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Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Adequate housing as a component of the right to an adequate standard of living, and the right to non-discrimination in this context

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Balakrishnan Rajagopal, in accordance with Human Rights Council resolution 52/10.

* A/79/150.

** The present report was submitted after the deadline so as to include the most recent information.

Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Balakrishnan Rajagopal

Towards guiding principles on resettlement: a review and assessment of current laws, policies and practices

Summary

In his thematic report on resettlement after evictions and displacement: addressing a human rights crisis (A/HRC/55/53), the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Balakrishnan Rajagopal, launched a clarion call to recognize, prevent and counteract the poor outcomes and negative impacts of resettlement.

The present report represents a second building block in his work towards developing principles and guidelines for human rights-based resettlement – a proposal that was welcomed by the Human Rights Council.

In the report, the Special Rapporteur reviews and assesses the current laws, policies and practices of various resettlement actors and outlines the key parameters for developing future resettlement guidelines.

The planning and design phase of resettlement is crucial in determining whether durable, human rights-based solutions can be achieved and whether affected people can successfully reestablish their lives, livelihoods and communities. During this phase, the focus must be on ensuring the right to remain, the right to return and the right to resettlement. This includes respectful and meaningful participation in decisions about resettlement sites, project design and implementation, and agreements between affected and host communities based on the principle of benefit-sharing. In addition, adequate project financing should be secured without undermining the macroeconomic stability of countries, along with effective monitoring, follow-up and grievance procedures. An inclusive, respectful, participatory and partnership-based approach to planning and design greatly enhances the chances of success for all forms of resettlement.

During implementation, States must ensure full compliance with human rights standards in land allocation, service provision and infrastructure development at resettlement sites. They must also enforce laws that protect human rights, resolve conflicts and provide effective redress mechanisms.

Post-resettlement monitoring and evaluation, along with the provision of resources for adaptive management and corrective actions, are critical for assessing outcomes and addressing ongoing challenges in resettlement projects.

The report concludes with key recommendations for States, development finance institutions, international organizations and businesses.

Contents

I. Introduction

1. In his thematic report on resettlement after evictions and displacement: addressing a human rights crisis (A/HRC/55/53), the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Balakrishnan Rajagopal, issued a clarion call to address the poor outcomes and negative impacts of resettlement. He defined resettlement in the report as the relocation of a group of people, large or small, to a new location where they re-establish their habitual place of residence and rebuild their lives and livelihoods. The drivers of large-scale resettlement are diverse, such as development (e.g. unchecked use of eminent domain, urbanization including new city building, infrastructure projects, mega-events, land and housing speculation, over-commodification of land and housing, interest rates, industrial agriculture, water management, and conservation), violent conflicts, disasters and climate change. The Special Rapporteur emphasizes that all people have the right to remain in their current location, and that if they are forced to leave, they have the right to return or, if return is not feasible or desired, to resettlement that adheres to international human rights standards.

2. Although resettlement should be avoided wherever possible, it may become unavoidable in certain circumstances, especially due to conflict or climate change. However, resettlement universally has adverse effects on communities, often resulting in a range of human rights abuses and severe negative outcomes. Typical issues associated with resettlement include: (a) loss of land and access to natural resources, including common property and services; (b) increased homelessness or inadequate housing; (c) loss of access to public infrastructure, water and sanitation, education or health care; (d) cultural loss leading to alienation, status deprivation and social disintegration; (e) loss of employment and sources of livelihood; (f) food insecurity; (g) marginalization and disruption of social networks; (h) increased morbidity, mortality and psychological impacts, including trauma; (i) heightened risk of conflict and violence with host communities; and (j) disproportionately severe impacts on vulnerable groups, including women, racial, ethnic and religious minorities, children, older persons, migrants and Indigenous Peoples. Resettlement has also been closely associated with threats to and violence against human rights defenders, as well as excessive use of force by security personnel, arbitrary detention, torture, degrading treatment and even killings of those opposing resettlement.

3. In his report to the Human Rights Council, the Special Rapporteur characterized resettlement as a significant human rights crisis, coining the term “development cleansing” to describe its disproportionate impacts on vulnerable communities when resettlement is justified by development. He identified inadequate stakeholder engagement in project planning, “project megalomania”, funding constraints, flawed or contradictory laws and policies, and poor enforcement as factors contributing to these negative outcomes.

4. The widespread international condemnation of resettlement practices resulting in human rights abuses has prompted States, development finance institutions, businesses and other stakeholders to develop standards, safeguards and mechanisms aimed at mitigating these issues. In the present report, the Special Rapporteur examines the responsibilities of States, international organizations, development finance institutions, investors and businesses; reviews and assesses current laws, standards, policies and practices; and identifies gaps that require urgent attention from the international community, including through the forthcoming guiding principles.

