid a variety of taxes (professional-, sales-, commercial-, assessment-, property and road taxes) they cannot be treated on a par with “squatters” or “slum dwellers.”²⁴³ According to them, the authorities and the Bank failed to respect the relevant laws relating to slums.²⁴⁴ Several of the PAPs interviewed by the Panel claim that they have title to their premises and hence need to be compensated for this when they are resettled.
328. Paragraph 3 (e) of OD 4.30 states “[l]and, housing, infrastructure and other compensation should be provided to the adversely affected population ... absence of legal title to land by such groups should not be a bar to compensation.” Further, OD 4.30 requires that “the borrower needs to ... make legal arrangements for transferring titles to resettlers”²⁴⁵ and “paying special attention to the adequacy of the legal arrangements concerning land title, registration, and site occupation”²⁴⁶ Paragraph 17 of OD 4.30 adds that “[r]esettlement plans should review the main land tenure and transfer systems, including common property and nontitle-based usufruct systems governed by locally recognized land allocation mechanisms. The objective is to treat customary and formal rights as equally as possible in devising compensation rules and procedures.”
329. According to Management, more than 99% of the affected households and businesses had no legal rights to the land they occupied.²⁴⁷ Management explains that shopkeepers without a title, which according to Management is the case for the majority of the shopkeepers concerned, will receive an ownership title to the alternative shops.
330. The Panel tried to get a clear view on the legal status of the Requesters with regard to the land they currently live on and their shops and structures. When analysing the relevant provisions and statements in different Project documents the Panel found conflicting information, as will be discussed below.

²⁴² Fourth Request, p. 1, item 3. Some of them explain that the government had allotted the land back to them in 1967 after their area was set ablaze.

²⁴³ Fourth Request, item 3, 4 and 8.

²⁴⁴ Fourth Request p. 2, item 4.

²⁴⁵ OD 4.30, ¶ 13 (c).

²⁴⁶ OD 4.30, ¶ 14 (a).

²⁴⁷ First Management Response, p. 5, ¶ 17.

Box 3.3: Land Rights in Mumbai

Land Rights in Mumbai

To understand the relevance of the land issues in the MUTP, it is helpful to look briefly at land rights in Mumbai where there is large scale “informal” land occupancy and illegal encroachment. 65 % of the city are estimated to be occupied by shanty towns and slums whose land occupancy and or structures are unauthorised, with Daravi as the biggest unauthorised, encroached slum in Asia. The system of land control and rights underlying many important economic activities in Mumbai (and elsewhere in India), is called *pagdi*. The term signifies “the turban”, the sign of rule or control, passing from one head to another. With the payment of *pagdi*, the turban and control of the land is transferred with little if any documentation. Even without documents, the control or “title” to occupancy of space for income-earning can be very stable. Tens of thousands of people in Mumbai’s informal economic sector earn their living in premises governed by the rules of the informal land sector. In the formal residential sector, moreover, formal recorded title and *pagdi* (translated here as “key-money”) often work in parallel. So although MUTP does not in its practice seem to recognise *pagdi* in its R&R operations, *pagdi* does serve, throughout Mumbai, to govern the tenure of land for industrial, commercial and residential activity and creates tenancies, leaseholds and ownership.

Source: Panel Expert Professor Alan Rew, Mumbai, May 2005.

331. The R&R Policy requires categorizing Project affected structures by referring to ownership, land use and type of construction.²⁴⁸ It then lists several forms of ownership.²⁴⁹ As per the R&R policy, owners of private land receive either cash compensation/TDR or a combination of both.
332. The RAP notes that 59.07 ha of land has to be acquired for the Project.²⁵⁰ It recognizes that “[t]he PAHs include legal occupants of land to be acquired as well as the squatters on the land already owned by the Project Implementing Agencies.”²⁵¹ The RAP then continues “[m]ost of the PAHs are squatters. The number of landowners whose land is to be acquired is 109.”²⁵² Further, the RAP

²⁴⁸ PAPs drew the Panel’s attention to the alleged case of private property of the Ghatkopar residents, who stated that they had received compensation equivalent to the area lost and not 225 sq. ft. as per the R&R policy. The case of IIT Powai relate to tenants on private property who maintain that they should not be treated on par with those on government land (slums or otherwise).

²⁴⁹ For example, it names the categories of land and building owned by the same person, land owned by one person and building owned by the lessees, land and building both leased to lessee, land and building occupied by statutory tenants with owner occupant or where owner is absentee, and land occupied by squatters without any legal title, which includes non-resident structure owners, resident structure owners and tenants (MUTP R&R Policy, p. 3, ¶ 4).

²⁵⁰ However, the Panel has not seen sufficient information on how many hectares of encroached lands will be cleared. MMRDA now has the GIS capability to state the land implications of shanty-town clearance, but lacked this capability when the key project documents were prepared. Uncertainties about the magnitude of population displacement under MUTP made estimates of clearance very tentative.

²⁵¹ RAP, p. 6.

²⁵² RAP, p. 6-7.

- states that “... *in case of Non Rail Component a substantial proportion of PAHs is located on private land to be acquired for the project.*”²⁵³
333. It is not clear to the Panel whether the BSES survey adequately recognized different categories of ownership. Further, the Panel encountered difficulties in receiving consistent information on the Requester’s legal situation with regard to their current premises. MMRDA explained to the Panel that only land titles recorded in the Revenue Department records and based on cadastral survey can be recognised as private land. Land is otherwise considered ‘encroached’ public land or encroached or tenanted private land. Moreover, MMRDA stated that there are no private lands with private land owners in the path of the road or rail improvements except those cases noted in Project documents. Further, MMRDA stated to the Panel that the PAPs do not have land rights. Similarly, Management believes that more than 99% of the affected households and businesses had no legal rights to the land they occupied.²⁵⁴ However, the Panel notes that even Management stated in October 2005 that accurate information about land acquisition under the MUTP is not available.²⁵⁵
334. During field visits, many of the Requesters explained to the Panel that they consider themselves as longstanding leaseholders and tenants who have regularly paid rents for the land to private owners. They state that as tenants and lessees of privately owned land they feel secure because of tenancy controls and protection. Some of the other PAPs that talked to the Panel during its field visits claim that they are landowners.²⁵⁶
335. In interviews with the Panel, SPARC and SRS confirmed that the BSES did not routinely examine property rights and that MMRDA instructed them not to make land tenure part of their enquiries. According to these NGOs, MMRDA advised them that if the PAPs want to claim land rights then the PAPs would have to make their claims known to the NGO and file them before the courts. In the meantime the NGO should treat them as squatters or slum-dweller occupants of unauthorised structures. In a presentation to the Panel, MMRDA stated with regard to the USOA Requesters that “[t]he status of these people are encroachers and their structures are illegal. Despite of this, as per the R&R policy they are being rehabilitated.”²⁵⁷
336. According to OD 4.30 customary and formal rights should be treated equally as possible in devising compensation rules and procedures.

²⁵³ RAP, p. 28-29.

²⁵⁴ First Management Response, p. 5, ¶ 17.

²⁵⁵ Mid Term Review, October 2005, p. 10.

²⁵⁶ For example, with regard to some portions of the shopkeepers affected under the Project it is estimated that perhaps 10% of the shopkeepers in each case will also own the land in standard ownership terms. In the *Times of India* (November 16, 2004) the Chief R&R at MMRDA estimated that 10% of the shopkeepers opposite Powai IIT were land owners.

²⁵⁷ Presentation to the Panel by MMRDA in Mumbai, June 2004.

337. It is obvious that in some cases private property in land is affected by the MUTP road improvement. PAPs owning or having control over premises on private land include landowners, leaseholders and tenants. Recognizing that this is a matter of domestic law and practice, the Panel's investigation indicates that at least some PAPs may possess rights under customary rules. The BSES, on which management relied for much of its information, did not, however, assess the hierarchy of rights in private property in land.
338. **The Panel finds that Bank Management failed to address the lack of R&R capacity within MMRDA to deal with the complex, case-by-case tenure issues and the treatment of middle income shopkeepers as "slum-dwellers." This is not consistent with OD 4.30.**

B. Access to Information and Consultation with PAPs

1. Access to Information

339. The Bank Policy on Involuntary Resettlement²⁵⁸ emphasizes that the involvement of affected communities in Project planning is critical, and underlines that cooperation and participation with affected people is possible only when they are informed systematically and timely and meaningfully consulted about their options and rights. However, in the Requesters' view, these key actions were not undertaken.
340. More specifically, in their oral and written communication with the Panel, the Requesters assert that they did not receive proper notice that their homes and businesses were to be demolished. During Panel visits, they explained that they learned that they were to be relocated only a short time before it happened, and thus had too little time to adjust to their new situation. Some Requesters assert that they were not informed about the Project until July 2004, while others state that they only learned about it on August 4, 2004, at a meeting with Bank staff.²⁵⁹ The Requesters further claim that no notice of the intention to survey their commercial structures was ever issued to them. They believe that Bank's lack of disclosure of information has prevented them from putting forth their suggestions for resettlement.²⁶⁰ Moreover, the Requesters assert that they have been asking for the list of eligible PAPs for a long time but were never provided with it.²⁶¹
341. Regarding the Project Information Centers (PIC), the Requesters complain that they provide insufficient information. The Requesters also claim that they met with MMRDA in the Project office in Bandra-Kurla Complex and asked to set up

²⁵⁸ OD 4.30, ¶ 8.

²⁵⁹ Third Request. The Bharati Nagar Association asserts "...that prior to 07/07/2004 nobody either from the government or any NGO ever informed us anything about this Project" (Letter, dated September 23, 2004, to MMRDA, Subject: Minutes of Meeting with the Project Director on September 16, 2004).

²⁶⁰ Third and Fourth Requests.

²⁶¹ E.g. letters from the Second Requesters to Management dated September 13, 2005 and October 1, 2005. Letter from USOA to Management dated October 8, 2005.

another PIC. However, they assert that neither was the PIC built nor had they been provided with a satisfactory reply.

342. Moreover, the Requesters claim that MMRDA provided them with false and misleading information and that their rights to obtain information were denied. Some Requesters state that during a meeting on September 16, 2004,²⁶² they received information according to which their area was not to be affected by the Project, but they never received written confirmation.²⁶³ They also assert that SPARC provided them with misleading information and that SPARC personnel even threatened them.²⁶⁴
343. Disclosure of information to affected people is recognized in Bank policies as critical for the effective implementation and sustainability of a Bank-financed Project. The World Bank Policy on Disclosure of Information requires timely dissemination of information to people affected by Projects. According to this policy, the resettlement instrument is available to affected people as a condition for Project appraisal.
344. In addition, paragraph 8 of OD 4.30 states that affected communities, including host communities, need to be “*systematically informed and consulted during preparation of the resettlement plan about their options and rights*” prior to the relocation, to achieve their cooperation, participation and their feedbacks. OP 4.01 on Environmental Assessment calls for “*meaningful consultations,*”²⁶⁵ which are possible only when the Project relevant material is timely provided “*in a form and language that are understandable and accessible to the groups being consulted.*”²⁶⁶ According to the policy, the draft EA report must be available in a place accessible to PAPs and local NGOs.
345. According to Management, the draft RAP was first available on October 16, 2001, while the updated version was released on February 22, 2002, before the appraisal mission. The final version of the RAP was made public locally on April 4, 2002 and in the PIC of the Bank’s New Delhi Office. Management states that the RAP was also available at the PICs in Bandra (east) and Mankhurd and that the executive summaries are available Hindi and Marathi. The Response adds that MMRDA disclosed the RIP for the SCLR in the then existing PIC offices in April 2003, while the executive summary was posted on MMRDA’s website.²⁶⁷
346. Regarding the Requester’s critique on the PICs, Management states that two PICs were established respectively in the offices of MMRDA office at Bandra (east) and at Mankhurd in a SPARC-managed facility. According to Management,

²⁶² Meeting with MMRDA.

²⁶³ Third Request (the case of Bharati Nagar), p. 8, ¶ 10.

²⁶⁴ Ibid.

²⁶⁵ OP 4.01, Involuntary Resettlement, January 1999, ¶ 15.

²⁶⁶ OP 4.01, ¶ 15.

²⁶⁷ Second Management Response, p. 28, Annex 1, item 11.

SCLR sub-project-related information is available at the PICs, including the RAP, the RIP and the list of shopkeepers.

347. Management also claims that, thanks to the findings of the March 2004 supervision mission, MMRDA opened an additional PIC near where the Requesters are located.²⁶⁸ Management further claims that in a meeting held on May 7, 2004, for which formal invitations were sent to the Requesters, at the SCLR PIC, MMRDA announced the opening of the new centre. According to Management, the sub-project map, the RIP and other documents were displayed and are available at this PIC.
348. **The Public Information Centers.** To avoid actions that might harm the economic interest of hosts and resettlers, full disclosure of information is essential. Public Information Centres (PICs) are an important means to ensure that information is disseminated to PAPs. The RAP provides for two PICs, one at the offices of MMRDA office (Bandra East) and one at Mankhurd to provide the relevant information about the MUTP and its R&R component. The RAP also provides that Marathi and Hindi versions of executive summaries of reports on the Consolidated EA and the RAP are kept in the PICs.²⁶⁹ According to the RAP the *“PICs will receive grievances from public, in respect of implementation of RIPs and EMPs from the concerned citizens. These will be referred to the concerned PIA and reports will be obtained and kept at the PICs on the corrective actions taken.”*²⁷⁰
349. The Panel found that PICs were originally located at MMRDA and the resettlement site, distant from affected communities. Moreover, even when other PICs closer to the affected areas were established, in its February 2005 visit the Panel found them either to be closed or not containing usable information. The Panel acknowledges recent efforts to improve the situation by putting trained attendants in the PICs. The Panel also recognizes the efforts to improve PIC opening hours and accessibility. Nevertheless, problems remain.

²⁶⁸ First Management Response, p. 18, Annex 1, item 9.

²⁶⁹ RAP, p. 21.

²⁷⁰ RAP, p. 21.

Box 3.4: Problems with a PIC

Problems with a PIC

A sign outside the MMRDA building states that the MUTP PIC is situated on the 3rd floor of the MMRDA office building. However, when the Panel wanted to visit the PIC, neither the Security person, nor the people working in the office knew about it. A senior MMRDA official then showed the PIC to the Panel. It was not a separate room but only a glass cabinet with some documents located in the entrance of the MMRDA office on the 3rd floor. The Panel did not find a trained attendant working there. Further, the Panel received conflicting and confusing information about the purpose of the PIC on the 3rd floor and an additional PIC on the 1st floor. The Panel was informed that SPARC runs an office and a PIC on the first floor of the MMRDA office, but according to the staff in the office on the 1st floor, they only have information on MUIP and not on MUTP.

Source: Panel site visit, Mumbai, May 2005.

350. In visiting several PICs in May 2005, the Panel observed that the PICs basically provided the following documents: BSES overview and survey sheets, the R&R policies and the MUTP-brochure. The Panel believes that the BSES information available at PICs has limited relevance without the accompanying information on road alignment specific to the area marked for demolition.
351. Detailed information on road alignments would allow PAPs to know if their area is partially or fully affected so they could suggest alternative schemes for *in-situ* rehabilitation. This information is crucial as many partially affected structures, mainly commercial, would prefer to add another floor and continue to do business in the same place.
352. Furthermore, the Panel found that the PICs offered no information about the grievance process. The Panel notes that, despite Management's statement²⁷¹ that SPARC and MMRDA would provide a one page description of the strengthened grievance process, this had not happened as of May 2005.²⁷² In this regard, the Panel further notes that it would have been important to provide PAPs with copies of the lists of eligible PAPs early in the Project, thus to enable them to verify their status and be able to ask for corrections.
353. Additionally, the Panel observed the following:
 - *Medium of communication:* The information provided in the PICs is mainly in English, which is not the language of communication for most of the PAPs. The disaggregated data on languages spoken by the PAPs shows that 80 per

²⁷¹ Second Management Response, p. 17.

²⁷² See also the USOA Requesters in their letter to MMRDA dated September 26, 2005, in which they complain that the PIC does not provide adequate information about the grievance system.

cent of the people speak either Hindi or Marathi. Other spoken languages include Tamil, Urdu and Telegu.²⁷³

- *Mode of communication:* MUTP information dissemination seems to rely partly on the use of Internet. Communication through the Internet has been helpful to a small section of the middle income PAHs along the SCLR and the JVLR. However, according to the RAP, nearly all PAHs are squatters and nearly half of them are below the poverty line. PAPs from the above mentioned socio-economic background are not computer literate. Therefore, disclosure of information via executive summaries posted on MMRDA's website is not accessible to them.
354. The Panel notes that additional efficient means of informing the PAPs would be available: advertisements on local radio and/or TV, announcements on loudspeakers in slum areas or areas marked for vacating prior to the start of the BSES or widely circulated newspapers in English and vernacular media. Newspapers could have been particularly useful for circulating details, like areas marked for demolition. Furthermore, information would have been more genuine and meaningful if disclosure to PAPs had included the specifics on road alignments and copies of the BSES.
355. **Although there were provisions to provide information to the PAPs through PICs, the Panel finds that the PICs did not operate effectively during the crucial period when people needed to be informed about the Project.** The dissemination of substantive information about the Project was neither timely nor effective. Further information dissemination strongly relied on forms of dissemination that are inappropriate for poor PAPs. **The Panel finds that the disclosure of information on the MUTP has been inadequate and does not comply with OD 4.30. The Panel notes the Bank's effort to improve the performance of the PICs since April 2004.**
356. **Information Process and Requests for Information:** During the Panel visits to the Project area, some PAPs claimed that they had been notified about the proposed road widening and their impending dislocation under the MUTP only during the last stage of Project design, despite long-standing knowledge about the Project by other affected people.²⁷⁴ They also state that, despite sending several letters to the Bank requesting information regarding the Project, they never received any answer.²⁷⁵

²⁷³ RAP, p. 14-17, Table 2.

²⁷⁴ PAPs claimed that developers and others were informed much earlier. According to them, for example, the Hiranandani Construction Company, which was given the TDRs for the construction of the resettlement site at Hiranandani Complex for the Powai Merchants, was informed of the Project as early as 1997. They cite a letter dated September 17, 1997, sent by Niranjani Hiranandani, the Vice-President of the Maharashtra Chamber of Housing Industry to the Deputy Municipal Commissioner Zone VI, Ghatkopar (East). According to PAPs on May 20, 2000, a reminder was sent to the Shri Chittaranjan Sharma, the Municipal Commissioner.

²⁷⁵ E.g. Letter sent by the Hanuman Welfare Society, Gazi Nagar Sudhar Samiti, and Jai Hanuman Rahiwasi Sewa Sangh to the Bank, dated July 12, 2004. Further, during the Panel visits, PAPs reported that

357. During its visits to Mumbai, the Panel had difficulties in obtaining clear answers from MMRDA about the responsibilities of handling the information queries. The Panel notes that information dissemination and responsiveness to PAPs questions appear to be better when PAPs demand information under the Maharashtra Right to Information Act,²⁷⁶ rather than when they address their requests directly to MMRDA.
358. While the Act provides clear timeframes for responding to queries, major problems seem to arise when requests for information are addressed to MMRDA because such requests are mainly dealt with by one senior MMRDA official under no fixed timeframes.²⁷⁷ As a result, according to MMRDA, the response is rather discretionary depending on the urgency of the case and the relevance of query.
359. The ECOSMART Report, an initial assessment of the initial resettlement of PAPs affected by the rail component,²⁷⁸ supports the observation that PAPs are not adequately informed. The report states that *‘though the PAHs were conveyed about resettlement in group meetings, they were not aware of the area of dwelling, its location and infrastructural support prior to shifting to the respective sites.’*²⁷⁹ The study conducted by TISS corroborates these findings. It states that PAPs *“... were unaware of the exact time of demolition, as there was no notification from the authorities. They only had information that their shops and houses would be demolished...”*²⁸⁰
360. The Panel recognizes recent efforts to improve communication with PAPs, such as the setting-up of the new public relations firm Clea. However, given the media background of the Clea staff and the terms of reference, the Panel is concerned that Clea will rather contribute to assisting MMRDA in dealing with media relations than to providing substantial support to the needs of the PAPs.²⁸¹

they had invested their savings on the purchase of property that is marked for demolition. They stated that they did know about the Project but were unaware of minor details such as the cut-off-dates, the exact nature of compensation etc. In this context, PAPs complain about a lack of coordination between government departments.

²⁷⁶ According to information given to the Panel by MMRDA in May 2005, requests submitted under the Maharashtra Right to Information Act would first be subject to remarks by a Public Relations Officer, who would then send the letter to the Chief R&R of MMRDA to decide on the further procedure. The information has to be provided within 15 days. Another 30 days can be provided in special cases. Therefore, they have a maximum of 45 days to reply to a letter. The information need not be given in writing, since the Act allows for giving the information during a discussion or meeting. If the information is not provided in the specified time frame, the applicant can refer the case to the Appellate Authority. The concerned officers can be questioned by PAPs if they have not supplied information under the Act.

²⁷⁷ Information given by MMRDA in interviews with the Panel in May 2005. According to MMRDA, the “Chief R&R” handles all requests for information.

²⁷⁸ “Rapid Impact Assessment (RIA) of Initial Resettlement, prepared by Economic India Limited (ECOSMART) in May 2002 [hereinafter referred to as the “ECOSMART Report”].

²⁷⁹ ECOSMART Report, May 2002, 15.

²⁸⁰ TISS, p. 11, Section 2.19.

²⁸¹ Interview in May 2005. According to MMRDA, these 8 CLEA members have a background in media but no expertise in resettlement issues. The scope of work is defined in ¶ 2 of Annex II of the TOR

361. **The Panel finds that the information process is inadequate and that there is a general lack of responsiveness to the Requesters’ inquiries for information.** The Panel notes that this lack of responsiveness is partly due to the lack of institutional capacity at MMRDA.²⁸² **The Panel finds that disclosure of information on the MUTP has been insufficient and is not in compliance with Bank Policies.**

2. Consultation under the Project

362. The Requesters claim that their *‘rights to participation and consultations were completely denied right from the planning stage of this project’*,²⁸³ and that their attempts to raise their concerns with various authorities, including the Bank, failed.²⁸⁴ More specifically, they assert a lack of consultation and participation on R&R planning, housing amenities, resettlement rights and alternative sites.
363. The Requesters allege that due to the Bank’s negligence in disclosure of information and denial of the Requesters’ rights to participation and consultation, they were not able to put forth their suggestions to the Project, particularly with regard to alternative resettlement sites.²⁸⁵ During Panel field visits and in their correspondence with the Panel, PAPs claimed that though Management mentioned that discussions and meetings were held with PAPs at every stage, this was factually incorrect. They state that while they participated in some of these meetings, they could not express their views.²⁸⁶
364. As already noted, the Bank policy on Involuntary Resettlement requires Project affected people to be informed and consulted on their rights and options under the Project. The policy adds that the participation of affected communities *“should be encouraged”* and *“regular meetings between project officials and communities”* should take place *“throughout planning and implementation”* to give the people the opportunity to voice their concerns about the resettlement program.
365. Additionally, paragraph 14 of OP 4.01 provides that affected groups and local NGOs have to be consulted about the Project and their views taken into account. Such consultations must be conducted *“as early as possible”* in the Project cycle.

(appraisal and analysis of the situation, effective communication activities at community level and media relations).

²⁸² In one case, PAPs explained to the Panel that when they confronted MMRDA with this, MMRDA officials told them that the reason for not getting an answer was that they had not addressed their letters to MUTP but to the Commissioner of MMRDA and therefore did not get an answer.

²⁸³ Third Request, ¶ 4; First Request, ¶ 3. Furthermore, in a letter, USOA said, *“We say SPARC had never any consultation with us in preparation of the resettlement Plans (RAP), neither it ever gave us any information related with MUTP and the SCLR”* (USOA, Letter to SPARC in response to their letter dated August 8, 2004, August 24, 2004).

²⁸⁴ Third Request, ¶ 4.

²⁸⁵ For example, Second Request, p. 3, ¶ 7.

²⁸⁶ For example, letter from M/s Powai Merchants Social and Welfare Association: Reference to MMRDA, dated December 27, 2004, submitted to MMRDA, World Bank and the Inspection Panel.

366. In its response Management claims that “*consultations are being held on an ongoing basis by SPARC...*”²⁸⁷ and that PAPs were consulted as part of Project preparation and at the time of the household surveys and the preparation of the RIPs. However, as to consultations about alternative resettlement sites Management acknowledges that, “*because of the lack of availability of resettlement site options there was limited opportunity to conduct prior consultations with the PAPs on sites that could be offered for resettlement.*”²⁸⁸ With regard to the shopkeepers, Management claims that in January 2004 consultations were held regarding the shopping complex and that, based upon the outcome of these consultations, the shopping complex design at Mankhurd was changed.²⁸⁹
367. Management acknowledges that the documentation of the overall consultation process and of the Bank outreach effort towards the Requesters have not been sufficient, and indicates that the Bank is working with MMRDA to put in place measures to achieve better outreach and to communicate with PAPs more effectively.²⁹⁰
368. The purpose of consultation is to take into account people’s opinion and concerns. Consultations have to be held early in the process for input to be considered in the Project. Thus, meaningful consultation is possible only where options are given to the PAPs and when authorities are open to transforming inputs into choices.
369. The RAP addresses community participation.²⁹¹ It provides that “[t]he process of community participation has begun from the stage of conducting Baseline Socio-Economic Surveys It is carried through the preparation of Rehabilitation Implementation Plans (RIP) and the post rehabilitation support and services for each of the project [sic] component.”²⁹² The RAP also includes a list of the main techniques to enlist public participation.²⁹³ Further, the RAP states, “[t]he site for resettlement shall be selected out of the feasible options in consultation with the affected community as a part of the RAP preparation.”²⁹⁴ In addition, RIPs for every individual sub-project refer to consultation with PAPs on the subject of resettlement.²⁹⁵

²⁸⁷ First Management Response, p. 15, Annex 1, item 2. In its Second Management Response (p. 24, Annex 1, item 3), Management states that it cannot be documented whether the specific requesters participated in these consultations.

²⁸⁸ Second Management Response, p. 26, Annex 1, item 5.

²⁸⁹ First Management Response, p. 11, ¶ 33. Management states that, as a result of consultations, the design of the shopping complex was changed “*from ground level plus one story to a ground floor structure only. The height of the shops was also increased from 9 feet to 13-14 feet and provisions made for additional access.*”

²⁹⁰ Second Management Response, p. 14, ¶ 34.

²⁹¹ RAP, p. 34.

²⁹² RAP, p. 34.

²⁹³ RAP, p. 34.

²⁹⁴ RAP, p. 57.

²⁹⁵ See for example, RIP: Jogeshwari (North), August 2003, p. 4 Methodology Section.

370. The Bank has not demonstrated to the Panel that there has been any significant stakeholder consultation before the RAP was endorsed. Though the Panel acknowledges that there have been some instances in which PAP concerns have been reflected, such as the height of the shops, the Panel found that meaningful consultation with PAPs on issues related to resettlement and rehabilitation did not take place. Interviews with the Requesters and other PAHs reveal that PAPs were not systematically informed and consulted about their rights and options. Bank staff interviewed by the Panel also confirmed that the affected persons did not have a chance to be consulted properly.²⁹⁶
371. With respect to alternative sites, both Management and MMRDA claimed that there were no alternative resettlement sites available, primarily because of the reliance on Transfer of Development Rights (TDRs) to determine the choice of sites.²⁹⁷ Options involving government and other land were not considered. **The Panel finds that neither the PAPs nor the shopkeepers were consulted in advance about resettlement sites. The shopkeepers were not consulted about any possible alternatives to the resettlement sites for these shops. This does not comply with OD 4.30 and OP 4.01.**
372. More broadly, Panel discussions with Requesters confirmed that PAPs were neither adequately consulted at the time of project design and planning of resettlement nor provided with the opportunity to give input into decision making on alternative proposals to minimize the impact of displacement. If at all, they were merely informed by SRS, SPARC, and MMRDA, when their dislocation was impending, about their status as PAPs and about the resettlement sites selected for them. **The Panel finds that, when meetings with PAPs took place, “consultation” with them seemed to be more in the nature of telling them what was to occur than engaging them in meaningful discussion on alternative options that might better meet their needs. The Panel finds that in addition to the lack of consultation on alternative resettlement sites, there was a lack of meaningful consultation on other elements of the Project, such as alternative alignments of the road.**
373. The Panel further finds that the participatory approach chosen for the survey²⁹⁸ has also contributed to consultation failure with some of the Requesters. It is unusual for a Project causing such large magnitudes of displacement and involuntary resettlement to claim that it is “participatory”. MMRDA claims that this approach has worked well, particularly in railway settlements. However, the Panel notes that the railway PAHs mainly consist of socially and economically weaker households and that the method has created much dissatisfaction under the road component. Railway track houses and quarters are temporary and so identification with the settlement seems to be weaker. When the described

²⁹⁶ Panel interviews with Bank staff.

²⁹⁷ See below Chapter 3C.

²⁹⁸ See below Chapter 3A.

consultation method was used in the Requesters' area, it failed to fit with their social organisation, which included middle-income local businessmen.

374. The BSES reports overstate the method's ability to create meaningful consultation. The initial challenge to PAPs to question the meaning of the chalk marks is as likely to create confusion and uncertainty as it does create useful and directed questions about the Project purposes. Any "consensus" arrived at is therefore likely to be partial and dependent on many PAPs remaining silent in public meetings. The community input needed for post-relocation community cooperation is likely to be limited. Moreover, the stress on informality in the meetings means it will be difficult to get agreement on what happened during the meeting if conflicts remain unsolved for long.
375. Because SPARC/NSDF had tailored their consultation and participation methodology to combine it with the survey process, inadequate attention was given to other and more structured forms of consultation.
376. In its Second Response, Management claims that an Implementation Manual that would emphasize consultation and grievance resolution was to be prepared.²⁹⁹ However, as of December 13, 2005, the manual was still a draft and had not been distributed.³⁰⁰

C. Selection of Resettlement Sites

377. The Requesters believe that the Mankhurd area is unsuitable for their resettlement,³⁰¹ and ask to be relocated to more suitable areas that they believe would affect them in a less harmful way.³⁰² They claim that the Project failed to consider alternative resettlement sites. They claim that the authorities and SPARC threaten to demolish their area and remove them forcibly if they do not shift to Mankhurd.³⁰³
378. The Requesters have submitted several specific proposals to be resettled to alternative sites. For example, the USOA Requesters have asked to be resettled to sites in the nearby vicinity such as, *inter alia*, the Bandra-Kurla Complex area.³⁰⁴ They have also requested in-situ rehabilitation on plot CTS No. 405 on which they are currently located.³⁰⁵ The Gazi Nagar Requesters have asked to be

²⁹⁹ Second Management Response (p. 17-18, ¶ 38) which states that the IM will be distributed by MMRDA and SPARC by September 30, 2004.

³⁰⁰ Management informed the Panel on December 13, 2005, that MMRDA had indicated to submit the final draft of the IM by December 2005. As of December 14, 2005, however, the final version of the IM had not been submitted.

³⁰¹ Second Request, p. 2, item 3.

³⁰² First Request, p. 2, ¶ 2; Second Request, p. 3, item 7.

³⁰³ E.g. letters sent by the Second Requester to the World Bank on September 13 and 23, 2005.

³⁰⁴ Second Request, p. 3, item 7.

³⁰⁵ More specifically, in a letter dated September 5, 2005, addressed to the Chief Minister of Maharashtra, the USOA Requesters ask to facilitate the redevelopment of their plot by the following means:

resettled to land adjacent to their current area, which they believe to be vacant and which, according to them is now ‘*gifted to the family of the local MLA and minister ... at the low price of 15 Lakh.*’³⁰⁶ The Gazi Nagar Requesters have proposed several alternatives for resettlement, including relocation near Bandra Kurla,³⁰⁷ allotment of residences in Prime Minister’s Grant Project (PMGP) colony, and allotments in MotiLal Nagar.³⁰⁸



Picture 3.1 Drains along Mankhurd Resettlement Site

379. According to OD 4.30,³⁰⁹ a “*critical step*” for rural and urban resettlement is to identify a number of possible relocation sites. In both types of resettlement, the Policy requires developing appropriate arrangements to identify and prepare the resettlement sites. With respect to urban resettlers in particular, according to paragraph 13 of OD 4.30 “*the new site should ensure comparable access to employment, infrastructure, services, and production opportunities.*”

dereservation of the plot CTS 405 and grant of FSI of 2.5 instead of 1.33. They also claim that the redevelopment cannot take place under the SRA scheme and that they do not accept a 225 sq. ft. tenement for their shops because these are much larger.

³⁰⁶ Second Request. Letter dated June 2, 2004, submitted by Gazi Nagar Association to Bank, New Delhi.

³⁰⁷ In a letter to the Chairman of the IMP and to MMRDA officials, the Gazi Nagar Requesters repeated their request to be relocated to alternate accommodations at Motilal Nehru Nagar, situated near the Bandra-Kurla complex referring to a discussion held on April 12, 2005, at MMRDA.

³⁰⁸ Letter dated March 21, 2005, submitted by the Requesters to the Inspection Panel. However, the same requests have been put forward to the MMRDA earlier as well.

³⁰⁹ OD 4.30, ¶ 13.

380. Management states that representatives from the Government and NGOs formed a sub-group in MMRDA to identify a number of sites that would be available for resettlement.³¹⁰ According to Management, this process evolved in three options. Under Option A and B, a total of 10 sites, procured respectively from the Government or from private developers/land owners, or using Transfer of Development Rights (TDRs), were selected. The sites were chosen based on “*availability of infrastructure, social services and access to employment opportunity, as well as proximity to the areas from which people were being displaced*”. Under Option C, 4,000 housing units were bought from Maharashtra Housing and Area Development Authority.
381. Management does not share the Requesters’ concerns regarding the suitability of the proposed Mankhurd site. The Response claims that the Mankhurd site received the highest score among the sites selected and evaluated,³¹¹ and that the living conditions at Mankhurd “*are expected to be considerably better*” than those the Requesters live in now.³¹²
382. Regarding the requests for alternative sites, Management explains that relocation to these sites is either not possible because they are not part of MUTP or because the proposed area is earmarked for higher value purposes or cannot be used because of restrictions. In Management’s view, the Requesters’ small businesses dealing in commodities or services are not compatible with some of the suggested alternative properties.³¹³

1. Acquisition of Resettlement Sites

383. To acquire private property for the purpose of resettlement,³¹⁴ the GoM decided to use so called Transfer of Development Rights (TDR). TDRs can be used both as a means of creating incentives for private developers to construct dwellings for displaced people, as well as to acquire private property for the purpose of resettlement.
384. According to the R&R policy, in the acquisition of land for the Project and construction of buildings, the following options exist:³¹⁵
- Compensation for landowners and lessees in accordance with the Land Acquisition Act. “*TDR will be available as an alternative to compensation under the LA Act*”.³¹⁶

³¹⁰ Second Management Response, p. 25, Annex 1, item 5.

³¹¹ Second Management Response, p. 12, ¶ 29. Eleven sites were short-listed and evaluated, and four sites were selected for resettlement.

³¹² Second Management Response, p. 23, Annex 1, item 1.

³¹³ Second Management Response, p. 26, Annex 1, item 5.

³¹⁴ According to the PAD, the acquisition of land is limited to an area of 59 hectares for civil works and 47 hectares for resettlement sites (PAD, p. 99, Additional Annex 13).

³¹⁵ MUTP R&R Policy, p. 5, ¶ 8.

³¹⁶ MUTP R&R Policy, p. 5, ¶ 8 (a).

- Compensation with TDR for developers who “agree to build and hand over free of costs dwelling units for R&R...”³¹⁷

385. PAPs have expressed to the Panel their belief that MUTP criteria for relocation site selection included mainly the willingness of developers to invest and construct, and have related this to the use of TDRs. Because of link drawn between the use of TDRs in the MUTP and the acquisition of resettlement sites, the Panel considers it useful to explain the use of TDRs in more detail.

³¹⁷ MUTP R&R Policy, p. 5, ¶ 8 (a): “ TDRs will also be available to developers who agree to build and hand over free cost dwelling units for R&R according to the approved RAP, in accordance with the DCRs more particularly the Urban Development Department Notification dated the 15th October 1997:FSI of 2.5 shall a [sic]be allowed for construction of tenements, under the above schemes, on the lands reserved for resettlement of PAPs by making appropriate changes in the reservation in the Development Plan. To provide incentive to landowners in residential zones to build dwelling units to the PAPs, an additional FSI of 1.5 may be permitted. 0.75 of this additional FSI shall be used for rehabilitating PAPS free of cost, and the balance FSI of 0.75 may be allowed for free sale.”

Box 3.5: TDRs as a Mechanism to Acquire Land to Resettle Displaced Persons

TDRs as a Mechanism to Acquire Land to Resettle Displaced Persons³¹⁸

The concept of TDRs was introduced in the 1991 Development Control Rules of the Bombay Municipal Corporation to permit the cash-starved administration to acquire private land reserved for public purposes such as roads, playgrounds, parks and slum rehabilitation.

According to the MUTP R&R Policy land may be acquired in two ways. Under provision 8(a) the government may acquire land and compensate landowners and lessees in accordance with the Land Acquisition Act, which provides for normal compensation or the issuance of TDRs.³¹⁹ Alternatively, under provision 8(b) TDRs are also available to developers who build and hand over free of cost dwelling units for R&R. Thus, the two groups to whom TDRs are mainly available are (1) landowners and lessees who receive them as compensation for acquiring land for the project under the Land Acquisition Act.³²⁰; and (2) developers who agree to build and hand over free of cost dwelling units for R&R.³²¹

TDRs and density restrictions are measured and allocated on the basis of “Floor Space Index” (FSI). The permissible FSI defines the development rights for parcels of land in Mumbai.³²² The amount of FSI allocated in the form of TDRs is greater for “lands reserved for resettlement” than for lands in “residential zones.” In “lands reserved for resettlement” the landowner secures TDRs equivalent to the “Floor Space Index” of the area constructed multiplied by a factor of 2.5.³²³ Thus, he or she may develop 100 square meters of floor space as housing for resettled people, thereby generating 250 square meters of TDRs. In residential zones, additional TDRs beyond current restrictions of up to 1.5 FSI are permitted, as long as one half of the additional area developed for housing is allocated to resettled populations free of charge.³²⁴

The TDRs may be used in several ways: 1) to develop additional FSI on the same site beyond the density level otherwise allowed by current land use restrictions; 2) to develop such real estate at levels that would otherwise be disallowed by applicable land use restrictions; or 3) to sell to another landowner who wishes to use them to develop the land at levels of density that would otherwise not be permissible. Bank Management sees this approach of financing resettlement sites through creation of TDRs as an “innovative” system.³²⁵ However, the use of TDRs in the MUTP has also been criticized. The Requesters and other PAPs allege that the TDR approach provides a vehicle for corruption;³²⁶ other voices claim that these “slum TDRs” on the market deflate the value of TDRs.³²⁷

Source: Based on information gathered by the Panel.

³¹⁸ The purpose and nature of TDR allocations are set out in the Development Control Regulations for Greater Bombay 1991 (DCR). The critical regulation is Regulation 34 of the DCR that allows that an owner or lessee of a plot needed for a public purpose can be awarded TDRs. In effect, they acquire rights to occupy Mumbai's airspace above ground through the construction of a multi-storied building. Development Regulation Certificates (DRC) show the FSI credit originating from the expropriated zone, to be used in a zone authorised for the use of such credits.

³¹⁹ See MUTP R&R Policy, p. 6, ¶ 8.

386. According to MMRDA, nine of the eleven resettlement sites used TDRs to acquire land for both MUTP and MUIP. MMRDA informed the Panel that the Mankhurd site used to be private land situated in an industrial zone.³²⁸ The developer purchased the land from the owner and then sold it to MMRDA for TDRs. MMRDA explained that TDRs were given through open bidding, the request for tenders was published, and MMRDA received proposals.³²⁹
387. MMRDA and Management confirmed that in addition to the TDR compensation, cash has also been paid to the developers.³³⁰ The Requesters have expressed concerns with regard to the use of TDRs in the MUTP, and have questioned why the developers received not only TDRs but also cash compensation.³³¹ The Requesters are concerned about alleged corruption.
388. The PAD states that land for the rail component will be acquired under the Land Acquisition Act, while land for roads and resettlement will be acquired only by using TDRs. In this context, the Panel notes that in the Mid Term Review Aide Memoire, Management linked the increased amount of counterpart funds (about US\$ 30 million) to the monetizing of TDR for land acquisition and housing construction.³³²
389. **The Panel notes that there is almost no discussion of the social and economic effects of using TDRs for land acquisition in the PAD or the RAP. The Panel is concerned that the use of TDRs in the MUTP has limited the availability of sites that were considered. The Panel is also concerned that the choice of**

³²⁰ Ibid., p. 5.

³²¹ MUTP R&R Policy, p. 6, ¶ 8.

³²² RAP, p. 23, ¶ 33.

³²³ Ibid.

³²⁴ Ibid.

³²⁵ First Management Response, p. 6, ¶ 19.

³²⁶ See, e.g. Fourth Request, ¶ 4.

³²⁷ Times of India, "Slum TDR rates go into free fall," September 14, 2004. The article cites a Bombay high court stay against use of TDRs in three suburban corridors combined with a ban on adding additional floors to existing buildings in the city as explanations for the decline in the TDR market.

³²⁸ As to the construction of the units, MMRDA explained to the Panel that 6,087 units for MUTP were constructed by Rehab Housing (Firm of M/s S.V. Patel Builders) and L&T. The plot was purchased by the builders and not MMRDA.

³²⁹ According to MMRDA, the property value at Mankhurd is about 1,500-2,000/Rs per sq feet, but the builder gets ca. 4.5 times of construction rights in other parts of the city where the land prices are anywhere between 6,000 to 10,000 Rs. per sq. ft. In addition a cash compensation of one lakh, 30,000 per tenement are given to the builder.

³³⁰ MMRDA explained to the Panel that the TDR is at rate of 1:1 for land. F.S.I granted is 2.5. TDR is calculated at rate of 2.5 F.S.I * 1.33 (for a difficult area). So the total TDR will be (1 for land + 2.5 multiplied by 1.33), equaling around 4.5 of TDR. This means that for every sq feet constructed for rehabilitation, the builder received 4.5 Transfer Development Rights, which he can use anywhere in Mumbai. (E-Mail from Management to the Panel, dated December 13, 2005.)

³³¹ Letter of the USOA to the Bank dated November 23, 2005. Letter of the Gazi Nagar Requesters to the Bank dated November 26, 2005.

³³² Mid Term Review, October 2005.

possible resettlement sites was strongly influenced by finding sites that suited the developers .

