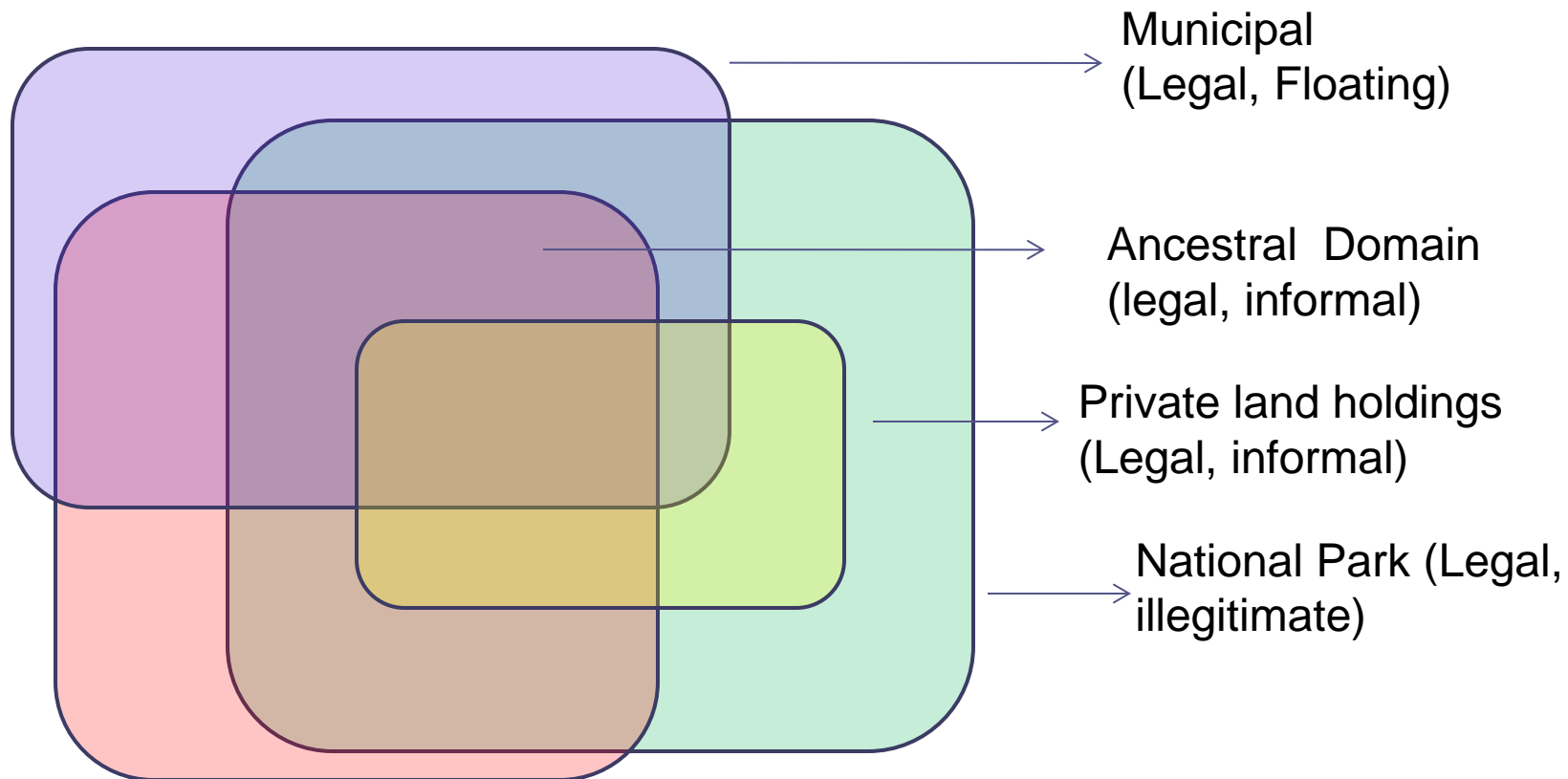


On Incompleteness of Conflict Resolution Mechanisms: Implications for Resource Governance

Masahide Horita
University of Tokyo

International Workshop on International
Cooperation on Natural Resources and Conflicts
9th January, 2013





Incompleteness in Resource Governance

- Resources are polymorphic
- Plurality of resources →
 - Conflict caused by different uses →
 - Ambiguous governance systems
- Conflict resolution schemes themselves in conflict

Meta-decision Questions

- How to resolve conflicts of conflict resolution schemes?
- When we fail to agree on how to resolve conflict, then what should we do?
- Infinite spiral?
- More elaborated/exhaustive schemes?
- But... possible?