5. The report serves as a second building block in the Special Rapporteur’s effort to create guiding principles for human rights-based resettlement – a proposal

welcomed by the Human Rights Council, which has invited States and other stakeholders to contribute to its development (see A/HRC/55/53 and Council resolution 55/11). The report is aimed at offering a rigorous assessment of current laws, policies and practices on resettlement and at showing the way ahead for recommendations based on real-world experience for States, development finance institutions, international organizations and businesses on avoiding resettlement while conducting it in a manner consistent with human rights principles.

6. In addition, the Special Rapporteur takes note of the insights from planned relocations related to the adverse effects of climate change and disasters, drawing on the recent report by the Special Rapporteur on the human rights of internally displaced persons (A/HRC/56/47).

7. The report is organized into the following sections: (a) legal and policy approaches to resettlement; (b) planning and design prior to resettlement; (c) resettlement implementation; (d) follow-up on resettlement; and (e) conclusions and recommendations. To inform the report, the Special Rapporteur conducted an expert consultation on 27 June 2024, reviewed written submissions and carried out extensive research. He appreciates the contributions of all who provided input.

II. Legal and policy approaches to resettlement

A. States

8. States have the primary responsibility for planning and implementing resettlement to ensure that resettled communities can restore their way of life and have access to adequate standards of living, including adequate housing and livelihoods, in both the short and the long term, including in the years following relocation. States must develop and enforce legislation, policies and strategies to ensure compliance with international human rights obligations by both State and non-State actors, including businesses operating within their effective control or jurisdiction, while development finance institutions and international organizations must fully abide by human rights obligations that apply to them as international actors. By participating in the governance and decision-making bodies of development finance institutions and international organizations, States can also influence and hold these entities accountable to human rights standards.

9. While some States have specific resettlement policies, many rely on a patchwork of national legislation and regulations, such as those related to land expropriation, land use, disaster response, urban development and natural resource extraction. These national systems often reflect the unique historical and colonial contexts of each country and may exhibit a top-down approach to land acquisition that disregards customary or informal land rights and limits the agency of minorities. In many cases, the legal grounds for resettlement are not clearly defined or are restricted to "compelling and overriding public interests".[1] National courts can play a crucial role in guiding resettlement practices, approving resettlement decisions and providing redress and compensation for affected communities.

10. State legal and policy approaches vary depending on the cause of displacement. Development-induced resettlement is often handled differently from displacement caused by conflict or disasters. Many States separate the regulation of human rights from climate change issues, complicating coordination and implementation. This fragmentation has a particular impact on marginalized groups, such as women and

[1] United Nations, Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex), principle 6, para. 2 (c).

Indigenous Peoples, who are often adversely affected by projects such as mining. When resettlement is triggered by natural disasters or climate change, preparation and planning may focus on evacuation or retreat, but displaced individuals should have a meaningful say in their relocation and living conditions.

Examples of State legal and policy frameworks

11. **Land acquisition for development and other projects**. The Special Rapporteur is concerned about the unchecked use of eminent domain for national interest projects, which often evades the scrutiny required under normal resettlement and expropriation procedures.

12. In Pakistan, the colonial-era Land Acquisition Act of 1894 allows land acquisition for public purposes, including public-private partnerships and private companies. The Act, along with other laws based on it, permits forcible eviction with minimal procedural safeguards. The Katchi Abadis Act of 1987 provides some rehabilitation rights for residents of urban informal settlements, but efforts to grant legal titles to these residents have faced challenges.[2]

13. In India, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 integrates land acquisition, resettlement and rehabilitation policies into a single law. Although initially groundbreaking, subsequent amendments have weakened protections and removed safeguards, raising concerns among human rights advocates and scholars.[3]

14. **Response to conflict**. Increasingly, forced returns and relocations of internally displaced persons have been observed globally, exposing these communities to protection risks.[4] The Special Rapporteur stresses that displaced persons must be protected from forcible return or resettlement to areas where their life, safety or health would be at risk.

15. In Lebanon, the Ministry of the Displaced and the Central Fund of the Displaced, both established in 1993, has aimed to improve conditions for 450,000 displaced Lebanese. Despite efforts to finance housing and reconciliation initiatives, challenges such as coordination issues and alleged mismanagement have hindered progress.[5]

16. **Response to disaster**. National disaster risk reduction policies increasingly reference planned relocation (see A/HRC/56/47, paras. 31–33).

17. In Türkiye, following the earthquake in 2023, the authorities introduced an earthquake recovery and reconstruction project, including a resettlement framework aligned with the World Bank Environmental and Social Framework. Despite efforts to establish fair criteria and mechanisms, civil society reports instances of discrimination and unequal treatment during resettlement.[6]

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[2] See communications PAK 6/2021 and PAK 7/2022. See also Human Rights Watch, "I escaped with only my life: abusive forced evictions in Pakistan", 2024; available at www.hrw.org/sites/default/files/media_2024/05/pakistan0524web.pdf.

[3] Rita Sinha, "Land acquisition law in neoliberal India: old wine in a new bottle?" in *The Land Question in Neoliberal India*, Varsha Bhagat-Ganguly, ed. (London, Routledge, 2020), pp. 151–171.