2. Consideration of the Requesters' Proposals for Alternative Sites

390. Bank procedures and policies encourage PAPs to suggest alternative sites for resettlement to minimize the injurious impacts of resettlement. Provisions for the above mentioned safeguard have been made in the R&R policy³³³ and in the RAP³³⁴. The R&R policy emphasizes that the affected PAHs should be relocated *“to nearby sites and thus avoid cutting access to existing employment and income earning sources.”*³³⁵ The RAP requires the resettlement site to be selected *“in consultation with the affected community”* and based on *“access to employment opportunities, infrastructure and social services.”*³³⁶
391. Most of the Requesters ask for *in-situ* rehabilitation, requesting to be resettled to sites near their current structures. The Requesters allege that the Project authorities are using development reservations on the use of land as a basis to restrict development options for the Requesters rather than to assist their post-relocation adjustment. They also claim that the authorities have, nonetheless, removed similar land reservations in response to the interests of builders and developers.
392. The USOA Requesters have made requests for the development of land at their own expense. They state that they would be able to accommodate all their structures and shops in the *in-situ* solution. While MMRDA and Management³³⁷ recently claimed that the First Requesters have entered into an agreement with a builder to relocate to a nearby site under the terms of a SRA scheme, the Requesters deny this and state that they have not entered into such agreement.³³⁸ They feel, however, that now the builders are taking advantage of the situation after the flooding, and trying to remove the PAPs in order to include this area into their redevelopment plans.³³⁹
393. Regarding the Gazi Nagar Requesters, Management claimed that most of them have been allotted houses constructed under the MUIP in accordance with their

³³³ MUTP R&R Policy, p. 5.

³³⁴ RAP, p. 56.

³³⁵ Ibid., p. 8.

³³⁶ RAP, p. 56.

³³⁷ R&R Implementation Review Mission Report, Mission on August 24-27, 2005.

³³⁸ Letter from the USOA Requesters to the Panel, dated September 3, 2005. See also the article in the Times of India (September 23,2005) entitled *“Mithi project:Builder got MMRDA nod”* which explains that after the builder named Dewan Group had asked MMRDA to include slum dwellers and shop owners from Kurla in its SRA scheme and after MMRDA had granted approval, the same builder then some days later stated that it had not submitted this approval.

³³⁹ *Times of India*, “Mithi project: Builder got MMRDA nod,” September 23, 2005. This article cites the USOA as stating, *“The flooding of Mithi has been the greatest blessing for them (the developers) because suddenly everyone fells these slums and shops have to go.”*

choice.³⁴⁰ However, the Requesters state that, so far, MMRDA has rejected their proposals for *in-situ* rehabilitation. In a letter dated September 23, 2005, they proposed other options.³⁴¹ The Gazi Nagar Requesters also informed Management that they are not interested in the SRA scheme. The Panel is not aware that mutually acceptable solutions have been found with any of the Requesters to address these concerns.

394. During its visits to the Project area, the Panel observed open spaces in the vicinity of the Requesters' business premises. The Panel is unable to judge the merits of each proposed location. **However, the Panel was unable to find in the Project files a systematic schedule of possible locations for resettlement and an analysis of the advantages and disadvantages of each. The Panel finds that such an analysis should have formed an integral part of the EA of the road component of the overall Project and that the problems currently being experienced are in part due to this shortcoming. The Panel finds that the failure to consider alternative resettlement sites is not consistent with OD 4.30.**

D. Mechanisms for Resolving Grievances

395. The Requesters repeatedly have drawn the Panel's attention to their dissatisfaction with the way that their grievances are addressed. The Requesters claim that their attempts to raise their concerns with the Project implementing agencies were not successful³⁴² and that they have informed the Bank, the GoM as well as the GoI through various written letters about their grievances and the violations of Bank policies.³⁴³ They assert that the grievance mechanism is not working and lacks responsiveness.³⁴⁴ They claim that they do not know about the mechanism's procedures and its "jurisdiction".³⁴⁵ Further, they assert that they were not consulted in the reconstitution of the Grievance Redressal Committee (GRC). According to them, the Bank promised them, on July 9, 2004, that impartial and independent individuals would be appointed to address grievances at the GRC, but that the persons were never appointed.

396. With respect to grievance redress instruments, paragraph 12 of OD 4.30 requires that each resettlement plan includes "*the grievance procedures available for*

³⁴⁰ R&R Implementation Review Mission Report, Mission on August 24-27, 2005.

³⁴¹ Letter, dated March 21, 2005, submitted by the Requesters to the Inspection Panel. However, the same requests had been put forward earlier to the MMRDA as well.

³⁴² First Request. For example, see letter of the Pratap Nagar Welfare Association which asserts, "*In the last meeting with the Independent Monitoring Panel...we raised objections that we have not been kept informed of any developments regarding the Project, no replies are given to our letters from the authorities. The authorities said that we have been informed through the NGO Slum Rehabilitation Authority...but they are misguiding the common people affected by the Project*" (Letter to the Inspection Panel dated March 3, 2005, to then Representative).

³⁴³ Fourth Request, item 13; Third Request, p. 2-3, item 4; Second Request, p. 3, item 8.

³⁴⁴ E.g. the USOA Requesters in their letter to MMRDA dated September 26, 2005, in which they state that their case has been pending for more than one year.

³⁴⁵ Ibid.

disputes over land acquisition.” Additionally, paragraph 12 of that the policy calls for a “*clear understanding of the legal issues involved in resettlement*” including “*the legal and administrative procedures applicable, including the appeals process and the normal time-frame for such procedures...*”³⁴⁶

397. Management believes that the grievance process generally worked effectively during resettlement of the initial 4000 households.³⁴⁷ Management asserts that an Independent Monitoring Panel (IMP), consisting of eminent citizens of Mumbai, meets periodically to review the resettlement implementation progress including the outstanding complaints and grievances.³⁴⁸
398. Management believes, however, that the Requesters did not use the grievance mechanism available under the Project, “*possibly because they were insufficiently informed about it.*”³⁴⁹ Management acknowledges that consultations as well as communication of the grievance procedures have “*likely not been adequate.*”³⁵⁰ It states that the grievance mechanism was to be “*revamped by August 31, 2004*” and that information regarding the new system would be disseminated in the affected areas.³⁵¹ Additionally, Management claims that MMRDA and SPARC were to prepare and distribute a “*due process*” brochure for PAPs with information on the grievance process.³⁵²

1. The Structure of the Grievance Redressal Mechanism

399. During Panel visits, Requesters and other PAPs reported a variety of grievances to the Panel.³⁵³ According to OD 4.30, PAPs should be given the opportunity to resolve their issues through an appropriate conflict resolution mechanism provided as part of a resettlement plan. As mentioned above, a significant number of PAPs feel that their grievances have not been heard by the authorities.

³⁴⁶ See also OD 4.30, ¶ 8, note 11, which states, “*Disputes of varying kinds may arise in the process of implementation of the agreed resettlement plan. These conflicts could take the form of appeals related to the compensation payable to affected persons, conflicts between the displaced persons and the host population, appeals to the agency charged with the implementation of the resettlement with regard to services promised, etc. It is therefore important to devise schemes for conflict resolution for all resettlement plans. Such schemes should, as far as possible, take into account existing procedures for settling disputes in the country or area concerned.*”

³⁴⁷ Second Management Response, p. 10, ¶ 24.

³⁴⁸ First Management Response, p. 21, Annex 3, ¶ 5.

³⁴⁹ Second Management Response, p. 27, Annex 1, item 8.

³⁵⁰ Ibid.

³⁵¹ Second Management Response, p. 18, ¶ 38.

³⁵² Ibid.

³⁵³ For an overview of the most common grievances reported to the Panel please refer to Annex B below.

400. The R&R policy and the RAP refer to a grievance redressal system.³⁵⁴ The RAP states that an “*Independent Monitoring Panel (IMP) comprising eminent citizens of Mumbai has been established for ensuring compliance with accepted policies in project implementation.*”³⁵⁵ The PAD provides that “[t]he main responsibility of IMP would be to ensure that the Bank’s policies of social and environmental safeguard policies are safeguarded, [and] monitor the implementation progress of resettlement and environmental management programs.”³⁵⁶
401. In its interviews with the Panel, MMRDA explained that the grievance redressal procedures consist of two Grievances Redressal Committees (GRCs): the Field Level Grievance Redressal Committee (FLGRC) and the Senior Level Grievance Redressal Committee (SLGRC).³⁵⁷ The FLGRC, the first level was planned as a local committee comprising representatives from MMRDA and SPARC. According to MMRDA, if the PAP is not satisfied with the decision of the FLGRC, then the PAP can appeal to the SLGRC, which is comprised of senior representatives from MMRDA and SPARC.³⁵⁸
402. According to the draft Implementation Manual (IM), an Independent Monitoring Panel (IMP) was established at the beginning of the Project, “comprising eminent citizens from Mumbai” to “*ensure the compliance of accepted policies and monitoring implementation.*”³⁵⁹ The IM subsequently describes it, however, as the third of “*three tier appellate committees*”.³⁶⁰ In February 2005, the IMP indicated to the Panel that it could hear individual cases on appeal.
403. **During its field visits, the Panel found that there was no clear understanding about the role of the Independent Monitoring Panel (IMP).** Some MMRDA staff stated that its purpose would be to monitor resettlement and rehabilitation operation and would not deal with individual cases but only with systematic issues. Contrary to that, other MMRDA staff stated that the IMP could also be approached by individuals with their grievances.

³⁵⁴ Paragraph 15 of the MUTP R&R policy states, “*R&R Agency shall designate a senior officer at the local level to consider any grievance of PAPs in consultation with the concerned NGO and give his decision in writing, within a stipulated time period, and also keep record of such decisions*”. *If the aggrieved PAP is not satisfied with this decision, final appeal, could be made to the Grievance Redressal Committee appointed by the R&R Agency comprising its officials and representatives of NGO.*” (MUTP R&R policy, p. 10). According to the PAD, problematic issues that cannot be resolved by the NGO can be referred the MUTP Community Development Officer with support form the Executive Engineer. In the case that the parties cannot find a mutually satisfactory outcome, it is foreseen that issue can be referred to a high management level.

³⁵⁵ RAP, p. 7.

³⁵⁶ PAD, p. 100, Additional Annex 13.

³⁵⁷ According to MMRDA, the Senior Level Grievance Redressal Committee (SLGRC) is also called High Level Grievance Redressal Committee (HGRC).

³⁵⁸ See also ECOSMART Report, ¶ 17, p. 12.

³⁵⁹ Draft Implementation Manual (IM) sent by Management to the Panel on December 13, 2005, p.13.

³⁶⁰ Ibid, p. 97.

2. The Functioning of the Grievance Redressal Mechanism

404. The Panel notes that the need for a well-established grievance procedure was recognized early in Project preparation. The November 2000 MUTP Quality Enhancement Review underlined the importance of general procedures and timeframes, clear responsibilities, maintenance of records and procedures for appeals.³⁶¹
405. Interviews with MMRDA staff revealed a lack of common understanding of how the mechanism works and what its major duties are.³⁶² MMRDA stated that the procedures are to be addressed in the IM to be drafted.³⁶³ However, when reviewing the Draft IM, the Panel found that clear procedures and timeframes were still not included.³⁶⁴ Further, the Panel was not able to find evidence that the committees had increased “*their accessibility, effectiveness, and timeliness of response,*” as stated by Management in its response.³⁶⁵ **The Panel is concerned about the lack of clear procedural rules and timeframes of the grievance system. This was confirmed by MMRDA staff.**³⁶⁶
406. Though Requesters and PAPS interviewed by the Panel seemed to be aware of the general existence of the grievance mechanism, they are not aware of its procedures and thus cannot use the system appropriately.³⁶⁷ For example, some PAPS claimed that they had filed complaints with the FLGRC but were not informed upon rejection of their claims that there was a SLGRC.
407. In interviews with the Panel, MMRDA stated that the system and the procedures were sufficiently explained in the existing MUTP brochure,³⁶⁸ but the Panel found that the brochure only briefly mentions that there is such procedure. It does not provide any details. In its response submitted to the Panel, Management stated that MMRDA and SPARC would prepare and distribute a “*due process brochure*” for PAPS with information on the grievance process by September 30, 2004.³⁶⁹ However, as of its last field visit in May 2005, the Panel observed that PICs still did not provide any information about the system. **The Panel found no evidence that the Requesters have been adequately informed about the grievance system and its procedures.**

³⁶¹ MUTP QER, ¶ 10.

³⁶² During a Panel visit, a MMRDA official stated that “99% of PAPS are pure encroachers and have no rights. The grievance procedure thus functions on purely “humanitarian grounds.”

³⁶³ Panel interviews with MMRDA, May 20, 2005.

³⁶⁴ Draft IM sent by Management to the Panel on December 13, 2005, p. 13 and 97-100.

³⁶⁵ Second Management Response, p. 18, ¶ 38.

³⁶⁶ Panel interviews with MMRDA, May 2005.

³⁶⁷ See, for example, the letter of the USOA to the Chairman of the SLGRC, dated September 26, 2005, asking for an explanation regarding the “*powers, jurisdiction, authority, procedure, functioning, etc. of the Grievance Redressal Mechanism.*”

³⁶⁸ Panel interviews with MMRDA, May 2005.

³⁶⁹ Second Management Response, p. 18, ¶ 38.

408. Several PAPs expressed their concerns that the Project activities, i.e. demolitions of their houses, will continue even while their grievances are pending. According to MMRDA, a structure usually would not be demolished while a grievance is pending. MMRDA explained to the Panel that, when a PAP files a claim, he is asked to attend a hearing. However, if the PAP does not attend the hearing after several invites, his structure can be demolished. The Panel notes that it would be helpful to address this situation in written grievance procedures.
409. The Requesters feel that the GRC's agenda and procedure is not transparent. They complain about severe difficulties in contacting MMRDA to ask for their items to be placed on the GRC's agenda, and state that the grievance system is not responsive.
410. In this context, the Panel was not able to verify that the business standards for responding to Requests from PAPs have been established, as claimed by Management.³⁷⁰ The Panel also notes some confusion about the "jurisdiction" of the GRC.³⁷¹ The Panel notes that the GRC mechanism does not provide PAPs with a reliable hearing process. As a result, many grievances stay unrecorded and unanswered.

Box 3.6: The Case of Rahul Nagar

The Case of Rahul Nagar

The Panel was informed that in the Rahul Nagar area, PAPs claimed that their structures were demolished but that they have not been adequately notified by the authorities. Bulldozers and the police just came and PAPs had no chance to intervene. Many PAPs claim that they were not informed about their eligibility status under MUTP and do not know what will happen to them.

They state that there is no effective Grievance Redressal Mechanism in place which is accessible to them. PAPs explained that they had contacted the Grievance Redressal Committee long before but never received any response. Some alleged that the authorities and SPARC just made them fill out the forms but never actually lodged a formal process or an adequate hearing.

The PAPs of Rahul Nagar claimed that their case was left unresolved and because of this, during the flooding they had to seek refuge in appropriate shelter.

Source: Information sent to Panel by Medha Patkar, September 20, 2005.

411. The Requesters also complain that when PAPs addressed the GRC for claims regarding disputes on the size of the structures, the GRC *"instead of making a physical survey to verify the claims of the applicant relied upon the statistics/data collected by the NGO 'SPARC'...."*³⁷² Additionally, the functionality of the

³⁷⁰ Second Management Response, p. 18, ¶ 38.

³⁷¹ See letter of the USOA to the Chairman of the SLGRC, dated September 26, 2005 (supra note 361).

³⁷² Letter from the USOA to the Panel, dated June 24, 2005.

- grievance system is severely limited by the fact that PAPs often do not even know whether they have a grievance or not. Most of the letters that the Panel received from Requesters and other PAPs are related to allocation issues and complaints that the surveys had not recognized the structures of PAPS or their circumstances correctly. As mentioned before, PAPs did not have access to the survey sheets and thus did not have a chance to check and verify the results of the BSES. This makes it very difficult for them to verify whether they had been treated properly or had been aggrieved.
412. One of the Requesters' main claims is that they do not believe that the GRC and particularly the IMP are independent.³⁷³ They believe that this severely limits the grievance redressal process. The need for an independent mechanism that is not composed of members of MMRDA and SPARC becomes obvious when looking at the fact that many of the grievances refer to allegations of malpractice on the part of the authorities and SPARC.
413. With respect to the GRC, the Panel acknowledges the efforts that Management made to revamp the GRCs and to bring in new persons. The Panel also welcomes the fact that the committee heads of the two grievance committees have now been filled with senior officials not associated with MUTP implementation.
414. In its response to the Panel, Management stated that the IMP would be reconstituted with revised terms of reference by August 31, 2004. The new members of the IMP were to be in place and the first meeting to be held in September 2004. The Panel notes that the new members have been appointed and have met with PAPs.
415. **Given the importance of a well-established and independent grievance system, the Panel finds that the grievance system lacked clear responsibilities, procedures and rules and has not been independent. Moreover, many PAPs have learned only recently about the existence of a grievance system and were not aware of the details of the process. In other cases, they have been frustrated with the alleged lack of objectivity and independence of the grievance mechanisms.**
416. **The Panel notes that after its eligibility visit, MMRDA took significant steps to improve the grievance procedures, but finds that the Bank has not ensured that the grievance mechanism is independent and objective. The Panel notes that Requesters and other PAPs complain that there is no independent person on the grievance system when the initial complaint is determined, and**

³⁷³ For example, the Gazi Nagar Requesters asserted, "*In the past also the residents of this locality, more particularly of Gazi Nagar have been threatened by the MMRDA and SPARC to vacate our room premises peacefully, otherwise our area will be set to fire.... Due to all these, an atmosphere of fear and tension has spread in the entire locality, more because of police inaction.*" Further, the Requesters allege that SPARC collected Rp. 25 per family photo identity card and did not issue a receipt for the same.

they do not accept the members of the Independent Monitoring Panel as independent persons.

Chapter 4 The Special Case of the Shopkeepers

417. Many of the PAPs who submitted the Requests are shopkeepers and owners of businesses, including operators of large-scale establishments, medium-sized workshops and restaurants who are displaced by the widening of the road and road construction. They are very concerned about expected losses of income from resettlement.
418. One of the major claims is that the Project has ignored the separate needs of the middle-income shopkeepers but instead treated them as slum-dwellers. The issues raised by the shopkeepers are generally addressed in other section of this Report. Because of the central role of the shopkeepers' concerns in the Requests submitted to the Panel, however, the Panel believes it is useful to highlight the impact of the MUTP on the shopkeepers in a separate section.
419. The Requesters note that each relocated shopkeeper is entitled only to an area of 225 sq. ft., irrespective of the actual area taken.³⁷⁴ One Requester claims that nearly 80 % of the rooms and shop premises measure about 500 sq. ft. in area.³⁷⁵ During Panel visits, the Requesters noted that additional space up to 750 sq. ft was supposed to be available only on payment. Later they claimed that it was not possible to get additional space even upon payment. They believe that their livelihoods will be destroyed if they can only be allocated 225 sq. ft. shops, as some of the businesses require much more space. In their many letters and discussions with the Panel, the Requesters refer to parallel complaints to the Panel of similar associations of small- and medium-scale commercial and industrial enterprises.
420. In their discussions with the Panel, the Requesters explained that continuing their businesses at existing levels mainly depends upon:
- A central location and good connections to transport systems;
 - Recognition of the area as a premier marketplace for motorcar parts, plywood, timber, textiles and iron products;
 - Location near customers from higher-income housing areas who buy their grain, groceries and poultry from the shops;
 - Maintenance of business goodwill built up over decades that will be lost if relocation is to a distant area;
 - Proximity of home and business, allowing them to supervise operations closely.

The Requesters fear that these conditions will not be met in the resettlement sites.

³⁷⁴ First Request, p. 3.

³⁷⁵ Third Request, p. 6.



Picture 4.1 Panel Chairperson Visiting Textile Shop at SCLR

421. Paragraph 3 of OD 4.30 provides that people affected by resettlement operations should be compensated for their losses at full replacement cost and assisted in their efforts to improving or at least restoring former living standards and income earning capacity.
422. According to Management, it is difficult to resettle the shopkeepers to a location acceptable to them, because they are currently located along a well-traveled road. Management claims that the shopkeepers were informed of the resettlement options during various consultations meetings and that “[a]ll parties are aware that the specific needs of the medium-sized merchant group must be considered and solutions [have to be] found.”³⁷⁶
423. Management acknowledges that income restoration needs of middle-income shopkeepers, who typically have specialized premises and benefit from strategic commercial locations, may not have been “sufficiently addressed in the implementation details.”³⁷⁷ Management expects that the resettled shopkeepers will have customers in the resettlements sites and states that “The families to be resettled are anticipated to have substantial need for goods and services that could be provided by the relocated shopkeepers.”³⁷⁸

³⁷⁶ First Management Response, p. 12.

³⁷⁷ First Management Response, p. 13, ¶ 40.

³⁷⁸ First Management Response, p. 17, Annex 1, item 6.

424. According to Management, shopkeepers who do not have a title to their shops, which it believes is the case for the majority of the shopkeepers concerned, will receive ownership title to the alternative shops.³⁷⁹ Management believes that title to the new shop will provide the shopkeepers with a measure of security that they did not previously have and will also allow them to use the shop as collateral to obtain loans.³⁸⁰

A. Assessment of the Situation and Needs of Shopkeepers

1. Commercial Rehabilitation Needs

425. As highlighted above in this Report, the Bank detected the issue of shopkeepers and their distinct situation early.³⁸¹ A 1995 Aide Memoire stressed that the R&R policy lacked clear treatment of loss of commercial and industrial units and underlined the distinct role and the different problems of shopkeepers. It further addressed the role of the size of shops.³⁸²

426. Though the number of shopkeepers was not clear in 1995, it was obvious that this number was significant. Later, the Bank's April 2004 supervision mission indicated no less than 3800 shops and shopkeepers families (plus uncounted employees).³⁸³

427. As described in Chapter 2, the shopkeepers issue received little attention once the full-scale Resettlement Project was downgraded to a component in MUTP. Thus, when the infrastructure and resettlement Projects were merged into one Project, the issue of the middle-income shopkeepers was lost.

428. The neglect of this issue resulted in further shortcomings. As described before in this Report, the BSES for the commercial units in SCLR and JVLR was inappropriate. In the case of SCLR, SPARC treated the commercial units mainly as structures and not as income-earning enterprises. For JVLR, the survey by SRS was more detailed and an attempt was made to recognise that the structure was used for retail trading. However, the survey fell short of an adequate enterprise survey with an inventory of assets, equipment and incomes and identification of the implications for self-employment and employment after relocation.³⁸⁴ The Requesters complain that the Project has ignored the separate needs of the middle-income shopkeepers and treated them the same as slum dwellers.

³⁷⁹ First Management Response, p. 16, Annex 1, item 3.

³⁸⁰ Ibid.

³⁸¹ Aide Memoire, Bombay Resettlement and Rehabilitation Project Preparation Mission on November 19 - 25, dated November 25, 1995. For more details, see also discussion in Chapter 4 of this report.

³⁸² Ibid., p. 5, ¶ 19, 20.

³⁸³ See also discussion above in Chapter 2.

³⁸⁴ See discussion above in Chapter 3.

429. **The Panel finds that the Bank overlooked the middle income shopkeepers in planning for the resettlement and failed to notice the differences in their situation from that of others to be resettled. This does not comply with OD 4.30.**

2. Differences between Rail and Road Components of Project

430. As described in Chapter 2, Management assumed that the rail component would raise the same problems as the road component. This resulted in overlooking the fact that many of the road PAPs are middle-income shopkeepers.

431. In particular, the road component has significant effects on shopkeepers along the roads to be widened. Many of them are middle-income shopkeepers, who have brought the Requests to the Inspection Panel.

432. **The Panel finds that the Bank failed to recognize the substantial differences between the rail and the road components and to incorporate these differences into Project preparation and implementation. This failure had particular consequences in overlooking the fact that many of the road PAPs are middle-income shopkeepers. The Panel finds that the Bank did not display sufficient diligence in this respect in ensuring that the Project design met OD 4.30.**

3. The Number of Shopkeepers and Shops Needed

433. The Requesters claim that the needs of PAPs with commercial enterprises were not adequately incorporated into the planning process.³⁸⁵ Management replies that the Requesters' needs as shopkeepers were well-tabulated in the RIP.³⁸⁶

434. As noted above, it has been apparent since the beginning of this Project that the number of shopkeepers was far from negligible.³⁸⁷ To ascertain the degree to which the need for shops was incorporated into the planning process, the Panel reviewed Project documents and Management's mission documents.

435. The Panel observed that it was difficult to find coherent and sufficiently detailed numbers of the shopkeepers and the shops needed for them in these documents. The Panel notes that the documents seem to refer to the terms "number of shopkeepers", "number of shops or units" or "number of commercial establishments" interchangeably, which makes it difficult to track the planning process.

436. The first mention of a number regarding the needs of structures for shopkeepers that the Panel found is in the RAP, which contains two substantially different

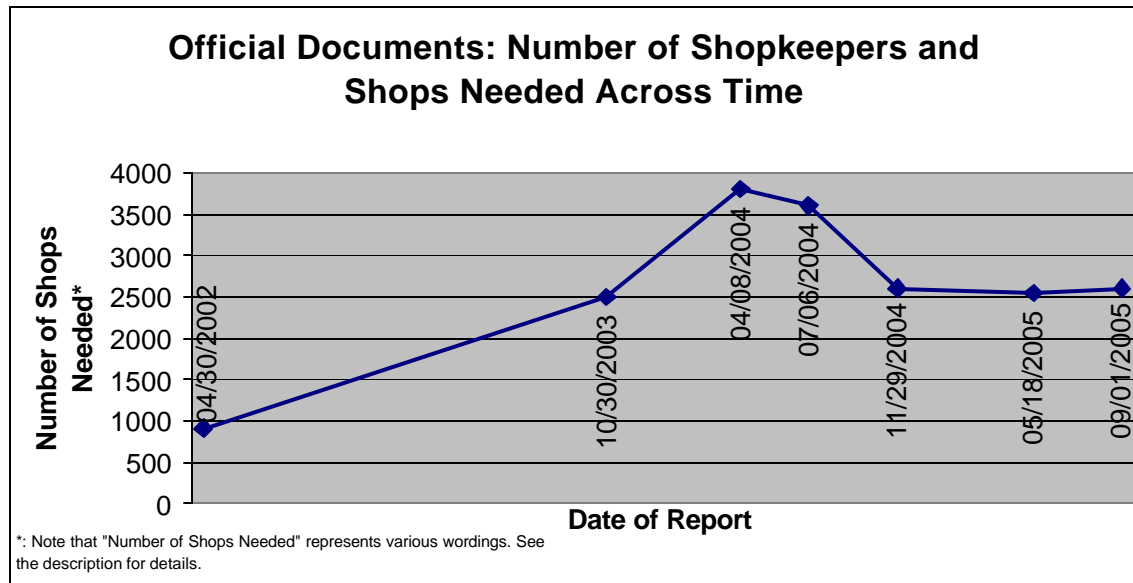
³⁸⁵ First Request, p. 3, ¶ 4.

³⁸⁶ First Management Response, p. 16, Annex 1, item 4.

³⁸⁷ See Chapter 2.

measures of the needs of shopkeepers within two pages of each other: 914 structures³⁸⁸ and 1420 commercial establishments.³⁸⁹ Then, no number of necessary shops is mentioned in supervision documents for a year-and-a-half, until the October 2003 Aide Memoire, which raised the number to 2500 units.³⁹⁰ By April 2004, the number of shopkeepers was up to 3800,³⁹¹ and in the Aide Memoire of November 2004, the number had moved back down to 2600 units.³⁹²

Figure 4.1: Information in Project Documents Regarding the Number of Affected Shopkeepers and Shops Needed in MUTP



Data sources:

(04/30/2002) - 914 affected structures used for commercial purposes: RAP, April 30, 2002, p. 13. (Note that "Table 2: Socio-Economic Characteristics of PAHs" p. 15, lists 1420 as the "Number of commercial establishments.");

(10/30/2003) - 2500 shop units required: Aide Memoire, Mission on September 22 - October 1, 2003, dated October 30, 2003, p. 11, ¶ 59;

(04/08/2004) - 3800 families displaced by the Project are shopkeepers: Back to Office Report, Mission on April 7-8, 2004, dated April 8, 2004, p. 1;

(07/06/2004) - 3600 shop units required: R&R Implementation Review Mission Report, Mission on July 5-6, 2004, p. 1;

(11/29/2004) - 2600 shop units required for Project: Aide Memoire, Mission on October 28 - November 5, 2004, dated November 29, 2004, p. 18;

(05/18/2005) - 2550 is the target for the number of affected shopkeepers to be provided new shops: Aide Memoire, Mission on April 27 - May 6, 2005, dated May 18, 2005, p. 17, ¶ 2;

(09/01/2005) - 2600 commercial establishments affected: Business Needs Study, December 2005, p. 2.

³⁸⁸ RAP, p. 13, ¶ 11.

³⁸⁹ RAP, p. 15, Table 2, Socio-Economic Characteristics of PAHs.

³⁹⁰ Aide Memoire, Mission on September 22 - October 1, 2003, dated October 30, 2003, p. 11, ¶ 59.

³⁹¹ Back to Office Report, Mission on April 7 - 8, 2004, p. 1.

³⁹² Aide Memoire, Mission on October 28 - November 5, 2004, dated November 29, 2004, p. 18, Annex 5, ¶ 7.

437. **With regard to the shopkeepers, the Panel found different estimates in different documents of the number of commercial units that need to be constructed, without recognition or explanation of the discrepancy in estimates. The Panel finds that this is not consistent with OD 4.30 or with OP/BP 13.05. The Panel hopes that the new Business Needs Study, mentioned below, will address this issue.**

B. The Proposed New Shops

1. The Non-Strategic Location of New Shops

438. During Panel site visits, the Requesters and other PAPs expressed their concern about the reduced visibility of shops at the new sites. The PAPs at Mankhurd claim that their shops are situated in the interior of Mankhurd, which they believe will diminish their chances to restore their incomes.
439. At the sites of Ajgaonkara and Majas, PAPs state that the shops are within closed complexes, away from the street, and they fear that reduced visibility will lead to loss of business. With regard to the visibility and accessibility of the new shops, the Panel observed that on some of the resettlement sites, shops that depend on good accessibility are now located away from the main street.³⁹³ For example, an automobile repair shop had to operate from a small shop located in the back of the site away from the main road.
440. The Requesters anticipate fewer customers at the resettlement sites, noting that their businesses heavily depend on being near higher-income customers. The mid-income shopkeepers are concerned that the bulk of PAPs, resettled in the new sites are from a lower income group that does not purchase more expensive items like tiles, sanitary ware, laminates, plywood, etc. that some of the Requesters have been selling for years.
441. In this regard, the Business Needs Study notes, *inter alia*, that Mankhurd, especially its eastern areas, can be characterized as catering to the lower income group and having polluting industrial units and dumping grounds present. It notes that populations in these residential pockets have low spending power, and highlights accessibility problems that would face commercial establishments located there. In terms of suitability for resettlement of commercial establishments, the study states:

“It is strongly felt that the restrictions [mentioned in the Study] would limit the type of businesses that would survive considering the lack/reduction in footfall generated at the present location as compared to

³⁹³ Panel visits to, *inter alia*, Majas and Mankhurd, May 2005.

earlier locations that had a high amount of commuter population and an extensive catchment/service area.”³⁹⁴

442. The Panel observes that the envisaged resettlement to Mankhurd and Ajgaonkar poses a severe problem to the businesses of the Requester. **Given the weak economic situation of the PAPs living at the resettlement sites, the Panel is concerned about the lack of potential customers for a number of the shopkeepers, particularly for more specialized shopkeepers.**
443. **The Panel further notes that many of the shops at the resettlement sites are located in rather small corridors inside the housing complexes, away from main streets. The Panel believes that the low purchasing power of the PAP population, in combination with a non-strategic location, will lead to severe losses in business. The Panel is very concerned that unless further actions are taken, the shopkeepers will be put in significantly worse conditions as a result of the relocation. This would not comply with Bank Policy.**

2. Limited Floor Space

444. The RAP provides for the allotment of units of about 225 sq. ft. to every eligible household and commercial structure.³⁹⁵ The small size of shops is one of the Requesters main concerns.
445. The Panel notes that the RAP language seems to be ambiguous as to the entitlements of the PAHs bsing a commercial structure. It is not entirely clear whether their eligibility for an alternative place for commercial use of “*equivalent*” area refers to the 225 sq. ft. entitlement of the residential households or to an area “*equivalent*” to the area they had before.
446. During Panel visits, shopkeepers expressed their fear that they cannot maintain their standards of living if given an area of 225 sq. ft. each. They explained to the Panel that the small size of the shops would preclude the operation of certain types of business, for example, hotels and restaurants that, according to them, need a minimum of 360 sq. ft. to secure a license. Many of them have also rented out extra space in their current structures to other people, and thus have extra side income. They indicated that they have spent large sums of money on interior designing and construction of their “ground-plus-one structures.”

³⁹⁴ Business Needs Study, December 2005, Section 4.9.7.

³⁹⁵ The RAP for MUTP, p. 7, provides that “*every effort shall be made to relocate the affected households to nearby site and thus avoid cutting access to existing employment and income earning sources*” (p. 26). It further states, “*Every eligible household losing a dwelling place shall be allotted a dwelling unit of minimum of 225 sq.ft at an alternate site. Similarly every PAH losing a commercial structure shall be eligible for an alternate place for commercial use of **equivalent** area*” (emphasis added).



Picture 4.2 A Typical Textile Shop at SCLR

447. During site visits, the Panel noted the shortage of commercial space. Originally, it was envisaged that extra space over the 225 sq. ft., up to a maximum of 750 sq. ft. could be purchased at the market rate. Several shopkeepers stated that they had applied to purchase extra space beyond the allotment of 225 sq. ft., but that their applications have not been accepted because of the shortage of commercial space. According to PAPs, MMRDA indicated recently that there will be no extra space, and that the PAPs were encroachers and so they had no claim for extra land anyway.³⁹⁶
448. During site visits to the Project area, the Panel observed that many of the Requesters' current shops are much larger than 225 sq. ft. Some of the Requesters operate large-scale businesses like printing shops, ply-wood stores, and restaurants. Some shops that sell auto parts occupy an area of up to 10,000 sq. ft., while some timber and plywood shops occupy areas of 5,000 sq. ft.³⁹⁷ The Panel's observation is supported by other sources, which estimate that about 50 % of the affected shopkeepers at the RoB Jogeshwari (South) and about 28 % from the SCLR Phase I will lose more than 225 sq. ft. when shifted.³⁹⁸ **The Panel notes that the space limitations will affect a significant number of shops.**

³⁹⁶ According to PAPs, this statement was given during a meeting with MMRDA and the commercial PAPs of Majas on April 21, 2005.

³⁹⁷ Business Needs Study, December 2005, p. 49, Section 4.6, ¶ 8.

³⁹⁸ Business Needs Study, December 2005, p. 19, Section 3.1.3, Table 3.1.

449. The Bank recognized during its supervision mission in 2004 that there was a shortage of available shops.³⁹⁹ In May 2005, the Aide Memoire reported progress in reducing the gap in the availability of shops by identifying additional shops built under MUIP and providing an option to choose residential units in lieu of shops. According to the Aide Memoire, PAPs were given the option to choose any other building available under MUIP, if buildings under MUTP were not suitable.
450. In this context, the Panel also notes that the May 2005 supervision mission stated that it was informed that all the affected shopkeepers were now given an option to submit alternatives under slum rehabilitation schemes to SRA in areas close to their current location.⁴⁰⁰ The Panel stresses that several of the shopkeepers among the Requesters do not want to be rehabilitated under the SRA scheme, because they argue that under this scheme, they would only receive the standard 225 sq. ft. locations, which would be too small. Instead, the Requesters have submitted several alternatives for rehabilitation.⁴⁰¹ As of November 2005, the Panel had not seen evidence that the affected shopkeepers' proposals have been accepted.⁴⁰² Furthermore, the Panel notes that some of the Requesters refuse to be treated under the SRA scheme, because it refers to "slum dwellers."
451. In the view of the Panel the Bank has not demonstrated that an effective remedy has been provided for the location needs of large and middle-sized businesses. The Panel is not aware that there are adequate options that would allow the Requesters to receive structures that are much bigger than 225 sq. ft. to suit their needs. The Panel finds that no adequate treatment for the space requirements and income flows of relocated businesses has evolved during implementation.
452. In this regard, the Panel welcomes that this year, following the Request to the Panel, the Bank commissioned a Business Needs Study to help in developing compensation packages for shopkeepers with businesses exceeding 225 square feet or with locational needs. This Study is expected to address many of the issues that the shopkeepers are concerned about.
453. **The Panel finds that the entitlement of 225 sq. ft. regardless of the actual size of the Requesters structures does not comply with Bank Policies. This approach neglects the fact that many of the Requesters' current shops are much bigger than 225 sq. ft. and that under the aforesaid scheme these small enterprises cannot restore their business to pre-project levels due to limited availability of space.**

³⁹⁹ The Aide Memoire from the March 2004 mission noted a shortfall of about 2,000 shops (Aide Memoire, Mission on March 5-26, 2004, dated April 14, 2004, p. 3). See also Aide Memoire, Mission on October 28 – November 5, 2004, dated November 29, 2004, p. 18. It noted a large discrepancy between the units available and the units needed under MUTP.

⁴⁰⁰ Aide Memoire, Mission on April 27 – May 6, 2005, p. 6, ¶ 27.

⁴⁰¹ See also Chapter 3.

⁴⁰² See also Chapter 3C of this Report.

3. The Equipment of the Shops, Commercial Licenses, Inventory

454. During its site visits, the Panel observed that many of the shops at the resettlement site are poorly equipped and hardly suitable for operating shops or conducting other commercial activities. Many of the shops lack running water and toilets. Considering that several PAPs that used to run their businesses from home before now have to live in the commercial structures, this becomes even more alarming. For example, shopkeepers in Mankhurd that the Panel interviewed explained that they had only been allotted a commercial structure but could not live in it because the room had no windows. They claim that they had to rent an additional residential structure at their own expense.
455. Insufficient equipment in the commercial structures creates severe limitations upon commercial activities. Larger restaurants, for instance, require specific equipment such as grease chambers, a separate water connection for washing purposes, exhaust ducts, and gas pipe lines. PAPs claim that unless these conditions are met, the authorities refuse to transfer licenses. During site visits, PAPs expressed their worries that they would not receive the licenses soon enough.
456. In this regard, the Panel observes that many of the shopkeepers operate on the basis of licenses. This view is supported by the Business Needs study which states that a “[m]ajority (82%) of the affected businesses [in SCLR Phase I] are license holders. This indicates that majority of the affected businesses are legal commercial establishments.”⁴⁰³ **Thus, it will be important to ensure that these licenses are transferred on time before PAPs are moved.**
457. **The Panel notes that an inventory of fixed investments on shop interiors has not been included in the BSES. The expenses for acquiring new licenses or the application of high assessment taxes on the new licenses have not been considered.**

C. Assessments of Employee PAPs

458. Large commercial establishments usually employ several workers. Thus, a scaling down of business and income would lead to the loss of employment opportunity and earnings for their dependent workers.⁴⁰⁴
459. Information given to the Panel by several business associations indicates that about 3,460 employees are affected by the road component, a significant percentage of whom sleep in spaces on the commercial premises concerned, and

⁴⁰³ Draft Interim Report for SCLR Business, Business Needs Study, September 2005, Appendix B, ¶ xxiv. This part did not appear in the final, December 2005, Study.

⁴⁰⁴ The R&R policy provides for “a lump sum compensation equivalent to one year’s income be given to such workers/ employees/ entrepreneurs at the rates determined by the R&R implementing agency...” (R&R Policy, p. 8).

who will find it difficult to find alternative employment within the network of social trust they need. See Table 4.1 below for details.

460. There may be more employees but operators that the Panel interviewed were not always clear about the total extent of the employment that could be lost. The total number of employees potentially displaced seemed also to be unclear to SPARC and SRS. The organization of enterprises within a single large physical structure can be complex. A single structure may include, for example, a small pan stall inside the front door, two workshops belonging to two brothers, and another business on a rented space basis. As has been discussed earlier in this Report,⁴⁰⁵ the persons that conducted the BSES were uncertain how to collect information on the occupants of a household, since the enterprise(s) include owners, managers, employees on different shifts and occupant/entrepreneurs in rented space.
461. The Panel observed that the shopping areas affected by the Project are centers of wage employment. Several shops operate a two-shift system and need a minimum of one employee in addition to a working owner. Though the RIP for the SCLR estimates that “*there are 405 employees ...*,”⁴⁰⁶ employees are clearly affected by the Project but do not appear to be covered adequately in the assessments or R&R planning.
462. Table 4.1 below breaks down the results of Panel expert Professor Rew’s investigation into wage employment levels, and the implications for wage-worker families, in affected commercial and industrial units. According to this preliminary assessment, the total wages generated by the 3,460 plus employees reported to be working in the shops and workshops scheduled for demolition, and as set out in the table, are Rs. 8,780,780 (Rs. 87.8 lakhs) per month. The Panel is not aware that an evaluation of post-resettlement impacts has been conducted or compensation for the same considered. Additionally, as noted earlier, inaccurate assessment of income in the BSES will make such an assessment difficult or impossible.

⁴⁰⁵ See Chapter 3A.

⁴⁰⁶ RIP (SCLR), p. 18. According to the RIP, they will be given an entitlement to one year income loss in case they are not re-employed, RIP (SCLR), p. 18.

Table 4.1: Wage-Worker PAPs: Returns from 8 Business Associations

MUTP Component	'Wage-Workers' & Dependents Affected
Jogeshwari ROB (south) a	825
Powaii Lake area b	944
CST Road area c	1188
Others on SCLR/JVLR d	400
Scattered Petty traders	100
Total affected workers	About 3,460
Family dependents e	About 12,965
Total	About 16,425

a = information from 1 retail and 1 small industry association

b = information from 2 retail associations (comparable information in RIP)

c = information from 3 associations, all with retail and industrial membership

d = composite information

e = multipliers calculated from qualitative in-depth interviews

Source: Panel expert Professor Rew, preliminary estimates, Mumbai, May 2005.

463. Box 4.2 below reports the fear of employees interviewed in one locality that they will have few other employment options because of social trust aspects connected with their long-term employment and skills. They are deeply concerned about their loss of earnings and the impact this will have on their families and their children's education. They are concerned that there are no arrangements in place to support the search for alternative employment or to help them redeploy their sometimes significant business knowledge in self-employment.