Side Effects of Exhaustive Systems

- Developments projects interfering with individual rights to using natural resources
- Bureaucratization of coordination mechanisms
- Diluted responsibility

Example: Land Acquisition in South Asia

- Execution Agencies not overseeing land acquisition
- JICA Guideline: “The primary party responsible for environmental and social considerations is the recipient country.”
- Template for resettlement action plans:
 - grievance redress committees
 - conflict resolution mechanisms

Incomplete Contract Perspective

- Williamson (1979)
 - Not all future contingencies can be anticipated.
 - Appropriate adaptations are not evident *ex ante*.
 - Under a hard contract, *ex post* states may cause a veridical dispute since they are unverifiable.
- Complete contracts, if possible at all, could be prohibitively costly.
- Parties may wish to leave some contingencies deliberately unwritten (Hart and More, 1999).
- Incompleteness to represent trust.

Legal Pluralism

- “Different partial systems [create] an ‘unorganized system’, full of intra-systematic tensions, contradictions and frictions” (Hafner, 2004: 850)
- Example: claims for property rights for access to natural resources
- ‘Forum shopping’



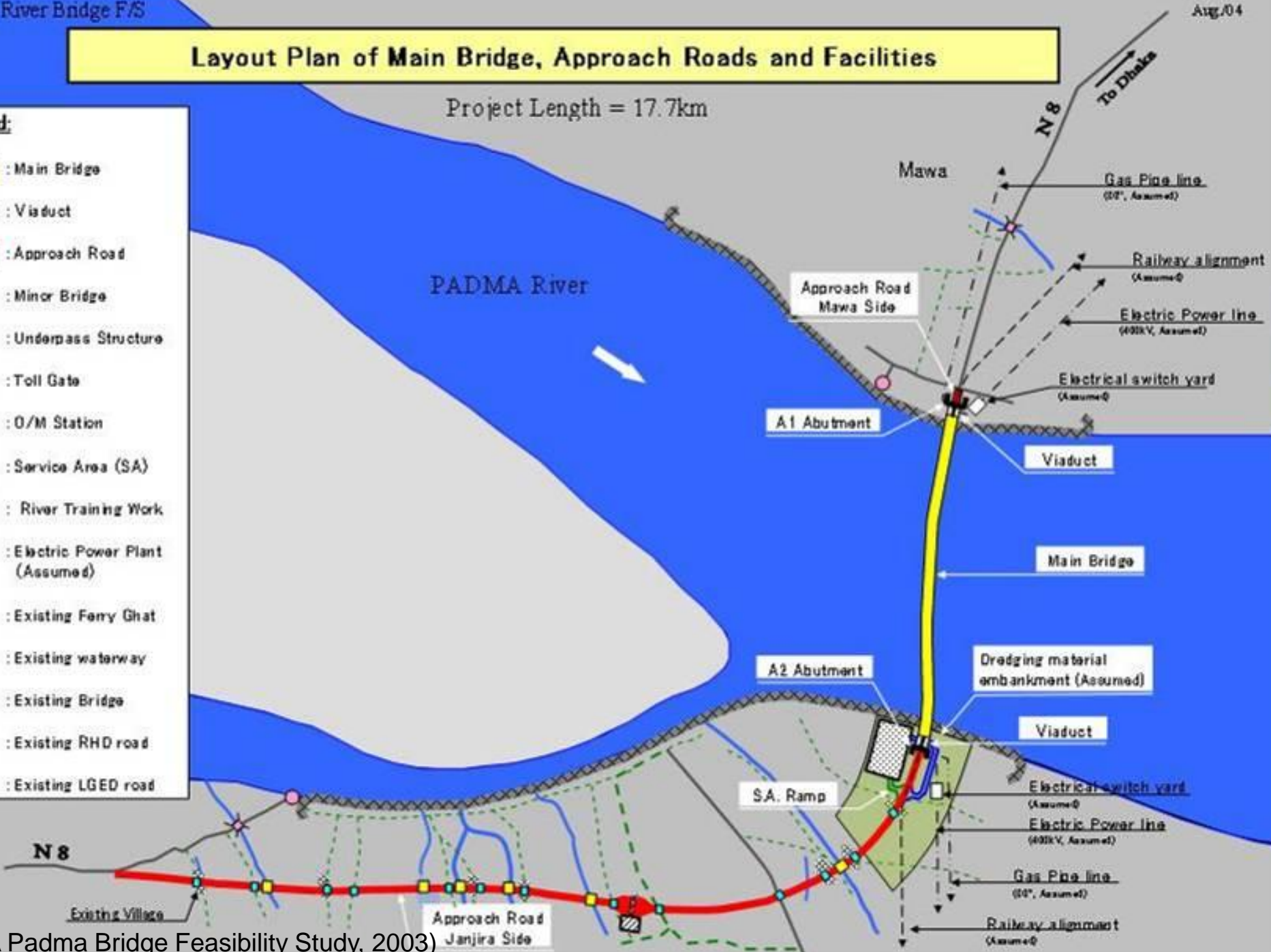
Padma Bridge Project, Bangladesh

- The last region remaining unconnected by road network – South West Region
- Four routes considered as alternatives
- Feasibility Study by JICA (2003-2005)
- Detailed Design by ADB (2008-2011)