[4] Global Protection Cluster, "Global protection update: forced returns and relocations, April 2024". Available at www.globalprotectioncluster.org/publications/1855/reports/global-protection-update/global-protection-update-forced-returns-and.

[5] Joseph Schechla, "Housing and property restitution for refugees and displaced persons: implementing the Pinheiro Principles in the Middle East and North Africa", Housing and Land Rights Network of Habitat International Coalition, 2018.

[6] Türkiye, Ministry of Environment, Urbanization and Climate Change, earthquake, recovery and reconstruction project, resettlement framework. Available at https://webdosya.csb.gov.tr/db/kadiyap_en/menu/rf_20240313034355.pdf.

18. **Response to climate change**. Many States have developed legal and policy approaches to address climate change impacts, including relocation for "green" energy projects or retreat from vulnerable areas.

19. In Pakistan, the Supreme Court ordered the cleaning of water channels for climate mitigation, leading to the forced eviction and demolition of homes along the channels. The implementation of the order gave little or no notice, disregarded varying degrees of tenure and offered little or no redress and compensation.[7]

20. In Fiji, facing climate-related challenges, the authorities have developed guidelines on planned relocation to respect the rights and dignity of resettled persons. Relocation is considered a last resort and is intended to occur only after extensive consultation. The guidelines integrate international and national legal frameworks, ensuring improved housing, sanitation and access to services (see A/HRC/56/47).[8]

21. **Resettlement in conservation contexts**. Conservation initiatives often overlook the realities of communities living in protected areas that are in fact protecting biodiversity, while leading to forced displacements.[9]

22. In Thailand, the climate change master plan acknowledges community rights to forest resources, but the forestry master plan's narrow focus on carbon sinks has led to eviction orders for Indigenous Peoples.[10] Similar issues have arisen in Cambodia and the United Republic of Tanzania concerning cultural heritage conservation (see para. 38).

23. **Resettlement and transitional justice**. Transitional justice frameworks can support rights-based resettlement by addressing displacement and providing restitution. They can constitute a form of reparation while ensuring guarantees of non-recurrence to prevent repeated displacement.

24. In Timor-Leste, the Commission for Reception, Truth and Reconciliation recommended inquiries into land disputes arising from resettlement programmes;

25. In the Marshall Islands, the National Nuclear Commission transitional justice strategy addresses risks from nuclear testing and radiation, incorporating resettlement as a form of reparation.[11]

B. Development finance institutions

26. **Mandate and purpose**. Development finance institutions are generally tasked with supporting economic development but this has had different meanings over the years since the "birth" of development economics in the 1950s. While economists have offered many definitions of and approaches to economic development,[12] the key questions from a human rights perspective have revolved around how to minimize harm to people and the environment that accompanies economic development and how to spread its benefits more widely. While some institutions have changed their practices or developed policies to minimize or avoid these risks, many remain solely trapped within the paradigm of narrow economic development. For example, the International Finance Corporation (IFC), in its articles of agreement, prioritizes

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[7] See communications PAK 6/2021 and PAK 7/2022.

[8] See also the statement by the Special Rapporteur on human rights and the environment, David R. Boyd, on the conclusion of his mission to Fiji, 2018.

[9] See, for example, communications TZA 2/2023, KEN 4/2023 and AL THA 3/2022.

[10] See communication AL THA 3/2022.

[11] Marshall Islands, National Nuclear Commission, strategy for coordinated action, 2019.

[12] For a review, see H. W. Arndt, *Economic Development: The History of an Idea* (University of Chicago Press, Chicago, 1989).

economic development solely from a private sector perspective. Other development finance institutions have narrow policy commitments regarding social and environmental compliance that are often vague or aspirational and toothless.[13] The Asian Infrastructure Investment Bank has one such vague commitment[14] that is betrayed in the context of the ongoing financing of projects with serious human rights violations, such as the Mandalika urban development and tourism initiative.[15]

27. **Standards and safeguards**. While most development finance institutions have established environmental and social policies that outline specific requirements for project planning, design, implementation and performance, the alignment of the institutions' safeguards with international human rights and responsible business conduct standards varies significantly. In recent years, there has been a trend towards increased alignment of certain safeguards with international human rights standards.[16] For instance, the European Investment Bank standard on resettlement appears to align with the Guiding Principles on Internal Displacement of the United Nations, emphasizing that the Bank will not finance projects that infringe on rights or violate human rights standards and will not tolerate forced evictions.[17] However, such progress has often been undermined by increased competition among development finance institutions and pressure for rapid project financing and implementation.

28. Safeguards often include criteria for land acquisition, compensation and provisions for involuntary displacement and resettlement, usually requiring a resettlement action plan and/or a livelihood restoration plan.[18] However, in recent years, there has been a decline in safeguards regulating resettlement, notably with the removal of resettlement action plans as a prerequisite for project financing. If projects are approved without assessing whether resettlement can be avoided, and if there is insufficient consultation and planning to ensure compliance with human rights norms, the development finance institution and its project implementing partners may end up defending poor decisions instead of revising project designs.