Box 4.1: Group Discussion with Wage Employees in Project Affected Business

Group Discussion with Wage Employees in Project Affected Businesses

In May 2005, the Panel joined a focus group discussion with 14 employees of project-affected firms on CST Road. They had been asked to give their views on the numbers of employees involved and to discuss the likely impacts. Among the employees there was high consensus on the following points:

- A significant number of employees were at risk. Numbers were discussed and agreed on for each area and association. Most would lose their jobs if the roadside shops and workshop structures were demolished.
- Most employees sleep and wash on the premises if they can because of shift work and because they have no huts themselves; the owners need to trust them to let them stay. Employment is largely based on a trust and a social network that operates on a “get in and stay” mentality. It is difficult to get jobs in the absence of trust and a familiarity between owner and worker.
- Monthly income varies from Rs. 2000 upwards but with Rs. 4000 to Rs. 6000 for specialists.
- Families stay in the “origin” village.
- Skills include cooking, motor parts, metal angles, hardware, restaurant, grocery, and textiles.
- Demolition will mean they will lose their jobs and a place to sleep.
- 75% were married men with an average of 4 children per employee.
- 20% of their children were in colleges and they must keep urban jobs to support them.

Some had worked at the road for the last 25 years; many had worked for more than 10 years.

Source: Focus group discussions, Panel visit to Mumbai, May 2005.

464. Based on interviews with the wage-worker PAPs, 75 percent are married and have an average of four children; some of these children are in secondary and higher education. The Panel observes also that many are migrants from other parts of Maharashtra, Uttar Pradesh, Bihar and Karnataka.⁴⁰⁷ They often leave their families in their home village and occupy a bed space in Mumbai.⁴⁰⁸ Based on the information given the Panel during interviews with PAPs, the Panel’s expert

⁴⁰⁷ Panel interviews with PAPs, Mumbai, May 2005; Draft Interim Report for SCLR Business, Business Needs Study, September 2005, Appendix B, ¶ x, which confirms the presence of migrant labor population in the Project site. (This information on migrant workers did not appear in the final, December 2005, Study.)

⁴⁰⁸ The willingness of PAP associations to provide detailed data on wage employees that were provided bed spaces and washing facilities at their jobs varied. PAPs worried that the information would be misused by officials. Some allowed the Panel to visit their accommodation areas and discuss employment with the assistants. The total number of assistants and other employees was derived by data from business associations and the data was then checked with the association’s members. The data on resident wage workers across all the affected areas is less reliable. In a sample, however, it was established at 3.75 bed spaces per establishment, with an average of 4.85 total employees per establishment. This might be higher than other areas because of the nature of the trading.

estimated the total number of dependents of the project-displaced wage-workers at approximately 13,000 and the total number of PAPs in wage-worker families at about 16,000 (see Table 4.1 above).

465. In the text of the MUTP R&R policy, displaced wage workers are fully included in the impact categories. In the table of entitlements in the policy annex, their entitlement is subsumed under the right of all employees to receive an allowance to meet extra transportation costs if merited. Since they will not have an address within the Project after the shops are demolished, it is extremely unlikely they could make any claim. Nor is it likely they will ever learn they may be entitled to make a claim. The Panel is not aware that any of the employees have been informed about their rights or that they have received any financial or other support.
466. **The Panel finds that with regard to the middle-income shopkeepers, no appropriate assessment of employee PAPs was undertaken. The employees who are not resident in the area but rather support family in rural areas have not been adequately addressed. This does not comply with OD 4.30.**

D. Impacts of Additional Road Widening

467. Particularly the shopkeepers among the Requesters are concerned about the widening of the SCLR from 39 to 45.7 meters. They claim that this is the third in a series of notifications about scheduled road improvements, each notification further increasing the width of the road and taking away more of their old commercial area. They argue that the road widening harms them and also lacks sufficient purposes.
468. Bank policies require that involuntary resettlement should be minimized wherever possible. Paragraph 3 (a) of OD 4.30 states that *“Involuntary resettlement should be avoided or minimized where feasible, exploring all viable alternative project designs. For example, realignment of roads ... may significantly reduce resettlement needs.”*
469. The Panel observes that alternative project designs are not adequately considered under the Project. MMRDA seems to be reluctant to discuss alternative alignments with PAPs, stating that since the land required for the roads was clearly identified and provided before, there was hardly any scope to avoid and minimize resettlement. Similarly, the RIP for the JVLR states *“since the land required for the roads was clearly identified and provided in the Development Plan of the MCGM, there was hardly any scope to avoid and minimise resettlement.”*⁴⁰⁹ When asked about the status of requests for realignment, the

⁴⁰⁹ RIP for JVLR Phase II, July 2004, p. 8. The Fourth Requester has repeatedly requested a change of road alignment so that the improved road and ROB could avoid displacing the densely settled retailing street leading from Jogeshwari Railway Station. SRS replied, *“Changing of alignment is a technical matter. But you know that the entire project is completely planned and approved and expecting changes now seems*

- NGO SRS explained to the Panel that changes to the alignment would be unrealistic, because the MUTP had already been completely planned and approved.⁴¹⁰
470. Management informed the Panel that the estimated number of additional PAPs that will be affected by the road widening to 45.7 meters is 586. However, the Panel notes that Management has not demonstrated that the planning of the road widening is based on a valid assessment of the socio-economic implications of its technical recommendation.⁴¹¹ Bank policies require that involuntary resettlement should be minimized wherever possible. **Thus the Bank must explore viable alternative project designs, e.g., realignment of roads. The Panel finds that Bank Management did not ensure so far that the planning of MUTP addressed this requirement.**
471. Subject to Bank policies and procedures, the Bank may approve on a no-objection basis changes in the technical design of the Project, or it may reject such changes. The Panel understands that the Bank has agreed in principle to finance the resettlement costs resulting from the decision to widen the road from 39 m to 45.7 m, subject to MMRDA providing the Bank with a satisfactory final RIP. **As of December 13, 2005, the Bank had not issued a “No Objection” statement because it was still reviewing the final draft of the supplemental RIP for the SCLR widening.⁴¹² This position of withholding the “No Objection” complies with the provisions of OD 4.30. The Panel notes that in considering further action on the proposed road widening, the Bank will need to assess the proposal, and possible alternatives to it, in compliance with OD 4.30 and other relevant policies.**
472. PAPs informed the Panel that despite the Banks holding off of the approval of the design-change, they are already threatened with forced removal from the roadway site and the consequent rupture to their business activities that this would mean.

E. Conclusion

unrealistic.” The Requesters suggest that the ROB should link to Sahakar Road, rather than Malcolm Baug Road, from a point behind Station Road and from a plot owned by IR, and with only a few old railway sheds on it. This idea was explored on May 20, 2005, and in theoretical terms, with MMRDA’s GIS consultants. The GIS database discovered only two low structure *chawls* in the way on the Jogeshwari West side of the railway track. This GIS result suggests that the Fourth Requester was correct in asking for an explanation of why alignment change was or was not feasible because displacement based on the old alignment would be severe.

⁴¹⁰ Letter to Fourth Requester on August 7, 2004, ¶ 4

⁴¹¹ Management explained that based on its review of the draft RIP, structures affected by the 39 m overlap with those affected by 45.7 m. According to it, the numbers of structures affected by 39 m was 3273 and that there would be an increase of about 116 affected structures with the widening to 45.7 meters.

⁴¹² According to Management, MMRDA submitted the supplementary EMP for the SCLR in the last week of October and Management approved it with conditions and as of December 13, 2005, was still reviewing MMRDA’s response to the conditions (e-mail from Management to the Panel, dated December 13, 2005).

473. As discussed in the sections above, **the Panel finds that the Bank overlooked the middle income shopkeepers in planning for the resettlement and failed to notice the differences in their situation from that of others to be resettled. This does not comply with OD 4.30.**
474. The Panel finds that many of the new shops will be much smaller than the shops that the Requesters had before, which may make it impossible for some to carry on their businesses. In addition, the poor location of the shops, which previously had a major road-facing position, will likely reduce the number of customers for many of the businesses and thus significantly decrease the income of the shopkeepers. The new location also presents other conditions that could have severely negative effects on the ability of the shopkeepers to achieve their former income earning capacity and production levels, as required by the Bank Policy. The site lacks adequate water supply, has major sewerage and pollution problems,⁴¹³ and the customer base appears to be much less than at the existing locations of the shopkeepers. **The Panel is very concerned that unless further actions are taken, the shopkeepers will be put in significantly worse conditions as a result of the relocation. This would not comply with Bank Policy.**
475. **As note above, with regard to the middle-income shopkeepers, no appropriate assessment of employee PAPs was undertaken. The employees who are not resident in the area but rather support family in rural areas have not been addressed. This does not comply with OD 4.30.**
476. Importantly, and as noted above, the Panel finds that this year, following the Request to the Panel, the Bank has endeavoured to begin to address the special needs of the shopkeepers. The Business Needs Study, in particular, has been commissioned to help in developing compensation packages for shopkeepers with businesses exceeding 225 square feet or with locational needs. In addition, as of the date of the Panel's Report, the Bank is working with the Borrower to try to address the issues of concern to the shopkeepers. The Requesters have conveyed to the Panel concerns about these efforts. **The Panel considers that the successful completion of the Business Needs Study, noted above, and subsequent implementation of measures and necessary changes likely to result from this Study, may help bring the Project into compliance with Bank resettlement policy.**

⁴¹³ See Chapter 7 of this Report.

Chapter 5 Income Restoration

477. Income restoration is the core concern of the Requesters. They state that a failure to provide income restoration “*would destroy our livelihoods, and productive sources, and disperse our social, economical network and kin groups.*”⁴¹⁴ The Requesters expect major income losses as a result of the envisaged displacement and allege that the relocation will lead to a major fall in their standard of living. The Requesters state “*we would be ruined completely if this project and its rehabilitation schemes would be implemented in its current form and style.*”⁴¹⁵
478. Further, the Requesters claim that the R&R policy for the MUTP deprives the citizens of their right to livelihood guaranteed by the Indian Constitution under Article 21.⁴¹⁶ In their view, the Project will obtain exactly the opposite result of its intended goal. They assert that “[p]articularly the unlawful activities of the MMRDA in collusion with the World Bank officers with respect to the rehabilitation component of the project, Bank’s policy of ‘poverty alleviation’ can not be achieved as we are bound to be added to the population of people below poverty line due to the adverse effects of the project.”⁴¹⁷ Furthermore, they criticize the “meager compensation” that has been calculated “*probably considering economic conditions prevailing at the time of independence of our country*”⁴¹⁸
479. Many of the Requesters are shopkeepers of varying scales.⁴¹⁹ They are worried about the impact of the Project regarding a loss of assets, loss of income and the major extra expenses they expect at the resettlement site. They state that the “*failure to provide restoration of standard of living of... PAPs would result in significant harm.*”⁴²⁰
480. Paragraph 3 of OD 4.30 requires that whenever persons are displaced, their former living standards and income earning capacity must be improved or at least restored and particular attention must be paid to the poorest groups to be resettled.⁴²¹ Paragraph 18 of OD 4.30 emphasizes that “*normally, general economic growth cannot be relied upon to protect the welfare of the project-affected population.... The resettlement plan should, where feasible, exploit new economic activities made possible by the main investment requiring the displacement. Vocational training, employment counseling, transportation to jobs, employment in the main investment project or in resettlement activities,*

⁴¹⁴ First Request, letter dated April 27, 2004; Fourth Request, item 5.

⁴¹⁵ Fourth Request, item 5.

⁴¹⁶ Fourth Request, item 12.

⁴¹⁷ Fourth Request, item 12.

⁴¹⁸ Third Request, item 8.

⁴¹⁹ See also Chapter 4.

⁴²⁰ First Request, p. 1, ¶ 3.

⁴²¹ OD 4.30, ¶ 3.

*establishment of industries, incentives for firms to locate in the area, credit and extension for small businesses or reservoir aquaculture, and preference in public sector employment should all be considered where appropriate.”*⁴²²

481. According to Management, “[t]he RAP (2002) describes measures for economic rehabilitation ... that are consistent with the provisions of the [R&R] policy.”⁴²³ Management states that, “[i]f affected persons lose their source of livelihood permanently, they will be offered lump-sum compensation equivalent to one year’s income.”⁴²⁴ In addition, “the Project R&R Policy provides for a payment equivalent to twelve quarterly rail passes” to cover increased distance to work from the resettlement site.⁴²⁵ Management also claims that PAPs will receive travel allowances for shifting their household belongings and that PAHs “losing their residences will be given Rs. 20,000 (USD 450) as lump sum grant to be deposited in a fixed account, the interest earned out of this grant will subsidize their maintenance charges and taxes.”⁴²⁶
482. However, Management acknowledges that “income restoration needs of medium-sized shopkeepers, who typically have specialized premises and benefit from strategic commercial locations, may not be sufficiently addressed in the implementation details.”⁴²⁷ Management further claims that a resettlement impact evaluation study will be conducted at the end of a one-year period following relocation of PAPs under each sub-project⁴²⁸ and that “remedial measures will be undertaken if and as needed.”⁴²⁹
483. With regard to the Gazi Nagar residents, Management indicates that the impact on these people is “chiefly loss of housing and not loss of jobs or sources of income.”⁴³⁰ Management acknowledges that there may be “some people losing site-specific opportunities for supplemental income,” but believes that it “will likely be replaced by similar opportunities in the Mankhurd resettlement area, given that it is being constructed as an integrated township and once completed will house about 10,000 families.”⁴³¹
484. For its analysis, the Panel interviewed the Requesters to assess their livelihood profiles and the extent to which these fit assumptions about employment and business loss and economic rehabilitation needs. In addition, and in order to

⁴²² Moreover, ¶ 36 of OD 4.15 on ‘Poverty Reduction’ specifies that “[t]he Bank does not finance projects that involve involuntary resettlement – unless a sound, production-based resettlement plan has been appraised by the Bank and incorporated into the project.”

⁴²³ First Management Response, p. 15, Annex 1, item 1.

⁴²⁴ Ibid.

⁴²⁵ Ibid.

⁴²⁶ Second Management Response, p. 11, ¶ 27.

⁴²⁷ Ibid.

⁴²⁸ Ibid.

⁴²⁹ Ibid.

⁴³⁰ Second Management Response. Annex 1, p. 25, item 4.

⁴³¹ Ibid.

assess the prevailing situation related to income and living condition restoration that the Requesters might face once moved to the resettlement sites, the Panel interviewed PAPs that have already been moved to the resettlement sites.⁴³²

485. The Panel also considered information that is presented in studies from the initial phase of resettlement of PAPs affected by the rail component. More specifically, the Panel used the following studies:
- “Rapid Impact Assessment (RIA) of Initial Resettlement” (hereinafter referred to as the “ECOSMART Report”)– a stratified sample of 117 PAHs that was interviewed in 2002 using questions mostly focussed on indicators (both objective and perceived) of infrastructure quality but with some observations on resettler income. This study was prepared by Economic India Limited (ECOSMART) in May 2002.
 - “An Impact Assessment of the Initial Phase of R&R Implementation for the MUTP” (hereinafter the “TISS” Report) – a detailed sample of 2091 PAHs under the MUTP that were interviewed, using 25% sampling for the permanently resettled and 15% sampling for the transit families, and with a significant minority of questions focussed on income, plus 36 focus discussion groups (FDG) held. This study was prepared by the Tata Institute of Social Sciences (TISS) in November 2003.

A. Economic Rehabilitation

1. Assessment and Risk Analysis of Income Loss

486. The RAP provides that “[e]very effort shall be made to relocate the affected households to nearby site and thus avoid cutting access to existing employment and income earning sources.”⁴³³ Further, the RAP states that “affected households will be eligible for the compensation for the permanent loss of employment or extra travel costs. Similarly a special package will be worked out for the vulnerable PAHs such as households below the poverty line, the woman headed households, the handicapped and the aged.”⁴³⁴
487. However, the RAP and other Project documents pay little attention to income restoration. This is especially notable given that this subject is a central guiding principle of OD 4.30, and that impoverishment risks and poverty reduction have

⁴³² In addition to focused group discussions, the Panel, *inter alia*, interviewed 38 PAPS at the Anik and Mankhurd permanent relocation tenements, using questions on livelihood profiles and incomes pre- and post- Project.

⁴³³ RAP, p. 57. Also, paragraph 12(d) of the R&R policy states, “For those who permanently lose their jobs, the rehabilitation package shall include access to employment information through employment exchange and training facilities. Moreover, community operated fund will be created to provide seed capital and other loans. Community operated fund could be linked with community savings programmes. The fund could be controlled and monitored by the community with the assistance of Non-Governmental Organisations (NGO).” (R&R Policy, 8.)

⁴³⁴ RAP, p. 7.

- been central to Bank analysis for a long time.⁴³⁵ The Panel believes that one reason for this was the problematic assumption that household economic security and jobs that provide income would not be an issue in Mumbai. Management believes that the impact on PAPs is “*chiefly loss of housing and not loss of jobs or sources of income.*”⁴³⁶
488. Similarly, Bank staff interviewed by the Panel argued that economic rehabilitation could be left to the market since jobs were plentiful in Mumbai. They expected that the economic impact of relocation would be only in extra travel time and costs because they assumed that PAPs would need to travel about two railway stops extra to reach their jobs. This is also reflected in the PAD, which explicitly states that “[l]oss of income and livelihood opportunities is not a major issue in this project since the affected persons will be relocated within a close proximity of the existing locations, thus enabling them to retain the site related opportunities.”⁴³⁷ Remarkably, the RIP for the SCLR also states that “[b]ecause of the proximity of resettlement sites to earlier places of residence, impact on livelihoods is not likely to be significant.”⁴³⁸ Consequently, also the BSES was not designed to sufficiently highlight income losses. SPARC and SRS told the Panel that the collection of income data was judged non-essential compared to data on structures and occupancy.
489. Moreover, the RAP does not contain economic analysis of the displacement and resettlement operation. The budget for the resettlement plan is about compensation, rather than the financing for training courses or other productive income-generating activities.
490. The opinion that income loss would not be a major problem is also reflected in the key resettlement performance indicators that refer to: 1) the proportion of PAPs living in 225 sq. ft houses; and 2) access to individual water and toilet facilities.⁴³⁹ The difficulties of PAPs to deal with problems of income loss are illustrated in the textbox below.

⁴³⁵ See OD 4.15 (¶ 30) which states that “*downside risks are life threatening [and] risk analysis is essential for poverty-reducing projects.*” Heightened attention was given to poverty analysis and poverty reduction strategies in 2000-01 with the publication of the World Development Report *Attacking Poverty*, which was receiving maximum publicity in development planning circles as MUTP was in its final years of preparation. Poverty reduction measures have also been a central feature of GoI economic and social planning for decades. It is difficult to see why, given these precedents, such little attention was paid to impoverishment risks or to a strategy for income restoration and improvement in the key documents of the component.

⁴³⁶ Second Management Response, p. 25, Annex 1, item 4.

⁴³⁷ PAD, p. 101, Additional Annex 13.

⁴³⁸ RIP for the SCLR, April 2003, ¶ 1.19.

⁴³⁹ Mid Term Review, October 2005, p. 11.

Box 5.1: Re-Housing without Income: A Vendor

Re-Housing without Income: A Vendor

Mr. HK told the Panel about his situation: He recently arrived in Mankhurd B from Sattu Colony where he was selling newspapers. He was making Rs. 100 a day at the old place because it was a busy area with many passing city workers. It is not viable to go back to the old place of work. He would have to spend Rs. 40-50 on bus fares and food, plus 1 hour minimum to get there. Thus, he is now trying to sell newspapers in the relocation colony but this hardly gives him a profit of Rs. 20 a day. He now depends on his brother's income because he cannot earn his subsistence. His brother can get to his job but spends much more on travel and on the resettlement flat. The flat is quite OK but it is too far away from the old location. As a vendor he has no capital or the experience to change his business. So he does not know how to become an independent bread earner.

Source: Panel interview, Mumbai, May 2005.

491. Panel field visits to the Requesters and to the new relocation buildings suggest that the assumption that jobs would be easy to find was incorrect. A high proportion of the Requesters from Gazi Nagar that the Panel interviewed were without conventional jobs. They worked mainly in casual daily employment and in petty trade and services. They needed to be close to their jobs. Similar results were found in the relocation buildings that were visited.
492. Another indication for the failure to appropriately recognize the risks of severe income loss and impoverishment following involuntary displacement and relocation is the content of the detailed table of “critical risks” in the PAD, which lists and rates several main risks.⁴⁴⁰ None of the listed risks address reduced diversity in sources of livelihood, loss of days worked, loss of income to females, impact on petty trade or rental incomes. Nor is there any recognition of the impoverishment consequences and adjustment needs that follow from the removal of typically low-income people from their existing livelihoods.
493. Experience shows that if the economic niches of low-income households are severely disrupted they will face many burdens to survive in their new homes. Only some of them will have conventional jobs in the sense that they can continue their employment as before at a single place of work by simply finding a new or longer way to travel to it. Others will depend on petty trade and on a network of contacts within which to search for daily wages. Many of their previous income sources were site-specific and depend on providing services for, or selling goods to, somewhat richer working families and middle income groups. These resettlers will need to discover new sites for trade and service provision since the relocation communities will have few middle income or richer families with whom they can trade or offer services.

⁴⁴⁰ See PAD, p. 32-33.

494. **In the MUTP, Bank Management assumed that jobs would not be a problem in Mumbai and thus did not anticipate major income losses. As a result, Management paid scant attention to income restoration.** The importance of assisting PAPs to keep their jobs or to find new ones was neglected. This finding is supported by the TISS Report which states, *“It was expected that being from very poor family backgrounds – such vulnerable groups would feel very secure after getting permanent residence ‘free of cost’. However, the harsh reality of survival for the poor in a competitive informal market like Mumbai is that the place of stay is only one factor positively affecting their life. Better job prospects need equal attention for them.”*⁴⁴¹

2. Income Loss Due to Reduced Earnings/Job Losses

495. The Requesters and other PAPs anticipate their disposable incomes will fall significantly because of reduced employment or unemployment, due to reduced access to centers of employment and reduction in the economic potential of their shops. Further, they expect income erosion because of additional family transport expenses and high maintenance costs in the new buildings.
496. Field research⁴⁴² indicates that many PAPs have experienced and will face significant financial hardship as a result of relocation.⁴⁴³ This is shared by the TISS Report which states that *“liabilities have increased consequent to resettlement and hence a majority of PAHs feel that they have suffered financially.”*⁴⁴⁴ It also reports that *“it emerged that the relocation of place of stay had adversely affected the occupation and income of many households.”*⁴⁴⁵ The main findings of the TISS Report on income erosion are stated in the box below.

⁴⁴¹ TISS, p.18.

⁴⁴² See the sources mentioned above.

⁴⁴³ The Panel’s expert conducted interviews in May 2005. Based on the expert’s data, obtained from interviews of a sample of retail enterprises ranging from 152 sq ft to 1100 sq. ft. of carpet area, an average monthly gross income to the businesses of Rs. 51,167 was calculated. According to the expert, the turnover is much higher. Their earnings averaged Rs. 183 per sq ft of carpet area, with a range of Rs. 552 for a specialist flower shop to Rs. 59 per sq ft for a grain store. In addition to owner’s business income, these sampled businesses were each generating, on average, 2.85 shift-work jobs and wages of Rs. 6,983 per month.

⁴⁴⁴ TISS, p. 16.

⁴⁴⁵ TISS, p. 19.

Box 5.2: Main Findings of the TISS Report on Income Erosion

Main Findings of the TISS Report on Income Erosion

The TISS report observes income erosion of rail PAPs due to the following factors:

- The loss of job by 28.7% of additional family members, mainly women domestic servants, as a consequence of increased distance;
- Disruption of women's earning such as small jobs like selling vegetables or fish, due to the absence of residential localities at the new sites;
- An increase in commuting charges, an average monthly increase of travel costs about Rs.158/- per affected household; and
- An increase in expenses due to maintenance and society charges.

Source: Tata Institute of Social Sciences, "An Impact Assessment of the Initial Phase of R&R Implementation for the MUTP," November 2003, p. 14-19.

497. During its field visits, the Panel noted especially marked impacts on the incomes of small-scale traders, women working from home or in domestic service, specialist shops, employment of male service and building craftsmen that depend on demand from middle-income homes and businesses, and on daily paid workshop and factory operatives. According to the draft Business Needs Study, 93 % of the PAPs surveyed who were unwilling to relocate elsewhere stated that they would not be able to operate successfully and make profit at the proposed resettlement sites.⁴⁴⁶ More specifically, the Panel noted the problems below with regard to distinct groups of commercial activities:
498. **Grocery-shop keepers:** A small number of grocery-shop keepers interviewed at the resettlement sites reported that, after six months, their businesses had stabilized at, or nearly at, previous levels. Passing-trade customers were fewer and customer incomes in the relocation communities were limited so trade had decreased. On the other hand, the shopkeepers had managed more or less to maintain their previous incomes by increasing the prices of key grocery items.
499. **More Specialist Shops:** Affected shopkeepers at the resettlement sites and at the old locations agreed there were very high levels of risk in all non-grocery trading because potential customers' incomes were low and the demand was volatile.⁴⁴⁷
500. **Home-Based Commercial Activity (Residential plus Commercial Enterprises).**⁴⁴⁸ PAPs that used to run their businesses from a corner of the home or on one-storey of a "one-plus-one" structure have difficulties carrying out commercial activities in the resettlement sites. While some informal sector trade is inherently mobile and needs only a small box, kiosk or hand cart which can be

⁴⁴⁶ Draft Interim Report for SCLR Business, Business Needs Study, September 2005, Appendix B, p xxv. (This information did not appear in the final, December 2005, Study.)

⁴⁴⁷ See also Chapter 4 on the shopkeepers.

⁴⁴⁸ See also discussion in Chapter 4 on shopkeepers.

- moved, for example, pan shops and tea stalls, there are a number of activities which do need storage space and a ground floor location. Because these PAPs only get either a residential structure or a commercial structure measuring 225 sq. ft., these PAPs face severe problems.
501. The issue of so called residential-cum-commercial structures has become a major grievance under the MUTP. According to the RAP, structures are entitled to either a residence of 225 sq. ft. or a shop space equivalent to this area.⁴⁴⁹ This means that PAPs can either receive a pure residential or a pure commercial structure, which makes it difficult for them to continue operating their businesses from home.
502. The Panel notes, that even this choice between a commercial or residential structure is limited. During its site visits, the Panel observed that most PAPs that used to have R+C (residential plus commercial) structures in their old locations are allotted only residential structures, because there are not enough commercial structures available.⁴⁵⁰ Several PAPs who were allotted a residential structure reported to the Panel that they had requested to receive a commercial unit, but could not receive their preference due to the shortage of space.⁴⁵¹
503. The Panel acknowledges that several PAPs that previously had R+C structures were allotted residential structures on the ground floor, so that they could more easily conduct their businesses from their homes. However, due to the limited number of ground-floor structures, many of the PAPs that need such a structure cannot be accommodated. Moreover, PAPs operating from the residential unit face space problems, because about 40 % of the space in the flats is taken up by the kitchen, bath and toilet, hence not much space is left for the operation of the business or living. The Panel also found several cases in which more than 10 persons had to share the flats. The problems that a PAP that used to operate from a residential-plus-commercial structure now faces at the resettlement site, are illustrated in the textbox below.

⁴⁴⁹ RAP, p. 7.

⁴⁵⁰ Interviews with PAPs and Requesters during May 2005 Mission. PIC staff in Ajgaonkar and Majas informed the Panel that the R+C issue would constitute a major grievance.

⁴⁵¹ Majas site visit in May 2005.

Box 5.3: Income Loss by Mankhurd Poultry Trader

Income Loss by Mankhurd Poultry Trader

During an interview with the Panel, Yousuf, a PAP in Mankhurd, reported the following: He was relocated to the building four years ago with his wife, daughter and son. He used to run a poultry shop at his residential-plus-commercial *jhappar-patti* (shantytown) home. His monthly income was regularly around Rs. 3000 and life was good with supportive friends and good neighbours. Now he has no commercial space for the business in his flat so he is “roaming-around” selling chicken in various places. He works harder and longer than before, and his current monthly income is rarely more than Rs.1200 and sometimes drops to Rs.1000. He is unable to pay the tenement taxes, maintenance charges or his electricity bill. He has stopped his children’s education because the school is far away and he cannot afford the travel costs. He is ashamed of his situation when dealing with other tenement residents. He misses his old neighbours and friends and is unhappy with his relocation in general.

Source: Panel interview during field visit, Mankhurd site in Mumbai, May 2005.

504. The Panel further notes that not only the shopkeepers that have been allotted residential structures report problems, but also the shopkeepers that have received commercial structures complained about their situation. The Panel observed that many of the commercial structures are not suitable for living, so shopkeepers have to rent an additional residential structure at their own expense.
505. **The Panel finds that the Project has failed to appropriately address the needs of PAPs with home-based commercial activities in R+C structures. The Panel is not aware that appropriate steps have been taken to find solutions for PAPs with home-based commercial activity.**
506. **Employees Displaced by Project Works:** Demolition of middle-sized to large shops, restaurants and workshops in the path of SCLR and JVLR widening, and the associated ROBs, will likely cause unemployment for a sizable workforce in the immediate future. There are a number of medium-sized establishments in the path of these two road schemes. In the extreme case of large restaurants, there are as many as 10 to 20 employees.⁴⁵²
507. **Reduced Employment or Trading Potential:** Many of the income losses arise through greater distance from centres of trade and employment (see box below).

⁴⁵² For a more detailed discussion see Chapter 4 on shopkeepers.

Box 5.4: Income Loss by Widow in Plastic Flower Business

Income Loss by Widow in Plastic Flower Business

Mumtaz told the Panel that she got married in a Mumbai *jhappar-patti* (shanty-town) 25 years ago. Her husband made and sold plastic flowers. Mumtaz was widowed 10 years ago and carried on the plastic flower making business herself, hiring labour and earning about Rs. 6000 per month. After relocating she was unable to continue the business. She no longer received orders, nor could she organize sales through the middleman because he was too far away. Following successive economic crises within her family, she went out to find some orders herself. Last month she earned Rs. 1500 this way. Her oldest son worked as a daily labourer before moving, but now he has jobs only irregularly. He and Mumtaz's younger son, who is still in school, both help to produce the plastic flowers. She does not know how long she will be able to keep going with her extra travel costs. Eight months ago, electricity and water were disconnected, because she had not been able to pay the maintenance charges. Finally, six months ago, she managed to pay off the money she owed owing six months ago. She has been unable to pay anything to the society in the last three months and so expects to be disconnected again. She nonetheless likes the flat.

Source: Panel interview, Mumbai, May 2005.

508. The losses experienced are not only with trading and small-scale manufacturing. Panel interviews during field visits show that levels of “regular employment” or “formal sector employment” are low for PAPs and that the great majority of PAPs depend on either daily wage labour or daily small-scale trading.
509. A significant impact on income is due to increased travel because PAPs are farther away from centres of employment and less able to take advantage of sudden work demands or over-time. PAPs reported to the Panel that many of the daily wage workers were working fewer days after relocation than they did before. In interviews with the Panel, daily paid manual labourers for example reported an average of 15 to 18 days employment compared to the 20 to 25 they had worked previously because they worked few days and hours due to the greater distances and increased travel time.
510. Interviews with PAPs at the resettlement sites, indicated that the proportion of PAPs in regular or service employment may vary from 2-3% (the Anik case) to a maximum of 10% (the Mankhurd C case).⁴⁵³ According to those interviewed, most other PAPs are engaged in daily paid employment or depend on their own earnings as traders. Their incomes are therefore especially at risk to any breakdown in their health as they must work a minimum of days if they are to survive; in the event of severe illness they will not be paid and this may move them from extreme vulnerability to destitution very quickly.

⁴⁵³ The Panel expert's preliminary assessment is based on interviews and rather small and purposive samples in Mankhurd C buildings (with PAPs resettled for more than 4 years) and Anik (with PAPs resettled for no more than 5-8 months, and in some cases within the last two months).

511. If these daily-wage working families escape the daily struggle for survival it will probably be because of their children who manage through educational qualifications to obtain 'service employment'. However, many PAPS have told the Panel that they can only cope with income erosion by taking their children from school because of the high transportation costs.
512. Another source of income for a minority of PAPS when in the shanty-town was rental income, typically from letting part of their larger structures. This has been largely lost on relocation.
513. **Women and Low-paid Daily Workers:** Maintaining standards of living is extremely hard for women and low-paid workers. The case of Asha and her husband (see box below) illustrates many of the problems that come from weak employment generation at the relocation sites, high travel costs to the inner city areas where employment is easier.

Box 5.5: Food Crisis for Maid & Ex-Rickshaw-Wallah

Food Crisis for Maid & Ex-Rickshaw-Wallah

Asha told the story of her family's relocation to Anik: She has three children and her husband is a rickshaw-peddler. In the *jhappar-patti* he used to earn Rs. 40 to Rs. 50 per day. No rickshaw owner in Anik will give him a vehicle to hire as he is unknown to them. Travel to the old place for a rickshaw would cost him Rs. 40 and much time away from earning fares. Thus, he would lose, not gain, income by working as a *rickshaw-wallah* again. He has been looking for a job in Anik but has not yet been successful; everyone else is looking for a job there too. Asha managed to get a job as a maid in Kurla but she is paid only Rs. 800 per month and she spends Rs. 150 of that on travel. They are desperate, have stopped the two daughter's education and can barely manage food twice a day. They are unable to pay any maintenance and electricity charges. They planned to sell the flat and shift to some remote *jhappar-patti* so they could survive economically. But they were told this is not possible before 10 years have passed, according to the rules. So now Asha and her family's major concern is food.

Source: Panel interview during site visit, Mumbai, February 2005.

514. Asha's story seems to be rather typical. The TISS study found that most casual workers and small time sellers find commuting expensive and time consuming.⁴⁵⁴ They are forced to continue with it, however, as they are unable to find adequate employment replacement at their present relocation site. TISS underlines how difficult the situation is for women.⁴⁵⁵ The TISS Report also mentions that women in the households who worked as hawkers or domestic servants had to give up their jobs, have not been able to retain their jobs because commuting expenses are

⁴⁵⁴ TISS, p. 20.

⁴⁵⁵ TISS, p. 19.

not worth it.⁴⁵⁶ In addition, the Ecosmart report concludes that a “majority of the households have reported they have lost supplementary income sources where women used to work from home during free time (e.g. maid servants, tailoring, informal shops etc).”⁴⁵⁷

B. Effects on Income of Costs and Expenses Associated with Resettlement

1. Erosion of Income from Higher Travel Expenses

515. **Higher Travel Costs:** As briefly mentioned above, the Requesters anticipate that an increase in travel expenses and a drop in earnings after relocation will have an adverse impact on their living standards. During Panel visits to the Project area, PAPs at the resettlement sites raised the issue of travelling distances. Distance to work has increased in almost all cases.⁴⁵⁸ They take more time to get to their jobs, are less able to take advantage of over-time opportunities, and they pay far more in travel costs than before. As mentioned above, PAPs reported to the Panel that many of the daily wage workers were working fewer days after relocation than they had when at their previous homes.
516. Along the JVLR, the resettlement sites are close by therefore increased distance seems to be less of a complaint of those resettled. Though there has been an increase in distance for some of the PAPs many of the PAPs at the Majas site, continued to work at their earlier place of employment.
517. Costs do not only increase for transportation to reach work places, but also for transportation to reach social services. PAPs told the Panel that they have to pay about Rs. 10 transportation costs per student per day. Additionally, they claim that they have to use the bus to attend certain medical facilities. They consider this a major burden compared to the locations they inhabited previously.
518. **Compensation for Increased Travel Distance:** Originally, the RAP provided for compensation for increased travel distance, as well as a loan fund for economic rehabilitation: “*If the relocation of workers/employees results in an increase in travel distance to reach the original place of work or new place of work,*” the RAP included provisions for a “*lump sump compensation not exceeding twelve quarterly season tickets for... excess distance by suburban railway.*”⁴⁵⁹

⁴⁵⁶ TISS, p. 19.

⁴⁵⁷ ECOSMART Report, Section 3.1.3.

⁴⁵⁸ About 98% of the PAPs interviewed reported increased travelling costs and times, with approximately one-third reporting an extra commuting time of over one hour. According to the TISS study, the average monthly increase in costs per household affected was Rs. 158 (TISS, p. 16, Table 3.3). This is about 5% of the monthly income of the modal income level of the rail-resettlers surveyed by the TISS report (see TISS, p. 15, noting that average monthly household income after resettlement was about Rs. 2,971).

⁴⁵⁹ RAP, p. 57. In contrast, the PAD states that “[b]ecause of difficulties experienced so far in administering the payment of cash allowances to compensate for increased travel distance to work places

519. Management explained to the Panel that *“because of difficulties in administering the cash allowance for increased travel, it was agreed that this would be replaced with community revolving funds (CRFs)”*.⁴⁶⁰ According to Management, it was agreed that each housing society has the choice between the cash supplement for travel of about Rs. 1000 per PAH⁴⁶¹ or the option of creating a Community Revolving Fund for economic rehabilitation.⁴⁶²
520. The Panel notes that the language of the RAP seems to indicate that PAPs are eligible for both the lump sum compensation for travel distance and the community operated fund. The RAP does not state that PAPs receive either the travel compensation or the community loan fund. Thus, it is not clear why PAPs now have to choose between these two modes of income restoration.⁴⁶³
521. According to interviews with PAPs that have been resettled 3-4 years ago to the Mankhurd C site, the cooperatives that have been registered have now received the Rs.1,000 per PAH as travel-allowance.⁴⁶⁴ However, the Panel observes that there has been a great delay in the reimbursement of the travel allowance at the old resettlement sites. Further, many PAPs seemed to be unaware of the purpose of the Rs.1,000 allowances – both what it was intended for and whether each PAH should spend it or the cooperative would.
522. **The Panel is concerned that PAPs will not be able to cope with the increased transportation costs. The Panel notes that increased travel will be necessary to reach not only work places but also social services. The Panel notes the efforts to assist PAPs with funds, but is concerned that they are falling short of what is needed to cover PAPs expenses.**

2. Costs of Shifting

523. OD 4.30 underlines the importance to assist displaced persons with the move to the resettlement site. The R&R policy also states that *“cost of shifting will be paid to the PAPs or free transport arrangements be made available to the PAPs for*

and loss of permanent source of livelihood, the client and NGO are proposing to convert these amounts (@ Rs. 1000 per household) into revolving community fund[s] which will be used for offering credits to the needy PAPs,” increasing sources of income (PAD, p. 98-99).

⁴⁶⁰ E-mail from Management to the Panel, dated September 22, 2005.

⁴⁶¹ Second Management Response, p. 11, ¶ 27.

⁴⁶² Second Management Response, p. 11, ¶ 27.

⁴⁶³ RAP, p. 26-27, which lists the following compensations: (1) Lump sum compensation equivalent to one year's income to workers/employees/ entrepreneurs who permanently lose their source of livelihood because of displacement, (2) a lump sum compensation where the relocation of workers/employees results in an increase in travel distance in excess of 1 km, (3) a community-operated fund linked with community saving program will be created to provide seed capital and other loans.

⁴⁶⁴ Panel interviews with PAPs show that in Anik Rockline, buildings had not received the Rs. 1,000 travel allowance as of May 2005.

- moving to the resettlement site.*⁴⁶⁵ More specifically, the PAHs are to receive Rs. 300 as a shifting allowance (also called “transport allowance”).
524. PAPs at some of the old resettlement sites informed the Panel that they had recently received the Rs. 300 per PAH three years after they have been resettled but that they had not received any interest on the late payment.⁴⁶⁶ PAPs interviewed by the Panel seemed to be aware of the purpose of the shifting allowance. With regard to PAPs that have been shifted more recently, the Panel was informed that while in some areas, payments were made prior to shifting, other PAPs had not received the payments even 6 six month after relocation.⁴⁶⁷
525. Furthermore, some housing committee members at Mankhurd C informed the Panel that, though their buildings had exactly the same number of PAHs, they had received different total sums for the shifting allowance.⁴⁶⁸ The PAPs that had received the payment raised the concern that shifting from their old places to the new sites has caused problems. They claimed that the allowance covered no more than half their actual relocation costs. PAPs reported that their actual costs ranged from Rs. 600 to Rs.1,100. **Panel notes importance to adequately assist PAPs with the costs of shifting to the resettlement sites.**

3. Maintenance Costs at the Resettlement Sites

526. PAPs worry that on the one hand they will lose big parts of their incomes, while on the other hand they are going to be charged with high maintenance costs.⁴⁶⁹ While in the shantytowns cost of living was very low, life at the resettlement site has become very expensive.⁴⁷⁰ PAPs are concerned that no one will support them as they deal with these dual pressures on their incomes.
527. **Affordability of Maintenance Charges:** A major concern of the Requesters is that they expect to be charged with higher maintenance fees relative to their previous residences.⁴⁷¹ They complain about insufficient information about the maintenance charges and fear that they will not be able to cope with these costs. During Panel visits, the Requesters stressed that, at present, they live in an area with low maintenance costs.

⁴⁶⁵ R&R Policy, p. 8.

⁴⁶⁶ In Majas site during interviews in May 2005 for the ongoing relocation on JVLR, people said that they had not received the Rs. 300. Furthermore they stated that the payment of shifting allowances had not been completed because MMRDA still had to clear the pending payments. PAPs in the resettlement sites of Kokri Agar, Antop Hill and Mankhurd C, who were resettled from the railway in 2001, state that they have received this payment.

⁴⁶⁷ See, for example, the resettlement site of Majas.

⁴⁶⁸ Information received by the Panel in October 2005 regarding Mankhurd C.

⁴⁶⁹ For more details, see also Chapter 6 of this Report.

⁴⁷⁰ The TISS report noted an increase in expenses due to maintenance and society charges (TISS, p. 15-16).

⁴⁷¹ Second Request, Jai Hamunan Rahiwasi Suwa Singh, letter dated May 3 2004; Gazi Nagar Sudhan Samiti Letter dated May 3, 2004; Hanuman Welfare Society letter, dated May 3, 2004, Fourth Request, item 6.

528. To achieve the objective that is laid down in paragraph 3 of OD 4.30 to improve or at least restore PAPs former living standards, it is important to ensure that the Requesters will not be burdened by maintenance costs that they cannot afford.
529. The affordability of the flats was a key topic of discussion with PAPs in Mankhurd. PAPs argued that the flats' essential common monthly charges were about Rs. 410 for water, cleaning, shared lighting, and basic building maintenance⁴⁷² whereas they paid about Rs. 50 to Rs. 100 in their old homes.
530. Maintenance costs may vary at each site. PAPs interviewed at the resettlement sites in Mankhurd C and Anik stated that they are paying formally billed charges as follows:⁴⁷³ building maintenance charge about Rs. 300; BMC tax about 119 Rs.; and electricity charges between Rs. 150 to even up to Rs. 500.
531. PAP's estimations about the number of PAPs that can afford to pay these costs differ. With regard to Mankhurd C, Panel interviews with PAPs indicate that half of the households are unable to pay these charges and dues with any ease. Ten percent are completely unable to pay and the rest pay some dues irregularly and with difficulty. In Anik, PAPs estimated that only 25% of flat owners are able to pay for these costs. About fifty percent paid periodically and took in paying guests or actually rented out the flat to try to cope.
532. Moreover, the Panel notes that many PAPs have to deal with additional charges. For example, because of the lack of drinking water, some PAPs reported that they are purchasing drinking water for their daily consumption, which they state costs at least Rs. 200 to Rs. 400 per month per PAH. PAPs further reported about problems with high electricity costs.⁴⁷⁴ Additionally, PAPs state that they are spending more money on children's education for admission fees and transport.
533. **The Maintenance Fund:** Management claims that PAHs *"losing their residences will be given Rs. 20,000 (USD 450) as lump sum grant to be deposited in a fixed account, the interest earned out of this grant will subsidize their maintenance charges and taxes."*⁴⁷⁵ According to Management, the maintenance fund is to be paid to the housing cooperative societies after their registration and opening of separate bank accounts. Management explains that *"[t]he accounts will be in the joint name of the housing society and Slum Rehabilitation Authority. The amounts will be deposited in a Co-operative Bank"*.⁴⁷⁶

⁴⁷² PAPs interviewed explained that they must pay building maintenance fees to the building cooperative society for water, watchman, sweeper, Balwadi, etc.