Layout Plan of Main Bridge, Approach Roads and Facilities

Project Length = 17.7km

- Legend:**
- : Main Bridge
 - : Viaduct
 - : Approach Road
 - : Minor Bridge
 - : Underpass Structure
 - : Toll Gate
 - : O/M Station
 - : Service Area (SA)
 - : River Training Work
 - : Electric Power Plant (Assumed)
 - : Existing Ferry Ghat
 - : Existing waterway
 - : Existing Bridge
 - : Existing RHD road
 - : Existing LGED road



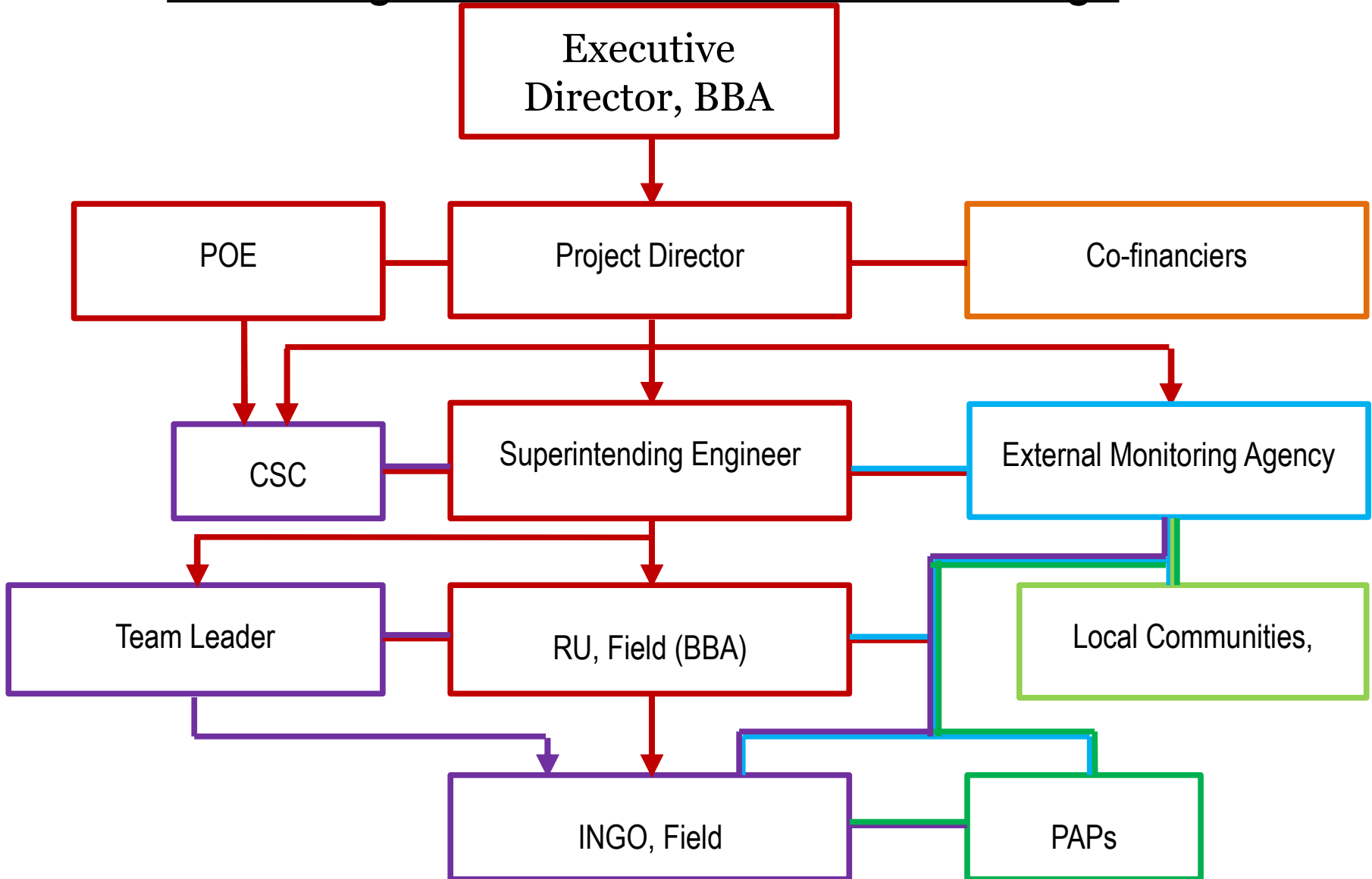
Summary Profile of Affected Population in RAP II