29. **Involuntary resettlement**. Development finance institutions continue to authorize and fund involuntary resettlement where affected persons cannot refuse land acquisition or restrictions on land use. This often results in human rights violations and the impoverishment of affected communities. For example, the IFC performance standards address displacement and resettlement under performance standard 5 on land acquisition and involuntary resettlement. This standard acknowledges both physical displacement (e.g. relocation or loss of shelter) and economic displacement (e.g. loss of assets or livelihoods) resulting from project-related land acquisition or restrictions.[19] It has faced criticism for lacking criteria for independent assessments of whether a project is genuinely in the public interest before land expropriation.[20]

[13] Office of the United Nations High Commissioner for Human Rights (OHCHR), *Benchmarking Study of Development Finance Institutions' Safeguard Policies*, February 2023.

[14] Asian Infrastructure Investment Bank, *Environmental and Social Framework*, 2016, "Vision", para. 13.

[15] See, for example, communications OTH 24/2021, OTH 17/2022, OTH 133/2022 and AL OTH 99/2023.

[16] OHCHR, *Benchmarking Study of Development Finance Institutions' Safeguard Policies*.

[17] European Investment Bank, *The EIB Group Environmental and Social Policy*, 2022, paras. 3.2 and 4.5, and *Environmental and Social Standards*, 2022, standard 6, "Involuntary resettlement", paras. 48–50 and footnotes 16 and 17.

[18] See, for example, International Finance Corporation (IFC), *Handbook for Preparing a Resettlement Action Plan*, 2002. Available at https://documents1.worldbank.org/curated/en/492791468153884773/pdf/246740PUB0REPL020020Box12600PUBLIC0.pdf.

[19] IFC performance standard 5, 2012, "Introduction". Available at www.ifc.org/content/dam/ifc/doc/2010/2012-ifc-performance-standard-5-en.pdf.

[20] OHCHR, *Benchmarking Study of Development Finance Institutions' Safeguard Policies*.

30. A recent worrying trend has emerged whereby Governments clear informal settlements before applying for funding from development finance institutions. This appears to be a strategy to have past forced evictions deemed as "legacy" issues by the institutions, thus excluding them from consideration under current standards.

31. **Commercial partners**. IFC performance standard 1 on environmental and social risk assessment does not require commercial partners to align with the Guiding Principles on Business and Human Rights or to conduct human rights due diligence. This lack of alignment can create confusion among staff and clients regarding development finance institutions' standards and their compatibility with emerging legal requirements and responsible business norms. In addition to domestic legislation, private sector clients of such institutions must follow the institutions' performance standards. For instance, under IFC performance standard 5, clients must consider alternative project designs to minimize physical and economic displacement, offer compensation and benefits for displaced persons, engage with affected communities, establish grievance mechanisms and plan resettlement and livelihood restoration support.

32. The new European Union directive on corporate sustainability due diligence introduces obligations for large companies to address adverse impacts on human rights, including engaging meaningfully with stakeholders and implementing risk-based due diligence and corrective action plans.[21] It provides for civil remedies to be lodged for human rights breaches, including damages for failure to prevent or mitigate adverse impacts, as well as for remedial actions and fines of at least 5 per cent of the company's net worldwide annual turnover to be imposed by supervisory authorities.[22]

33. **Financial intermediaries**. There is a growing trend of channelling development finance institution project financing through intermediaries such as hedge funds and commercial banks, which diffuses responsibility and increases the risk that the institutions' standards on resettlement are not adhered to. Intermediaries may be employed deliberately to avoid direct responsibility for sensitive projects, including those involving resettlement. Many institutions lack specific safeguards for managing lending or investments to private sector financial intermediaries.[23] Some, such as the Inter-American Development Bank, offer limited intermediary-specific guidance.[24] For example, the Dutch entrepreneurial development bank FMO and IFC provided funding worth $38.2 billion over four years to 318 financial intermediary clients, including for high-risk projects.[25]

34. The lack of transparency about these investments makes it difficult to monitor compliance with environmental and social standards. Many projects involved involuntary resettlement with inadequate community consultation and information access. Development finance institutions argue that such information is commercially confidential and that meeting transparency demands from civil society and affected communities is challenging. Such arguments treat human rights obligations as essentially discretionary. It is therefore essential that enforceable safeguards apply to

[21] The directive applies to large companies incorporated in a State member of the European Union and certain non-European Union companies depending on the size of the workforce and turnover. See https://commission.europa.eu/business-economy-euro/doing-business-eu/sustainability-due-diligence-responsible-business/corporate-sustainability-due-diligence_en#which-companies-will-the-new-eu-rules-apply-to.

[22] See www.europarl.europa.eu/news/en/press-room/20240419IPR20585/due-diligence-meps-adopt-rules-for-firms-on-human-rights-and-environment.

[23] OHCHR, *Benchmarking Study of Development Finance Institutions' Safeguard Policies*.

[24] OHCHR, *Remedy in Development Finance: Guidance and Practice*, 2022.