⁴⁷³ See also Table B.4 in Annex B, which shows the magnitude of individual utility costs and taxes charged to individual flats in Mankhurd C site and the attitudes associated with their payment. The table also presents parallel information on collective housing society liabilities for shared electricity and taxes.

⁴⁷⁴ See discussion in Chapter 6 below.

⁴⁷⁵ Second Management Response, p. 11, ¶ 27.

⁴⁷⁶ E-mail from Management to the Panel, dated September 22, 2005.

534. While Management initially assumed that the interest would subsidize both maintenance charges and taxes,⁴⁷⁷ Management now states that the interest earned on this deposit would only be used for payments of municipal taxes. In an e-mail to the Panel in September 2005, Management estimated that the current interest rates are around 6 % and explains that the interest will be “*more or less sufficient to pay annual property tax.*”⁴⁷⁸ With regard to the maintenance costs related to buildings, management states that they have to be met “*from regular monthly subscription to the societies from the members.*” Thus, the Panel notes that despite initial statements, earnings from the interest rate will only cover tax costs but not the more substantial and problematic high maintenance costs. Thus, PAPs will have severe difficulties in paying the high maintenance charges.
535. For example, the Panel’s expert estimated on the basis of PAP interviews that, at Mankhurd C, of the few housing cooperatives in place, each cooperative has a remaining average liability of more than Rs. 6,000 on behalf of individual households after the interest income from the Rs. 20,000 lump sum has been disbursed to meet the charges.⁴⁷⁹ The remaining average individual debt thus equals two to three months of gross income for the average resettled household and is not a liability that households can plausibly discharge. During the Panel’s site visits, several PAPs told the Panel that due to their severe economic situation and because they would no longer be able to fund their children’s education, they seriously considered moving out of the new flat. In discussion with the Panel, PAPs in a building in Anik-Rockline estimated that about forty to fifty residents of the building (nearly a third to half) have sold their ornaments and even their marriage necklaces (*mangal sutra*) to pay the charges they are facing.⁴⁸⁰
536. The Panel further notes that the process of paying the lump sum, and its purpose, seems to be unclear to many PAPs. PAPs expect that the interest of the deposited amount will be paid to the cooperative society to cover the maintenance charges, but expressed that they are unsure where this money is and what it means for them. In interviews with the Panel, they claim, that the amount Rs. 20,000 has not been deposited.
537. The Panel is concerned about delays in transferring the funds and notes that though PAPs have been moved to the resettlement sites and are already facing maintenance costs, the fund has not been transferred at any of the resettlement sites as of November 2005. Hence, the maintenance fund has not even been paid at the resettlement sites at which PAPs have already been living for 4 years.

⁴⁷⁷ Second Management Response, p. 11, ¶ 27.

⁴⁷⁸ E-mail from Management to the Panel, dated September 22, 2005.

⁴⁷⁹ See Table B.4 in Annex B, which shows the magnitude of individual utility costs and taxes charged to individual flats in the Mankhurd C site and the attitudes associated with their payment. The table also presents parallel information on collective housing society liabilities for shared electricity and taxes.

⁴⁸⁰ Based on Panel interview at Anik Rockline, May 2005.

538. In May 2005, the Bank supervision mission noted that the transfer of maintenance funds is still “*progressing very slowly*.”⁴⁸¹ According to the Bank, MMRDA assured the mission that all outstanding post-resettlement activities related to co-operatives will be completed before the next supervision meeting. However, though Management informed the Panel in September 2005 that the interest on the deposit had been paid to twenty-five societies,⁴⁸² it acknowledged that the maintenance funds still have not been transferred to the individual housing societies, because “*certain formalities*” have to be completed. Housing committee members told the Panel that buildings with exactly the same number of PAHs have received different sums, though the interest rate should be the same for each PAH.⁴⁸³
539. The Panel notes that the housing cooperatives must be legally approved and registered before they are eligible to receive the funds or even the interest on it. **The Panel notes that as of the date of this Report the Bank has not demonstrated that the maintenance funds have been transferred or that the transfer of funds has been accelerated. Further, the Panel notes that the earned interest of the maintenance fund only covers certain taxes that PAPs have to pay, but does not help them to deal with the high maintenance costs that PAPs have to pay in the new buildings.** The Panel is concerned that the utility and maintenance charges begin as soon as the units are completed, which may be prior to resettlement for the PAHs and significantly before any moneys are available from a the Fund to cover the costs.
540. **The Panel finds that OD 4.30’s most basic requirement that PAPs must be assisted in their efforts to improve their living standards or at least to restore them has not been achieved with regard to the affordability of housing maintenance.** Housing standards may be better at the resettlement sites but basic living and maintenance costs are not affordable for many of the PAPs.

C. Impact of Income Erosion and Loss on the Most Vulnerable

541. OD 4.30 specifies that particular attention should be paid to the poorest among the PAPs.⁴⁸⁴ The RAP acknowledges the need expressed in OD 4.30 and draws attention to “*the vulnerable*.”⁴⁸⁵ In the case of MUTP there seems to have been some difficulty in deciding which PAPs are considered “*vulnerable*.”⁴⁸⁶ In this

⁴⁸¹ Aide Memoire, Mission on April 27 – May 6, 2005, dated May 18, 2005, p. 3.

⁴⁸² E-mail from Management to the Panel, dated September 22, 2005. Management further stated that the process is on for another 20 societies.

⁴⁸³ Information received by the Panel in October 2005 regarding buildings in Mankhurd C.

⁴⁸⁴ OD 4.30, ¶ 3(b)(iii).

⁴⁸⁵ RAP, p. 48.

⁴⁸⁶ The TISS report noted that 48% of the PAPs surveyed had incomes below the poverty-line and 11.4% needed special help because they were handicapped in various ways such as handicap or old age. (TISS, p. 17, Table 3.5). These groups and women-headed households were labelled “vulnerable” (Ibid.). This would put the total number of “vulnerable” groups among the PAPs around 75% of the total surveyed (Ibid.).

regard, the RIP for the SCLR lists four categories of vulnerable households: (1) below poverty line (BPL) households; (2) women-headed households without a male over 21 years of age; (3) woman-headed households with an income up to Rs. 5,000; and (4) physically handicapped.⁴⁸⁷

542. It does not seem to be entirely clear from the BSES, however, which households or persons are thought to merit classification as “economically vulnerable.” In India to speak of vulnerable households could indicate that they are below the state’s poverty line and thus entitled to buy basic commodities in public distribution shops and at special prices.⁴⁸⁸ These households are usually thought of as BPL card holders. It is unclear to the Panel whether the BPL status in fact may be the main measure of vulnerability in MUTP operations.
543. According to the TISS report 25% of the “vulnerable” PAPs perceived that their general social status had declined because of their resettlement.⁴⁸⁹ The Panel tends to confirm this assessment, although the Panel results do show a very high percentage of families, even those in some economic distress, as approving the flats as accommodation.

D. Addressing Effects on Incomes and Living Standards

1. Compensation for Lost Employment and other Economic Losses

544. Originally, the RAP provided for the following compensation of economic losses:⁴⁹⁰
- Lump sum compensation equivalent to one year’s income to workers/employees/entrepreneurs who permanently lose their source of livelihood because of displacement
 - A lump sum compensation where the relocation of workers/employees results in an increase in travel distance in excess of 1 km.
 - A community-operated fund linked with community saving program will be created to provide seed capital and other loans.

While the lump sum compensation has been addressed above in this report, the following section will refer to the other two compensation modes.

This figure would be consistent with the outcomes of Panel interviews and research at Mankhurd and Anik and the reaction of the shopkeeper Requesters about the low status of the areas and lack of economic potential for them at these relocation sites.

⁴⁸⁷ MMRDA: RIP SCLR Final Report, Vol. 1, March 2003, p. 14. The RIP also estimates that there are 1162 PAHs at the SCLR which belong to vulnerable households, out of these about 1141 PAHs are believed below the poverty line (Ibid).

⁴⁸⁸ The RIP (SCLR) states that 48.86% of the households live below poverty line (Ibid., p. 12).

⁴⁸⁹ TISS, p. 18-19.

⁴⁹⁰ RAP, p. 26-27.

545. **Community Revolving Funds (CRF):**⁴⁹¹ Additionally, the RAP provided for “a community-operated fund linked with [a] community saving program to provide seed capital and other loans.”⁴⁹² The PAD refers to a “community development fund linked with community saving program[s] to access credits for starting . . . income generating opportunities.”⁴⁹³ The PAD also noted that “[b]ecause of difficulties experienced so far in administering the payment of cash allowances to compensate for increased travel distance to work places and loss of permanent source of livelihood, the client and NGO are proposing to convert these amounts (@ Rs. 1000 per household) into revolving community fund[s] which will be used for offering credits to the needy PAPs,” increasing sources of income.⁴⁹⁴
546. According to Management, it was agreed that each housing society has the choice between the cash supplement for travel or the option of creating a Community Revolving Fund for economic rehabilitation.⁴⁹⁵ Management explains that the objective of the CRFs is to provide seed money to the PAPs housing cooperatives to enable them to provide credits or loans to the PAPs.⁴⁹⁶
547. As mentioned above in the section on travel compensation, the Panel notes that according to the RAP, it can be interpreted that PAPs are eligible for both the lump sum compensation for travel distance and the community operated fund and does not state that PAPs get either the travel compensation or the CRF. Thus, these two compensations should not exclude each other.⁴⁹⁷
548. **The Panel notes that the formation of Community Revolving Funds for economic rehabilitation has been difficult and that the Funds are not distributed.** A major problem seems to be that the Funds are to be paid to the housing cooperatives but very few cooperatives have been established yet. The Panel further notes that even in the cases in which the CRF has been deposited, problems have been reported, PAPs often are not aware of the different modes of financial assistance they are to receive. Moreover, PAPs find the interest charges to be too high. For those who are using the fund as loanable funds, the interest may be as high as two percent.⁴⁹⁸

⁴⁹¹ The Panel encountered some difficulties in getting clear classifications of the different allowances and the Community Revolving Fund provided under the MUTP. With regard to the Community Revolving Funds the Panel notes that this term is used in different contexts and that there seems to be some confusion among the PAPs.

⁴⁹² RAP, p. 27.

⁴⁹³ PAD, p. 101.

⁴⁹⁴ PAD, p. 98-99.

⁴⁹⁵ Second Management Response, p. 11, ¶ 27.

⁴⁹⁶ Mid Term Review, October 2005, p. 75.

⁴⁹⁷ The RAP (p. 26-27) lists the following compensations: (1) Lump sum compensation equivalent to one year’s income to workers/employees/ entrepreneurs who permanently lose their source of livelihood because of displacement, (2) a lump sum compensation where the relocation of workers/employees results in an increase in travel distance in excess of 1 km, (3) a community-operated fund linked with community saving program will be created to provide seed capital and other loans.

⁴⁹⁸ Mid Term Review, October 2005, p. 76.

549. **Lump Sum Equivalent to One Year's Income:** According to the RAP, a lump sum compensation equivalent to one year's income is to be paid to PAPs who permanently lose their source of livelihood because of displacement.⁴⁹⁹ Management confirms this by stating that for PAPs who *'lose their livelihoods permanently, the Project will offer a one-time cash supplement equivalent to one year's income during the transition period to allow those affected to search for alternative livelihood opportunities.'*⁵⁰⁰
550. Though the provision of this compensation was included in the RAP and referred to by Management,⁵⁰¹ the Panel can find little mention in subsequent documents of this provision actually being implemented. The draft implementation manual lists all economic rehabilitation measures and income restoration strategies, but it does not refer to this lump sum compensation.⁵⁰² **As of the date of this report, the Panel does not have evidence that a year's wages for permanently lost jobs has been paid to the PAPs. Furthermore, because of the difficulty of finding jobs at or near the resettlement sites, the Panel is concerned that the payment of a cash supplement equivalent to one year of income will not sufficiently address PAPs' lack of income at the resettlement sites.**

2. Training of PAPs and Employment Opportunities of PAPs in the Project

551. The RAP provides that "[t]here are a number of training programs offered by government for skill upgrading for promoting self-employment. Similarly there are government programs of extending financial assistance to the poor for self-employment."⁵⁰³ The Panel has not been able to find evidence that PAPs have been offered training programs as stated in the RAP.
552. The Panel is concerned that the Project failed to include requirements that contractors employ and train large numbers of PAPs. If they had done so, the rehoused PAPs would have acquired new skills and sources of earnings that would have helped them to adjust in the difficult situation after relocation.

3. Ration Cards

553. The RAP underlines the *"critical importance of reestablishing the access to public services such as ration shops that supply food under the Public Distribution System..."*⁵⁰⁴ In October 2005, the Requesters informed the Panel that ration cards have not been transferred from the old to the new sites.⁵⁰⁵ During

⁴⁹⁹ RAP, p. 26.

⁵⁰⁰ Second Management Response, Annex 1, p. 27, item 7. See also e-mail from Management to the Panel, dated October 13, 2005.

⁵⁰¹ RAP, p. 26; Ibid.

⁵⁰² IM Draft submitted by Management to the Panel on December 13, 2005, p. 18.

⁵⁰³ RAP, p. 7.

⁵⁰⁴ RAP, p. 35.

⁵⁰⁵ E-mail from Second Requesters to Management, dated October 1, 2005.

the Panel's site visits, many PAPs expressed their concerns with regard to food shortages. They claimed that their ration cards had not been transferred yet and that they would have to drive back to their old areas to buy at their old ration shops, which would be time consuming and lead to additional transportation costs. The Panel observes that it is important to ensure PAPs access to ration shops at the new sites to ensure food supply.

4. The Capacity to Rehabilitate and Improve PAPs' Standard of Living

554. The Panel notes that under the MUTP, little effort has been spent on economic rehabilitation, because so much time was needed to plan and implement relocation enumeration, demolition and PAP movement. This finding is also supported by the TISS report which states "...no systematic rehabilitation work has been initiated by the SPARC. Our impression is that the SPARC (and its allies) are so burdened with the 'entitlement' and 'resettlement' process that they could not pay much attention to the 'rehabilitation' component..."⁵⁰⁶ The report continues by stating "[o]ur contention in this regard was that, since the process of deciding entitlement and resettlement is a complex and challenging task, the same NGO may not do justice to simultaneously taking up the necessary rehabilitation work. In fact, we consider it relevant to assign the latter task (in future resettlements) to a different NGO with wide experience in the area."⁵⁰⁷
555. Bank supervision has tended to follow the emphasis on the "re-housing" concept of the R&R component design. Thus little concrete steps have been taken to spot the decline of income or to remedy it.
556. The Panel notes that there might be a need for more research on how to help the Project use lines of credit and levered funds from GoI and GoM, as per the Project design. The Panel is also not aware of any independent and active monitoring unit that adequately monitors the welfare of the most vulnerable in the resettlement areas and intervenes in cases of impending destitution.

E. Conclusion

557. The RAP was conceived very narrowly, as if mostly for a re-housing component, and not as one where the fundamental policy objective is an improvement in standards of living that will necessarily include the need for income restoration. Housing is integral to livelihood and to standards of living, but without an income with which to buy food, basic expenses, health and education, and to pay the costs of modern housing, the flat cannot be afforded and PAPs are likely to be worse off than before. The Panel observes that the PAPs' standards of living are falling, even though the flats and their sanitation provisions are much improved and much appreciated.

⁵⁰⁶ TISS, p. 22.

⁵⁰⁷ TISS, p. 23.

558. **Regarding the MUTP, the overriding assumption of Bank Management was that jobs would not be a problem in Mumbai and thus it did not anticipate major income losses. As a result, Management paid scant attention to income restoration. The evidence demonstrates, however, that income loss and impoverishment risks are major problems in this resettlement action. This particularly applies to shopkeepers, as described above. It also is expected to be the case for other PAPs from the road component as they are relocated, unless significant changes are made.**
559. In this regard, the Panel found that many PAPs already relocated from the rail component are experiencing major job losses and earnings disruptions, especially women, small-scale traders and low-paid daily workers. The distance of the new sites cuts off many from their previous work; transport often is not feasible. Management assumptions that work would be plentiful have not been borne out. These problems apply especially to the most vulnerable.
560. Many PAPs also face higher costs at the new sites, including for maintenance and utilities. The combination of lesser incomes and higher costs is having major effects on living standards. Some families, for example, are pulling children out of school; others are losing water and electricity connections due to inability to make payments. PAPs with home-based commercial activities must choose between either a residential or a commercial unit at the new sites, which constrains their ability to maintain or improve their living standards.
561. The Project has taken some steps to remedy to these problems, including the provision of, *inter alia*, Community Revolving Funds. The Panel notes these efforts, but its investigation indicates that they are falling far short of what is needed to meet the provisions of OD 4.30, and that there are significant problems and delays in implementation. The RAP, approved by the Bank, also promised to provide the equivalent of one year's income during the transition period to PAPs who lose their livelihoods permanently. The Panel found little mention of this in subsequent documents, however, and is not aware that any such payment has been made.
562. If income and living standard restoration had been adequately considered, the design of the PAD and RAP could have included requirements that contractors should employ and train large numbers of the affected people, which would have helped them to acquire new skills and sources of earnings. This would have been in line with the provisions of OD 4.30 noted above, and could have built on Bank experience in resettlement and good practice. In addition, the absence of or inadequacy of the BSES make it difficult to monitor incomes during implementation, and even more difficult to assess at the end whether the objective of income and living standard restoration has been achieved.

563. **The Panel finds that the failure to address income and living standard restoration for the PAPs in the road component does not comply with OD 4.30. The Panel finds that this problem, particularly for the shopkeepers and their employees and for vulnerable individuals whose livelihoods are now at risk due to the relocation, needs urgent attention by the Bank.** The Panel notes that the recently commissioned Business Needs Study is intended to cover some of these issues.

Chapter 6 Concerns Related to the Resettlement Sites and Living Conditions

564. The Requesters express their concerns regarding the resettlement sites to which they are to be shifted. During the Panel's visit to the resettlement sites, many of the PAPs that have already been moved, approached the Panel and articulated their disquiet with their new living conditions. They raised a variety of concerns ranging from, *inter alia*, inadequate water supply, lack of social services, insufficient equipment of the sites, high maintenance costs and legal insecurities relating to their new flats. These topics will be discussed in more detail below.
565. To ensure economic and social viability of the relocated communities, paragraph 19 of OD 4.30 requires that water and social services, such as schools, health care centres should be provided and paragraph 13 of OD 4.30 adds “[f]or urban resettlers, the new site should ensure comparable access to employment, infrastructure, services, and production opportunities.” Para. 3(e) of OD 4.30 states that “[l]and, housing, infrastructure, and other compensation should be provided to the adversely affected population... who may have usufruct or customary rights to the land or other resources taken for the project...”
566. In its response, Management claims that the new buildings at the resettlement site will be built in accordance with the regulations and represent a major upgrade compared to the Requesters' current temporary structures.⁵⁰⁸ Management further states that consultants contracted by MMRDA were to prepare and distribute an Implementation Manual (IM) that would describe the process of implementation and monitoring and list so called “green light” conditions that have to be fulfilled before PAPs can be relocated to the resettlement sites.⁵⁰⁹ According to Management, the “green light conditions” relate to, *inter alia*, the provision of basic services such as water, electricity, health and education.⁵¹⁰
567. **The Resettlement Sites Visited:** For a better understanding of the prevailing resettlement conditions, the Panel interviewed PAPs and society/management committee members at several sites during its field visits. The Panel conducted a survey of the current conditions at the Mankhurd site (Mankhurd B) where PAPs from the first three Requests are planned to be shifted. Mankhurd B is already populated with rail PAPs that have started to move into the buildings in spring 2005. Thus the Panel was able to examine living conditions at this site. As to the Fourth Requesters, who are scheduled to be moved to the Ajoankar resettlement

⁵⁰⁸ Second Management Response, p. 12, ¶ 30.

⁵⁰⁹ Management states that the IM will be distributed by MMRDA and SPARC by September 30, 2004 (Second Management Response, p. 17-18, ¶ 38).

⁵¹⁰ Second Management Response, p. 17.

- site, the Panel noted during its field visit in May 2005 that the new buildings were still under construction. The Panel decided to also survey the resettlement sites in Mankhurd C, Anik Rockline and Majas where other PAPs, particularly those from the rail component, have been resettled to get an indication for the status of resettlement sites under MUTP.
568. Through these visits, the Panel was able to ascertain how housing conditions vary across the Project.⁵¹¹ The state of services and the stability of expectations and shared perceptions were different between and within the sites.⁵¹² Each of the resettlement sites represented a different temporal stage in resettlement. PAPs in Mankhurd C have been resettled for about four years. Building services and housing management systems have had a chance to be established there. They have learned how SPARC organizes implementation support activities and what tasks cooperatives and management committees face.
569. In Mankhurd B on the other hand, families had just moved in at the time of the Panel visit in May 2005 and were within the first weeks of experiencing the stress of relocation. Many building services were not yet organized. The Anik Rockline complex represents a mixture of the two Mankhurd sites. At the time of the Panel visit, resettlers had been moving in over the previous 8 months. Most buildings were fully settled but without consistently working services.
570. The Panel noted that in Mankhurd B, the site where the Requesters are planned to move to, MMRDA made little attempt to assist or help people adjust to the site.⁵¹³ The SPARC office was open and people could take their complaints and questions there. However, since the staff members were mostly occupied with problems related to housing allocations, they could not address problems related to general site conditions and services that were needed. Moreover, the more senior SPARC staff was fully occupied with SCLR visits for the demolition programme. Thus, PAPs complained about the lack of attention paid to their problems, especially the lack of care regarding access to drinking water. The Box below sets out the grievances that PAPs in Mankhurd B reported to the Panel in May 2005.

⁵¹¹ Focus group discussions and individual PAP interviews were held in the sites over several days.

⁵¹² Assessments of potential housing benefits need to be disaggregated by building complex and length of settlement.

⁵¹³ Panel site visit in May 2005.

Box 6.1: Grievances in First Weeks of Relocation - Mankhurd B (May 2005)

Grievances in First Weeks of Relocation – Mankhurd B (May 2005)

In May 2005, waves of PAPs were arriving in Mankhurd B from their demolished or soon-to-be-demolished hutments on the SCLR.⁵¹⁴ PAPs expressed the following grievances to the Panel:⁵¹⁵

- The lack of water
- The absence of employment
- The high transport costs
- The distance of burial grounds
- The problems of adequate education for children, since the school donations are high and there are not enough schools nearby; there is no Hindi medium school
- The unsafe flats because of poor window slide locks.
- SPARC's threatening attitude
- Being forced to relocate behind a stick (*danda*)
- Enormous electricity bills from reliance "*even though we have just arrived*"
- Their children's danger when crossing the railway track
- The absence of instructions on what to do with waste.

Source: Panel site visit, Mankhurd B site in Mumbai, May 2005.

A. Building Services, Quality and Functioning

1. Design and Construction Quality of Buildings

571. The Panel received several complaints from Requesters and other PAPs regarding the construction of the buildings. The Requesters complain that the foundation and construction of the buildings into which they are to be settled are of poor quality. They doubt that the structures will withstand the salty breeze and climate of the locality.⁵¹⁶ Furthermore, they state that there is not sufficient space between the buildings, resulting in a lack of proper ventilation and natural light, as well as potential fire hazards and other social problems.⁵¹⁷ They assert that they are not fit to live and do business in, and also are not in accordance with international norms and standards.⁵¹⁸ According to them, the new flats are too small and look like "*pigeonholes*."⁵¹⁹ In general, however, the Panel did not note major objections to

⁵¹⁴ At the time of the site visits, PAPs explained that there were groups from the Kurla station locality who arrived two weeks before, people who arrived the day before from Rahul Nagar, and Buddha Colony *dalits* returning to Mankhurd in the previous week. The latter returned to SCLR because of lack of water in the resettlement area.

⁵¹⁵ Note that some of these observations pertain to issues other than housing.

⁵¹⁶ Second Request. Letters from Jai Hanuman Rahiwasi Sewa Sangh; Gazi Nagar Sughar Samiti; Hanuman Welfare Society dated May 3, 2004.

⁵¹⁷ Second Request; Third Request, p. 6; Fourth Request, item 8.

⁵¹⁸ Fourth Request, item 8.

⁵¹⁹ Third Request, p. 5; Fourth Request, item 8.

the flats themselves. Female PAPs especially appreciated the bathroom and kitchen facilities.

572. In its response, Management claims that in contrast to the conditions that prevail in the Requesters' current location, the new buildings at Mankhurd will be built in accordance with the Development Control Regulations of Greater Mumbai applicable to building design, construction, and related infrastructure and services.⁵²⁰ Management explains that the buildings at Mankhurd are being constructed with concrete and cement and will contain toilet facilities, representing a major upgrade compared to the PAPs' current temporary structures with common taps and toilets.⁵²¹ According to Management, physical environmental conditions will also substantially improve, because the resettlement housing has more light and ventilation, lower noise levels, reliable solid waste removal and sanitation, and surrounding open and recreational spaces.
573. According to MMRDA, the units provided must be in accordance with provisions of the Maharashtra Slum Rehabilitation Act of 1995 and must be approved by the SRA.⁵²² The Mumbai Municipal Corporation, which ensures that they meet development control requirements, must also approve all the MUTP resettlement schemes. MMRDA claims that it has the responsibility of ensuring that tenements are constructed according to approved plans.⁵²³ According to MMRDA these controls apply to the size and layout of individual tenements, spacing of tenement blocks, and proportion of open space that must be provided for recreation on each site. **The Panel finds that the Bank has complied with OD 4.30 with regard to the quality of the housing. The buildings are not of substandard quality, and the measured space between buildings did not depart from requirements.**

2. Water, Sewerage Systems and Waste Disposal

574. In its response Management states that the new buildings at Mankhurd will be built in accordance with the applicable rules related to infrastructure and services, such as water supply.⁵²⁴ However, site visits and conversations with PAPs show that water supply is a major problem at the resettlement sites and a source of great dissatisfaction at resettlement sites visited by the Panel (e.g. Anik Rockline and Mankhurd B). In Mankhurd B, PAPs complained that water availability was either limited or entirely lacking. They stated that even when water was available, it was undrinkable because it was too filthy.

⁵²⁰ Second Management Response, p. 12, ¶ 30.

⁵²¹ Second Management Response, p. 12, ¶ 30.

⁵²² Interviews with MMRDA, February 2005.

⁵²³ Interviews with MMRDA, February 2005.

⁵²⁴ Second Management Response, p. 12, ¶ 30. Also the RAP envisages water supply at 90 liters per capita per day (lpcd) for township sites and service options and 135 lpcd for tenements (RAP, ¶ 41).

575. Table 5 below gives the Panel's findings of the current status of water supply in three sampled housing complexes in Mankhurd B and C and Anik Rockline.

Table 6.1: MUTP Resettlement Sites - the Status of the Water Supply (May 2005)

Building Complex	Planned Water Supply & Costs; Service Status	Contingency Water Supplies and Costs	PAPs' Grievances About Water
Mankhurd C	<ul style="list-style-type: none"> - Rs. 110: standard charge for piped water to each flat; - the supply is predictable but restricted in the time it is available. 	None normally needed. PAPs store water in large containers in each kitchen area for daily needs and replenish these when the water flows through the pipes.	No grievances reported. PAPs are relatively content, saying that " <i>we have water for about two hours each day.</i> " PAPs use many storage vessels inside their flats to ensure daily availability, even if piped supply ceases for some hours.
Anik Rockline	<ul style="list-style-type: none"> - Rs. 110: standard charge for piped water to each flat; - supply is highly unreliable. 	Building supply is grossly insufficient. Water in 20 liter plastic cans must be purchased from water-traders. The cost varies by floor: 8 th = Rs. 8 7 th = Rs. 7 6 th - 5 th = Rs. 5 Grd - 4 th = Rs. 4	PAPs are very concerned. Situation is demonstrated by number of water peddlers on bicycle transporting many 20 liter cans. PAPs feel that their grievances are ignored.
Mankhurd B – S V Patel Complex	<ul style="list-style-type: none"> - Rs110: standard charge for piped water to each flat; - supply is highly variable by building, unpredictable in time, unfit for drinking, and typically may come for 15 minutes a day. 	Tanker water is supplied free of charge by MMRDA but this is not for drinking or cooking. Drinking water is being purchased by the container (about 10 liters) from a pipe and tap at the edge of the complex at Rs2 per container. Control of the water supply is by a slum dweller.	<i>Recent Newcomers:</i> they experience great difficulty in buying and carrying water. " <i>We are spending Rs. 4 to Rs. 5 each day for drinking water and carrying the water up the many levels. Why did they force us here?</i> " they ask. PAPs are shocked that their grievances over an essential need such as water are ignored. <i>Two weeks after relocation:</i> the costs of buying drinking water have fallen, but it is still an additional heavy financial burden and heavy work for women, especially those carrying water up many stories. Unaddressed grievances about water are now ubiquitous and show desperation. For example, PAPs allege that an 11 year boy died recently from water borne disease as a result of the MUTP's lack of care for the families.

Source: Extensive interviews by Panel expert, Mumbai, May 2005.

576. In Mankhurd B several PAPs complained to the Panel that they have not had water for more than two days.⁵²⁵ The Panel observed that even flats on the ground-floor are affected by the water shortage.⁵²⁶ The water situation differed from building to building: most buildings had inconsistent water supply, limiting supply to a total of about 10-15 minutes per day.⁵²⁷ The Panel observed that while some flats in a building had at least some water, other flats on the same ground floor had no water at all. PAPs not only lack drinking water but are also unable to take care of building cleaning and cannot wash themselves.⁵²⁸ PAPs report that they have to get drinking water from outside the resettlement site, where they queue up from 6 am. They state that they are buying water in the nearby slum. People on the higher floors have to carry pots and cans of water to their homes. Some PAPs informed the Panel that they are spending between Rs. 200 to 400 per month per PAH on drinking water because the supply is so poor. PAPs explained that the additional costs of drinking water pose a heavy financial burden at a time when cash is scarce.
577. As to the quality of the water, the Panel noted during its visit to Mankhurd B that the tap water in the flats looked yellowish and filthy.⁵²⁹ PAPs also brought to the Panel's attention that the water in the tank was dirty.
578. Despite the fact that access to individual water and toilet facilities have been determined as one of two key resettlement performance indicators,⁵³⁰ adequate water supply has not been established. The inadequate supply of water was also raised as a concern during the May 2005 Bank supervision mission where the Bank acknowledged the water problem and expressed its concern over the inadequate supply.⁵³¹ MMRDA informed the Panel that the Bombay Municipal Corporation (BMC) is responsible for supplying water and expects to have water supply fully set up in Mankhurd by 2007.⁵³² The Panel is concerned about the severe lack of water and concerned that PAPs have already been moved despite the problematic situation and despite the plans to set up adequate water supply only by 2007.
579. During Panel visits at Mankhurd B, many PAPs complained about the lack of containers for garbage and waste. The Panel did not see any such containers during its site visits, instead large parts of the site were covered with garbage and waste. PAPs further were concerned that they have not received adequate training about what to do with the garbage. Regarding the sewerage system, the Panel

⁵²⁵ Panel visit in May 2005.

⁵²⁶ Panel visit in May 2005.

⁵²⁷ Status as of May 2005.

⁵²⁸ Field visit to Mankhurd B in May 2005.

⁵²⁹ Panel visit in May 2005.

⁵³⁰ Aide Memoire, Mid Term Review Mission on October 17 -26, 2005, p. 11.

⁵³¹ Aide Memoire, dated May 18, 2005, p. 6.

⁵³² Interview with MMRDA in May 2005.

notes that occupation in Mankhurd was delayed because of a delay in connecting sewerage pipes, which might indicate poor Project planning. PAPs complained about overflowing and leaking pipes as well as poor maintenance.

580. **The Panel finds that sewerage and water connections are not working properly and there are no collections for garbage and waste. This does not comply with OD 4.30.**

3. Electricity, Elevators, Parking and Security

581. During the Panel's visits to Mankhurd B, PAPs expressed their dissatisfaction that their buildings have not been provided with elevators, which meant that they had to carry up water, food, etc. to their flats in the multi-story buildings. Female PAPs stated that the situation was aggravated by the fact that, due to the water shortage, they had to buy water and carry the heavy canisters up the stairs.
582. At the resettlement sites, in those buildings that have elevators, PAPs complained to the Panel that the elevators would not function properly. The Panel was informed during its visit in May 2005 to Mankhurd C that the elevators in the buildings were not working except for the elevator in the building that hosts the SPARC office.⁵³³ Because elevators could not be used, in some buildings the spaces in front of the elevator doors were used as a commercial space where goods were sold.
583. With regard to electricity, the Panel observes the general problem that households have not been provided with individual electricity meters, but instead the entire building has been given a single connection. As a result, PAPs have to pay a very high commercial tariff for electricity instead of getting subsidized rates for the poor. PAPs further reported that they have been asked to pay bills for the period before they have even moved to their new flats. Thus, PAPs ask that their bills (which keep escalating due to the interest that is added on due to non-payment) be cleared so that residents can start electricity payments with a clean bill.
584. Management already raised this issue in 2000,⁵³⁴ and also took note of the fact that PAPs were unable to pay the high rates, resulting in electricity being cut. As a consequence, the Bank requested GoM to take the necessary steps to provide individual meters or to make an exception so that PAPs can pay lower rates. In 2005, Management still noted that *'there are arrears in clearing the electricity and other municipal dues by the NGOs on behalf of the project affected*

⁵³³ The SPARC office is in building no. 98. The Aide Memoire from May 2005 notes that there has been notable progression of the completion of repair of lifts.

⁵³⁴ Aide Memoire, Mission on June 12- 19, 2000, p. 1. Management also noted that there were problems with the electricity connections in the transit accommodations, because they had not been given individual connections but instead all the households were on a single connection. It is also stated that this has resulted in the PAPs paying the highest tariff for electricity instead of getting access to the subsidized rate available to the poor.

- households living in permanent and transit houses.*"⁵³⁵ The Panel acknowledges the recent agreement to request SPARC to get an audit of their collection and payment of electricity charges.
585. However, the Panel notes that as of November 2005, the pending bills had not been cleared. **The Panel notes that it will be important to ensure that PAPs only have to pay low electricity rates appropriate to their situation, and not higher rates such as those on a par with commercial uses. Further, it will be crucial to find a solution for the accumulated electricity bills.**
586. The Requesters claim that even though many of the PAPs make their living with driving auto rickshaws, taxis and tourist vehicles, the Project makes no provision for parking arrangements. They state that Project authorities have determined that no parking arrangement is necessary on the grounds that the proposed residents do not own vehicles.⁵³⁶ Sufficient parking space will also be important for shopkeepers for delivery. **The Panel notes the need for sufficient parking space for commercially-related vehicles to meet the needs of the resettled people.**
587. During the Panel's visit to Mankhurd B several PAPs expressed their concern over a lack of security. They showed the Panel that the latches of some of the doors to the flats had not been fastened securely and can be easily taken off.⁵³⁷ They also said that they were planning to install an iron gate at the entrance of the tenement complex so that this could be closed at night. In Mankhurd C PAPs claimed that missing street lights led to increased thefts.
588. PAPs in Mankhurd B raised concerns about the safety of windows on higher floors. Mothers were concerned that children might fall out of the sliding windows because they believe that the catches supplied were insubstantial. They were also concerned about the security of flats on the ground floor because the window catches could easily be forced open by thieves. A significant number of flats had self-installed wrought iron window grills at a cost of around Rs. 3500 per grill.⁵³⁸ This was not only for safety and security reasons, but also to increase the storage area for drying clothes and pans immediately beyond the kitchen and main room walls. In May 2005, PAPs reported to the Panel that MMRDA had banned the installation of grills.

4. Housing Cooperatives

589. The importance and key role of housing societies in the Project has been widely recognized. The TISS report underlines that *"[a]n active involvement of residents in the maintenance and upkeep of their buildings and common resources is*

⁵³⁵ Aide Memoire, dated May 18, 2005, p. 6.

⁵³⁶ Fourth Request, p. 4, item 8.

⁵³⁷ Panel visit to Mankhurd B in May 2005.

⁵³⁸ Information given by PAPs in interviews in May 2005.

critical for the efficiency of the projects, particularly since they would continue to reside in the area for years to come.”⁵³⁹ The report further emphasizes that “[h]ousing Societies are institutionalized mechanisms for empowering people to take charge of their place of residence, and provide scope for community participation through elected representatives.”⁵⁴⁰

590. TISS identifies the major functions of the housing societies as: maintenance of buildings and infrastructure; collection of PAPs’ monthly payments; facilitating R&R through liaisons between PAHs and SPARC; assisting with identification and verification of PAHs; creation of a maintenance fund with Rs. 20,000 for each PAH; and grievance redressal with regard to eligibility, allotment of houses and infrastructure.⁵⁴¹
591. The Panel observes that the status of registered housing societies and the efficiency with which they are functioning varies between the resettlement sites. The Panel interviewed PAPs at the resettlement site in Mankhurd C to examine the status of resettlement after four years of resettlement.⁵⁴² PAPs stated that most of the cooperatives that have been established so far had only been registered by the end of 2004, three years after initial resettlement. Interviews with PAPs reveal that only one cooperative seemed to be functioning properly.
592. Interviews with PAPs in Anik-Rockline show that as of May 2005, no housing cooperatives had been registered in the buildings there.⁵⁴³ Buildings only had “proposed cooperatives” and a management committee in place. According to PAPs, proposed cooperative meetings were not well attended and many “*never meet,*” “*meet rarely,*” or “*only meet sometimes.*”⁵⁴⁴
593. This observation of the Panel is supported by Management’s observation during supervision missions. The delay in forming housing cooperatives has also been an issue addressed in Bank supervision, where the Bank repeatedly noted that there was “*very little progress*” in the registration of housing cooperative societies.⁵⁴⁵
594. Despite MMRDA’s assurance to the Bank mission to complete the outstanding issue of housing co-operatives, the issue was still not proceeding at the time of the Mid Term review in October 2005.⁵⁴⁶ According to Management only 48 out of estimated 220 societies have been established as of October 2005 with only some of them working⁵⁴⁷. In this context the Panel acknowledges planned activities to foster appropriate resettlement implementation, such as the drafting of an

⁵³⁹ TISS, p. 31.

⁵⁴⁰ TISS, p. 31.

⁵⁴¹ TISS, p. 31.

⁵⁴² Interviews in May 2005.

⁵⁴³ See also Table B.2 in Annex B.

⁵⁴⁴ This data was collected during site visits in May 2005.

⁵⁴⁵ Aide Memoire, Mission on September 22 – October 1, 2003, dated November 30, 2003, p. 10.

⁵⁴⁶ Aide Memoire, Mid Term Review October 17-26, 2005, p.6.

⁵⁴⁷ Aide Memoire, Mid Term Review October 17-26, 2005, p.10 and 75.

implementation manual which was mentioned repeatedly by Management since 2004. However, the Panel notes that as of December 2005, the drafting of the Implementation Manual had not been completed.

595. **As of November, 2005, the Panel finds that most cooperatives have not been registered. Given the key role of housing societies, the Panel notes that it will be important to make sure that PAPs are not resettled before the conditions for appropriate resettlement are given. The Panel finds that the proper registration and functioning of housing cooperatives has been a problem throughout Project execution which will require intensive supervision efforts on the part of the Bank to ensure that the implementation of the resettlement component of the Project is consistent with Bank policy.**

5. Provision of Social Services

596. During Panel visits to the Project area, PAPs repeatedly expressed their worries about insufficient provision of social services, in particular, educational and medical facilities as well as a lack of religious sites.⁵⁴⁸
597. Para. 19 of OD 4.30 stipulates that “[t]o ensure the economic and social viability of the relocated communities, adequate resources should be allocated to provide... social services (e.g., schools, health care centers). Para. 13 of OD 4.30 adds, “[f]or urban resettlers, the new site should ensure comparable access to ... services....”
598. Management asserts that Mankhurd is readily accessible to municipal hospitals and dispensaries, schools, markets, garden, playground, cinema, theaters etc.⁵⁴⁹ Management expects PAPs to use facilities available in the neighborhood and asserts that the resettlement sites are close to these services.⁵⁵⁰ Management further states that open spaces have been provided in the resettlement sites for the construction of facilities. As to Mankhurd, Management claims that in the neighborhood there are a hospital, two maternity homes, municipal dispensaries, 57 municipal schools, a market, 14 gardens, play grounds, cinema/theater and a religious centre.⁵⁵¹
599. According to the RAP, community facilities like primary school, dispensary, playground and site for religious places that existed in the old community shall be required.⁵⁵²

⁵⁴⁸ For example, the Ekroop Cooperative Housing Society claims that the Bank has not informed them of any provisions for temples and religious sites.

⁵⁴⁹ Second Management Response, p. 23, Annex 1, ¶ 4.

⁵⁵⁰ E-mail from Management to Panel, dated September 22, 2005.

⁵⁵¹ E-mail from Management to Panel, dated September 22, 2005.

⁵⁵² RAP, p. 26.