Description	Units
Total Project Affected Persons (PAPs)	46,938 persons
Total Project Affected Households	7823 households
Total land getting affected	254.66 ha
Losing agriculture land	6072 households
Requiring resettlement	1090 households
Vulnerable households	1732 households
Affected Wage earners, tenants and informal occupants	661 households

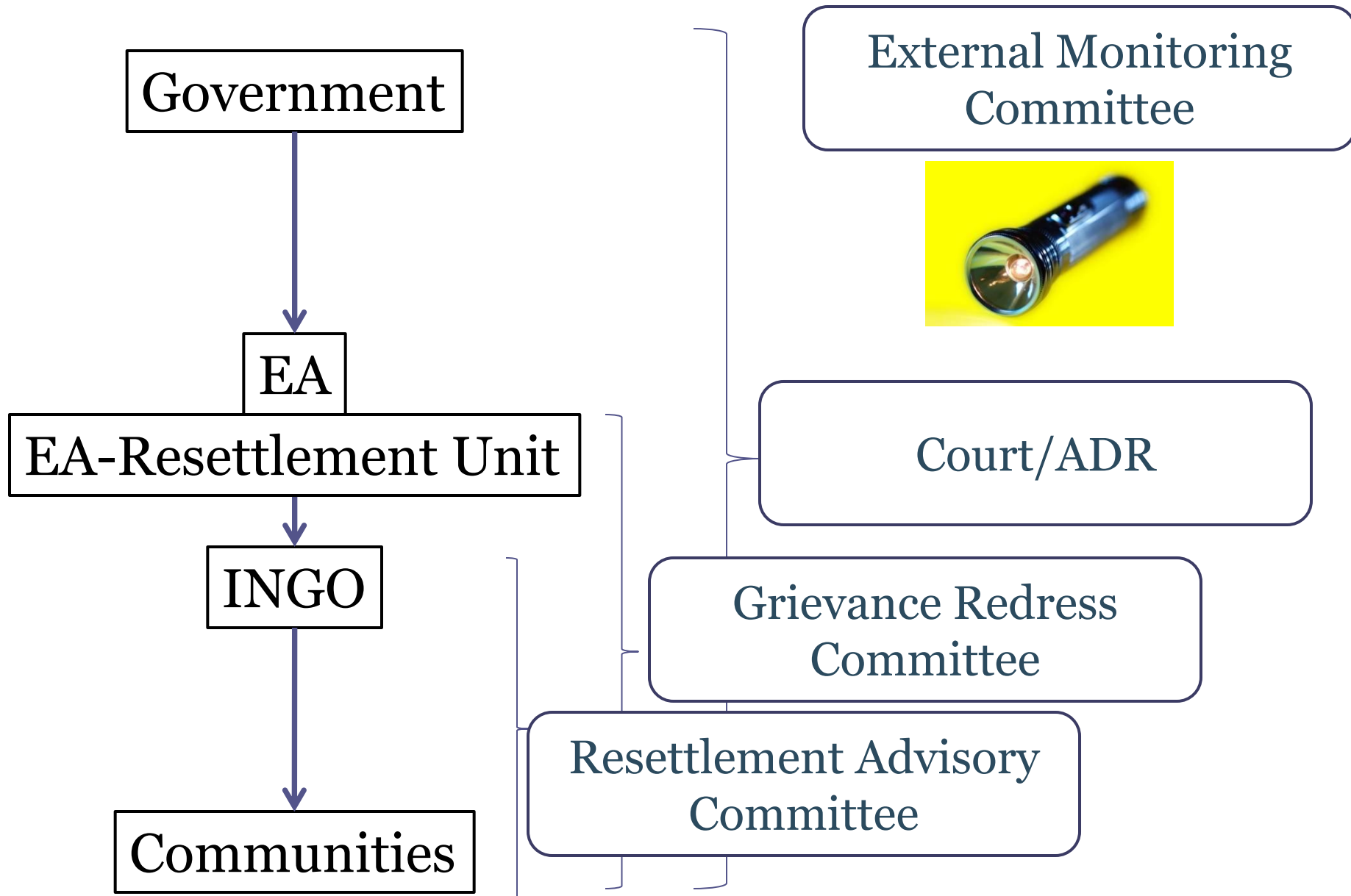
Source: JICA, Feasibility study, March 2005 and BIDS census survey 2009



Monitoring and Evaluation for Padma Bridge



(BBA, Resettlement Action Plan II, 2010)



The Way Forward

- Deliberately incomplete mechanisms
- Use of customary dispute resolution
- Don't specify actions *ex ante*, secure utilities *ex post*.