[25] Oxfam, "New database addresses lack of transparency about financial intermediary investments of IFC, FMO", December 2021. Available at www.oxfam.org/en/press-releases/new-database-addresses-lack-transparency-about-financial-intermediary-investments.

all financial intermediaries and their entire portfolios, extending to the intermediary's value chain and subprojects as, for example, the environmental, social and governance standards of the African Development Bank and the European Bank for Reconstruction and Development require.[26] These safeguards should not be avoided through contractual clauses in agreements with intermediaries or other project partners.

35. **Accountability**. Despite frequent allegations of rights abuses, there have been few court cases involving international organizations or development finance institutions owing to limited lender liability laws and jurisdictional immunities. A recent case involving the alleged failure by IFC to ensure compliance with environmental and social standards in a power plant project highlights the need for a nuanced approach to immunity provisions, especially in cases involving large-scale displacement. Although the Supreme Court of the United States of America ruled in 2019 that international organizations are not immune from lawsuits,[27] the case was dismissed on the grounds that the claims were based on the actions of the IFC corporate partner in India.[28]

C. International organizations

36. International organizations increasingly support or facilitate resettlement in various capacities, including advisory roles, funding, implementation, monitoring and capacity-building.

37. **Frameworks and guidelines**. United Nations entities such as the Office of the United Nations High Commissioner for Refugees, the United Nations Development Programme, the United Nations Human Settlements Programme (UN-Habitat) and the Food and Agriculture Organization of the United Nations, as well as the Organisation for Economic Co-operation and Development and the World Bank, provide guidance and frameworks for resettlement. They offer financial resources and technical assistance to countries undertaking resettlement projects in humanitarian and development contexts. They also play a role in monitoring and ensuring accountability for project impacts. International organizations are responsible for upholding human rights standards, ensuring transparency and setting standards for other resettlement actors. United Nations entities are particularly obligated to uphold United Nations norms on human rights, and have long been required by the Secretary-General and the General Assembly to mainstream human rights into their operations and policies. Despite this, many of them are woefully short of upholding such standards.

38. For example, the United Nations Educational, Scientific and Cultural Organization (UNESCO) is obligated to uphold human rights and fundamental freedoms as outlined in article 1 of its constitution and in the Charter of the United Nations. However, UNESCO and its World Heritage Committee[29] have faced

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[26] European Bank for Reconstruction and Development, *Environmental and Social Policy*, 2019, performance requirement 9, "Financial intermediaries"; and African Development Bank, *Environmental and Social Policy*, 2019, operational safeguard 9, "Financial intermediaries".

[27] *Jam v. International Finance Corporation*, No. 15-612, 2020 U.S. Dist. LEXIS 25923, 24 (D.D.C. 14 February 2020).

[28] Michelle Harrison and Lindsay Bailey, "Ending 'absolute immunity' for the International Finance Corporation: the legacy of *Jam v. IFC*", Bretton Woods Project, 21 July 2022. Available at www.brettonwoodsproject.org/2022/07/ending-absolute-immunity-for-the-international-finance-corporation-the-legacy-of-jam-v-ifc.

[29] According to the United Nations Educational, Scientific and Cultural Organization (UNESCO) Operational Guidelines for the World Heritage Convention, States parties are encouraged to integrate international human rights standards into their World Heritage-related programmes and activities. UNESCO, Operational Guidelines for the Implementation of the World Heritage Convention (document WHC.21/01), 2021, art. 14 bis; available at https://whc.unesco.org/en/guidelines.

criticism for allegedly failing to protect human rights by supporting the resettlement of Indigenous Peoples from their traditional lands under the guise of conservation. For instance, the plan by the United Republic of Tanzania to resettle 82,000 pastoralists was influenced by a World Heritage Committee report recommending measures to control population growth in the Ngorongoro Conservation Area. UNESCO denied encouraging displacement but did not condemn the resettlement plans.[30] Similarly, mass evictions around the Angkor Wat temple have raised concerns about intimidation and violence by Cambodian authorities.[31] UNESCO has stated that it lacks authority to enforce rights-based standards, focusing instead on policy advice and capacity-building,[32] but even so, it is not evident that enough effort has been taken to encourage compliance with human rights such as by establishing grievance mechanisms or accountability measures for serious human rights violations.[33]

D. Private sector

39. The private sector plays a significant role in resettlement, in particular in development projects involving infrastructure, mining or agriculture that require land acquisition and community displacement. Private companies often initiate these projects, providing capital investment and financial resources, including for resettlement plans and compensation packages. They are typically involved in planning and implementing resettlement, conducting environmental and social impact assessments, developing resettlement action plans and coordinating with local authorities. Companies also contribute to building new infrastructure in resettlement sites and may be responsible for compensation and livelihood restoration.