600. **Schools:** During its visit to the Mankhurd sites the Panel noted the lack of schools at the sites. The lack of suitable and affordable schools nearby was of great concern to the PAPs. This had also been highlighted in the TISS report, which states that a high proportion of PAPs that were interviewed felt that schooling facilities were worse at the new sites compared to the previous ones.⁵⁵³
601. PAPs have to send their children to schools outside the compound. In Mankhurd, the school is too far away so many of the children take a short-cut and have to cross the tracks, which is very dangerous. In interviews with the Panel, PAPs stated that an over-bridge across the railway tracks would ameliorate the situation. Many of the PAPs are sending their children to their old schools, which requires them to take the bus, which adds extra costs.⁵⁵⁴ As an intermediary solution, PAPs propose to use the vacant buildings at the site for schools until new schools are built.
602. PAPs further explained to the Panel that local schools were responding to the unexpected surge of children arriving in Mankhurd and the consequent shortage of school places by raising the cost of “voluntary donations” to the school, in essence a compulsory charge to ration the short supply of school spaces. In addition to the “donation”, PAPs claim that several of the schools near the sites have high costs, thus, according to the PAPs, admission is nearly impossible.⁵⁵⁵
603. **Religious Sites:** Regarding the issue of religious sites, the Panel notes problems both concerning religious sites in the areas in which the Requesters live now and at the resettlement sites. As to the old locations, during Panel visits, the Requesters expressed fear that the mosque in their current area will be demolished because of the MUTP. They state that the mosque will be demolished because it has been marked as a structure and given a residential allotment.⁵⁵⁶ MMRDA informed the Panel that as per R&R policy the mosque will be pushed back and relocated on empty space, amidst a host community in the neighborhood.
604. Concerning the conditions at the resettlement sites, the Panel notes that, as of May 2005, there were no religious sites on the Mankhurd sites. In an interview with the Panel, SPARC stated that religious sites do not need to be provided and thus are not provided at any resettlement site.⁵⁵⁷ SPARC also informed the Panel, that religious sites are not planned in Mankhurd, but the community would be free to organize them if they did so themselves.⁵⁵⁸

⁵⁵³ TISS, p. 26.

⁵⁵⁴ PAP interviews in Mankhurd B in May 2005.

⁵⁵⁵ For example, PAPs reported to the Panel that to enter the Padwa English School they have to pay Rs. 3,000 donation and a monthly Rs. 400-500 fee.

⁵⁵⁶ Letter from the USOA dated May 10, 2005 sent to the Panel.

⁵⁵⁷ Interview with SPARC, May 21, 2005.

⁵⁵⁸ Interview with SPARC, May 21, 2005.

605. **Hospitals:** During site visits, the Panel noted the absence of larger medical facilities at the resettlement sites to which the Requesters are to be moved.⁵⁵⁹ During the Panel site visit, PAPs expressed the need for a hospital and better access to medical facilities on-site. This is also supported by the TISS report which states “[a] majority of respondents (62%) felt that health services were either worse or much worse than at previous sites...”⁵⁶⁰
606. The Panel finds that little attention has been given to adequate provision of medical facilities and notes that it will be important to ensure adequate access to these.
607. The Panel notes that an underlying problem in the inadequate provision of social services at the resettlement sites seems to be the use of SRA standards in the MUTP, which do not include elaborated provision for new facilities at the resettlement sites. **As of the time of the investigation, the resettlement sites lacked adequate access to schools, medical facilities and religious sites. The Panel finds that little attention has been given to the provision of social services in the resettlement sites.**

B. Institutional Capacity for Post-Resettlement

608. The NGOs SPARC /NSDF, who were responsible for conducting the surveys for resettlement, have also been given the responsibility for implementing resettlement, though they did not have prior experience or sufficient capacity for handling a program of such magnitude. The Panel was informed that the contract for the implementation of the resettlement arrangements was awarded on a sole source basis and that NSDF indicated to the Panel that it does not generally keep receipts of or otherwise document expenditures.
609. During Panel visits, it became clear that these NGOs have few trained staff. The Panel noted that the NGO staff is overwhelmed with dealing with the allotment process, so no capacity is left to deal with other important resettlement issues such as the lack of water, the establishment of cooperatives etc. Possible risks from overburdening the NGOs and the need to strengthen some areas in cooperation with NGOs had been pointed out by the Bank already early in the process. In November 2000, the Quality Enhancement Review for MUTP⁵⁶¹ stressed that the NGOs involved in the implementation of the resettlement component might not be sufficiently staffed. The lack of capacity of the NGOs was also recognized during Bank supervision.⁵⁶²

⁵⁵⁹ The Satapdi Hospital run by the B.M.C is located about two to three kilometers away from the Mankhurd B compound.

⁵⁶⁰ TISS, p. 27.

⁵⁶¹ MUTP QER, ¶ 7.

⁵⁶² The Aide Memoire for the October – November 2004 mission said that capacity of field staff has been strengthened by SPARC, and the professional capacity of MMRDA has been strengthened. However, the training plan for staff, NGOs and consultants and contractors associated with R&R implementation was not

C. Transfer and Rights Regarding the new Flats and Shops

1. Sale or Lease of Flats Acquired under Resettlement

610. Para. 21 of the R&R Policy states that PAPs are not allowed to “*transfer/dispose of the tenement allotted to him without the prior permission of the Government. The procedure followed by Slum Rehabilitation Authority for transfer/disposal of tenements under the Slum Rehabilitation Schemes shall mutatis-mutandis be applied in case of transfer/disposal of tenements allotted to the PAPs under this policy.*”⁵⁶³ In its Response to the Panel, Management underlines that there will be a restriction on re-sale for 10 years to preclude speculation.⁵⁶⁴

Box 6.2: Renting the New Flats to Make Ends Meet

Renting the New Flats to Make Ends Meet

As a painter at his old residence, Mr. R. was making a profit of Rs. 200 to Rs. 300 a day. Since being shifted to the resettlement colony, he has been struggling to earn his income for subsistence at his old place of work. He has to spend Rs. 40 on bus fare and food, and he is finding it difficult to maintain his business network and people who want his work from such a distant place. Gradually, his customers have drifted away. Now he has a grocery shop from his flat. He describes how difficult it is to have a shop and live in one room. He was happy as a painter and misses it but has to survive. His income from the grocery store is half of the painting profit. The quality of life in the *jhopadpatti* was much higher than here. He cannot continue living here with only this much income and recurring expenditures for various charges like electricity, water and communal charges. He says most people are hoping to get formal ownership of their flats. Once he has it, he will definitely move to another place of his convenience and rent this property as income. He believes that the present arrangement and norms do not suit his category of people who largely rely on labor work. They need to be mobile for jobs but also want to keep a permanent home for the future if they can.

Source: Panel interview, Mumbai, May 2005.

611. The TISS report draws attention to the situation that because of income erosion, PAPs may sell off or rent out their houses and move to another slum.⁵⁶⁵ This was confirmed by many PAPs who, during Panel site visits in May 2005, reported several cases of the re-renting of housing. At the Mankhurd site some residents admitted that they have rented the flats from PAPs. Conversations during its visits to the Project area led the Panel to estimate that as of May 2005 about 5% of the flats had been sold through the power of attorney. The Panel also observed that some of the shops at the Majas resettlement site have been rented to third persons. Further, several PAPs in shops surveyed at Mankhurd reported that the shops had

done, despite the deadline of April 30, 2004 (Aide Memoire, Mission on October 28 – November 5, 2004, dated November 29, 2004, p. 19).

⁵⁶³ R&R Policy, ¶ 12.

⁵⁶⁴ First Management Response, p. 16, Annex 1, item 3.

⁵⁶⁵ TISS, p. 20.

been rented out. In its Mid Term review Management even reported that PAPs had informed them about the selling and renting out of tenements of about 20 % of the allotted units.⁵⁶⁶ **The Panel thus notes that because of income losses and high maintenance costs, some PAPs are forced to rent out their flats and, as a consequence, may jeopardize their right to the transferred housing.**

2. Property Rights Regarding Flats and Shops at Resettlement Sites

612. During Panel visits, Requesters and other relocated PAPs complained about not receiving titles to their flats but instead, if at all, receiving only letters of occupancy.
613. Management believes that a significant benefit of the resettlement is security of tenure, with full legal title to the new houses and shops.⁵⁶⁷ Management states that the “[T]itle is valued at about Rs.500,000 (about USD 11,000).”⁵⁶⁸
614. More specifically, Management explains that “[t]itle to the new shop will provide the shopkeepers with a measure of security that they did not previously have and will also allow them to use the shop as collateral to obtain loans. There will be a restriction on re-sale for 10 years to preclude speculation.”⁵⁶⁹
615. The Panel believes that restoration of income-earning capacity, production levels, and former living standards cannot be achieved without effective control over land. Thus, it is important to have a clear view on the PAPs legal status regarding their new premises. When PAPs are losing their homes and proximity to employment, they might give especially high importance to the chance to acquire a home in a building and consider it a great asset. Thus, the Panel considers the allocation of the housing units as a major livelihood improvement which also increases the social status of PAPs. **The Panel believes that this reflects positive Bank efforts, because nowhere else in India are such housing benefits given to people considered as “squatters” and informal sector tenants. Thus, the Panel acknowledges this as a major success.**
616. There are, however, some uncertainties in defining the Requesters’ rights with regard to the new units. The Panel notes that the description of the legal status varies depending on the documents and persons consulted, which did not allow the Panel to receive coherent information on PAPs legal rights regarding their new apartments and shops.

⁵⁶⁶ Mid Term Review, October 2005, p. 77.

⁵⁶⁷ Second Management Response. p. 12, ¶ 30; First Management Response, p.16, Annex 1, item 3.

⁵⁶⁸ Second Management Response, p. 12, ¶ 30.

⁵⁶⁹ First Management Response, p. 16, Annex 1, item 3.

617. While Management states that PAPs receive full legal title to the new houses and shops,⁵⁷⁰ the RAP does not contain explicit statements in this regard. The RAP only states that *“Every eligible household losing a dwelling place shall be allotted a dwelling unit of minimum of 225 sq. ft. at an alternate site. Similarly every PAH losing a commercial structure shall be eligible for an alternate place for commercial use of equivalent area.”*⁵⁷¹ Thus, the RAP itself is not explicit on the legal status of the units that PAPs receive.
618. However, the R&R Policy makes clear that the new ownership/ tenancy rights will be subject to SRA regulations.⁵⁷² Currently, these permit a 30 year lease.⁵⁷³ More specifically, the R&R Policy underlines that the objective of the Project is *“to accord formal housing rights to the PAPs at the resettlement sites. Such rights shall be in the form of leasehold rights of the land to the co-operative society of the PAPs and occupancy rights of built floor space to the members of the society.”*⁵⁷⁴ The RAP further adds that *“the membership of the co-operative society and the occupancy rights will be jointly awarded to the spouses of the PAP household.”*⁵⁷⁵ Thus, security of tenure in the new resettlement housing is not an individual right but is dependent on the formation, sustainability and equitable administration of the housing cooperatives.
619. These arrangements fall far short of the grant of individual titles to which Management refers. In fact PAPs have less control over the flats and more vulnerability to destitution than they had in their old places. This lack of control for the PAPs comes at a time when their residential and transport costs are rising and their net incomes often decreasing.⁵⁷⁶
620. **The Panel finds that it is not possible to get a uniform view or clarification on the legal status of the property rights of the PAPs at the resettlement sites. It is not clear to the Panel whether PAPs receive only right of occupancy or ownership of the shops and apartment. There seem to be different views about this among the Bank, Project authorities and PAPs.**

⁵⁷⁰ Second Management Response, p. 5, ¶ 17, ¶ 30; First Management Response, p. 16, Annex 1, item 3.

⁵⁷¹ RAP, p. 7. The PAD anticipated that PAPs would be given ownership of the flats in the relocation tenements and given title (p. 12, ¶ 3). The RIP for the SCLR states that *“The people affected by this project are fully squatters. All those who are losing the houses are entitled for 20.91 sq. m. The affected shopkeepers will be more or less same area of alternative shop to enable him/her to continue their business in the new location”* (SCLR RIP, April 2003, ¶ 1.14)

⁵⁷² R & R Policy, p. 12.

⁵⁷³ Guidelines for the Implementation of Slum rehabilitation Schemes in Greater Mumbai, p. 18, Appendix IV, ¶ 1.11.

⁵⁷⁴ R&R Policy, p. 2, ¶ 3 (c).

⁵⁷⁵ RAP, p. 54.

⁵⁷⁶ See Chapter 5 below.

Part III: Environmental Compliance

Chapter 7 Environmental Compliance

A. Environmental Impact Assessment

1. Environmental Screening

621. Screening is essential to the EA and “[*determines*] the appropriate extent and type of EA” applicable to a given Project.⁵⁷⁷ Screening assigns a project to one of three categories. Category A: a full EA is required; Category B: environmental analysis is required but not a full EA; Category C: no EA or environmental analysis is required.⁵⁷⁸
622. The Bank assigned the Mumbai Urban Transport Project to Category A under OP 4.01. **The Panel finds this to be appropriate and in compliance with OP 4.01.**

2. Preparation of Environmental Assessments in the Project Cycle

623. OP 4.01 requires that the EA should occur during project preparation so that all environmental consequences are recognized early in the project cycle.⁵⁷⁹
624. In 1993 the Bank assisted the GoM in preparing a comprehensive environmental improvement plan for the Mumbai Metropolitan Region (MMR). In 1996 the Bank also supported the preparation of an action plan to abate air pollution in Mumbai. The MUTP EA process consisted of:
- A Sector Level Environmental Analysis (SLEA) of the three strategic transport options for MMR identified as part of CTS (1996-1998).⁵⁸⁰ and Sub-project level Environmental Assessment by way of:
 - Program Level Environmental Assessment (PLEA) of generic sub-projects (1996-1998). For resettlement actions, some Community Environmental Management Plans (CEMPs) were initiated.
 - Micro-Level Environmental Assessment (MLEA) of sub-projects with a potential for significant environmental issues. (1996-1998).
 - A Consolidated EA, which drew together the results of the above-mentioned studies and documents into a single comprehensive document. (2001 - 2002).

⁵⁷⁷ OP 4.01, ¶ 8.

⁵⁷⁸ Ibid.

⁵⁷⁹ “EA is initiated as early as possible in project processing and is integrated closely with the economic, financial, institutional, social, and technical analyses of a proposed project,” (OP 4.01 ¶ 3).

⁵⁸⁰ MUTP Consolidated EA p. 55, ¶ 80; PAD, p. 91.

625. The EA Process started early in the Project cycle, which is in accord with OP 4.01. The EA consideration of the JVLR was completed before Project appraisal as required by Bank policy. **However, the final EA for the Santa Cruz-Chembur Link Road portion of the MUTP was not completed until April 2003. This is well after project initiation and does not comply with OP 4.01.**
626. The EA and EMPs were based on a road width of 39 meters; thus they needed to be updated to include considerations related to the road widening to 47.5 meters. During Bank supervision in 2005, it was agreed that MMRDA would submit the updated EA & EMP report to the Bank for clearance by June 30, 2005.⁵⁸¹ However, according to Management the EMP for the SCLR road widening had not been unconditionally accepted by the Bank by December 13, 2005.⁵⁸²
627. EA for resettlement was to have been undertaken through a hierarchical structure of RAP, Community Environmental Management Plans (CEMP)⁵⁸³ and RIPs.⁵⁸⁴ The RAP was to be prepared by the MMRDA, the RIPs by the NGO's contracted by the MMRDA to facilitate the resettlement of affected persons.⁵⁸⁵ The CEMPs for the rail and road component of the MUTP were done by consultants.⁵⁸⁶
628. Shortcomings have been well illustrated by the concern noted in the Aide Memoire related to the Project Launch in November 2002: At this time the mission showed concern that though work had already started at the sites, the CEMPs for the Option B sites had not been prepared. The mission concluded that the preparation of CEMPs for all Option B sites would have to be done urgently and that the work on the Option B sites would not start until the CEMPs were

⁵⁸¹ Aide Memoire, dated May 18, 2005, p. 7.

⁵⁸² E-Mail from Management to the Panel, dated September 28, 2005. See also Mid Term Review, October 2005, p. 7, ¶ 17.

⁵⁸³ The objective of preparing a CEMP is stated to be, "to provide access to basic urban environmental infrastructure services, and through community initiative and participation alleviate the environmental health risks of the community.... The CEMP provides in simple non-technical language a preventative maintenance schedule for water supply, sanitation, solid waste, etc." Specific requirements are: assessment of environmental conditions at the existing location; the assessment of environmental conditions at the resettlement site; incorporating environmental safeguards with respect to basic urban environmental infrastructure services and community health risks in resettlement plans. (See MUTP Consolidated EA, Executive Summary, ¶ 76; ¶ 147.)

⁵⁸⁴ See MUTP Consolidated EA, ¶ 117, 145 and 146. With respect to the RIPs, the EA states, "[T]hese will include subproject specific details particularly on the construction of houses and their designs, payment of compensation and allowances, specific time schedules, costs, etc." Specific environmental requirements of the RIPs are that they must address: Selection of sites for resettlement; assessing the existing environmental conditions; assessing the environmental conditions and availability of infrastructure at the resettlement site; Preparing a community environmental management plan [CEMP] and train the Project Affected Households through formation of committees to maintain the community environment. (See MUTP Consolidated EA, ¶ 74, ¶ 145).

⁵⁸⁵ Society for the Promotion of Area Resources Centres (SPARC); National Slum Dwellers Federation (NSDF) and the Slum Rehabilitation Society (SRS).

⁵⁸⁶ Though the MUTP Consolidated EA expected SPARC to be the author of the CEMPs. See MUTP Consolidated EA, p. 146, Annex 1, item 4.

prepared.⁵⁸⁷ However, the Panel notes that despite this agreement work at the Option B did start before the preparation of the necessary CEMPs.

629. **The tiered structure of environmental reporting that was adopted, particularly relating to resettlement, has significantly delayed input from environmental assessment into Project planning and evaluation. This has meant that environmental issues related to resettlement have not been considered in a timely manner,** and this is now contributing to Project delays. Some of the CEMPs had not been prepared in 2002⁵⁸⁸ and a number of RIPs had not been finalized by 2004 and thus were not available early in the Project cycle. The EA of resettlement was deferred to later stages in the Project and is in some cases still incomplete. **As a consequence this documentation was not available to ensure that “all environmental consequences are recognized early in the project cycle,” as required by OP 4.01.**⁵⁸⁹

3. Environmental Assessment of Resettlement Sites

630. The Requesters claim that they were not consulted in regard to proposed resettlement sites and that alternative relocation sites exist for shops and business which are closer to the present locations of such shops and businesses.⁵⁹⁰
631. Management states that the Mankhurd site was selected based on various proposal received from land owners and developers in response to an open advertisement. According to Management, the site selection process utilized a 20-point scoring system.⁵⁹¹ Management asserts that among the eleven short listed sites evaluated and four sites selected for resettlement from this bidding, the Mankhurd site received the highest score.⁵⁹² According to Management, the suitability of the Mankhurd site for resettlement is further supported by the environmental analysis.⁵⁹³

⁵⁸⁷ Aide Memoire, Mission on November 13 - 23, 2002, dated December 26, 2002, p. 10-11, ¶ 56. See also Mail from Management to the Panel dated December 13, 2005 which stated that the CEMP for Mankhurd B had been prepared in May 2003.

⁵⁸⁸ Ibid.

⁵⁸⁹ OP 4.01, ¶ 3.

⁵⁹⁰ Second Request, p. 3.

⁵⁹¹ The categories to which the merits points were assigned were: (i) distance from the proposed site to the nearest railway station by the existing accessible road: (ii) nature of access, such as a pedestrian, narrow street more or less than 20 feet, access from a proposed or existing vehicular road, etc.; (iii) availability of existing basic infrastructure (adequate infrastructure, site within municipal sewerage zone, etc.); (iv) site conditions such as leveled, fenced etc.; and (v) size of the plot that can accommodate a minimum of 250 standard units of 225 sq. ft Mankhurd scored the highest number of points among the eleven sites evaluated and also among the four sites selected. Further, Management explains that accessibility to transport (location of site and nature of access) was a key factor.

⁵⁹² Second Management Response, p. 12, ¶ 29, and p. 23, Annex 1, item 1.

⁵⁹³ Management responded that the suitability of the site would is supported by the fact that about 400 MUTP PAPs, who are to be resettled elsewhere, have submitted a petition to the Urban Development Minister requesting that they be relocated instead to the Mankhurd site. (Second Management Response, p. 12, ¶ 29, and p. 35, Annex 4.

632. **As discussed previously in this report⁵⁹⁴, the sites considered for resettlement were obtained through the use of TDRs. In evaluating the sites offered by land owners through this method, the Bank did not require environmental considerations to be included as one of the criteria for making the selection.** The attributes considered did not take into account the existing environmental and social conditions at the proposed resettlement sites. No absolute or comparative study was made of the conditions under which households to be resettled are currently living and the conditions under which it is proposed that they live.
633. As a result, factors such as the proximity of the Mankhurd site to the Deonar waste disposal site, and the large drainage canals flanking the Mankhurd site, were not taken into consideration. These are the features now causing concern to those being resettled to the new sites.
634. The Consolidated EA is moot on whether alternative locations for the resettlement of PAPs were systematically studied and compared across a range of environmental and social factors. Bank staff made frequent reference to the problem of locating land suitable for resettlement purposes anywhere within Metropolitan Mumbai due to very high real estate prices and one indicates that the Bank could not insist on EAs for resettlement site selection because of the constraints of land and available sites.⁵⁹⁵ Both Bank and MMRDA staff spoke of “a points system” that had been used to rank sites that private landowners had offered to the project for resettlement purposes.⁵⁹⁶ The Panel was provided with a spreadsheet that shows a comparative ranking of 11 potential resettlement sites using a weighting system.⁵⁹⁷ The point weightings that were applied are shown in the following table.

⁵⁹⁴ See the discussion of TDRs in Chapter 3C of this report.

⁵⁹⁵ Interviews, Washington D.C., January 2005; Mumbai and New Delhi, February 2005.

⁵⁹⁶ Sites for development were made available to the project by the private sector following an open advertisement calling for offers to be made. Second Management Response, ¶ 29.

⁵⁹⁷ Headed: Mumbai Urban Transport Project, Bids for Land and Constructed Tenements, Site Observations.

Table 7.1: Weighting of Attributes of Sites for Resettlement

Factors	Points
A. DISTANCE TO RAILWAY STATION. (Site boundary to nearest railway station)	
<1 km	6
1 -2 km	5
2 - 4 km	3
> 4 km	1
B. NATURE OF ACCESS	
<500m along existing vehicular road	5
<500m along existing pedestrian route	4
Along existing vehicular road over 20 ft. wide	4
Along existing vehicular road less than 20 ft. wide	3
Access from proposed or private road	1
C. INFRASTRUCTURE (Availability of water, sewerage and electricity)	
Fairly adequate infrastructure on site	4
Less than adequate	3
Within sewerage zone of MCGM	1
D. SITE CONDITIONS	
Leveled and fenced	4
Leveled not fenced	3.5
Fenced but not leveled	3
E. TENEMENT PACKAGE SIZE	
>1000 Tenements	1
<1000 Tenements	0

Source: spreadsheet headed, “Mumbai Urban Transport Project, Bids for Land and Constructed Tenements, Site Observations.”

635. The attributes addressed in this table fail to take into account the existing environmental and social conditions at the proposed resettlement sites. Bank staff interviews also confirmed this.⁵⁹⁸ No absolute or comparative study was made of the conditions under which households to be resettled are currently living or of the conditions under which it is proposed that they live. The only factors considered in the CEMP for Mankhurd⁵⁹⁹ are: Water supply and quality; Sewerage and sewage disposal; Solid waste disposal; Storm water disposal; Lifts and Compound wall. A consequence of the lack of environmental quality

⁵⁹⁸ Bank staff interview.

⁵⁹⁹ Econ Pollution Control Consultants, Community Environmental management Plan (CEMP) for Dharavi, Antop Hill, Wadala and Mankhurd, June 2002.

indicators in the scheme used for selection of resettlement sites has been that factors such as the proximity to the Deonar waste disposal site, and the large drainage canals flanking the Mankhurd site, have not been taken into consideration. These are precisely the features now causing concern to those being resettled to the new sites.

636. **An EA that does not consider ambient environmental and social conditions when identifying sites for resettlement fails to meet the requirements of the Bank's OP 4.01.**
637. **The Panel notes that the Bank in its October 2005 Aide Memoire recognizes that the environmental conditions at R&R sites are not good, especially for solid waste management and sanitation, and indicates that it would be appropriate to use Project funds to manage the environment at resettlement sites, provided there was agreement with the communities on sharing the operation and maintenance costs in the future.**

4. Integrated Consideration of Natural and Social Aspects

638. OP 4.01 requires that the EA gives integrated consideration to the natural and social aspects of the Project.⁶⁰⁰ The early focus of the MUTP EA was almost exclusively on bio-physical concerns of the Project. Assessment of resettlement was not a priority, despite the large number of persons to be resettled under the MUTP. The SLEA assessed four environmental components: Air Quality, Noise, Ecological and Social Component.⁶⁰¹ The number of displaced households and establishments was used as the sole measure of adverse social impacts.⁶⁰²
639. In the table from the Consolidated EA from June 2002 listing the indicators and indices used in the strategic assessment of the Project, social aspects of the MUTP, particularly of R&R are conspicuous by their near-absence in the Consolidated EA. Bank staff had the impression that MUTP is driven by need for infrastructure and not by social concerns. Bank Staff also acknowledged that Bank procedures are minimalist and are not fully integrated.⁶⁰³ Furthermore, Bank staff had the impression that the social aspects were dealt with almost separately from the environmental aspects.⁶⁰⁴

⁶⁰⁰ OP 4.01, Environmental Assessment, ¶3, states, “EA takes into account the natural environment (air, water, and land); human health and safety; social aspects (involuntary resettlement, indigenous peoples and cultural property, and transboundary and global environmental aspects. EA considers natural and social aspects in an integrated way.”

⁶⁰¹ MUTP Consolidated EA, Chapter 7, June 2002. The SLEA deems air quality to be the main environmental component affected by transportation, with potential impacts that were determined through computer-based modeling.

⁶⁰² MUTP Consolidated EA, June 2002, ¶ 98.

⁶⁰³ Bank Staff Interviews.

⁶⁰⁴ Bank Staff Interviews.

640. **In the MUTP, consideration of natural and social aspects of the environment in an integrated way has not occurred. This is not consistent with the intent and spirit of OP 4.01.**

5. Independence and Competence of the Entities Conducting Environmental Assessment

641. OP 4.01 requires that the EA for the road component be conducted by independent professional entities.⁶⁰⁵ In particular, OP 4.01 requires to ensure “...that when individuals or entities are engaged to carry out EA activities, any conflict of interest is avoided. For example, when an independent EA is required, it is not carried out by the consultants hired to prepare the engineering design.”⁶⁰⁶

642. The Panel is concerned that this independence was not respected throughout the entire EA regarding the road components of the MUTP. The RIPs were undertaken by the same NGOs that were already involved in the Project. These NGOs were selected because they had been contracted to facilitate slum-dweller acceptance of the need for resettlement (initially from railway tracks to temporary resettlement sites, and later extended to the road component of the MUTP).⁶⁰⁷

643. A common complaint of those involved with MUTP resettlement is that the NGOs responsible for implementation of slum-dweller resettlement and rehabilitation, SPARC and NSDF, are not professional bodies and do not possess a wide variety of technical competencies.⁶⁰⁸ The connections that SPARC and NSDF had with communities that had to be resettled from railway tracks made them actors in facilitating resettlement from the railway tracks.⁶⁰⁹ This led to SPARC and NSDF being commissioned by the MMRDA to facilitate resettlement of the households and businesses displaced by the road component of the MUTP.

644. The Panel was told that Bank staff had expressed their disquiet to MMRDA over the appointment of these NGOs.⁶¹⁰ The NGOs were nonetheless appointed because of their record in mobilizing communities that needed to be resettled because of the rail component of the MUTP, their familiarity with the Project, and a perceived dearth of Indian consultants to provide the necessary services. Representatives of both SPARC and NSDF acknowledged to the Panel their lack

⁶⁰⁵ OP 4.01, ¶ 4. (“For Category A projects, the borrower retains independent EA experts not affiliated with the project to carry out the EA.”)

⁶⁰⁶ OP 4.01, at note 6.

⁶⁰⁷ The Panel did not observe that the CEMPs were actually prepared by SPARC/ NSDF, but notes that Annex 1 of the Consolidated EA lists SPARC as the author of the studies “*Resettlement Implementation Plans and Community Environment Management Plans. Separate reports for sub-projects to be implemented in the first years available.*” (MUTP Consolidated EA, p. 146) Annex 1, item 4.

⁶⁰⁸ Panel interviews with Bank staff, the Mumbai Metropolitan Regional Development Agency, the Society for the Promotion of Area Resources Centers (SPARC) and National Slum Dwellers Federation (NSDF).

⁶⁰⁹ RAP, 19-20; PID, p. 4.

⁶¹⁰ Interviews with Bank Staff, Mumbai and New Delhi, February 2005.

of competency to undertake environmental assessments but indicated that, in their view, their familiarity with the communities involved and their stress on community participation made up for a lack of professional expertise.⁶¹¹

645. Although the Bank is on record as having perceived the need to strengthen NGO and MMRDA capacity with respect to resettlement issues,⁶¹² its acceptance of SPARC and NSDF as “*independent EA experts not affiliated with the project*”⁶¹³ must be questioned. As described above, these are the same NGOs that were involved in the resettlement activities, yet despite having no expertise in environmental assessment were required to prepare components of the EA relating to these resettlement actions.
646. **The Panel finds that the EA for the MUTP was neither conducted by an independent entity nor by EA experts to the extent that SPARC and NSDF were responsible. This does not comply with OP 4.01.** The Panel notes that this compliance failure had important negative consequences for the Requesters. It likely contributed to overlooking the middle-income shopkeepers as significantly affected Parties, and to not identifying alternative resettlement sites or options that may have been more suitable to address the legitimate needs of Requesters.

6. Consideration of Alternatives under OP 4.01

647. OP 4.01 requires an analysis of alternatives.⁶¹⁴ EA assessments attempt to improve decision making by providing accurate and relevant information, harnessing the knowledge and opinions of experts and affected persons, and setting out clearly the consequences of alternative courses of action that would achieve the objectives of the plan or project. The Consolidated EA devotes three pages to the analysis of alternatives.⁶¹⁵ It considers three strategic alternatives: (1) investment in public transport; (2) public transport (particularly railways) plus demand management of vehicular traffic; and (3) road investment to encourage private vehicle use. The Consolidated EA does not conduct any systematic comparative analysis of road and/or resettlement alternatives.⁶¹⁶
648. The critical dependence of the MUTP on resettlement and rehabilitation of slum-dwellers was recognized in the Consolidated EA.⁶¹⁷ It is consequently of considerable concern that no systematic comparative analysis of road and resettlement alternatives was conducted. In the case of roads, alternative micro-alignments within the existing road reserves, as well as alternative road widths and configurations could have been analyzed. For resettlement, systematic

⁶¹¹ Interviews, Mumbai, February 2005.

⁶¹² R & R Implementation Review Mission Report, July 2004, ¶ 13, 15.

⁶¹³ OP 4.01, ¶ 4.

⁶¹⁴ OP 4.01, Annex B, ¶ 2(f).

⁶¹⁵ MUTP Consolidated EA, Chapter 3.

⁶¹⁶ MUTP Consolidated EA, ¶ 22.

⁶¹⁷ MUTP Consolidated EA, Executive Summary, ¶ 3.

identification and comparison of resettlement sites, consideration of different locations for residential and business needs, and systematic comparison of layout and construction alternatives on the various sites would have been important.

649. **Although policy level alternatives were considered for the MUTP as a whole, the analysis of alternatives did not extend to the road component and to the individual resettlement sites. These omissions directly affect the lives of households and businesses that will be displaced by the Project. Since the Bank did not subject the road component and the individual resettlement sites to the safeguards set forth in OP 4.01, it did not comply with OP 4.01.**

7. Conclusion

650. The environmental safeguard policies of OP 4.01 require environmental screening and proper EA. Many of the issues raised by the Requesters can be attributed to inadequate early environmental assessments of the problems and impacts associated with resettlement. Notable omissions include the following: no scoping of affected parties, which led to a failure to recognize shopkeepers as a separate category of affected persons with particular needs different from other PAPs; no systematic consideration of alternative sites for resettlement; and no assessment of existing environmental conditions at the proposed sites. **The Panel finds that the EA of the Project did not meet all of the requirements established in OP 4.01 as discussed above.**

B. Environmental Problems at the Project / Resettlement Sites

651. The Requests address several environmental aspects, in particular with regard to the environmental conditions prevailing at the Mankhurd site: ambient conditions, conditions due to poor management of wastes close to the site, and the destruction of trees and mangroves.

1. Waterways

652. The Requesters claim that the Mankhurd site is near open waterways which will flood and that standing waters will harbour water-borne diseases. During its site visits, the Panel observed that some of the Requesters currently live as close to the Mahim River as they will to the waterways at Mankhurd. However, as noted below, the Mankhurd site may be at increased risk of health problems because of its proximity to the Deonar municipal solid waste dump. **The Panel finds that the Mankhurd resettlement site is not inherently more at risk of flooding, of health problems from standing waters (that would harbor mosquitoes), or of water-borne diseases than most of the city of Mumbai.**

2. Air Quality / Industrial Emissions

653. The Requesters contend that the nearby Rashtriya Chemicals & Fertilizers (RCF) and other chemical factories and refineries make the Mankhurd resettlement location “amongst the highest polluted in Mumbai city.”⁶¹⁸ In its response Management found that “[t]here are no industrial activities around the site that produce emissions of any kind”.⁶¹⁹
654. The Panel visited different resettlement sites in Mumbai in assessing this claim. **The Panel finds that while the air pollution is serious, the Mankhurd site is not the closest resettlement location in terms of proximity to industries with atmospheric emissions or at greatest risk.**

3. Deonar Municipal Solid Waste Dump

655. The Requesters point out that the Mankhurd site is near the Deonar, Mumbai’s largest waste dump, and claim that this will contaminate the site and cause various health problems for the residents.⁶²⁰ According to Management, the dump is situated 1.5 to 2 km away from the resettlement site (depending on relative locations in the landfill and Mankhurd colony) and is downwind from it.⁶²¹ Management is not aware of any reports that odour is a problem.
656. The Deonar dump covers 80 hectares; about 5,000 tons of garbage is dumped there daily. There is no provision for separating the wastes that go to the Deonar site. **The Panel notes that the Mankhurd resettlement and transit sites are only about 1.5 - 2 km from Mumbai’s largest waste dump.** The Panel noted that access to the dump is uncontrolled; that dumped materials were not compacted or covered with soil to reduce putrefaction and odor, and that smoke emanated from burning rubbish.
657. **A drainage line from the dumping grounds leads to the waterway that passes through the Mankhurd resettlement sites.** Leachate from the dump will thus affect the quality of the waterway. The Panel did not see sumps or boreholes to intercept such leachate. **The Panel finds that in selecting the resettlement sites, no consideration was given to the proximity of the Mankhurd site to Mumbai’s largest waste dump or to the implications of this. As noted previously, the Panel finds that the EA did not consider ambient environmental and social conditions when identifying sites for resettlement, which does not comply with OP 4.01**

⁶¹⁸ Third Request, item 5.

⁶¹⁹ Second Management Response, p. 23, Annex 1, item 1.

⁶²⁰ Second Request, p. 2, ¶ 5. Several PAPs expressed that they feel that they are “*thrown on the outskirts, near the dumping grounds,*” e.g. Letter by Medha Patkar to the Panel, dated September 20, 2005.

⁶²¹ Second Management Response, p. 23, Annex 1, item 1.



Picture 7.1 Waste Dump near Mankhurd

658. To improve conditions for the residents of the Mankhurd resettlement site, the Panel notes that the Deonar solid waste dump could be made better if it were operated as closely as possible to a sanitary landfill until such time as it is closed entirely. The quality of life of the residents of Mankhurd could be considerably improved by proper compaction and covering of waste materials on a daily basis, interception and treatment of leachate emanating from the dump, and pumping this to the municipal waste water treatment facility. Further, enforced access control, regulation and separation of the type of wastes accepted at the facility, and establishment of managed composting and recycling facilities would improve the quality of life both for those currently scavenging the dump to earn a livelihood and for those living in close proximity to the dump.

4. Deonar Abattoir

659. The Requesters fear that the Mankhurd watercourses carry blood and excreta from the abattoir to the Mankhurd resettlement site.
660. The Panel visited the abattoir in February 2005. The system for processing the abattoir's wastes was explained. All liquid effluent is processed on site by means of settlement tanks, oxidation ponds, and treatment with sodium hypochlorite before being pumped to the municipal sewers for treatment at the sewage works. The sludge from the facility is made into compost, which is used for the municipal gardens. **The Panel finds it most unlikely that the Mankhurd**

watercourses carry blood and excreta from the abattoir to the Mankhurd resettlement site, as the watercourse passing next to the abattoir is not that which borders the Mankhurd site.

5. Solid Waste Management at Resettlement Sites

661. The Requesters are concerned about waste disposal at the resettlement site.⁶²² During the Panel's visits to occupied resettlement sites, the Panel noted the prevalence of domestic waste in the spaces between tenements, and especially in drains adjacent to resettlement sites.⁶²³ Even in the newly occupied Mankhurd B site, waste lay next to the water tanks, and there were no containers for the disposal of garbage. **The Panel finds that while Bank documents indicate considerable effort to communicate that it is important for tenement residents to have effective on-site waste management, the issue still needs to be addressed with PAPs that have been or will be resettled.**

6. Management of Storm Water Drains

662. The Requests express concerns about huge open drainages that pass through Mankhurd, carrying the city's waste and drainage water to the nearby creek. Management acknowledges that there are *"two large drains, 8 to 10 m wide, one of which is 30 m from the proposed resettlement site at its nearest points. They carry a mix of storm water, sewage and other waste. There have been no reports of odour from these drains."*⁶²⁴
663. Management refers to the duty of the Municipal Corporation of General Mumbai (MCGM) to clean these drains once a year before the monsoon,⁶²⁵ and to information that the drains are well-built to drain excess storm water. However, Management's response concedes that based on visual assessment, water quality is deteriorated.⁶²⁶ Management also states that a retaining wall will be constructed along the banks of the drains to define the boundary and that other actions will be taken to prevent erosion.⁶²⁷
664. At all resettlement sites visited by the Panel, adjacent drains were clogged with domestic waste.⁶²⁸ In times of heavy rainfall, the accumulated wastes will reduce the efficiency of the drains to discharge the storm water and will thus contribute to localized flooding.

⁶²² Third Request, p. 5.

⁶²³ See discussion in Chapter 6 A of this Report.

⁶²⁴ Second Management Response, p. 23, Annex 1, item 1.

⁶²⁵ Ibid.

⁶²⁶ Second Management Response, p. 35, Annex 4.

⁶²⁷ Second Management Response, p. 23, Annex 1, item 1.

⁶²⁸ E.g. the residents of Kokri Agrar informed the Panel that they were unhappy about the bad sewerage and maintenance of the drains in the colony. They showed me overflowing drains due to poor maintenance.

665. Immediately adjacent to the Mankhurd transit site a facility, apparently processing waste oil, discharges oily waste directly into the watercourse. Management has raised this matter with the MMRDA.⁶²⁹ It might be helpful to approach the authorities to either shutdown the source of this pollution, or if this is not possible, to construct a cut-off channel leading to low-cost oil trap so as to prevent the oily waste reaching the water course.
666. **The Panel finds that to protect the quality of life of people being resettled to Mankhurd and to improve the aesthetics of the site, a frequent, deliberate and planned maintenance schedule for the storm drains is needed.** The annual removal of silt and debris from the channels immediately before the onset of the monsoon is inadequate to prevent the accumulation of waste throughout the year. **Similarly, the on-site and municipal sewers must be connected and efficiently maintained to prevent the overflow of sewage to the storm water drains.**

7. Radioactive Waste from the Bhabha Atomic Research Center (BARC)

667. The Requesters are concerned that radioactive waste from the BARC will negatively affect the PAPs at the resettlement site at Mankhurd. They stress that they lack information about the activities of BARC and fear negative impacts.
668. In fact, the BARC facilities are downstream of the watercourses draining the resettlement sites and, in the view of the Panel's expert, **the residents of the resettlement sites have no greater risk of exposure to radioactive emissions in the event of a nuclear reactor accident than other residents of Mumbai.**

8. Destruction of Mangroves and Other Trees

669. The Requesters claim that "*mangroves are being destroyed rapidly ... in broad daylight*" at the Mankhurd resettlement site⁶³⁰, and that "*thousands of trees have been unlawfully and illegally cut by the implementing agencies and their agents along the route of the JVL and in the entire MUT project*".⁶³¹
670. **The Panel notes the ongoing concern by the Bank for mangrove habitat protection in the Project, as reflected in its missions and in the contract awarded to undertake compensatory planting of mangrove saplings for mangroves destroyed during the rail link.**⁶³² **During its visits, the Panel did not witness widespread destruction of present-day mangrove habitat at the Mankhurd site. Neither the Mankhurd site nor its immediate surroundings**

⁶²⁹ MUTP Supervision Mission Aide Memoire, March 2002.

⁶³⁰ Third Request, p.5.

⁶³¹ Fourth Request, item 9.

⁶³² Aide Memoire, Mission on March 4 - 14, 2002, ¶ 50; Letter to Joint Project Director (Environment), dated November 4, 2003; Aide Memoire, Mission on October 28 - November 5, 2004, ¶ 7 and 23.

are currently populated with mangroves (although some trees were noted in nearby tidal creeks). While some trees may have been deliberately or inadvertently destroyed, this would not amount to widespread destruction.

671. However, the Panel notes that the Forest Development Corporation has been awarded a contract to undertake compensatory planting of mangrove saplings for mangroves that were destroyed when the Borivili Virar rail link was quadrupled. It is reported that this took place in 2004 and that some 13500 saplings were planted near Mankhurd and 4000 at the Western Express Highway Creek.⁶³³
672. With regard to the cutting of the other trees, the Panel notes that Bank staff have been concerned at the mismatch between the number of trees that the EA identified for felling and the number the contractor has asked to fell.⁶³⁴ It notes further that this matter was addressed formally in a letter to the MUTP Joint Project Director (Environment)⁶³⁵ as well as in a letter to the GoM from the Bank's Country Director for India⁶³⁶. The Bank itself noted in May 2005 that there were major deviations in implementing the EMP in JVLR.⁶³⁷ **Based on this report and other data, the Panel is concerned that the responsive actions relating to the loss of Mangrove and other trees are not adequate.**

9. Environmental Problems at the Resettlement Sites

673. The levels of pollution (air and water), sanitation (waste collection and sewage discharge) and availability of public open space are sub-optimal throughout Mumbai. The associated levels at the resettlement locations must consequently be evaluated relative to one another rather than in absolute terms—failing which large tracts of Mumbai must be deemed unsuitable for habitation (by First World standards). In terms of air quality, water in drains, stagnant puddles, poor sanitation (presence of human feces) and poor rubbish collection, Mankhurd was not the worst resettlement site visited by the Panel.
674. As observed, sanitation in large areas of Mumbai leaves much to be desired. The Mankhurd site is highly unlikely to be worse in terms of public health risks than the current locations of persons needing to be resettled from Kismat Nagar or the lanes behind the shops on S G Barve Marg. Scientific investigation of the contention that Mankhurd is “less healthy” than these locations would require very extensive and long-term epidemiological studies covering both the “move-out” and the “move-in” areas. In the absence of extensive public health records, such studies cannot be conducted quickly.

⁶³³ Aide Memoire, Mission on October 28 - November 5, 2004, ¶ 23.