40. **Development of standards**. Although many international corporations have adopted human rights policies and committed to human rights due diligence in line with the Guiding Principles on Internal Displacement,[34] corporate policies and extractive agreements often lack comprehensive human rights frameworks and tend to prioritize investments over positive outcomes for affected communities. Resettlement projects aimed at meeting "international standards" often use IFC standards as a benchmark, owing in part to the Equator Principles, which are a common benchmark for managing social and environmental risks in finance. The Equator Principles explicitly refer to IFC performance standard 5 on land acquisition and involuntary resettlement. Although 130 financial institutions in 38 countries have signed the Equator Principles, they offer weak protection against involuntary resettlement. Moreover, some major banks, such as JP Morgan, Citi, Bank of America and Wells Fargo, are no longer signatories even to these weak standards.[35]

41. Some companies in the extractive industry such as Vale have committed to exploring alternatives to involuntary resettlement and adhering to IFC performance standards when unavoidable.[36] However, Vale has been criticized for not disclosing

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[30] See communication OTH 262/2021 and the UNESCO response dated 8 April 2022.

[31] Amnesty International, *"Nobody Wants to Leave Their Home": Mass Forced Evictions at Cambodia's UNESCO World Heritage Site of Angkor*, 14 November 2023.

[32] UNESCO letter to Amnesty International, 24 October 2023, on file with Amnesty International, p. 1.

[33] UNESCO Operational Guidelines for the Implementation of the World Heritage Convention set out that "States parties are responsible for implementing effective management activities for a World Heritage property" (para. 117). However, the Guidelines lack specific criteria or commitments on human rights.

[34] World Benchmarking Alliance, Corporate Human Rights Benchmark. Available at www.worldbenchmarkingalliance.org/publication/chrb.

[35] See www.reuters.com/business/finance/jpmorgan-citi-wells-boa-are-no-longer-signatories-equator-principles-website-2024-03-05.

[36] Vale, Sustainable Mining, Involuntary Resettlement. Accessed on 21 July 2024. See https://vale.com/esg/involuntary-resettlement.

how it manages human rights policies or involves affected stakeholders.[37] Rio Tinto aims to secure free, prior and informed consent from Indigenous Peoples before resettlement, but this requirement is contingent on local jurisdictional applicability.[38]

42. **Rules regulating human rights impacts**. Rules regulating how private investors address human rights impacts of resettlement projects are evolving. The Guiding Principles on Internal Displacement are now embedded in legal frameworks at national, regional and international levels, prompting companies to reassess their roles in involuntary resettlement projects (see A/HRC/47/39).[39] The European Union directive on corporate sustainability due diligence, which will become effective in 2027, mandates large companies to address human rights and environmental impacts in their operations and value chains, including those resulting from resettlement projects. The European Union regulation on sustainable finance disclosure requires investors to disclose social and environmental impacts but lacks detailed reporting on project-specific risks (see A/HRC/56/55).

43. **Transparency issues**. There is a need to significantly enhance the quality and quantity of data on corporate social and environmental performance. Currently, most investors rely on private environmental, social and governance data providers, but these data are often weak, inconsistent and may not account for human rights (see A/HRC/47/39/Add.1).[40] Data providers use various methodologies to evaluate human rights performance, which often lack transparency and focus on superficial factors rather than substantive issues such as the establishment of resettlement action plans, genuine consultation and actual outcomes for affected communities.[41] Displacement and resettlement are common in mining developments, for instance, and yet there is a marked absence of data on their scale, frequency and impacts on affected communities (see A/78/155).[42]

E. Development without displacement and resettlement

44. Experts from the International Association for Impact Assessment have raised concerns about current development strategies, noting that they often lead to increased displacement and resettlement. While this is not a new concern regarding the way in which development has been implemented for decades, this trend is also seen in adaptation- and mitigation-centred climate change projects, which are exacerbating climate-induced displacement. The experts have questioned the effectiveness of the “resettlement with development approach”, which is aimed at improving livelihoods and living standards through additional resources and benefit-sharing. Despite its intentions, successful examples of this approach are scarce.

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[37] World Benchmarking Alliance, Corporate Human Rights Benchmark, 2023. Available at www.worldbenchmarkingalliance.org/publication/chrb/companies/vale-2.

[38] Rio Tinto, Human Rights Policy and Communities and Social Performance Standard. Available at www.riotinto.com/en/sustainability/human-rights#.

[39] See also Organisation for Economic Co-operation and Development, *Stocktaking Report on the OECD Guidelines for Multinational Enterprises*, 2022. Available at https://mneguidelines.oecd.org/stocktaking-report-on-the-oecd-guidelines-for-multinational-enterprises.pdf.

[40] Efforts to address this include the Investor Initiative on Human Rights Data, which is aimed at improving the quality of corporate human rights data available to investors. See www.churchofengland.org/media/press-releases/church-commissioners-england-launches-investor-initiative-human-rights-data.

[41] See inputs received by the Working Group on the issue of human rights and transnational corporations and other business enterprises, 2023. Available at www.ohchr.org/en/calls-for-input/2023/investors-esg-and-human-rights.

[42] The use of misleading sustainability labels and claims remains pervasive in the extractive industry and other sectors and has been the subject of recent anti-greenwashing litigation as well as new legislation.

45. In response, the International Association for Impact Assessment has endorsed a "development without resettlement" approach, advocating for the normalization of non-displacement alternatives in policy and the promotion of in situ, human-scale development strategies. It has introduced the Dublin Declaration on Fair and Equitable Land Access, which includes 23 recommendations clustered around six key principles:

(a) Recognizing the rights, knowledge and agency of affected people, as well as their right to enhanced well-being;

(b) Promoting inclusive decision-making through a fair and transparent process from project inception to completion;

(c) Ensuring a fair distribution of impacts and benefits, aligned with the Sustainable Development Goals;

(d) Maintaining high standards of professionalism and planning and allocating sufficient resources to improving the lives of affected people and their communities;

(e) Addressing power imbalances and contextual factors that influence outcomes;

(f) Ensuring remedy and accountability through access to grievance redress mechanisms, remediation and legal recourse.

46. The Special Rapporteur shares this assessment. It may finally be time to retire the myth that displacement and therefore resettlement are acceptable in the public interest or the "greater good" of development. This myth has existed throughout the history of modern capitalism, but especially since the birth of development discourse in the 1940s and 1950s. While the need for resettlement may always arise due to unintentional or structural displacement resulting from conflict or climate change, intentional displacement and the concomitant resettlement of communities in the name of development is no longer credible and acceptable from a human rights perspective. The Special Rapporteur calls for a paradigm shift, proposing that resettlement should be permitted only in cases in which it is called for due to overwhelming and persistent threats to the survival of communities such as those resulting from conflict or climate change. Planned projects for economic development, even if an attempt is made to justify them by supposedly compelling and overriding public interests, should no longer be used to justify displacement and resettlement.

III. Planning and design prior to resettlement

47. The planning and design phase of resettlement projects is critical for achieving durable, human rights-based solutions that allow affected people to successfully re-establish their lives, livelihoods and communities. During this phase, several key activities should take place:

(a) **Rights discussions**. Essential discussions should address the right to remain, the right to return and the right to resettlement;

(b) **Resettlement site selection**. Decisions regarding the choice of resettlement sites should be made;

(c) **Project development**. Projects are conceived and developed in collaboration with affected and host communities, based on the principle of benefit-sharing;

(d) **Financing and monitoring**. Securing project financing for full resettlement, including for monitoring and follow-up, is essential;

(e) **Grievance procedures and remedies**. Developing grievance procedures and ensuring judicial and non-judicial remedies is crucial for addressing concerns;

(f) **Administrative set-up**. Necessary bureaucratic processes and bodies must be established and staffed.

48. Inclusive, respectful and participatory planning is essential during all of these steps, which significantly enhances the success of all forms of resettlement.

49. **Transparency and the right to information**. Resettlement projects often face issues due to secrecy and a lack of transparency, which hampers public access to crucial information. This lack of information, including scientific and expert data, restricts the participation of affected communities in decision-making and proposing alternatives. Even when standards for public dialogue exist, the absence of credible, timely and transparent information on resettlement action plans often undermines the effective participation of affected communities.

50. **Rights to remain, return, resettlement and site choice**. Project design and planning must start with an honest discussion about whether the community can remain in place, return if it is forcibly displaced or be resettled to a different site. If resettlement is unavoidable or requested by the affected community, it must be recognized as having the right to resettlement, which includes compensation, livelihood restoration and integration assistance.

51. **Free, prior and informed consent, meaningful and respectful consultations, and participation**. Research consistently shows that displaced people achieve better outcomes when properly consulted with respect and given control over their futures. However, participation is often tokenistic, and millions of people, in particular those in informal settlements or rural areas, continue to be excluded from resettlement processes.[43] Inadequate dialogue and negotiations during the design and development of resettlement schemes have led to significant human rights violations, as detailed in previous communications and reports (see, for example, A/HRC/55/53).[44]

52. **Examples of inadequate participation**. Instances of poor participation in resettlement planning are common. For example, Saudi authorities planned the resettlement of the Huwaytat tribe for the Neom project without proper consultation or free, prior and informed consent, resulting in the use of lethal force, detentions and terrorism charges to suppress opposition.[45]

53. While stakeholder participation is part of all development finance institution safeguards, the right to remain is not guaranteed. For example, IFC performance standards require effective consultation based on project risks and impacts but allow involuntary resettlement where it is minimized and adverse impacts are mitigated. Although forced evictions are generally prohibited, exceptions are allowed if conducted according to national law and IFC performance standard requirements. Most institutions, such as IFC, do not require a specific assessment of the "willingness" of sellers or the vulnerabilities and discrimination faced by project-affected peoples, or factor in that Governments or private sector actors may exert pressure to compel a sale.[46] Interestingly, the African Development Bank requires a signed consent form, free of threats or reprisals, as evidence of meaningful consultation and negotiation before approving the borrower's resettlement action plan.[47]

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[43] Yan Tan, "Development-induced displacement and resettlement: an overview of issues and interventions", in *Routledge Handbook of Migration and Development*, Tanja Bastia and Ronald Skeldon, eds. (London, Routledge, 2020).