⁶³⁴ Aide Memoire, Environment Mission on June 23-28 2003.

⁶³⁵ Letter from Bank to MUTP Joint Director (Environment), dated November 24, 2003.

⁶³⁶ Letter from Bank Country Director for India to GoM, dated November 29, 2004.

⁶³⁷ This issue was also addressed in the Mid Term Review, October 2005, (Letter from the Bank to GoM dated November 10, 2005, p. 2).

675. **The Panel notes that if environmental factors had been considered appropriately, then many of the environmental problems could have been addressed more efficiently. A concerted effort by Bank Management and the Mumbai Authorities to clean-up and regulate waste disposal practices at the Deonar dump and in the waterways adjacent to the resettlement site could decrease public health risks at the Mankhurd resettlement sites.**

Part IV: Project Supervision

Chapter 8 Project Supervision

676. In their submission to the Panel, the Requesters claim that the Bank has failed to supervise the Project, particularly with respect to the policy provisions that call for avoidance of harm and compensation for losses related to their livelihoods, traveling distance, children's education, social and economic networks and infrastructure, among other items.⁶³⁸ The Requesters' claim suggests that the social and environmental problems in the Project are due, in part, to the failure of Management to identify problems and to ensure that they are resolved.
677. OP 13.05 Para 2 states that "*Project supervision covers monitoring, evaluative review, reporting, and technical assistance activities to (a) ascertain whether the borrower is carrying out the project with due diligence to achieve its development objectives in conformity with the legal agreements; (b) identify problems promptly as they arise during implementation and recommend to the borrower ways to resolve them; (c) recommend changes in project concept or design, as appropriate, as the project evolves or circumstances change; (d) identify the key risks to project sustainability and recommend appropriate risk management strategies and actions to the borrower ...*"
678. In addition, OD 4.30 requires the specialized supervision of R&R in such a way that the Borrower and Bank can make the necessary adjustments in Project implementation. More specifically, it states "*[r]esettlement components should be supervised throughout implementation. Supervision that is sporadic or left until late in implementation invariably jeopardizes the success of resettlement. Bank supervision missions should be staffed with the requisite social, economic, and technical expertise...*"⁶³⁹
679. Management claims that supervision is being carried out regularly, with a high level interdisciplinary team of Bank staff. According to Management, field visits are undertaken regularly during the supervision missions. Management claims that the outcomes of the mission's observations and discussions are reflected in the aide memoires and subsequent technical correspondence with the MUTP Project Director and that regular follow-up is being undertaken. According to Management, the Bank has assigned a much higher than average supervision

⁶³⁸The First Request alleges harm "*due to Bank's violation of its policies and procedures on . . . project supervision*" (First Request, p. 2). The Second and Third Request specifically refer to the Bank's failure to supervise the Project with respect to "*our livelihoods, traveling distance, education of children and their admissions in respective medium schools, destruction of our source of income, our social, economical network and infrastructure*" (Second Request, p. 3, ¶ 7; Third Request, p. 6, ¶ 7). The Fourth Request states that "*[w]e understand that the Bank has its operational policy, Bank Procedures and Operational Directive and that if the project is under implementation, Bank Management is required to supervise the discharge of the borrower's obligation to ensure that specific aspects of the Bank Policies are adhered to*" (Fourth Request, p. 1, ¶ 2).

⁶³⁹ OD 4.30, ¶ 31.

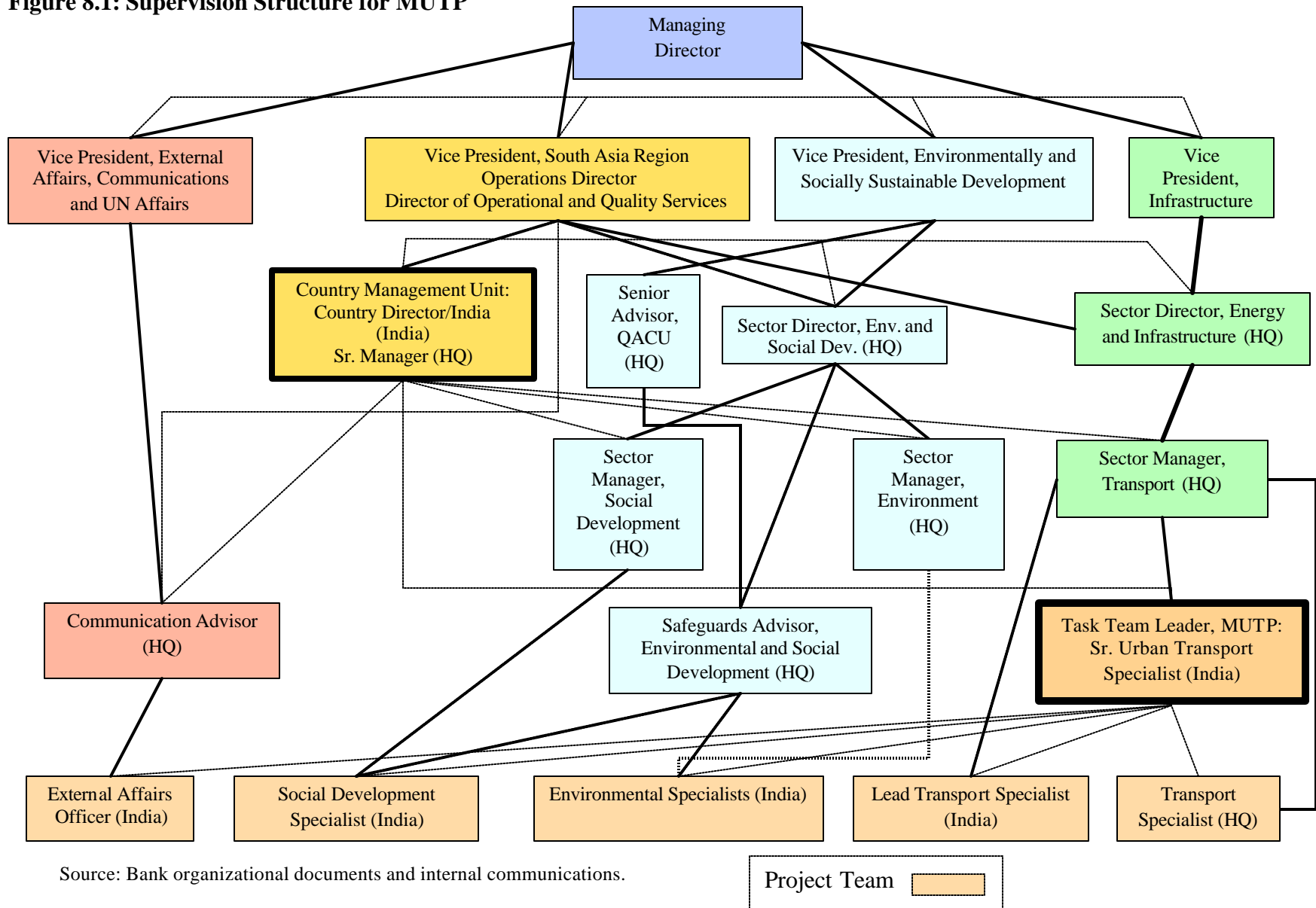
budget because of the complex nature of the Project, particularly with respect to resettlement.⁶⁴⁰

A. Responsibility for Project Implementation and Supervision

680. The World Bank structure for supervising projects in India involves two separate lines of authority: those for the sector and those for the country. For the MUTP, the social development specialist, environmental specialist, and transport specialists (in India and DC) and the external affairs officer assist the Task Team Leader (TTL) in the supervision of the Project, but report to different managers. Except for a transport specialist located in Washington, D.C., all are located in the World Bank Country Unit in India.
681. The TTL reports to the Sector Manager for Energy and Infrastructure. If there are problems in the Project, the Sector Manager raises them with the Sector Director, who may raise them with the Country Director. Although the Sector Manager may raise Project related issues with the Borrower and implementing agencies, it is the Country Director or Regional Vice President who raises issues that may have broader implications for Country - Bank relations.
682. The direct line of authority for both the Social Development Specialist and the Environmental Specialist is to the Sector Manager for Environment and Social Development. The External Affairs Officer's direct line of authority is to the Communication Advisor.
683. The organizational chart below, which the Panel prepared, clarifies the formal relationships of authority of the staff involved in this Project. **While the Panel understands that this matrix structure is widely applied by the Bank to Projects of this nature, the Panel finds that in dealing with problems as they emerge, this structure may sometimes delay Bank actions and dilute accountability.**

⁶⁴⁰ First Management Response, p. 18, Annex 1, item 8.

Figure 8.1: Supervision Structure for MUTP



Source: Bank organizational documents and internal communications.

B. Social Problem Identification and Corrective Actions

684. OP 13.05 requires that the Bank “*identify problems promptly as they arise during implementation and recommend to the borrower ways to resolve them.*”⁶⁴¹
685. The Panel found that the Bank had not identified several of the problems raised by the Requesters. Other problems raised by the Requesters were identified early on by the specialist involved in the Project, but were not given adequate attention. These problems include: the distinct needs of middle-income shopkeepers, the requirement of income restoration, the need for an adequate grievance mechanism, inadequate surveys of PAPs for the road component, delayed completion of an implementation manual, the reported sole-source selection of the NGO responsible for pre- and post-resettlement operations and their lack of institutional capacity, consultation with PAPs and disclosure of Project information to them.

1. Assessment of Numbers of People to be Resettled and Costs

686. **Estimates of PAPs:** Effective resettlement requires accurate data on the numbers of people to be resettled, the number of shopkeepers and affected employees, and the number of shops needed. As noted before, the Panel found the number of estimated PAPs increased significantly over time; however, the Bank did not seem aware or had adequately explained the increase, and did not take any action to address it.
687. The increase of about 50 % of PAPs is larger than entire resettlement components in many other Bank projects in India. Despite the increases in affected people, which meant a significant change in the scope of the Project resettlement component, the Bank did not re-assess the Project to confirm that the Project, as modified, was still justified, that the requirements of the Bank’s policies were met, and that the implementing arrangements were still satisfactory, as required by BP 13.05. The Bank did not set in place comprehensive measures, as warranted by the Bank’s policy, for assessing the implications and the actions necessary to address the very substantial increment in the number of people to be resettled. **The Panel regards this as failing to comply with OP/BP 13.05 and the provisions of OD 4.30 on monitoring and supervision of the Project.**
688. **To its surprise, the Panel observes that the Bank’s October 2005 Aide Memoire on its Mid Term Review and Supervision Mission indicates that there has been only a “marginal increase” of 4% in the number of Project Affected Households, raising the figure from 19,200 households to 20,000 households affected by the Project. This differs significantly from the**

⁶⁴¹ OP 13.05, Project Supervision, July 2001, ¶ 2, item (b).

previous figures noted in the Bank's earlier documents, particularly the figures in April 2004, which indicated a 50% increase in the number of PAPs.

689. **Estimates of Shops:** Further, as the Panel explained above in this Report, the Project was planned and implemented without an adequate understanding of the number of shopkeepers and businesses affected by the construction and widening of the road. Throughout implementation, the stated number of affected shopkeepers and businesses varied from document to document, with little recognition of the discrepancies. **The Panel finds that the supervision related to determining the number of affected shopkeepers and businesses did not comply with OP/BP 13.05.** In August 2005, the Bank funded a Business Needs Study to determine the number of shops needed. In December 2005, Management submitted to the Panel the final draft version of the study.
690. **Cost Assessment:** As discussed above in this Report, the cost of the resettlement operation stayed the same at US \$100 million, despite the substantial increase in the number of people affected. Only in October 2005, following the Requests, were the figures updated for the R&R component. However, this appears to be mostly an accounting change. **The Panel regards this as failing to comply with OP/BP 13.05 and the provisions of OD 4.30 on monitoring and supervision of the Project.**
691. The Bank's October 2005 Aide Memoire on its Mid Term Review and Supervision Mission states that the new cost of completing the R&R component is US\$124 million, as compared to US\$100 million at appraisal. According to the Aide Memoire, this increase is a result of monetizing TDRs for acquisition of land and construction of apartments to resettle PAPs. It appears to be mostly an accounting change in the way items long included in costs, but not monetized previously, are now reflected, and does not appear to represent an increase in financing for resettlement. The Aide Memoire indicates that this additional cost may be borne entirely from the counterpart fund portion.
692. The supervision report also indicates that the IDA resources allocated for resettlement have not been fully spent. **The Panel is concerned that this may lead to the shifting of funds away from other resettlement needs, which would compound issues of compliance with the relevant policies, and urges further clarification on this point.** While the Panel is not the appropriate body to undertake a financial audit of the R&R budget and expenditures, the apparent incongruence between the changes in the magnitude of the Project component and the non-commensurate changes in the budget allocations may warrant a specialized re-examination by the Bank of these aspects.

2. Shopkeepers and Other Commercial Issues

693. The Requesters claim that “*the Bank has failed to supervise the resettlement plan with respect to our livelihoods*” and the “*destruction of our source of income.*”⁶⁴² Earlier in this Report, the Panel found that the Bank failed to identify and address the distinctive needs of shopkeepers who were affected by the widening of the road.
694. The Panel reviewed the history of the Project and Supervision Aide Memoires and BTOs to help determine when and how the interests of the shops and businesses affected by the Project were raised. These shopkeepers were concerned both about receiving shops of 225 sq. ft. regardless of the size of their present business and about the relocation of their shops to areas where they would not be able to carry on the same kind of businesses. **The Panel notes again that when the R&R was a separate Project, the distinctive needs of the middle-income shopkeepers to be displaced by the road were noted. However, the issue was lost in the merger of the two projects.**
695. There is no mention in the supervision documents of the distinctive needs of the middle-income shopkeepers affected by the road widening and road construction. There are a few references to the needs of the shopkeepers for shops that are the same as those they now occupy and to the fact that the shops are of varying size. The BTO for the March 2003 supervision mission noted that proper attention had not been paid to the requirement that those losing shop units must be provided with a shop of equivalent size to enable them to reestablish their business.⁶⁴³ But the issue was not pursued effectively. A year later, in its March 2004 Aide Memoire, the mission reacted to the SCLR shopkeepers, who made the Request to the Panel, by addressing the issue in the paragraph on “Public Relations and Communication Aspects” and recommending the launch of a new bilingual newsletter because “*inadequate information*” had essentially caused the shopkeepers’ misgivings.⁶⁴⁴ **Thus, the Bank initially treated the middle-income shopkeeper concerns in the Project as a communications and public relations rather than a socioeconomic problem and did not suggest adequate remedies pertaining to the substance of the complaint.**
696. The Panel found that after the Requesters had brought their concerns to the Bank and then filed their Request with the Panel, the Bank began to give attention to the problems. The Panel notes the efforts of staff in the Country Unit in July 2004 to address the concerns of the shopkeepers with MMRDA and the Requesters, and

⁶⁴² Second Request, p. 3, ¶ 7; Third Request, p. 6, ¶ 7.

⁶⁴³ Limited Resettlement Supervision Mission Note, March 25-28, 2003, ¶ 8.

⁶⁴⁴ Aide Memoire, Mission on March 5 -March 26, 2004, p. 6, ¶ 20 . It should also be noted that the reaction to Ekta Wyapari Jan Seva Sangh’s complaint (from JVLR) about the distance of the relocated shops focuses on more meetings and consultations in the future, possibly to achieve accommodation.

the attention that the Bank has given to the issues since that time. The Bank has tried to facilitate dialogue between MMRDA and the Requesters and has financed a Business Needs Study. The Panel observes that there seems to be progress in the solution of outstanding problems.

697. **The Panel finds that the Bank failed to identify the special problems of shopkeepers affected by the road widening and alignment and to take corrective action until the Request was filed with the Panel. This did not comply with OP/BP 13.05.**

3. Institutional Capacity of NGOs and MMRDA for Resettlement

698. As previously addressed in this Report, many of the problems that PAPs now face under the MUTP can be traced back to the lack of institutional capacity both of MMRDA and the NGOs involved in the Project.
699. To address the lack of capacity in MMRDA for resettlement issues, the Bank stressed the need to have training and orientation programs for staff, and eventually the need to hire more staff in this area. The Panel reviewed Bank supervision of this issue.
700. The first Supervision Aide Memoire after Project approval, in August 2002, identified the problem that officials might not be fully familiar with the R&R policy provisions and stressed the need for orientation/training programs to build this capacity, but did not set a deadline for accomplishing this.⁶⁴⁵ The November 2002 mission reminded MMRDA about the need for these programs, but—as with the previous mission—set no deadline.⁶⁴⁶
701. A letter from the Country Director to the GoM listed strengthening the implementing agencies' capacity for social management as among the Project's important pending issues.⁶⁴⁷ The June 19, 2003, letter from the Bank to MMRDA and MRVC raised the same concern as the earlier letter from the Country Director using identical words; again, no timeline was set.⁶⁴⁸
702. Although, in the Aide Memoire from the September-October 2003 mission, a deadline was set to hire additional R&R staff, there is no mention of the earlier suggestion to train the existing staff in resettlement activities.⁶⁴⁹ The concern for training staff and NGOs on implementing resettlement resurfaced in the March

⁶⁴⁵ Aide Memoire, Mission on August 19 – 30, 2002, dated September 27, 2002, p. 8.

⁶⁴⁶ Aide Memoire, Mission on November 13 – 23, 2002, dated December 26, 2002, p. 11.

⁶⁴⁷ Letter from Country Director to the Government of Maharashtra, dated December 26, 2002, p. 1. Accompanied Aide Memoire for November 2002 Mission.

⁶⁴⁸ Letter from Bank to MMRDA and MRVC, June 19, 2003, regarding Technical Visits on May 12 – 28, 2003. (Note that the date incorrectly is listed as June 19, 2002.)

⁶⁴⁹ Aide Memoire, Mission on Sept 22 – Oct 1, 2003, Annex 4, p. 20, ¶ 7. It should also be noted that the Aide Memoire said that, for environmental issues, the PMC had conducted awareness training for its staff and contractors and was planning on giving additional training (Ibid., Annex 5, p. 25).

- 2004 Aide Memoire, after the Requesters had complained to the Bank. This time a deadline was included.⁶⁵⁰ While MMRDA did hire an additional staff person, the Panel did not find evidence that the issue of building the capacity of existing staff through training and orientation programs was followed up adequately.
703. With regard to the resettlement capacity of the NGOs, the Panel found earlier that the NGOs tasked with conducting the surveys on the road component and later charged with implementing resettlement operations did not have the requisite institutional capacity. Even before the Project's approval, the November 2000 Quality Enhancement Review warned of the potential risks arising from the NGOs' resource limitations.⁶⁵¹ Thus, it became essential to supervise the Project closely to ensure adequate implementation, strengthening of institutional capacity, and appropriate use of Project funds.
704. The Panel reviewed Management's supervision documents to see when the problems related to the designated NGOs were identified and whether subsequent follow-up took place. After largely optimistic assessments on the prospects of using SPARC and other NGOs in the pre-approval stage, Management quickly identified the problem of the NGOs' capacity and suggested the solution of training in the Aide Memoire for its November 2002 mission.⁶⁵² However, there is little mention of NGO capacity problems again until March 2004, shortly before the Panel received the First Request, at which point the issue of NGO capacity and the solution of training were again raised.⁶⁵³
705. The Panel then reviewed Management's response to the problem of NGO capacity after Management became familiar with the Requesters in March 2004, at which point the capacity problems of MMRDA and the NGOs were quite evident and had to be addressed together. The Aide Memoire from the March 2004 mission set a deadline of April 30, 2004, to finalize a training plan for those associated with R&R implementation—staff, NGO, consultants, and contractors.⁶⁵⁴ The R&R Implementation Review Mission Report from July 2004 noted the failure to meet this deadline, despite the allocation of funds.⁶⁵⁵
706. A subsequent July 2004 Mission, to address the Panel Requests, does not mention this training deadline but does add a new October 31, 2004, deadline for MMRDA to strengthen R&R capacity through additional staff, a supervision consultant, increased review of NGO reports, better oversight, and a

⁶⁵⁰ Aide Memoire, Mission on March 5 – 26, 2004, dated April 14, 2004, p. 20.

⁶⁵¹ MUTP QER, p. 5.

⁶⁵² Aide Memoire, Mission on November 13 – 23, 2002, dated December 26, 2002, p. 11-12.

⁶⁵³ Back to Office Report, Mission on April 7 – 8, 2004, undated, p. 2-3.

⁶⁵⁴ Aide Memoire, Mission on March 5 – 26, 2004, dated April 14, 2004, p. 22.

⁶⁵⁵ R&R Implementation Review Mission Report, Mission on July 5 - 6, 2004, p. 3.

- communications campaign.⁶⁵⁶ It also adds an August 31, 2004, deadline for SPARC to assess its capacity and agree on steps to improve it.⁶⁵⁷
707. Subsequent Aide Memoires do not mention these requirements. The Aide Memoire from the October 2004 Mission does mention that the training plan was still not done.⁶⁵⁸ There is little discussion other than brief mentions elsewhere and a statement in the “Communications and Public Relations” section that among the tasks of immediate importance was for MMRDA and partner NGOs to train field workers to improve their communication skills.⁶⁵⁹
708. Although the Aide Memoire from the April-May 2005 mission discusses several other forms of improving R&R capacity, there was little discussion of the training plan, which had not been done.⁶⁶⁰ The R&R Implementation Review Mission Report from August 2005 has no discussion of R&R capacity and training, other than noting in a table, as before, that the training plan was not done.⁶⁶¹ **The Panel finds that the Bank did not adequately follow up with the Borrower’s commitment to remedy the lack of institutional capacity in MMRDA and the NGOs and hence did not comply with OP 13.05.**
709. **Supervision Related to NGO Operations: The Panel was informed that the large contract with SPARC/NSDF for implementing resettlement was awarded on a sole source basis; the contract contained no adequate criteria for the disbursement of funds and no receipts for expenses have been required or given. Thus, the Panel finds that the Bank did not exercise careful supervision of the use of NGOs in the Project and did not comply with OP 13.05.** The Panel notes, however, that since the Request was filed, the Bank pressed for hiring a professional organization to assist with implementing post-resettlement operations, an arrangement that is now in place. Thus, the Bank has lately endeavored to come into compliance with OP 13.05.

4. Grievance Mechanism

710. Earlier, the Panel noted the lack of clear effective grievance procedures and the non-functioning of the grievance mechanism. The Panel reviewed supervision documents to find out how the Bank had dealt with the problems with the grievance mechanism and what efforts were made to ensure corrective actions.
711. There is little mention of the problem of the grievance mechanism until the April 2004 supervision mission, the month of the First Request to the Inspection Panel,

⁶⁵⁶ Letter from Country Director to MMRDA, Mission to Follow Up on Inspection Panel Requests on July 7 – 13, 2004, dated July 19, 2004, Annex 2, p. 4.

⁶⁵⁷ Ibid., Annex 3.

⁶⁵⁸ Aide Memoire, Mission on October 28 – November 05, 2004, dated November 29, 2004, p. 20.

⁶⁵⁹ Ibid., 7.

⁶⁶⁰ Aide Memoire, Mission on April 27 – May 6, 2005, dated May 18, 2005, p. 22.

⁶⁶¹ R&R Implementation Review Mission Report, Mission on August 24-27, 2005, p. 6.

when concerns relating to the independence and effectiveness of the mechanism were acknowledged.⁶⁶²

712. In July 2004, the R&R Implementation Review Mission noted the preparation of a document to summarize the mechanism's entitlements and procedures.⁶⁶³ The subsequent elaboration of the revamped system included, *inter alia*, establishing clear standards for responding to PAP requests.⁶⁶⁴ Subsequent supervision reports mention the infrequent meetings of the grievance committees⁶⁶⁵ and problems of attendance by members at the meetings.⁶⁶⁶ **The Panel finds that Management was slow to identify problems with the grievance mechanism and to follow up to ensure appropriate remedies. This does not comply with OP 13.05.**

5. Income Restoration

713. The Panel assessed supervision of income restoration and rehabilitation compensation for permanently lost jobs, shifting costs, job training, and job opportunities at the resettlement sites, and travel costs. For all of these issues, the Panel found little evidence of adequate supervision.
714. In its September-October 2003 Aide Memoire, Management mentioned that the Impact Evaluation of the Initial Resettlement Implementation had revealed a few problems with income rehabilitation-related issues, such as increased travel distance to workplace and loss of opportunities for supplementary income.⁶⁶⁷ The Aide Memoire from the March 2004 mission again mentioned the Impact Evaluation, noting that the Project was deficient in its assistance of vulnerable families to improve their ability to earn income.⁶⁶⁸
715. Even after the Panel Request, the Aide Memoire from the October 2004 Mission made no mention of income rehabilitation in any of its various forms. As mentioned above, the Business Needs Study was mentioned in the April-May 2005 Aide Memoire, but this study came in late in the process. The Mission Report from August 2005 noted that some changes may need to be made in the Project's assistance for affected shopkeeper employees.⁶⁶⁹

⁶⁶² Back to Office Report, Mission on April 7 – 8, 2004, undated, p. 4. In response, the mission suggested that: (1) the grievance committee should be headed by a senior level officer who is not associated with the implementation team, (2) the committee should function regularly and document their activities well, and (3) unresolved grievances should be sent to the IMP (*ibid.*).

⁶⁶³ R&R Implementation Review Mission Report Mission, Mission on July 5-6, 2004, p. 3.

⁶⁶⁴ Letter from Country Director to MMRDA, Mission to Follow Up on Inspection Panel Requests on July 7 – 13, 2004, dated July 19, 2004, Annex 1, p. 4.

⁶⁶⁵ R&R Implementation Review Mission Report, Mission on August 24-27, 2005, p. 4

⁶⁶⁶ Aide Memoire, Mission on October 28 – November 5, 2004, dated November 29, 2004, p. 19

⁶⁶⁷ Aide Memoire, Mission on September 22 – October 1, 2003, dated October 30, 2003, p. 20.

⁶⁶⁸ Aide Memoire, Mission on March 5, 2004 – March 26, 2004, dated April 14, 2004, p. 18.

⁶⁶⁹ R&R Mission Notes, Mission on August 25 – 27, 2005, p. 3.

716. **As of November 15, 2005, the Bank has still not addressed aspects of income restoration such as compensation for permanently lost jobs, shifting costs, job training, and job opportunities at the resettlement sites.** The Panel notes the assumption in the Project that PAPs would benefit from the new housing and that “[l]oss of income and livelihood opportunities is not a major issue in this projects....”⁶⁷⁰ **Consequently, Management did not regard income restoration as a significant problem for resettlement of PAPs and thus did not provide the supervision required by OP 13.05 and did not take necessary corrective actions.**

6. Post Resettlement Issues

717. Many of the Requesters’ concerns are related to problems with the resettlement sites and to problems they expect to encounter there. As indicated earlier in this Report, the Panel found that basic building services at the resettlement sites are not working, housing cooperatives have not been established yet, social services have not been provided at the sites, and promised funds have not been transferred.
718. The Bank has a responsibility to supervise resettlement operations. Paragraph 31 of OD 4.30 provides that *“resettlement components should be supervised throughout implementation...Complete recovery from resettlement can be protracted and can often make it necessary to continue Bank supervision until well after the populations have been relocated.”*
719. As of November 1, 2005, the Panel has not seen evidence that the Requesters have been resettled. The Panel, however, surveyed conditions at the resettlement sites to which other PAPs have already been moved and reviewed Bank supervision for the resettlement operations. The Panel also considered the post resettlement conditions and operations at the resettlement sites for the rail component in order to inform itself with base line data and because the findings may be an important indicator of what the Requesters may expect once they are shifted. The focus in this section is on Management’s supervision of resettlement and post-resettlement operations.
720. The Panel reviewed relevant supervision documentation and noted that supervision missions have expressed general concerns over the inadequate supply of water, the non-payment of utility bills and the non-functioning of elevators.⁶⁷¹ Management has also expressed concerns about the disposal of solid waste at the sites, and about the slow and inadequate formation of cooperative societies, maintenance funds, and community funds. The Panel found, however, little evidence of systematic treatment of the issues and follow-up to ensure that the problems were adequately addressed.

⁶⁷⁰ PAD, p. 101.

⁶⁷¹ Aide Memoire, dated May 18, 2005; Aide Memoire, dated November 29, 2004; Aide Memoire, dated April 14, 2004; Aide Memoire, dated April 4, 2003.

721. **Preparation of Implementation Manual for Resettlement.** The Panel notes that in its response to the Panel in 2004, Management stated that an Implementation Manual would be drafted.⁶⁷² As of November, 2005, the Implementation Manual had still not been completed, though resettlement in the road component was already taking place.⁶⁷³ On December 13, 2005, the Panel received a draft Implementation Manual which demonstrates some progress on these matters.
722. **Cooperative Housing Societies:** Each resettlement building is to establish a co-operative housing society, which must be registered with governmental authorities. Only after the Society has been registered it can receive the transfer of maintenance funds, which are essential for partially covering the costs of maintaining the buildings.
723. Registering cooperative housing societies by December 31, 2002, was one of the actions agreed to during Project negotiations.⁶⁷⁴ Over the ensuing seventeen months, Management reminded the Borrower of this obligation, usually multiple times, as the obligation remained undone. Then, in April 2004, Bank staff mentioned that the registration of co-operative housing societies was one of the important outstanding actions before the Bank would endorse extending resettlement.⁶⁷⁵
724. After reporting substantial progress in July 2004,⁶⁷⁶ and in November 2004⁶⁷⁷, the next Aide Memoire, from the April-May 2005 mission, said that the *registration of housing co-operatives* was proceeding very slowly, affecting the sustainability of the resettlement process.⁶⁷⁸ The recent August 2005 mission reported no noticeable progress on the registration of housing societies.⁶⁷⁹ Furthermore, rarely in these reports does Management discuss the functioning the cooperatives, a problem which the Panel identified in its visits.
725. **While Management early on reminded the Borrower on the need to form and register housing cooperatives, it failed to adequately supervise this aspect of the Project in two respects. First, Management contradicted itself about the state of the registration of housing cooperatives in different reports, claiming first that the cooperatives were mostly registered and then claiming that registration was progressing very slowly. Second, Management's supervision of the cooperatives was incomplete, in that it focused only on their registration and did not consider their operational capacity and effectiveness.**

⁶⁷² Second Management Response, p. 17.

⁶⁷³ Management informed the Panel on December 13, 2005 that MMRDA had indicated to submit the final draft of the IM by December 2005.

⁶⁷⁴ Aide Memoire, Mission on August 19 – 30, 2002, dated September 27, 2002, p. 7.

⁶⁷⁵ Back to Office Report, Mission on April 7 – 8, 2004, undated, p. 2.

⁶⁷⁶ R&R Implementation Review Mission Report, dated July 6, 2004, p. 2.

⁶⁷⁷ Aide Memoire, Mission on October 28 – November 4, 2004, dated November 29, 2004, p. 20.

⁶⁷⁸ Aide Memoire, Mission on April 27 – May 6, 2005, dated May 18, 2005, p. 3.

⁶⁷⁹ R&R Mission Notes, Mission on August 25 – 27, 2005, undated, p. 4.

726. **Maintenance Fund:** Under the Project, resources for the Maintenance Fund can be transferred only after the housing cooperative is registered. In the Aide Memoire for the September-October 2003 mission, at which point one society had been registered,⁶⁸⁰ Management noted little progress in the transfer of maintenance funds to the registered societies,⁶⁸¹ as did the next several reports.⁶⁸² Likewise, the recent August 2005 report noted the lack of progress in transferring maintenance funds.⁶⁸³ **Though Management has consistently mentioned the Maintenance Fund, it has done little to ensure that they have been set up and operating properly. The Panel found that as of November 1, 2005, the MMRDA had not transferred any maintenance funds to the Housing Cooperative Societies.**
727. **Community Revolving Funds (CRF):** The Panel also identified the slow formation of CRFs for economic rehabilitation as a problem, so the Panel assessed Management's supervision of this issue as well. Management identified this as a problem, and attempted to address it. Management wrote in the September-October 2003 mission aide memoire that the establishment of community revolving funds at individual housing society level had not yet begun.⁶⁸⁴ No deadline was set.
728. After the October-November 2004 mission reported the transfer and registration of CRFs to 47 out of 48 housing societies,⁶⁸⁵ the Aide Memoire for the April-May 2005 noted the slow progress administering the funds.⁶⁸⁶ The August 2005 mission noted an absence of progress on administering the funds.⁶⁸⁷ **Management has identified the problem of slow establishment of the CRFs but has been unable to provide effective supervision of this aspect.**
729. **Electricity:** To obtain baseline data for resettlement in the road component, the Panel reviewed Management's reaction to the problems of high fees for electricity, their non-payment, and the resulting arrears. Before Project approval, early in June 2000⁶⁸⁸ and again in late 2001,⁶⁸⁹ Management identified the root of the problem of PAPs paying higher commercial fees as the absence of individual meters.

⁶⁸⁰ Aide Memoire, Mission on September 22 – October 22, 2003, dated October 30, 2003, p. 23.

⁶⁸¹ Ibid., p. 10.

⁶⁸² Aide Memoire, Mission on March 5 – 26, 2004, dated April 14, 2004, p. 3; Back to Office Report, Mission on April 7 – 8, 2004, undated, p. 2; and R&R Implementation Review Mission Report, dated July 6, 2004, p. 2.

⁶⁸³ R&R Mission Notes, Mission on August 25 – 27, undated, p. 4.

⁶⁸⁴ Aide Memoire, Mission on September 22 – October 1, 2003, dated October 30, 2003, p. 19.

⁶⁸⁵ Aide Memoire, Mission on October 28 – November 5, 2004, dated November 29, 2004, p. 5.

⁶⁸⁶ Aide Memoire, Mission on April 27 – May 6, 2005, dated May 18, 2005, p. 3.

⁶⁸⁷ R&R Mission Notes, Mission on August 25 – August 27, 2005, undated, p. 1-2.

⁶⁸⁸ Aide Memoire, Mission on June 12 – 29, 2000, p. 15.

⁶⁸⁹ Aide Memoire, Mission on November 29 – December 8, dated January 8, 2002, p. 16.

730. By the October-November 2004 mission, the issue of the accumulation of large utility bill arrears reemerged as one of the most serious issues affecting the sustainability of the cooperatives.⁶⁹⁰ Supervision documents, however, had made little mention of this problem for over two years until November 2004. As of November 2005, the problem of arrears remained unresolved.⁶⁹¹ **While early on Management identified the problem of high electrical bills and sought to solve the problem through requiring the installment of individual meters, it failed to follow-up on the problem's symptom, high arrears, until the arrears became a large problem themselves.**
731. **Water:** The Panel then assessed Management's supervision of the problem of inadequate water-supply at the resettlement sites. The Panel found a significant absence of water hook-ups in the resettlement sites for the road component. The supervision reports indicate that Management has been concerned with the issue of inadequate water supply.
732. Both the July 2004 R&R Implementation Review Mission Report⁶⁹² and the Aide Memoire for the April-May 2005 discussed the issues.⁶⁹³ However, aside from briefly mentioning the complaints of PAPs with regard to water availability, the August 2005 Mission Notes makes no mention of water supply as an outstanding problem.⁶⁹⁴ The Panel notes the need for the Bank to try to ensure the provision of water supply at resettlement sites. Further, the Panel is concerned that the issue of water dues could emerge as a significant socioeconomic problem, as with electrical utility bills.
733. **The Panel notes that the post-resettlement process and the issues related to it need intensive supervision, which requires identifying the problems and following up by ensuring corrective actions in order to comply with OP/BP 13.05. Management needs to give attention to significant problems related to the resettlement process as they are identified by staff as soon as possible.**

C. Environmental Problem Identification and Corrective Actions

734. **Environmental Capacity-Building Consultants:** As discussed above, the weak capacity of implementing agencies was a major problem in this Project. The Panel separately assessed Management's supervision of the environmental aspects of capacity. The need to improve institutional capacity through Environmental Management and Capacity Building (EMCB) consultants was recognized in the March 2002 Appraisal Mission; it was agreed that MMRDA would urgently

⁶⁹⁰ Aide Memoire, Mission on October 28 – November 5, 2004, dated November 29, 2004, p. 17-18.

⁶⁹¹ R&R Mission Notes, Mission on August 25 – 27, 2005, p. 4.

⁶⁹² R&R Implementation Review Mission Report, dated July 6, 2004, p. 1.

⁶⁹³ Aide Memoire, Mission on April 27 – May 6, 2005, dated May 18, 2005, p. 6.

⁶⁹⁴ R&R Mission Notes, Mission on August 25 – 27, 2005, undated, p. 4.

- prepare the Terms of Reference, in consultation with the Bank.⁶⁹⁵ Furthermore, according to Project documents prior to appraisal, MMRDA had to produce an action plan on how to develop institutional capacity to be able to manage the Project's environmental aspects.⁶⁹⁶
735. In the following months, Management followed up on this issue and set deadlines to hire the EMCB consultants.⁶⁹⁷ In fact, the Country Director even raised the issue of environmental management capacity in a letter to GoM.⁶⁹⁸ As a result, the EMCB consultants were formally mobilized on June 23, 2003,⁶⁹⁹ and, by September 2003, Management was discussing good progress in the consultant's assignment.⁷⁰⁰ **The Panel finds that Management identified the lack of environmental capacity and followed up on the issue to ensure corrective actions were taken, in compliance with OP/BP 13.05.**
736. **Waste Dump:** The Panel reviewed Management's supervision documents to assess its response to the problem of the Mankhurd resettlement site's proximity to a municipal solid waste dump. While the Bank identified the problem of the transit site for the rail part of the Project as being next to toxic waste dumps,⁷⁰¹ it did not identify as a problem the proximity of the permanent resettlement site Mankhurd B to a waste dump.
737. **Destruction of Mangroves and Other Trees: The Panel notes that the Bank has expressed ongoing concern for mangrove habitat projection in Project.** This is reflected in the documents from its missions and in the contract awarded to undertake compensatory planting of mangrove saplings for mangroves destroyed during construction of the rail link. Regarding other trees, **however, the Panel also notes that the compensatory tree planting is far behind schedule.** While the Panel has been informed that Bank staff are following up on this issue, Bank supervision documents do not clarify what actions are being taken. **The Panel is concerned that the responsive actions relating to the loss of mangrove and other trees are not adequate.**
738. **On-Site Solid Waste Management:** During its visits, the Panel saw significant amounts of domestic waste at the resettlement sites.⁷⁰² Management identified the problem of solid waste management long before Project approval in September

⁶⁹⁵ Aide Memoire, dated March 15, 2002, p. 26. The plan was for MMRDA to outsource to EMCB consultants to assist with the implementation of the environmental work.

⁶⁹⁶ Ibid., 3.

⁶⁹⁷ Aide Memoire, Mission on August 19 – 30, 2002, dated September 27, 2002, p. 10; Aide Memoire, Mission on November 13 -23, 2002, dated December 26, 2002, p. 12; Back to Office Report, Mission on April 16 – 19, 2003, dated April 22, 2003, p. 4.

⁶⁹⁸ Letter from Country Director the State of Maharashtra, December 26, 2002, p. 1.

⁶⁹⁹ Aide Memoire, Mission on June 23 – 28, 2003, p. 4; Aide Memoire, Mission on September 22 – October 1, 2003, p. 12.

⁷⁰¹ Mission on March 4 – 14, 2002, dated April 4, 2002, p. 24.

⁷⁰² See also the picture 7.1 showing the waste problem at Mankhurd B.

- 2000,⁷⁰³ concluding that solid waste management demanded immediate and focused attention.⁷⁰⁴ Thereafter, there is little mention of problems of waste management until after the April 2003 mission—two-and-a-half years later.⁷⁰⁵
739. BTOs from missions in 2003 identify the problem of wastes as a serious concern, but this is generally not followed up in the Aide Memoires. For example, the BTO from the April 2003 Environment Mission elaborated the problem of waste management, saying that the staff noted the need for cleaning the storm water, especially at Mankhurd, where the drains were clogged with waste.⁷⁰⁶ The mission recommended two solutions: (1) MMRDA was urged to discuss the issue with SPARC so that the Environmental Management Committees could ensure that solid waste was not disposed of in the storm water drains, and (2) MMRDA should have the storm drains cleaned three or four times a year.⁷⁰⁷ The Aide Memoire from the September-October 2003 mission does not adequately follow up on these issues.
740. In November 2003, the BTO discusses the problems of garbage collection, and suggests that, if it were provided with two small tipper vans and a car, SPARC could remove the garbage from all their sites.⁷⁰⁸ However, the subsequent Aide Memoire, from the March 2004 mission, makes only passing reference to the issue.⁷⁰⁹
741. The issue continued to be raised in the Bank, but the July 2004 R&R Implementation Review Mission Report⁷¹⁰ and the report on the mission to follow up on Inspection Panel-related issues⁷¹¹ have little mention of waste management. The Aide Memoire from the October-November 2004 mission listed garbage disposal services as among the examples of key progress,⁷¹² though it noted that garbage removal had been repeatedly mentioned as a problem by residents of some of the sites.⁷¹³
742. The April-May 2005 Aide Memoire made two recommendations related to waste: (1) the R&R Implementation Manual should include provisions for waste

⁷⁰³ Back to Office Report, Environment Mission on April 16 – 19, 2003, dated April 22, 2003, p. 1.

⁷⁰⁴ Aide Memoire, Mission on September 18 – 27, 2000, dated October 17, 2000, p. 9.

⁷⁰⁵ Letter from Bank to MMRDA, regarding Environment Mission on April 16 – 19, dated May 1, 2003.

⁷⁰⁶ Back to Office Report, Environment Mission on April 16 – 19, 2003, dated April 22, 2003, p. 2.

⁷⁰⁷ Ibid.

⁷⁰⁸ Back to Office Report, Mission on November 18 – 19, 2003, dated November 25, 2003, p. 1.

⁷⁰⁹ Aide Memoire, Mission on March 5 – 26, 2004, dated April 14, 2004, p. 18. It does mention some technical defects in drainage infrastructure.

⁷¹⁰ R&R Implementation Review Mission Report, dated July 6, 2004.

⁷¹¹ Letter from Country Director to MMRDA, Mission to Follow Up on Inspection Panel Requests on July 7 – 13, 2004, dated July 19, 2004, Annex 1, p. 1. This does mention that the Implementation Manual should list waste management as one of the conditions necessary prior to relocation of PAPs.

⁷¹² Aide Memoire, Mission on October 28 – November 5, dated November 29, 2004, p. 5.

⁷¹³ Ibid., p. 24. The Aide Memoire added that MMRDA had provided a matrix of actions already taken or being undertaken at each site to address PAPs' complaints, noting that most problems had been addressed or were in the process of being addressed.

removal⁷¹⁴ and (2) proposals for small projects, including solid waste management, should be invited from NGOs / CBOs / private parties.⁷¹⁵ The Mid Term Review and Supervision Mission of October 2005 noted that many waste management issues remain and recommended a variety of site-specific solutions.⁷¹⁶ **Despite early identification of the problem of on-site waste management by staff, Management did not follow up on the issues. The Back to Office Reports give much greater attention to the issue than is reflected in the Aide Memoires. Moreover, the recommended solutions seem to change between missions and were not consistently addressed.**

D. Consultation with Affected People during Supervision

743. BP 13.05⁷¹⁷ underlines that effective supervision requires consultation with PAPs. This does not only ensure that PAPs are heard but also ensures that PAPs help to reveal and solve problems relating to the Project. The Panel notes that Bank supervision missions visited the Project area including the resettlement sites. However, the Panel's review of Management's Aide Memoires and BTOs reveals few references to discussions with PAPs and do not systematically include records of on-site meetings with PAPs. The Panel is concerned as to whether there was effective consultation with the affected people, at least prior to the Request for Inspection.
744. **The Panel finds that Management did not ensure that meaningful consultations with PAPs take place during supervision. Bank supervision missions should document the consultations and contain details about the meetings with PAPS.**

E. Supervision: Staff Expertise and Mission Composition

1. Mission Frequency and Duration

745. The Panel reviewed Management's Aide Memoirs, BTOs, and other documents to quantify the frequency and duration of mission visits. There have been two to three regular inter-disciplinary supervision missions each year, along with shorter missions with a focus on a particular area. One deviation from this tendency was the stretch of time between the November 2002 Project Launch mission and the next full mission, in September 2003, when there were several short and small missions focused on particular issues but no general supervision mission. General missions generally lasted more than five days, while missions focused on a

⁷¹⁴ Aide Memoire, Mission on April 27 – May 6, 2005, dated May 18, 2005, p. 5.

⁷¹⁵ Ibid., p. 32.

⁷¹⁶ Aide Memoire, Mid Term Review and Supervision Mission on October 17 - 26, 2005, p. 3, 11, and 48.

⁷¹⁷ BP 13.05, ¶10.

particular area usually lasted less than five days.⁷¹⁸ The Panel notes that supervision missions have increased since the Request was filed with the Panel, which reflects an effort to address the problems raised by the Requesters.

2. Staff and Mission Expertise

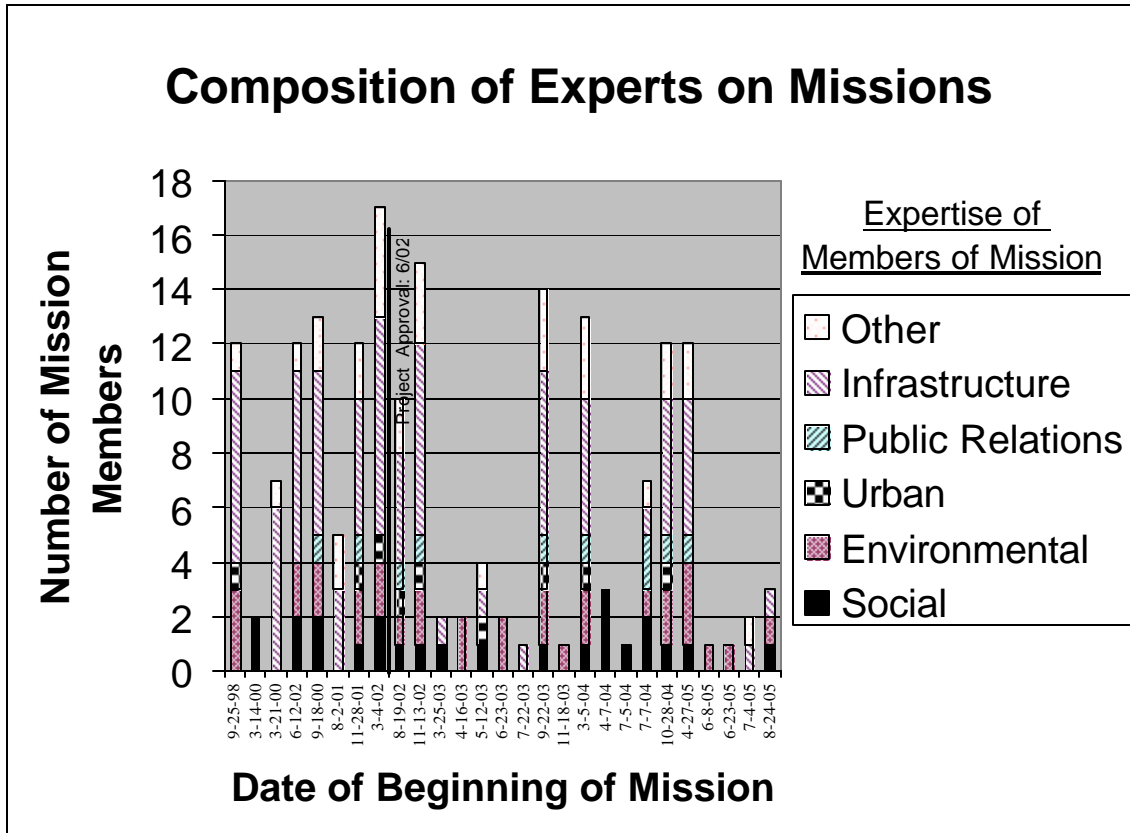
746. OD 4.30 requires that Bank supervision missions be staffed with “*requisite social, economic, and technical expertise.*”⁷¹⁹ The figure below shows the composition of Bank’s missions. From Project approval in June 2002 until Management met with the Requesters in March 2004,⁷²⁰ six missions had one social expert, occasionally joined by an urban expert; the rest had none. The number of social experts abruptly increased to three in April 2004, the same month that the Panel received the First Request. A subsequent mission also had more than one social expert. Throughout, infrastructure specialists dominated the missions, as can be seen below. This occurred despite the importance and the sheer size of the resettlement component and the increase in problems associated with it. Thus, until the complaints from the Requesters, staff with expertise in resettlement remained constantly low despite the significance of these issues.

⁷¹⁸ Though this chapter deals with supervision, the Panel did also include some information on preparation missions before Project approval in order to give a full picture.

⁷¹⁹ OD 4.30, ¶ 31.

⁷²⁰ Letter from United Shop Owners Association to the Bank, dated March 26, 2004, referencing meeting held on March 25, 2004.

Figure 8.2: Composition of Experts on Missions



Source: Project documents from missions.

747. **The Panel observes that despite the significance of resettlement issues, the supervision staff in this aspect of the Project generally remained constant at only one social expert in the Country Unit. During the investigation, it was brought to the attention of the Panel that the position of Sector Manager for Social Development in the South Asia Region, which is especially relevant to resettlement issues, was vacant for more than two years during Project implementation.** The Panel further notes that after the Requesters approached the Bank and the Panel, the Bank’s social and environmental safeguard staff became significantly involved in the supervision process, and that this has contributed to efforts to address problems identified by the Requesters.

F. Recent Steps to Comply

748. **The Panel notes that after the Requests were filed, the Bank’s attention to the problems in the R&R for the road component increased dramatically, and received high level attention. Since then, the Bank has taken a number of actions to address some of the concerns raised in the Requests, culminating**

in those outlined in the latest Aide Memoire of October 2005 and the December 2005 agreement to expand the coverage of the Business Needs Study. The Panel appreciates these efforts and regards them positively. In particular, the Panel notes the initiative of the Country Unit in July 2004 to begin to try to address the concerns of the shopkeepers with MMRDA and the Requesters, the greater attention of Country Unit staff to monitoring implementation, and the concern of Bank staff at headquarters and in the field to the issues and to finding ways to resolve them and to bring the Bank into compliance.

749. **The Panel observes, however, that there are still many issues outstanding, including the final delineation and implementation of the measures needed for SCLR shopkeepers to bring the Bank into compliance with OD 4.30.**
750. **The Panel finds that in the initial design of the Project, the Bank was careful to comply with Bank policies and procedures. However, as indicated above, after the two separate Projects for Infrastructure and for Resettlement and Rehabilitation were merged into one Project, the Bank did not comply with a number of important policy and procedures. This has had important ramifications for the Project. Now the pendulum appears to have shifted, and concerned Bank staff is making significant efforts to bring the Bank into compliance. The Panel finds it essential that these efforts continue, and notes the recent significant concerns raised by the Requesters relevant to implementation and compliance. The Panel acknowledges the importance of transport infrastructure to the development of Mumbai, and hopes that its report will help to ensure that the Project complies with Bank policies and procedures.**

Annex A Table of Findings

ISSUE	MANAGEMENT RESPONSE ⁷²¹	PANEL 'S FINDINGS
<i>Social Compliance</i>		
MUTP R&R policy framework	MUTP R&R Policy, adopted by the GoM in December 2000, presents a framework for resettlement for the whole Project and covers all people affected, whether by Bank-financed components or not. RAP (April 2002) covers the resettlement requirements under the Project, in accordance with OD 4.30. Specific RIPs cover the particular requirements for each of the sub-projects.	Resettlement under MUTP was strongly based on respective provisions of SRA, assuming all PAPs would be slum-dwellers. As consequence, Project failed to adequately identify heterogeneity of PAPs and their distinctive needs. RAP fails to pay adequate attention to some of most important aspects of resettlement, such as restoration of income.
Differences between Rail and Road Component	Not Addressed Explicitly	Bank failed to recognize substantial differences between the rail and the road components and to incorporate these differences into Project preparation and implementation. Differences involved both the identification of those affected by the road widening and road construction, the surveying of their assets, and their requirements for resettlement. The Panel finds that for the substantially different sub-categories of populations, Bank did not ensure that the Project design met the Bank's Policy OD 4.30.
Institutional capacity and delegation of responsibilities to NGOs	During Bank's July 2004 mission Bank staff engaged in a dialogue with MMRDA, SPARC and the Requesters. Because of the need to enhance overall capacity to implement resettlement, the Bank and MMRDA agreed that MMRDA and SPARC would carry out a series of actions to improve overall institutional capacity to plan and implement resettlement implementation over the medium term.	Panel appreciates effort to involve NGOs in the Project, but is concerned about the transfer of main implementation responsibilities from State Government and Municipal Agencies to NGOs with insufficient institutional capacity and knowledge to deal with overwhelming magnitude of responsibilities transferred. This was not in compliance with OD 4.30. Regarding involvement in post-resettlement actions, Panel was informed that contract was awarded on a sole source basis. NSDF indicated to the Panel that it does not generally keep receipts of or otherwise document expenditures. Bank did not ensure that requisite institutional capacity was in place for

⁷²¹ First Management Response (May 27, 2004) and Second Management Response (July 28, 2004).

		implementing and monitoring operational arrangements at the resettlement location after the PAHs have been resettled. This does not comply with OD 4.30.
Entities conducting surveys of PAPs and PAHs		NGOs lacked capacity to deal with task of such a large scale, and did not receive adequate training.
Methodology used for surveys	Not Addressed Explicitly	<p>Methodology used for population counts from early phases of preparation was structurally imprecise and flawed. This resulted inevitably in inexact physical data and in highly conflicting demographic estimates, with negative consequences for Project planning.</p> <p>Bank staff did not carry out their professional responsibility: they paid scant attention to the method of preparing population surveys, and were remiss in exercising quality-control from the preliminaries of the survey to their reported final results.</p>
Consequences of problems in methodologies of surveys: <ul style="list-style-type: none"> • Conflicting descriptions of affected populations 	<p>R&R component originally provided for resettlement of about 19,200 households and businesses (representing about 80,000 people). The number of affected households and businesses subsequently increased to about 23,000 (approximately 20,000 houses and 3,000 shops, representing approximately 120,000 people) in April 2004 because of changes in the scope of some sub-projects and detailed assessments that updated the preliminary numbers.</p>	<p>Flaws in gathering data appear to have resulted in major misstatements about overall size of displacement, and eventually loss of control by Bank staff over aggregate proportions of displacement under Project.</p> <p>Panel observes an imprecision and variability of population data in this Project that exceeds any normal degree, and does not comply with OD 4.30.</p>
<ul style="list-style-type: none"> • Problems in assessing the costs and feasibility of resettlement 	See above	<p>Unreliable data on people and physical assets translated into inability to assess realistically the costs of displacement.</p> <p>Even after “discovery” in 2004 of an increase of 50% in estimated number of people to be displaced, no re-examination of the component and its costs took place. Only after the Requests, in October 2005, were the figures updated for the R&R component. This appears to be mostly an accounting change in the way items long included in costs, but not monetized previously, are now reflected, and does not appear to represent an increase in financing for resettlement.</p>

		As a result, Bank failed to comply with basic policies of OD 4.30 regarding the preparation, appraisal and implementation of resettlement operations.
<ul style="list-style-type: none"> • Failure to develop appropriate baseline to assess risks 	Government contracted SPARC and NSDF to undertake baseline socio-economic surveys. Details about the socio-economic make-up of all affected families and shopkeepers are available in the Annexes to the RIP.	Surveys of affected population, immovable assets affected by resettlement, and income of PAPs were significantly deficient and did not provide reliable baseline data, which does not comply with OD 4.30.
<ul style="list-style-type: none"> • Neglecting community assets 	Not Addressed Explicitly	Surveys of community assets were inadequate and did not comply with OD 4.30.
<ul style="list-style-type: none"> • Issues in relation to shopkeepers and other commercial PAPs 	Annexes to RIP prepared in April 2003 contain list of affected shopkeepers, including details such as nature of activity, turnover, number of employees and year of establishment. An on-the-ground survey to measure the size of affected shops was conducted by the NGOs as part of the baseline socio-economic data collected during preparation of the RIP. This information was updated in April 2004.	<p>Surveys did not appropriately cover employees of middle income shopkeepers.</p> <p>Socio-economic situation of distinct group of middle-income and lower-middle-income inhabitants, in particular shopkeepers and other commercial PAPs, was not adequately recognized in preparation and planning. This fails to comply with OD 4.30.</p> <p>While Business Needs Study is carried out and its outcomes are being expected, affected groups – who complained about their impending and de-capitalizing involuntary displacement – should not be uprooted and relocated as originally envisaged, which would not comply with Bank policies.</p>
Private ownership of land and shops at the old locations	More than 99% of the affected households and businesses had no legal rights to the land they occupied. Shopkeepers without a title. Shopkeepers concerned, will receive an ownership title to the alternative shops.	Bank failed to address lack of R&R capacity within MMRDA to deal with complex, case-by-case tenure. This is not consistent with OD 4.30.
PAPs access to information: Public Information Centers	Draft RAP was first disclosed in October 2001 and in Bank's Infoshop in November 2001; an updated draft RAP was disclosed in February 2002, before the appraisal mission. The draft RAP was replaced with the final RAP in the Infoshop in April 2002. The RAP was also disclosed in the PIC of the Bank's New Delhi Office. It was disclosed by MMRDA locally at the PICs at MMRDA in Bandra (East) and Mankhurd. The executive summaries are also available in local languages (Hindi and Marathi).	Although there were provisions to provide information to PAPs through PICs, these did not operate effectively during crucial period when people needed to be informed about Project. Dissemination of substantive information about Project was neither timely nor effective. Disclosure of information on MUTP has been inadequate and does not comply with OD 4.30. Panel notes Bank's efforts to improve performance of PICs since April 2004.

	<p>Copies of the SCLR-RIP were disclosed by MMRDA in the then existing PIC offices in April 2003. The executive summary of the RIP was placed on MMRDA's web site.</p> <p>PICs were established in the offices of MMRDA at Bandra (East) and at Mankhurd. The PIC at MMRDA is about 3 km by road from the area where the Requesters have their shops on the SCLR; the PIC at Mankhurd, managed by SPARC, is about 8 kilometers away. PICs house SCLR sub-project-related information, including the RAP, RIP and list of shopkeepers. In response to the findings of the March 2004 Bank supervision mission, MMRDA has established a new and separate PIC. In May 2004, MMRDA conducted a meeting at the SCLR PIC to explain the opening of this center.</p>	
<p>Responding to requests for information</p>	<p>The requirements of the Bank's Policy on Disclosure of Information have been met, though there have been weaknesses in communication of information to and consultation with Project Affected Persons; these issues are among those which are the subject of intensive follow up.</p>	<p>Information process is inadequate and there is general lack of responsiveness to Requesters' inquiries for information. Disclosure of information on MUTP has been insufficient and not in compliance with Bank Policies.</p>
<p>Consultation</p>	<p>Concerning resettlement issues, consultations were carried out on an ongoing basis. During Project preparation, as part of EA, a series of consultations was organized. Consultations were also held in December as part of the preparation of the May 2003 CEMP.</p> <p>In the case of SCLR, PAPs, including the affected shopkeepers, were consulted during the household surveys and consultations about alternative sites, site design, principles of allotment, planning of services, etc. during October-December, 2002. Feedback from PAPs was incorporated in final designs.</p> <p>No specific consultations were conducted to discuss alternatives for alignment or structural design, except consultations for R&R purposes. Public consultations were held as part of the EA of the Project as a whole, wherein all sub-projects proposed</p>	<p>Neither shopkeepers nor other PAPs were consulted in advance about resettlement sites. The shopkeepers were not consulted about any possible alternatives to the resettlement sites for their shops. This does not comply with OD 4.30 and OP 4.01.</p> <p>Lack of meaningful consultation on other elements of Project, such as alternative alignments of the road.</p> <p>Panel notes that certain consultation did take place subsequent to selection of sites with regard to characteristics of buildings and shops, which led to increased height for certain shops or space on the ground level for a limited number of shops. This is consistent with OD 4.30 and OP 4.01. But not all the shopkeepers entitled to consultation were included.</p>

	in the Project were discussed.	
Selection of resettlement sites	<p>Resettlement arrangements for the shopkeepers are difficult, chiefly because of their current prime retail location along a well-traveled road. Central problem is finding an alternative location that would satisfy their preferences and commercial needs.</p> <p>Mumbai real estate is characterized as a sellers' market—prices are very high. Resettlement is financed through TDRs. Mankhurd location was considered one of the best options available to MMRDA, because it had good supporting physical infrastructure and was close to the Mankhurd railway station.</p>	<p>Almost no discussion of the social and socioeconomic effects of using TDRs for land acquisition in PAD or RAP. Panel is concerned that use of TDRs in the MUTP has limited availability of sites that were considered. Panel is also concerned that choice of possible resettlement sites was strongly influenced by finding sites that suited the developers.</p>
Acquisition of resettlement sites	<p>Mankhurd was selected following an open advertisement to developers seeking offers of land for Project resettlement purposes.</p> <p>A sub-group was formed in MMRDA with representatives from Government and NGOs to identify various available sites for resettlement. Three options evolved out of this process:</p> <p>Option A: six feasible sites were selected out of a number of sites initially identified. These sites were procured based on transfer from other government departments or using TDRs from land owners. Availability of infrastructure, social services and access to employment opportunity, as well as proximity to the areas from which people were being displaced were taken into consideration in finalizing these sites.</p> <p>Option B: four large sites were procured from developers and land owners, through open advertisement, using TDRs for both land and buildings. Resettlement sites were selected by inviting proposals from land owners and developers through an open advertisement and evaluating them based on a rating system. Option C: 4,000 readily available housing units were purchased from MAHADA, primarily to respond to the time-bound High Court Order to resettle the people along the</p>	<p>See above</p>

	<p>railway tracks in 2000-2001. Proximity to the existing location of displaced persons was considered in the purchase of these housing units. In all, 20,000 housing units will be required for the Project.</p>	
<p>Consideration of the Requesters' proposals for alternative sites</p>	<p>The sites mentioned by the Requesters were also considered by the Project authorities and found not to be feasible. For the New Mill, Swadeshi Mill and Premier colony areas, there are restrictions on using the lands of closed factories, which prevent their use for slum rehabilitation schemes. The vacant government land referenced by the Requesters is reserved for school construction in the Urban Development Plan. Thus, the site is not available for resettlement purposes.</p> <p>Bandra-Kurla Complex is a high-value, commercial location. The land in the complex is being sold through an open auction in which anyone can participate, although it is anticipated that the complex will be occupied primarily by large commercial establishments and corporate business headquarters. The businesses in which the Requesters are engaged are smaller and deal in commodities or services, such as plywood, vehicle parts and repair, scrap metal, plastics. This type of commerce is not the type for which the Bandra-Kurla Complex is designed. Property prices in the complex are expected to be too high for these merchants.</p> <p>Because of the lack of availability of resettlement site options, there was limited opportunity for prior consultations with PAPs on sites that could be offered for resettlement. The sites selected were described in the RAP. The suitability of the resettlement sites and the process and criteria followed for their selection was explained to PAPs.</p>	<p>Panel was unable to find in Project files systematic schedule of possible locations for resettlement and analysis of advantages and disadvantages of each. Such analysis should have formed integral part of EA of road component of overall Project, and that problems currently being experienced are in part due to this shortcoming. Failure to consider alternative resettlement sites is not consistent with OD 4.30.</p>
<p>Grievance mechanism: structure and functioning</p>	<p>Current grievance process, as set out in the R&R Policy and the RIP, gives principal responsibility to the NGO managing the resettlement activity. Problematic issues that cannot be resolved by the NGO are referred to the MUTP Community Development Officer with</p>	<p>Grievance system lacks clear responsibilities, procedures and rules and has not been independent. Many PAPs have learned only recently about existence of grievance system and were not aware of details of the process.</p>

	<p>support from the Executive Engineer. If a mutually satisfactory outcome is not achieved, issues are referred to a higher management level (Joint Project Director, Chief Engineer and Team Leader of NGO).</p> <p>Grievance process generally worked effectively during resettlement of the initial 4,000 PAHs, as acknowledged in an independent impact assessment. Nevertheless, supervision missions in 2004 found that the grievance process required strengthening and revamping.</p> <p>Information regarding the revamped system will be disseminated in the affected areas and at the resettlement sites. Objective is to increase their accessibility, effectiveness and timeliness of response. Key aspects of the revamped system include the following: (i) the committee heads of the two grievance committees will be senior officials and will not be associated with MUTP implementation; (ii) the first tier committee will meet twice a month and the second tier committee once a month; (iii) the responsibilities of the two committees will be expanded beyond verification of eligibility to include broader issues; and (iv) business standards for responding to requests from Project Affected Persons will be established.</p> <p>An Independent Monitoring Panel (IMP), consisting of eminent citizens of Mumbai, meets periodically to review the resettlement implementation progress, including outstanding complaints and grievances. The IMP also undertakes field visits to listen to concerns and problems of PAPs. Several meetings have been held.</p>	<p>During its field visits, the Panel got the impression that there seems to be no clear understanding about the role of the Independent Monitoring Panel (IMP).</p> <p>After Panel's eligibility visit, MMRDA took significant steps to improve the grievance procedures, but Panel finds that Bank has not ensured that the grievance mechanism is independent and objective. The Panel notes that Requesters and other PAPs complain that there is no independent person on the grievance system when the initial complaint is determined, and they do not accept the members of the Independent Monitoring Panel as independent persons.</p>
<p>The special case of the shopkeepers</p> <p>Commercial rehabilitation needs</p>	<p>Income restoration needs of medium-sized shopkeepers, who typically have specialized premises and benefit from strategic commercial locations, may not be sufficiently addressed in the implementation details. MMRDA is in dialogue with the medium-sized shopkeepers. Extent to which restoration</p>	<p>Bank overlooked middle income shopkeepers in planning for resettlement and failed to notice differences in their situation from that of others to be resettled. This does not comply with OD 4.30.</p> <p>Panel is very concerned that unless further actions are taken, shopkeepers will be put</p>

	<p>of income is achieved will be monitored by consultants to MMRDA through impact assessment surveys, planned to be carried out by consultants one year after the allotment of alternative shops. Remedial measures will be undertaken if and as needed.</p> <p>As resettlement progressed, MMRDA and Bank became aware that shopkeepers are not a homogeneous group. Small, typically household-based shopkeepers are generally well-served by the provisions of the policy and RAP and RIPS. Supervision mission findings have indicated few problems with this group.</p> <p>Resettlement and income restoration needs of medium-sized shopkeepers, who typically have larger and more specialized premises and benefit from strategic commercial locations in the city, may not be fully served by the package offered to shopkeepers.</p>	<p>in significantly worse conditions as a result of the relocation. This would not comply with Bank Policy.</p>
<ul style="list-style-type: none"> • Differences between Rail and Road component 	<p>Not Addressed Explicitly</p>	<p>Bank failed to recognize substantial differences between rail and road components and to incorporate these differences into Project preparation and implementation. This failure had particular consequences in overlooking fact that many of the road PAPs are middle-income shopkeepers. Bank did not display sufficient diligence in this respect in ensuring that the Project design met OD 4.30.</p>
<ul style="list-style-type: none"> • Overall numbers of shops and shopkeepers 	<p>Number of affected households and businesses increased to about 23,000 (approximately 20,000 houses and 3,000 shops, representing approximately 120,000 people) in April 2004 because of changes in the scope of some sub-projects and detailed assessments that updated the preliminary numbers.</p>	<p>Panel found it difficult to find coherent and sufficiently detailed numbers of shopkeepers and shops needed for them.</p> <p>With regard to shopkeepers, the Panel found different estimates in different documents of the number of commercial units that need to be constructed, without recognition or explanation of the discrepancy in estimates. The Panel finds that this is not consistent with OD 4.30 or with OP/BP 13.05. The Panel hopes that the new Business Needs Study, mentioned below, will address this issue.</p>
<ul style="list-style-type: none"> • Location of new shops 	<p>Resettlement arrangements for the shopkeepers who made the Request are difficult, chiefly because of their current prime retail location along a well-traveled</p>	<p>Given weak economic situation of the PAPs living at the resettlement sites, Panel is concerned about lack of potential customers for a number of shopkeepers,</p>

	<p>road. Resettlement and income restoration needs of medium-sized shopkeepers, however, who typically have larger and more specialized premises and benefit from strategic commercial locations in the city, may not be fully served by the package offered to shopkeepers. Mankhurd was considered one of the best options available to MMRDA, because it had good supporting physical infrastructure and was close to the Mankhurd railway station. Central problem is finding an alternative location that would satisfy their preferences and commercial needs.</p>	<p>particularly for more specialized shopkeepers. Many of the shops at resettlement sites are located in rather small corridors inside the housing complexes, away from main streets. Low purchasing power of the PAP population, in combination with a non-strategic location, will lead to severe losses in business.</p>
<ul style="list-style-type: none"> • Limited floor space 	<p>Based on outcome of consultations in January 2004, the shopping complex design at Mankhurd was changed from ground level plus one story to a ground floor structure only. Height of the shops was also increased and provisions made for additional access. Shopkeepers will receive shops of graduated sizes, depending on their losses, up to 225 square feet and will receive titles.</p> <p>Mankhurd shopping complex will contain 239 shops, in standard sizes, ranging from a minimum of 54 sq. ft. up to maximum available size of 231 sq. ft. Because of severe constraints on land availability in Mumbai larger shops are not available in the complex to allow purchase of additional space. MMRDA and SPARC are actively seeking solutions to bridge the gap between availability and requirements.</p> <p>Those who are partially affected will be able to maintain their current storefront along SCLR.</p>	<p>Entitlement of 225 sq. ft. regardless of actual size of the Requesters structures does not comply with Bank Policies. This approach neglects the fact that many of the Requesters' current shops are much bigger than 225 sq. ft. and that under the aforesaid scheme these small enterprises cannot restore their business to pre-project levels due to limited availability of space.</p>
<ul style="list-style-type: none"> • Equipment of the shops, commercial licenses, inventory 	<p>Annexes to the RIP contain list of affected shopkeepers, including details such as nature of activity, turnover, number of employees and year of establishment.</p>	<p>Inventory of fixed investments on shop interiors has not been included in the BSES. Neither expenses for acquiring new licenses nor application of high assessment taxes on new licenses have been considered.</p> <p>It will be important to ensure that licenses are transferred on time before PAPs are moved.</p>
<ul style="list-style-type: none"> • Assessments of employee PAPs 	<p>See above</p>	<p>With regard to middle-income shopkeepers, no appropriate assessment of</p>

		employee PAPs was undertaken. Employees who are not resident in area but rather support family in rural areas have not been adequately addressed. This does not comply with OD 4.30.
<ul style="list-style-type: none"> • Impacts of additional road widening 	<p>The originally agreed and planned road width for the SCLR civil works was 39 m, based on an analysis of economic feasibility, engineering, and resettlement factors. MMRDA proposes to uniformly widen the right of way to 45.7 m, as specified for roads of this type in the Mumbai Urban Development Plan. The Bank was informed of this proposal to widen both the SCLR and the JVLR during the March 2004 mission. The rationale for the proposed widening at this time is to benefit from the economies of current construction, prevent future encroachments and avoid future widening that would affect the same people twice. The Bank has not given a no-objection to this proposal and has informed MMRDA that, irrespective of the source of financing for the increased scope of civil works, resettlement impacts must be mitigated using the agreed R&R policy for the Project. An addendum to the Phase I RIP to cover the additional impacts must be prepared by MMRDA. Bank staff discussed this issue at length with MMRDA during recent supervision missions.</p>	<p>Bank needs to consider viable alternative project designs, e.g., realignment of roads. Bank has not ensured so far that the planning of MUTP addressed Bank policy requirement that involuntary resettlement should be minimized wherever possible.</p> <p>As of December 13, 2005, Bank had not issued a ‘No Objection’ statement because it was still reviewing the final draft of the supplemental RIP for the SCLR widening. This position of withholding the “No Objection” complies with the provisions of OD 4.30. The Panel notes that in considering further action on the proposed road widening, the Bank will need to assess the proposal, and possible alternatives to it, in compliance with OP/BP 4.01, OD 4.30 and other relevant policies.</p>
<ul style="list-style-type: none"> • Recent actions regarding shopkeepers 	<p>Not applicable because refers to actions after Management Response.</p>	<p>Panel considers that successful completion of the “Business Needs” study and subsequent implementation of measures and necessary changes likely to result from study, may help bring the Project into compliance on some of the provisions of Bank resettlement policy.</p>
<p>Income restoration and improvement</p> <ul style="list-style-type: none"> • Assessment and risk analysis of income loss 	<p>If PAPs lose their source of livelihood permanently, they will be offered lump-sum compensation equivalent to one year’s income.</p> <p>Income restoration needs of medium-sized shopkeepers, who typically have specialized premises and benefit from strategic commercial locations, may not be sufficiently addressed in the implementation details. MMRDA is in dialogue with medium-sized shopkeepers who submitted the Request, to discuss</p>	<p>In MUTP, Bank assumed that jobs would not be a problem in Mumbai and thus did not anticipate major income losses. As a result, Bank paid scant attention to income restoration. Evidence demonstrates, however, that income loss and impoverishment risks are major problems in this resettlement action. This particularly applies to shopkeepers, as described above. It also is expected to be the case of other PAPs from road component as they are relocated, unless significant changes are made.</p>

	<p>solutions. The extent to which restoration of income is achieved will be monitored by consultants to MMRDA through impact assessment surveys, planned to be carried out by consultants one year after allotment of alternative shops. as required by the Project Agreement, which calls for a resettlement impact evaluation study to be conducted at the end of a one-year period following relocation of PAPs under each sub-project. Remedial measures will be undertaken if and as needed.</p> <p>Requesters' living conditions at Mankhurd are expected to be considerably better than the one they are now experiencing. The 225 sq. ft apartment, compared to present average size of 130 sq. ft. will be much larger than current habitations.</p>	
<ul style="list-style-type: none"> • Income loss due to reduced earnings/ job losses 	<p>MUTP R&R Policy provides that <i>“displaced persons are assisted in improving or at least restoring their former living standards, income earning capacity and production levels.”</i> The impact on Gazi Nagar residents is chiefly loss of housing and not loss of jobs or sources of income.</p>	<p>Field research indicates that majority of Rail PAPs have experienced and will face significant financial hardship as a result of relocation.</p> <p>Project has failed to address appropriately needs of PAPs with home-based commercial activities in residential-plus-commercial (R+C) structures.</p>
<p>Effects on income of costs and expenses associated with resettlement</p> <ul style="list-style-type: none"> • Erosion of income from higher travel expenses 	<p>At present, access by road entails traveling a distance of about 15 kilometers. Once SCLR is completed, the direct distance by road will be about 8 kilometers.</p> <p>PAPs will be provided with transport allowances for shifting their household belongings and either a cash supplement to cover costs of increased travel distance to work or the option of creating a Community Revolving Fund for economic rehabilitation. This Fund is to be operated by PAPs with assistance from NGOs to offer help to vulnerable groups through credits/loans for self employment to supplement family incomes.</p> <p>During Project appraisal, it was agreed that the individual housing societies would make the choice between the cash supplement and the Community Revolving Fund, with deposits made at</p>	<p>Combination of lesser incomes and higher costs is having major effects on living standards. Some PAPs are forced to rent out their flats. Some are pulling children out of school; others are losing water and electricity connections due to inability to make payments. These problems apply especially to most vulnerable.</p> <p>Panel is concerned that PAPs will not be able to deal with increased transportation costs related to relocation. Increased travel costs will not only be necessary to reach work places but also social services.</p> <p>Project has taken some steps in relation to these problems, including providing for travel allowances funds. Panel notes these efforts, but its investigation indicates that they are falling far short of what is needed to meet provisions of OD 4.30, and that there are significant delays in implementation.</p>

	the rate of Rs. 1,000 per family.	
<ul style="list-style-type: none"> • Costs of shifting 	PAPs will be provided with travel allowances for shifting their household belongings.	Panel notes importance to adequately assist PAPs with the costs of shifting to the resettlement sites.
<ul style="list-style-type: none"> • Maintenance costs 	PAPs losing their residences will be given Rs. 20,000 (USD 450) as lump sum grant to be deposited in a fixed account and the interest earned out of this grant will subsidize their maintenance charges and taxes.	<p>As of the date of this Report the Bank has not demonstrated that the maintenance funds have been transferred or that the transfer of funds has been accelerated. The earned interest of the maintenance fund only covers certain taxes that PAPs have to pay, but does not help them to deal with the high maintenance costs that PAPs have to pay in the new buildings.</p> <p>Panel notes that housing cooperatives must be legally approved and registered before they are eligible to receive funds. As of November 1, 2005, the Panel finds that most cooperatives have not been registered.</p>
Addressing effects on incomes and living standards	<p>Should PAPs lose their livelihoods permanently, Project will offer a one-time cash supplement equivalent to one year's income during the transition period to allow those affected to search for alternative livelihood opportunities.</p> <p>Future supervision missions will also attend to the close follow-up on progress in post resettlement activities, registration of cooperatives, transfers of maintenance funds, establishment of community revolving funds for economic rehabilitation and other measures for sustainable income restoration</p>	<p>Formation of Community Revolving Funds for economic rehabilitation has been difficult and that the Funds are not distributed.</p> <p>RAP promised to provide equivalent of one year's income during transition to PAPs who lose their livelihoods permanently. Panel is not aware that any such payment has been made as of November 2005. Because of the difficulty of finding jobs at or near the resettlement sites, Panel is concerned that such payment will not sufficiently address PAPs' lack of income at the resettlement sites.</p> <p>If income and living standard restoration had been adequately considered, PAD and RAP could have included requirements that contractors should employ and train large numbers of affected people, which would have helped them to acquire new skills and sources of earnings. This would have been in line with OD 4.30. Panel has not been able to find evidence that PAPs have been offered training programs as stated in RAP.</p> <p>Failure to address income and living standard restoration for PAPs in road component does not comply with OD 4.30. This problem, particularly for shopkeepers</p>

		and their employees and for vulnerable individuals whose livelihoods are not at risk due to relocation, needs urgent attention by the Bank.
<p>Concerns related to the resettlement sites and living conditions</p> <ul style="list-style-type: none"> • Building services, quality and functioning • Water, sewerage and waste disposal • Electricity, elevators, parking and security 	<p>Requesters' living conditions at Mankhurd are expected to be considerably better than they are now. The 225 sq. ft. apartment, compared to a present average size of 130 sq. ft. will be much larger than current habitations.</p> <p>In contrast to conditions in Gazi Nagar, the new buildings at Mankhurd will be built in accordance with the Development Control Regulations of Greater Mumbai applicable to building design, construction, and related infrastructure and services, such as water supply, sewerage, site drainage, access roads, elevators, fire fighting.</p> <p>Permanent water supply for the Mankhurd resettlement scheme, after the construction phase, will be through water mains from a municipal source linked to the Trombay Reservoir; this is expected to be much more regular than the intermittent (three to four hours a day), existing water supply from a pumping station in Deonar. Water being supplied through municipal mains is of potable quality.</p>	<p>The Panel notes that as of November 2005, the Implementation Manual was still not complete, even though people have already been moved to the resettlement sites. This is not consistent with the provisions of OD 4.30.</p> <p>Bank has complied with OD 4.30 with regard to quality of the housing edifices. Buildings are not of substandard quality, and measured space between buildings did not depart from local requirements.</p> <p>There are other issues, however, that have not been addressed. Importantly, sewerage and water connections are not working properly and there are no collections of garbage and waste. The Panel finds that this does not comply with OD 4.30.</p> <p>Panel notes need for sufficient parking space for commercially-related vehicles to meet needs of resettled people with commercial businesses.</p>
Provision of social services	<p>Mankhurd is readily accessible to municipal hospitals and dispensaries, schools, markets, garden, playground, cinema theaters, etc.</p> <p>The area is predominantly inhabited by people of religious and socioeconomic background similar to the communities to which the Requesters belong</p>	<p>As of time of Panel investigation, resettlement sites lacked adequate access to schools, medical facilities and religious sites, and maintenance costs for buildings and utility services were high.</p> <p>Little attention has been given to provision of social services in resettlement sites.</p>
Housing cooperatives	Some of the important support activities that NGOs provide to MMRDA include assistance to PAPs in forming housing cooperatives	As of November 2005, most housing cooperatives have not been registered, and no PAH payments had been transferred to any housing cooperative community fund.
Risk of having to sell or rent new housing	Not Addressed Explicitly	Because of income losses and high maintenance costs, some PAPs are forced to rent out their new flats.
Legal rights regarding new flats and shops	More than 99% of the affected households and businesses had no legal rights to the land they occupied and a significant benefit of the resettlement is security of	Panel could not get uniform view or clarification on concrete legal status of the property rights of PAPs at resettlement sites. It is not clear to Panel whether PAPs

	tenure, with full legal title to the new houses and shops and a restriction on resale for 10 years to preclude speculation. The title is valued at about Rs.500,000 (about USD 11,000).	receive only right of occupancy or ownership of shops and apartment. There seem to be different views about this among Management, Project authorities and PAPs.
Environmental Compliance		
Environmental Impact Assessment: <ul style="list-style-type: none"> • Environmental screening • Preparation of EAs in Project cycle 	<p>EA process commenced in 1994 with a Sectoral EA and subsequent EA documentation.</p> <p>Sub-project designs were not finalized by the time of Bank appraisal and their impacts could not be determined. As a result, separate sub-project RIPs and CEMPs are required, prior to Bank approval of corresponding bid documents.</p>	<p>Project EA did not meet all OP 4.01's requirements.</p> <p>Bank assigned MUTP to Category A under OP 4.01. This is appropriate and in compliance with OP 4.01.</p> <p>EA process started early in Project cycle, which complies with OP 4.01. However, final EA for SCLR portion of MUTP was not completed until April 2003. This was well after initiation of Project and does not comply with OP 4.01.</p> <p>Because of tiered EA structure environmental issues related to resettlement have not been considered in a timely manner. As consequence, necessary documentation to ensure that "all environmental consequences are recognized early in the project cycle," as required by OP 4.01, was not available</p>
Environmental Assessment of resettlement sites	<p>Separate sub-project RIPs and CEMPs are required, prior to Bank approval of corresponding bid documents. CEMPs, prepared for all the resettlement sub-projects in accordance with OP 4.01, provide the environmental mitigation measures to be adopted during the construction and operation stages of the resettlement sub-projects.</p>	<p>Sites considered for resettlement were obtained through the use of TDRs. In evaluating the sites offered by land owners through this method, the Bank did not require environmental considerations to be included as one of the criteria for making the selection.</p> <p>EA that does not consider ambient environmental and social conditions when identifying sites for resettlement fails to meet requirements of the Bank's OP 4.01.</p> <p>Bank in its October 2005 Aide Memoire recognizes that the environmental conditions at R&R sites are not good, especially for solid waste management and sanitation, and indicates that it would be appropriate to use Project funds to manage the environment at resettlement sites, provided there was agreement with the communities on sharing the operation and maintenance costs in the future.</p>
Integrated	A 20-point rating system was used to	In MUTP, consideration of natural and

<p>consideration of natural and social aspects</p>	<p>evaluate the suitability of the resettlement sites. The categories to which merit points were assigned were: (i) distance from the proposed site to the nearest railway station by the existing accessible road; (ii) nature of access, such as a pedestrian, narrow street more or less than 20 feet, access from a proposed or existing vehicular road, etc; (iii) availability of existing basic infrastructure (adequate infrastructure, site within municipal sewerage zone, etc.); (iv) site conditions such as leveled, fenced, etc.; and (v) size of the plot that can accommodate a minimum of 250 standard units of 225 sq. ft. Mankhurd scored the highest number of points among the eleven sites evaluated and also among the four sites selected.</p> <p>As part of the CEMP preparation, environmental baseline information was collected, particularly with respect to air, water, land, and flora/fauna.</p>	<p>social aspects of environment in an integrated way has not occurred. This is not in accord with the spirit and intent of OP 4.01.</p>
<p>Independence and competence of the entities conducting EA</p>	<p>Not Addressed Explicitly</p>	<p>EA for the MUTP was neither conducted by an independent entity nor by EA experts to the extent that SPARC and NSDF were responsible. This does not comply with OP 4.01</p>
<p>Consideration of alternatives</p>	<p>Proposed alignment dates back to 1966 and was part of the Development Plan, showing a width of 30 m increased to 45 m in 1990. Options for alternative alignments were limited; this alignment passes through government lands, presently encroached upon by the slums.</p>	<p>Although policy level alternatives were considered for MUTP as a whole, analysis of alternatives did not extend to road component and to individual resettlement sites. These omissions directly affect the lives of PAPs. Since Bank did not subject the road component and individual resettlement sites to safeguards set forth in OP 4.01, it did not comply with OP 4.01.</p>
<p>Environmental problems at the resettlement sites</p>	<p>Physical environmental conditions will substantially improve, since resettlement housing has more light and ventilation, lower noise levels, reliable solid waste removal and sanitation, and surrounding open space and recreation area.</p> <p>As part of CEMP preparation, environmental baseline information was collected, particularly with respect to air, water, land, and flora/fauna. In addition, following the Request, more information has been collected by MMRDA in order to compare the Mankhurd resettlement site with other sites. The results do not show that the Mankhurd site is</p>	<p>If environmental factors had been considered appropriately, then many of the environmental problems could have been addressed more efficiently. A concerted effort by Bank Management and the Mumbai Authorities to clean-up and regulate waste disposal practices at the Deonar dump and in the waterways adjacent to the resettlement site could decrease public health risks at the Mankhurd resettlement sites.</p>

	excessively polluted or is at risk of being polluted.	
Waterways	Two natural watercourses (drains or nallas) on the eastern and western sides of the resettlement site carry storm water to Thane creek. Discussions with residents of the Mankhurd area have provided information that no flooding incident has occurred during the last five years. The drains are 8 to 10 m wide and are well-trained to drain excess storm water during peak flow, but water quality is deteriorated, based on a visual assessment. The nearest building to the nalla under construction for MUDP resettlement is located 30 m away. Natural channels, similar to those that drain into the creek on the eastern side or to the sea on the western side are a common feature in Mumbai.	Mankhurd resettlement site is not inherently more at risk of flooding, of health problems from standing waters (that would harbor mosquitoes), or of water-borne diseases than most of city of Mumbai.
Air quality / industrial emissions	There are no industrial activities around the site that produce emissions. Mankhurd site is not directly exposed to noxious emissions, as there are no industrial activities in the vicinity. Ambient air quality levels at the Mankhurd site, given the distance to the nearest major transport corridors (Ghatkopar-Mankhurd Link Road and Sion-Panvel Highway) meet the National Ambient Air Quality standards for a residential area, except for NOx. This parameter was elevated during the July 2004 monitoring due to considerable, on-site vehicular movements related to ongoing construction. This level is expected to come down significantly after construction is completed. Mankhurd site has acceptable ambient air quality that is within national standards.	While air pollution is serious, Mankhurd site is not closest resettlement location in terms of proximity to industries with atmospheric emissions or at greatest risk.
Deonar municipal solid waste dump	Dump referenced by the Requesters is located 1.5 to 2 km distant (depending on relative locations in the landfill and Mankhurd colony) from the resettlement site and is downwind from it. Odor has not been reported to be a problem. There is dense habitation between the resettlement site and the landfill.	Mankhurd resettlement and transit sites are only about 1.5 - 2 km from Mumbai's largest waste dump. A drainage line from the dumping grounds leads to the waterway that passes through the Mankhurd resettlement sites. In selecting resettlement sites, no consideration was given to proximity of Mankhurd site to Mumbai's largest waste dump or to implications of this. EA did not consider ambient environmental and social conditions when identifying sites for

		resettlement, which does not comply with OP 4.01.
Watercourses carrying blood and excreta from Deonar abattoir	Not Addressed Explicitly	Panel finds this most unlikely, as watercourse passing next to abattoir is not the one that borders Mankhurd permanent resettlement site.
Solid waste management at resettlement sites	Resettlement housing has reliable solid waste removal and sanitation.	While Bank documents indicate considerable effort to communicate that it is important for tenement residents to have effective on-site waste management, the issue urgently still needs to be addressed with the PAPs that have been or will be resettled.
Management of storm water drains	Two natural watercourses (drains or nallas) on the eastern and western sides of the resettlement site carry storm water to Thane creek. Discussions with residents of the Mankhurd area have provided information that no flooding incident has occurred during the last five years. The drains are 8 to 10 m wide and are well-trained to drain excess storm water during peak flow. MCGM de-silts the nallas every year before the monsoon. MMRDA also undertook de-silting of these nallas immediately after construction work commenced.	To protect quality of life of people being resettled to Mankhurd and to improve aesthetics of site, a frequent, deliberate and planned maintenance schedule for storm drains is needed. Similarly, on-site and municipal sewers must be connected and efficiently maintained to prevent overflow of sewage to storm water drains.
Radioactive waste from Bhabha Atomic Research Center (BARC)	Not Addressed Explicitly	In Panel's expert's view, residents of resettlement sites have no greater risk of exposure to radioactive emissions in the event of nuclear reactor accident than other residents of Mumbai.
Destruction of mangroves and other trees	<p>Of the total area, fifteen percent is reserved for recreation, of which a substantial part will be landscaped. This will include green lawns and trees planted along the banks of the drain, which will reduce its visibility from the buildings. Flowering trees with a large canopy when mature will be preferred for planting. A retaining wall will be constructed along the banks of the drain to define the boundary and other actions will be taken to prevent erosion.</p> <p>The un-built area in the vicinity of the site supports different types of vegetation such as palm trees, plantations, trees other than plantations, thorny trees, dense scrub, thorny sparse scrub, and ground vegetation. Site plans call for open space and recreational area that will be</p>	<p>Panel notes ongoing concern by Bank for mangrove habitat protection in Project, as reflected in its missions and in contract awarded to undertake compensatory planting of mangrove saplings for mangroves destroyed during rail link. Panel did not witness widespread destruction of present-day mangrove habitat at Mankhurd site. Neither Mankhurd site nor its immediate surroundings are currently populated with mangroves (although some trees were noted in nearby tidal creeks).</p> <p>Panel is concerned that the responsive actions relating to loss of Mangrove and other trees are not adequate.</p>

	landscaped with grass and trees.	
Supervision		
Responsibility for project implementation and supervision	R&R component of the Project has been intensively supervised by the Bank through Delhi-based supervision led by Project co-task team leader, a senior resettlement specialist and an environmental specialist, complemented by assistance from headquarters.	While Panel understands that matrix structure is widely applied by Bank to Projects of this nature, Panel finds that in dealing with problems as they emerge, this structure may sometimes delay Bank actions and dilute accountability.
Social Problem identification and corrective actions	<p>Mission aide-memoires and other communications between Bank and GoM attest active engagement of Bank staff with Project authorities.</p> <p>April 2004 supervision mission identified and advised MMRDA of several issues needing urgent attention and requiring follow-up: (i) swift transfer of those with three years in transit sites to permanent housing units; (ii) establishment of cooperatives and completion of other, post resettlement activities in the permanent housing areas; (iii) strengthening of implementation capacity in MMRDA, especially regarding the role of NGOs; (iv) improved dialogue and a focus on problem-solving with shopkeepers; (v) strengthening of the grievance redress process; and (vi) replacing members of IMP.</p> <p>July 2004 mission discussed these issues with MMRDA, Gazi Nagar Requesters, USOA, and SPARC. Bank advised MMRDA and SPARC of agreed, additional measures and specific ways to carry out previously identified measures to improve implementation. These measures are incorporated in the overall approach for enhancement of resettlement capacity.</p> <p>Along with its routine supervision missions, the Bank will continue to monitor resettlement implementation through monthly and quarterly progress reports, and the minutes of the IMP, and will undertake special supervision activities as necessary.</p>	Bank did not comply with OP/BP 13.05 and OD 4.30 in supervision of the Project, as described below.
• Estimates of PAPs	Not Addressed Explicitly	Estimates of number of people to be resettled and to a lesser extent the number

		<p>of businesses affected by the Project shifted significantly over time. Bank did not take adequate responsive measures or re-appraise the Project in light of these shifting estimates. The Panel finds that this does not comply with OP/BP 13.05.</p> <p>Throughout implementation, stated number of affected shopkeepers and businesses varied from document to document, with little recognition of discrepancies. The Panel finds that supervision related to determining number of affected shopkeepers and businesses did not comply with OP/BP 13.05.</p> <p>Bank's October 2005 Aide Memoire on its Mid Term Review and Supervision Mission indicates that there has been only a "marginal increase" of 4% in the number of Project Affected Households, raising the figure from 19,200 households to 20,000 households affected by the Project. This differs significantly from the previous figures noted in the Bank's earlier documents, particularly the figures in April 2004, which indicated a 50% increase in the number of PAPs.</p>
<ul style="list-style-type: none"> • Shopkeepers and other commercial issues 	<p>April 2004 supervision mission identified and advised MMRDA of several issues needing urgent attention and requiring follow-up such as improved dialogue and a focus on problem-solving with shopkeepers.</p>	<p>When R&R was a separate Project, distinctive needs of middle-income shopkeepers to be displaced by road were noted. However, issue was lost in the merger of the two projects.</p> <p>Bank initially treated middle-income shopkeeper concerns in Project as communications and public relations rather than socioeconomic problem and did not suggest adequate remedies pertaining to substance of complaint.</p> <p>Bank failed to identify the special problems of shopkeepers affected by the road widening and alignment and to take corrective action until the Request was filed with the Panel. This did not comply with OP/BP 13.05</p>
<ul style="list-style-type: none"> • Institutional Capacity of NGOs and MMRDA for resettlement 	<p>April 2004 supervision mission identified and advised MMRDA of several issues needing urgent attention and requiring follow-up strengthening of implementation capacity in MMRDA, especially regarding the role of NGOs;</p>	<p>Bank did not adequately follow up with the Borrower's commitment to remedy the lack of institutional capacity in MMRDA and the NGOs and hence did not comply with OP 13.05.</p>

		<p>Bank did not exercise careful supervision of the use of NGOs in the Project and did not comply with OP 13.05</p> <p>Panel was informed that contract with SPARC/NSDF has been awarded on sole source basis. Contract does not include adequate provisions for monitoring use of funds.</p>
<ul style="list-style-type: none"> • Grievance mechanism 	<p>April 2004 supervision mission identified and advised MMRDA of several issues needing urgent attention and requiring follow-up such as: strengthening of the grievance redress process and replacing members of IMP.</p>	<p>Bank was slow to identify problems with grievance mechanism and to follow up to ensure appropriate remedies. This does not comply with OP 13.05.</p>
<ul style="list-style-type: none"> • Income restoration 	<p>Not Addressed Explicitly</p>	<p>Successive supervision missions failed to correct Bank's initial assessment that income restoration was not a potential problem for resettlement of people affected by the road component, and thus did not take corrective actions until after the Request was submitted to the Panel. This does not comply with OP/BP 13.05.</p>
<ul style="list-style-type: none"> • Post resettlement issues 	<p>April 2004 supervision mission identified and advised MMRDA of several issues needing urgent attention and requiring follow-up such as establishment of cooperatives and completion of other, post resettlement activities in the permanent housing areas.</p>	<p>While Bank early on reminded Borrower on need to form and register housing cooperatives, it failed to adequately supervise this aspect of Project in two respects: (1) Management contradicted itself about state of registration of housing cooperatives in different reports. (2) Management's supervision of the cooperatives was incomplete, in that it focused only on their registration and did not consider their operational capacity and effectiveness.</p> <p>Though Management has consistently mentioned Maintenance Fund, it has done little to ensure that they have been set up and operating properly. Panel found that as of November 1, 2005, MMRDA had not transferred any maintenance funds to the Housing Cooperative Societies.</p> <p>Management has identified problem of slow establishment of the CRFs but has not provided effective supervision of this aspect.</p> <p>While early on Management identified problem of high electrical bills and sought to solve problem through requiring</p>

		<p>installment of individual meters, it failed to follow-up on problem's symptom, high arrears, until the arrears became large problem themselves.</p> <p>Post-resettlement process and issues related to it need intensive supervision, which requires identifying problems and following up by ensuring corrective actions in order to comply with OP/BP 13.05. Management needs to give attention to significant problems related to resettlement process as they are identified by staff as soon as possible.</p>
Environmental Problem Identification and Corrective Actions	Not Addressed Explicitly	See below
<ul style="list-style-type: none"> Environmental capacity-building consultants 	Not Addressed Explicitly	Management identified lack of environmental capacity and followed up on the issue to ensure corrective actions were taken, in compliance with OP/BP 13.05.
<ul style="list-style-type: none"> Waste dump 	Not Addressed Explicitly	While Bank identified problem of transit site for rail part of Project as being next to toxic waste dumps, it did not identify as problem the proximity of permanent resettlement site Mankhurd to waste dump.
<ul style="list-style-type: none"> Destruction of mangroves/ other trees 	Not Addressed Explicitly	Bank expressed ongoing concern for mangrove habitat projection. However, compensatory tree planting is far behind schedule. Bank supervision documents do not clarify what actions are being taken. Panel is concerned that the responsive actions relating to loss of mangrove and other trees are not adequate.
<ul style="list-style-type: none"> On site solid waste management 	Not Addressed Explicitly	Despite early identification of the problem of on-site waste management by staff, Management did not follow up on the issues. BFOs give much greater attention to the issue than is reflected in the Aide Memoires. Moreover, the recommended solutions seem to change between missions and were not consistently addressed.
<ul style="list-style-type: none"> Consultation with PAPs during supervision 	Not Addressed Explicitly	Management did not ensure that meaningful consultations with PAPs take place during supervision. Bank supervision missions should document the consultations and contain details about the meetings with PAPs.

Supervision: staff expertise and mission composition

Since Board approval in June 2002, Bank staff conducted several supervision missions, including focused technical missions. In addition to Bank supervision, resettlement implementation is monitored through monthly and quarterly progress reports, and minutes of meetings of the IMP.

Regular supervision missions take place approximately twice per year. These missions include social, environmental and resettlement specialists. Specific resettlement and environment missions also take place between these missions. Bank's consultant architect will continue to conduct regular monthly reviews with MMRDA on housing construction and provide guidance. EMCB consultants will continue to undertake monthly monitoring of CEMP implementation. MMRDA's oversight of resettlement will be augmented through the appointments of members of the IMP who have indicated that they could no longer serve for personal reasons.

The Bank allocated substantial resources to the supervision budget—USD 200,000 in FY05, USD 181,000 in FY04 and USD 190,000 in FY03—nearly three times the South Asia regional average and double the average for projects in India.

Despite significance of resettlement issues, supervision staff in this aspect of Project generally remained constant at only social expert in Country Unit. During investigation, it was brought to Panel's attention that position of Sector Manager for Social Development in South Asia Region, which is especially relevant to resettlement issues, was vacant for more than two years during Project implementation.

Recent steps to comply

(Covers period after Management Responses)

After Requests were filed, Bank's attention to problems in R&R for road component increased dramatically, and received high level attention. Since then, Bank has taken a number of actions to address some of concerns raised in Requests, culminating in those outlined in latest Aide Memoire of October 2005 and December 2005 agreement to expand coverage of Business Needs Study. Panel appreciates these efforts and regards them positively.

However, many issues are still outstanding, including final delineation and implementation of measures needed for SCLR shopkeepers to bring Bank into compliance with OD 4.30.

In initial design of Project, Bank was

		<p>careful to comply with Bank policies and procedures (see below). Once the two separate Projects for Infrastructure and for R&R were merged into one Project, Bank did not comply with a number of important policy and procedures. Pendulum appears to have shifted, and concerned Bank staff are making significant efforts to bring Bank into compliance. Panel finds it essential that these efforts continue, and notes recent significant concerns raised by Requesters relevant to implementation and compliance. Panel acknowledges importance of transport infrastructure to development of Mumbai, and hopes that its report will help to ensure that Project complies with Bank policies and procedures.</p>
Project Design and Processing ⁷²²		
<p>Recommendation by Bank to merge the free-standing resettlement Project into a component of the infrastructure Project</p>	<p>Not Addressed Explicitly</p>	<p>Resettlement in Mumbai, because of its size and complexity, was precisely the type of resettlement that, under OD 4.30, was intended to be addressed as a free-standing Project.</p> <p>The MUTP began in 1995 as two full scale Twin Projects, in line with Bank policy. One project was for transport infrastructure, and one for resettlement, with appropriate attention to distinct design, content and staff requirements for each one. In 1999, however, Bank changed course and merged the two distinct projects into one, by downgrading resettlement and rehabilitation from a distinct project to a “component” within the MUTP infrastructure project. While the Bank initially broadly complied with OD 4.30, it did not do so after the merger of the two Projects.</p> <p>By not consulting with and informing the large number of PAPs about its change in approach, Bank did not comply with provisions on transparency and consultation in Bank Policies.</p>
<p>Insufficient analysis of estimates of affected population and risks relating to resettlement</p>		<p>PAD - main document given to the Bank’s Board of Directors in requesting loan and credit approval - contained incorrect information on several key issues. With respect to number of potentially affected</p>

⁷²² Issue relates to Project history.

		<p>persons, PAD contained estimate significantly lower than number suggested in then existing Project documentation.</p> <p>In addition, PAD did not inform Board of several significant risks raised by very large resettlement operation, especially to vulnerable populations, that had been highlighted in internal documents. PAD is silent on resettlement and impoverishment risks. Larger resettlement risks are not noted in Resettlement Action Plan (RAP). Rather, it notes routine project risks such as delays in transfer of funds or equipment delivery.</p> <p>Panel is concerned that lack of sufficient analysis and consideration of the many risks of resettlement may be at the root of many problems facing the people affected by the Project.</p> <p>In omitting these risks from key Project documentation and analysis, Bank failed to comply with the requirements of risk analysis in Bank Policies, including OMS 2.20 on Project Appraisal and OP/BP 10.04 on Economic Evaluation of Investment Operations, and weakened the ability of the Project to meet the provisions of Bank's Policy on Involuntary Resettlement in OD 4.30.</p> <p>These failures in providing information to Board were critical flaw in procedure that undercut ability of Board to make informed decisions, and were not consistent with OMS 2.20, BP 10.00 Annex E, and OP/BP 10.04.</p>
<p>Downsizing the organizational set-up for resettlement</p>	<p>Not Addressed Explicitly (see note 1)</p>	<p>Bank has not met OD 4.30 to develop an organizational framework consisting of adequate resources provided to responsible institutions.</p> <p>Failure to comply occurred despite good staff analytical work on institutional matters during initial years of Project implementation. Then Regional management ignored available evidence and findings submitted by staff.</p>

Annex B

Situation after Relocation: Baseline Data

1. One of the Panel's experts, Professor Alan Rew, collected data on the post-relocation adjustments at different MUTP resettlement sites. The Panel would like to share this information, collected in May 2005, because more extensive descriptions of the situations at the different resettlement sites might aid in the understanding of the possible benefits, problems, and risks of resettlement.⁷²³

1. Timetables of Post-Relocation Adjustment

2. As mentioned earlier in this Report, the sampled PAPs have been resettled for varying periods of time. Mankhurd C has been resettled for four years. Building services and housing management systems have had a chance to get established. Families had learned about transport options and what, if any, employment is available. They have learned how SPARC organises implementation support activities and what tasks cooperatives and management committees face. Mankhurd B, on the other hand, has just been completed and families are being moved in and are within the first weeks or even days of experiencing the stress of relocation. Building services and management systems may also need to settle down. Anik Rockline Complex is somewhere between these two situations, with resettlers moving over the last eight months and with most buildings fully settled but with services not always working.

2. Access to Water

3. Table 6.1 in the main body of this Report gives the status of water supply in the three sampled housing complexes, Mankhurd C and B and Anik Rockline. Although no complaints about water were received in Mankhurd C, it is not clear that the quality of service achieved there constitutes the "better access to water taps" that the PAD envisaged compared to the shanty-towns. Lack of access to drinking water is a source of great dissatisfaction in Anik Rockline and Mankhurd B. In the long list of grievances received from these complexes,⁷²⁴ lack of access to water was overwhelmingly the chief grievance. Water supply problems in Anik Rockline are now accepted by residents as so bad that it has led to an institutionalised price system

⁷²³ Professor Alan Rew sampled PAPs and society/management committee members in each of the three complexes hoping to understand how housing conditions vary across the project. Focus Group Discussions and individual PAP interviews were held in each of these three complexes over 6 days. The state of services and the stability of expectations and shared perceptions were different in each complex. Assessments of potential housing benefits need to be disaggregated by building complex and length of settlement. The purpose of this data is to provide a preliminary assessment. Please note that this data is as of May 2005.

⁷²⁴ See Table 5 below.

for each floor in the multi-storey blocks. In Mankhurd B, the lack of easy access to drinking water is seen as the greatest outrage in a situation where anger at being forced into the complex is ever present. The additional costs of drinking water are a heavy burden at a time of great scarcity of cash.

3. Building Services and Housing Cooperatives after 4 Years: Mankhurd C

4. Mankhurd C residents seemed to be cautious about talking to outside investigators. Registered cooperatives are now in place in Mankhurd C. Table B.1 provides a summary of the status of the seventeen buildings at Mankhurd, four years after initial relocation. The cooperatives were mostly registered in 2004 and began to receive the interest from the corpus fund.

Table B.1: MUTP Housing—Buildings Status after 4 Years (May 2005)

Mankhurd Option C: 4 years after relocation	Number	Percentage of Total
Buildings in the assessment	17	100
Registered housing cooperatives	17	100
Cooperatives that received interest from Rs. 20,000 ‘corpus fund’ per PAH (all in late 2004)	17	100
Cooperatives/Committees receiving Rs. 1,300 ‘shifting’ and ‘travel’ allowances on behalf of PAHs (late 2004)	17	100
Typical number of flats & shops per building	130	100
Average number of flats per building occupied	129	99
Building lifts now functioning	1	6
Buildings with (usually 11) ground floor shops	13	76
Shops functioning	96	68
PAHs per building reported able to pay Rs. 410 ‘utility’ charges?	33	25
Flats per building reported rented out or locked up	23	18
Average number of flats per building reported shared with paying guest(s)	27	21
Number of cooperatives functioning after 4 years	1	6

Source: Panel expert’s interviews with PAPs in May 2005.

5. All buildings are ‘established.’ Many of the ground floor shops have opened for business. Water is available. All the cooperatives have now received the Rs. 300 per PAH ‘shifting allowance’; and the Rs. 1,000 per PAH ‘travel’ allowance. Only one lift out of seventeen was working – mainly because neither residents nor societies could afford the shared electricity costs. There was considerable agreement that only 1 building was functioning well—Building 98, which has the SPARC office and the sole functioning lift. One other building gave itself a good rating as a dwelling place— because they had all come from the same shanty-town area and solved problems together. There was significant agreement that two specific buildings were the worst run—because they had so many poor families.

3. Expectations of Resettlement after 8 Months: Anik Rockline

7. Anik Rockline residents were eager to talk to the Panel expert and to explain their recently changed circumstances. Attitudes and assessments of resettlement varied considerably, in part because there had been different waves of relocation, and PAPs were adjusting to relocation in different ways. Table B.2 shows that no housing cooperatives are registered in the sixteen buildings in Anik Rockline. All buildings have 'proposed cooperatives' only and a management committee in place, members of which are usually nominated or co-opted by SPARC. Boards are attached to each building with the names of both the members and the proposed society written very neatly in sign-writing paint. All buildings had received the Rs. 300 'shifting' allowance and these had been paid directly to PAHs. No building had received the Rs. 1,000 'travel' allowance. This was a special burden since of all the relocation sites, Anik Rockline is farthest from a railway station, and the extra travel costs are especially heavy.
8. The proportion of PAHs reported as unable to pay the basic Rs. 410 maintenance costs varied greatly from 27% to 64% depending on the building social structure, the length of resettlement, people's knowledge of each other, and the depth of their poverty, which in some buildings appeared acute. One indicator of the depth of poverty in a building was the level of sleeping out in the corridor while a 'paying guest' occupied the room.

Table B.2: MUTP Re-Housing; Buildings Status after 6-8 Months (May 2005)

Anik, Rockline: 6-8 months after Relocation	Number	Percentage of Total
The Building Complex – Physical Characteristics		
Buildings in the assessment	16	100
With multiple-story walk-up access	16	100
Buildings with purpose build shops	0	0
<i>Indicators of Building Occupancy and Use</i>		
Buildings where an average of 90% of flats now allocated	13	88
PAHs living in almost 'fully-allocated' buildings	1404	87
PAHs living in yet partly-filled buildings (3 buildings)	210	13
Residential-cum-commercial enterprises operating (usually through ground-floor windows, with a crude step-up) per building	Range of 2 – 5 per building	
Status of 'Housing Cooperatives' and Indicators of Cooperatives' Performance		
Housing cooperatives now registered	0	0
'Committee established' in building	13	88
Skeleton committees in place in only partly occupied buildings	3	12
Proposed cooperative committee 'meets regularly'	0	0
Proposed cooperative committee 'meets sometimes'	5	31
Proposed cooperative committee 'meets rarely'	4	25
Proposed cooperative committee 'has met once' or 'has never met'	5	31

Indicators of PAHs' Economic Adjustment Post-Relocation		
Building Committee reports 'travel' allowances received to help PAHs adjust to new cost structures following relocation	0	100
Building Committee reports Rs. 300 'shifting' allowances paid to all PAHs of fully occupied buildings	13	88
PAHs per building reported as unable to pay even basic Rs. 410 'utility' (cleaning and water) charges in fully occupied buildings	48	45
PAHs per building reported unable to pay basic Rs. 410 'utility' charges in the 5 buildings perceived as "worst buildings here"	68	64
PAHs per building reported unable to pay basic Rs. 410 'utility' charges in the 5 buildings scored "most stable" by IP researcher	30	27
Flats per building rented out	11	10
Average number of flats per building shared with paying guest(s)	14	13
PAHs per building reported subscribing to 'help' Housing Cooperative Registration/or to match MUTP contribution to Building 'Corpus' Fund	15 PAHs subscribing per building	9.5% of building residents

Source: Panel expert's interviews with PAPs in May 2005.

4. Shocks after Relocation: Mankhurd B

9. In Mankhurd B in May 2005 the attitudes were all very similar. PAPs had arrived only days or at most weeks before. MUTP was making little discernable attempt to assist or help manage the adjustments on site. The SPARC office was open and people could take their complaints and questions there. The staff members were mostly occupied with the allocation problems that arose. They could not address general site conditions and PAP personal circumstances and trauma that flowed from the circumstances and design of the project. PAPs were shocked by their relocation and by the apparent lack of attention paid to their problems, especially the lack of care they faced in accessing drinking water.
10. As shown in Box 6.1 in the main body of the Report, PAPs from Mankhurd B report a variety of grievances. Individual interviews and focus group discussions repeatedly focussed on the lack of jobs in the area, what were seen as outrageous water shortages, the difficulties and costs of transport, and the safety and education of children. The lack of suitable and affordable schools nearby was of high concern. Local schools were responding to the unexpected surge of children arriving in Mankhurd and the consequent shortage of school places by raising the cost of 'voluntary donations' to the school – in essence a compulsory charge to ration the short supply of school places. MUTP standards are SRA standards – which assume that relocated slum-dwellers will be absorbed into the already existing school system and that no provision for school building or teacher recruitment would therefore be necessary. MUTP has made some effort to respond to the short supply of places, but the language of instruction is in Marathi and therefore not appropriate for many of the PAPs.
11. An attempt was made from the SPARC office to hold initial cooperative formation meetings across the Mankhurd B complex the next day – a Sunday. Very few PAPs

turned up or knew where the meeting was to take place. MUTP did not appear at the place where most of one building's PAPs were waiting for the meeting to get started.

5. Provision of Social Services

12. Table B.3 below provides indicators on the status of school, health and religious services in Anik Rockline. It is too soon to say more about the adjustment of these services at Mankhurd B. At Mankhurd C access to the services had settled down after many initial difficulties about interrupted education.⁷²⁵ At Anik, the main difficulties experienced are with education and with funeral services. In each case, the underlying problem is travel time and costs.

Table B.3: MUTP Re-Housing Provisions; Basic Amenities at 6-8 months (May 2005)

Anik Rockline; Access to Basic Human Services & Needs 6-8 months after relocation (5 sampled buildings)		Number	Percentage of Total
Access to Education Indicators			
Average number of children/young people in each building		359	100
Children of school-age per building		127	35
Children of school-age actually at school per building		97	27
Reasons Offered Why Children are Not at School			
Income restoration issues: 95% of all responses	"Extra transport costs are too high" "We are struggling; we cannot afford" "We cannot pay the extra donations needed"		
Institutional and shelter planning issues: 20% of all responses	"No school here" "No school for his/her medium of instruction" – e.g. "No Gujarati medium school"		
Access to Health Care Indicators			
Immunization of children	Health camp at Anik		
Pregnancy checkups	0.5 to 1 km		
Birth clinic	0.5 to 1 km		
Access to Privacy Indicators			
Average size of households in the sampled buildings		5.4 persons	
Total floor-space available per PAP in each flat		3.9 sq. m. per person	
Indicators of Access to Key Religious Requirements			
Hindu cremation area		1 hour walk	
Muslim burial area		1 hour walk	
Christian burial area		1 hour walk	
Hindu temple worship		10 minutes walk	
Muslim Friday prayer		10 minutes walk	
Christian Sunday prayer		30 minutes walk	

Source: Panel expert's interviews with PAPs in May 2005.

⁷²⁵ See TISS, 2003.

6. Social Structure and Building Management

13. MUTP was emphasized as a participatory project. However, there was little evidence of this in the resettlement sites. The resettlement sites could well fall apart and end up like the SRA scheme at Goregaon with 4/5 of the resettled population abandoning the site for little compensation. It will not be easy to institutionalise the collective management of large buildings through people coming from tarpaulin shacks, who lack training, etc. This aspect of the R&R is receiving no attention. Social capital development is essential for a sustainable free-standing project yet it could go either way. Box B.1 below provides a case where leadership and social capital emerge because people share a common situation and interest in problem-solving.

Box B.1: Growth of Social Capital Among Building-Wallahs

Growth of Social Capital Among Building-Wallahs

Mr. K. is in his late seventies and shifted into the relocation colony almost one year ago. He has always worked as a building craftsman. He finds it impossible now at his age to go back to his old areas to find his work, he will have no income unless he works. On the other hand, many people need his services in the colony. The building services on which he works are faulty, and many people need to re-install old equipment and make repairs etc. So he is much in demand. But nobody has much money to pay him, and he ends up doing much work on a voluntary basis. His work requires him to visit all the buildings, and he is always welcomed when he gets there and gets to know everyone. People do try to help each other in the buildings. For example, his next door neighbor is very generous.

Mr. K.'s view is that the flats are fine and that it feels good to have an 'address' after so many years in a slum. There is just his wife and he so the flat is not too small. He is very critical of the lack of transport at Anik. They were promised a bus route – but nothing came and they are still waiting. This is the main problem. The NGO is feared and does nothing to make things work. They do not make *pukkha* paperwork – there will be trouble later with the wrong names. *“They just dump people in these outside sites and rule from their offices and never help the people again,”* he says. *“The people here are really poor and yet are forced here. These problems should be reported to the World Bank. Government should be with the people. But somehow the Bank money is not properly used to help us.”*

Source: Consultant's interviews with PAPs, Mumbai, May 2005.

14. PAPs are initially ambivalent about their relocation. They are losing *jhapadpatti* homes and proximity to employment but see the chance to acquire a home in 'a building' as a great asset. Their social status will improve as a result. They anticipate benefits for their children. Economic and social rehabilitation support is therefore essential to ensure that they cope with the traumas of relocation quickly and re-establish their livelihoods and improve their standards of living. Box B.2 below provides a case where multiple relocations reduce available social capital. Trust in the institutional arrangements of the project is currently at a premium.

Box B.2: Multiple Relocations and Loss of Social Capital

Multiple Relocations and Loss of Social Capital

Mr. H grew up in a Pune farming family. A cyclone hit Pune in 1960, and he lost his relatives and the farm. He moved to Mumbai and started working in a painting workshop. In time, he established a painting workshop of his own and found a good *jhopadpatti* in Kurla where he raised his family. Three years back his workshop and home were both demolished, and he was forced to shift to a transit camp. He describes how very difficult it was to live in one small room with six grown up children. After a while he managed to get a job in a paint-shop back in Kurla. Then, six months ago, he was told he had to shift again, but to Anik, which was the fourth time in his life and to an area far from where he had been living and working. Now he has to spend about Rs. 50 on the bus and train fare each time he wants to visit his relatives and friends. He is now sick and out of work, partly because of the journey to Kurla, and has to rely on the income of his two sons. He feels sad because he cannot visit his old area frequently due to the cost. He says, “*our long established relations have been demolished with our houses. It takes decades to re-establish relations.*”

Source: Consultant’s interviews with PAPs, Mumbai, May 2005.

7. Additional Tables

Table B.4: Utility Charges, Local Tax Bills, and Liabilities at Mankhurd C Four Years after Relocation (May 2005)

Charge, Tax, or Liability	Amount	PAP Comment or Status
Charged to the Individual Household/Flat		
Monthly communal bill for cleaning and water per PAH	Rs. 410 (Rs. 300 for cleaning and Rs. 100 for water)	"It's compulsory to pay this; you will be pressured until you pay."
Modal electricity charges per individual flat	About Rs. 300	"It is the individual PAH's responsibility to pay this or they get disconnected."
Modal BMC property tax assessment per PAH	Rs. 119	"We all struggle to pay this, and many families cannot."
Charged to Cooperative Accounts		
Average interest paid in 2004 on the Rs20,000 per PAH corpus fund reserved to meet utility and maintenance charges incurred by the building	Rs. 933,000 per cooperative; Rs7,177 per PAH	
Average BMC assessment tax still owed for 2002/2003	Rs. 840,000 per building; Rs6,460 per PAH	
Average cumulative communal electricity debt (e.g., incurred for corridor lights and lift)	Rs. 750,000 per building; Rs. 5,770 per PAH	
Average shortfall in funds needed to meet each cooperative's electricity and tax liabilities	Rs. 657,000 per cooperative	
Average liability each cooperative has incurred on behalf of individual PAHs	Rs. 6,287 per PAH	
PAP Perceptions of the Best-Run and Worst-Run Buildings		Result and Comment
"Which are the best-run buildings? Why?"		(A) 16 buildings reported "Only Number 98," because "the SPARC office is there." (B) Building number 17 reported "Number 98 and Number 106" because, "In 106 we came from the same <i>jhopad-patti</i> , and so we have adjusted. Number 98 has SPARC."
"Which are the worst-run buildings? Why?"		Numbers 96 and 97 "because they have the poorest families."

Source: Panel expert's interviews with PAPs in May 2005.

Table B.5: Compilation of PAPs’ Grievances in First Year of Relocation

Sampled Location	Grievances Announced or Reported	Number of Mentions
Anik Rockline: circa 6 months after relocation	Water carrying and costs	54
	“Whether you are living or almost dead you have to pay.”	52
	Ration cards have not been transferred to here	50
	“Kangal banadiya” (“We have been deliberately made into paupers.”) We are hungry –we have no food “Women are selling their <i>mangal sutra</i> [marriage necklaces] to eat High expenditure is compulsory	50
	Mahila Milan charges interest rates that are too high	50
	SPARC is mostly missing / SPARC doesn’t listen, it doesn’t do anything No one gives a clear picture SPARC says “We cannot decide, only ‘Sir’ can decide.” “But where is ‘Sir’?” Answer? “He may come next few days.” SPARC tells us different offices to visit if we have problems. None of those offices helps us. Ownership documents for the flat are not given	45
	There is no <i>ghaslet</i> (kerosene) [Over 50% of PAPs use for lighting and fuel.]	40
	We are too far from Work	35
	Money given for shifting is not sufficient	35
	The Stairs are big problems for anyone on upper floors	25
	Rs50 transport is now needed to collect from the ration dealer (i.e. the SPARC ration shop in the old transit camp)	17
	“Allocation letters [for some flats] are not <i>pukkha</i> . The names are not recorded properly [thus] there will be trouble at some point.”	10
	Meetings of society do not take place	5
	No one is taking initiative to solve problems	3
	Money promised for extra costs has not been received	3
	Number of PAPs interviewed on May 15-16, 2005	59
Mankhurd B S V Patil: 1-5 weeks after relocation	Water problems: “We could not imagine it – Why did they force us here without water?”	38
	No employment for men or women in locality	30
	Our transport costs are too high. We are too far from work.	27
	Children are not safe because of the slide windows	25
	Flats are not secure because of the window catches	25
	Cremation and burial grounds too far	20
	Shifted by force with danda	18
	SPARC is not very friendly	18
	Money given for shifting not sufficient	15
	High school donations	10
	No health care in this place	10
	There is no bridge over the rail track – the children will be killed	7
	Bills from Reliance [electricity] are absurd	5
	No medium school (Hindi)	3
	Many mosquitoes carrying Dengue fever	3
	Waste disposal arrangements not available or explained	2
Number of PAPs interviewed on May 12-14, 2005	43	

Source: Panel expert’s interviews with PAPs in May 2005.

Annex C

Biographies

Panel Members

Ms. Edith Brown Weiss was appointed to the Panel in September 2002. She has taught and published widely on issues of international law and global policies, including environmental and compliance issues. She is the Francis Cabell Brown Professor of International Law at Georgetown University Law Center, where she has been on the faculty since 1978 and has directed international multi-disciplinary research projects. Before Georgetown, she was a professor at Princeton University. Ms. Brown Weiss has won many prizes for her work, including the Elizabeth Haub prize from the Free University of Brussels and the International Union for the Conservation of Nature (IUCN) for international environmental law, and the 2003 American Bar Association Award in recognition of distinguished achievements in Environmental Law and Policy. She has also received many awards for her books and articles. She served as President of the American Society of International Law and as Associate General Counsel for the U.S. Environmental Protection Agency, where she established the Division of International Law. Ms. Brown Weiss is a member of 10 editorial boards, including those of the American Journal of International Law and the Journal of International Economic Law. She has been a board member, trustee, or advisor for the Japanese Institute for Global Environmental Strategies, the Cousteau Society, the Center for International Environmental Law, and the National Center for Atmospheric Research, among others. Ms. Brown Weiss has been a Special Legal Advisor to the North American Commission on Environmental Cooperation. She has been a member of the U.S. National Academy of Sciences' Commission on Geosciences, Environment, and Resources; the Water Science and Technology Board; and the Committee on Sustainable Water Supplies in the Middle East. She is an elected member of the American Law Institute, the Council on Foreign Relations, and the IUCN Commission on Environmental Law. Ms. Brown Weiss received a bachelor's of arts degree from Stanford University with Great Distinction, an LL.B. (J.D.) from Harvard Law School, a Ph.D. in political science from the University of California at Berkeley, and an Honorary Doctor of Laws from Chicago-Kent College of Law.

Mr. Tongroj Onchan was appointed to the Panel in September 2003. He has a Ph.D. in agricultural economics from the University of Illinois. Professor Onchan taught on the Faculty of Economics at Kasetsart University in Thailand for 26 years, including a term as Dean. He later served as vice president of Huachiew Chalermprakiat University; then

joined the Thailand Environment Institute (TEI) as vice president. In 1998, Mr. Onchan was appointed president of TEI. He helped establish and was appointed president of the Mekong Environment and Resource Institute (MERI) in 2000. He has served as advisor to the Prime Minister and to the Minister of Science, Technology and Environment, as member of the National Environmental Board, chairman of the National EIA Committee, chairman of the Committee on the Preparation of State of the Environment Report for Thailand, and member of the National Audit Committee. Mr. Onchan is on many editorial boards, among them the Asian Journal of Agricultural Economics and the International Review for Environmental Strategies. He has consulted for a number of international organizations, including the Asian Productivity Organization, ESCAP, the World Bank, the Asian Development Bank, the Food and Agriculture Organization, the International Labor Organization, USAID and the Ford Foundation. He has been project director of over thirty research projects and author or co-author of numerous technical and research papers on rural development, natural resources and environmental management. Currently, he serves in several capacities: chairman of the Board of Directors of the MERI, member of National Research Council for economics, and a director of the International Global Environment Strategy (IGES) based in Japan. Mr. Onchan was appointed as eminent person to serve as a member of the Asia and Pacific Forum for Environment and Development (APFED).

Mr. Werner Kiene was appointed to the Panel in November 2004. He holds a Masters of Science degree and a Ph.D. in Agricultural Economics from Michigan State University. He has held leadership positions with the Ford Foundation and German Development Assistance. In 1994, Mr. Kiene became the founding Director of the Office of Evaluation of the United Nations World Food Programme (UN WFP). He was the World Food Programme Country Director for Bangladesh from 1998 through 2000 and also served as UN Resident Coordinator during this period. From 2000 to 2004 he was a Representative of the UN WFP in Washington, D.C. Mr. Kiene's focus has been on the design, implementation and assessment of sustainable development initiatives. His professional writings have dealt with issues of rural poverty and social services delivery; food security, agricultural and regional development; emergency support and humanitarian assistance; international trade and international relations. Mr. Kiene is involved in professional organizations such as the American Evaluation Association; the Society for International Development; the American Association for the Advancement of Science; and the International Agriculture Economics Association.

Consultants/ Advisors

Richard Fuggle holds the Shell Chair of Environmental Studies at the University of Cape Town. He is Director of the Environmental Evaluation Unit. Prof. Fuggle is a Founder Member of the Academy of Science of South Africa and is a Registered Natural Scientist and Board Certified Environmental Practitioner in South Africa and a Professional Member of the South African Institute of Ecologists and Environmental Scientists. He has edited two books on environmental management in South Africa and has published over 100 academic papers on environmental topics. He led the team which developed the South African Guidelines for Integrated Environmental Management. Prof. Fuggle has served on numerous Commissions of Enquiry related to Environmental Assessments. He has received awards and distinctions for his contributions to the advancement of EIA both nationally and internationally. Prof. Fuggle earned his Ph.D from McGill University in Montreal.

Michael Cernea is Research Professor of Anthropology and International Affairs, George Washington University, Washington, D.C., and Honorary Professor of Resettlement and Social Development at Hohai University, Nanjing, China. He joined the World Bank as its first sociologist in 1974 and has held senior positions in the Operational Policy Vice-Presidency, and in the ESSD Vice-Presidency, until 1997. In his capacity as the World Bank's Senior Sociologist and Senior Advisor for Social Policies, he has contributed to defining the social content of several World Bank policies, including the Resettlement Policy, and of numerous Bank programs. Professor Cernea has also served or is currently serving as Advisor to other international organizations such as OECD, UN, UNDP, ADB, CGIAR, FAO, GEF on social policy, poverty reduction, population resettlement, and cultural issues in development.

Alan Rew was appointed as Professor of Development Policy and Planning in the University of Wales, and jointly as Director of the Centre for Development Studies, Swansea University, in 1987. Prior to that he was a faculty member of the University of Minnesota, a Fellow at the Institute of Development Studies Sussex, and Head of Social Development in the Infrastructure Planning Division of W S Atkins International. In these posts he has advised the governments of China and Bangladesh on the social assessment, including R&R, of investment projects across all sectors. He has evaluated the resettlement, compensation, and population displacement implications of major urban and rural investment projects in Egypt, Ethiopia, Malaysia, Papua New Guinea, Philippines, Sri Lanka, and Zimbabwe. He has been a staff consultant to DFID and the Asian Development Bank and headed a global review of R&R policy practice in a major international R&R review, funded by ESCOR, and managed by the Centre for Refugee Studies at Oxford University. Livelihood profiles and poverty reduction initiatives have been at the core of his research and partnerships in India over the last ten years, especially in Orissa and West Bengal. Strategic policy assignments have included advice to DFID on poverty reduction research, chief advisor within the Office of the President for Poverty Eradication in Kenya, and Director of a capacity building programme to

create a national probation service in Romania. He received a BA (Econ) with First Class Honours from Manchester University in 1964, also an MA (Econ) from the same University, and a PhD from the Australian National University in 1971.

Renu Modi is a lecturer at the Department of African Studies, University of Mumbai. She is a political scientist, having graduated from the Lady Shree Ram College for Women, Delhi University and received her Ph.D. from the Jawaharlal Nehru University, New Delhi. She is currently working on issues of migration, displacement and resettlement. Her recent publications include articles on livelihood reconstitution at resettlement sites and the gender aspects of involuntary resettlement, in the Afro-Asian context.