[44] See also communications OTH 24/2021, OTH 17/2022, OTH 133/2022 and AL OTH 99/2023.

[45] See communications SAU 11/2020 and SAU 2/2023 and related letters.

[46] OHCHR, *Benchmarking Study of Development Finance Institutions' Safeguard Policies*.

[47] African Development Bank, "Borrower guidance note for E&S operational safeguard 5: land acquisition, restrictions on access to land and land use, and involuntary resettlement", 2024. Available at www.afdb.org/sites/default/files/borrower_guidance_note_for_os5.pdf.

54. **Examples of effective participation**. Effective participation in resettlement planning is rare but documented, such as in the Minashtuk project in Canada in which the approach to planning goes beyond participation to show respect, partnership and benefit-sharing.[48] However, even with extensive consultations and planning, integration does not always equate to successful implementation and assimilation, especially when individuals have strong attachments to their original homes and identities.

55. **Compensation and livelihood restoration**. Land expropriation and resettlement planning is ultimately the responsibility of the State. Large-scale evictions, in particular of rural, Indigenous and informal settlement communities, often occur through the exercise of eminent domain (see A/HRC/47/43). Governments frequently resort to expropriation rather than negotiating with affected people.[49] Displaced individuals are generally entitled to "fair" or "just" compensation, but the compensation provided often falls short of covering losses.

56. Research on national compensation procedures shows that only 8 of 50 assessed countries have alternative approaches to calculating compensation where land markets are weak or non-existent. Compensation based on market value can disadvantage poor and vulnerable landholders, especially where land markets are weak.[50]

57. Under United States federal law (Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970), the Government must cover relocation costs and replacement housing, including for tenants. However, studies show that eminent domain disproportionately affects ethnic or racial minorities, lower-income residents and those living at or below the federal poverty line.[51]

58. In India, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act of 2013 introduced groundbreaking provisions for social and environmental impact assessments prior to land acquisition, improved compensation rates and mandatory transparency and consultation requirements. However, resettlement projects in India often still show poor outcomes for resettled communities.[52]

59. Development finance institution safeguard policies operationalize livelihood restoration or improvement through compensation, resettlement assistance and livelihood support. IFC, for instance, encourages negotiated settlements and compensation for loss of assets at replacement cost.[53] However, "replacement" costs are typically based on market value and may not factor in non-financial losses or the true value of the land after development.[54] Long-term challenges after project

[48] Denis Roux, "Building on partnerships with Indigenous communities". Available at www.un.org/esa/sustdev/sdissues/energy/op/hydro_seelos_paper.pdf.

[49] Frank Vanclay, "Project-induced displacement and resettlement: from impoverishment risks to an opportunity for development?", *Impact Assessment and Project Appraisal*, vol. 35, No. 1 (2017), pp. 3–21.

[50] Nicholas Tagliarino, "The status of national legal frameworks for valuing compensation for expropriated land: an analysis of whether national laws in 50 countries/regions across Asia, Africa, and Latin America comply with international standards on compensation valuation", *Land*, vol. 6, No. 2 (2017).

[51] Dick Carpenter and John Ross, "Victimizing the vulnerable: the demographics of eminent domain abuse", Institute for Justice, 2007, p. 7.

[52] Rita Sinha, "Land acquisition law in neoliberal India: old wine in a new bottle?".

[53] IFS, performance standard 5, "Land acquisition and involuntary resettlement", 2012.

[54] Certain development finance institutions such as the African Development Bank now seek full replacement costs and in-kind replacement (losses, damages, properties, livelihoods, opportunities and ecosystem services) instead of financial compensation, including for livelihood restoration. See African Development Bank, "Borrower guidance note for E&S operational safeguard 5: land acquisition, restrictions on access to land and land use, and involuntary resettlement".

implementation are often overlooked, leaving resettled individuals struggling to rebuild their livelihoods.[55]

60. Finding suitable replacement land remains a persistent challenge, often confronted only during project implementation.[56] Replacement land may not be feasible for sacred or historical sites. For example, the Blueberry River First Nation in British Columbia demonstrated that industrial development had left no territories for it to carry out its traditional ways of life.[57]

61. Non-economic losses, such as cultural heritage and Indigenous knowledge, are challenging to calculate and compensate for. Communities are often treated as a single entity, overlooking diverse needs, while livelihood assistance programmes suffer from inadequate oversight, hindering their effectiveness. These programmes typically rely on short-term financial aid and basic training, assuming that it is sufficient for long-term livelihood restoration.

62. **Benefit-sharing**. Current resettlement practices often view livelihood restoration as a means to compensate for asset loss rather than support actual livelihood restoration. Despite efforts, such as those seen in the Nam Theun 2 project in the Lao People's Democratic Republic, research reveals persistent impoverishment and human rights issues.[58] Resource development on Indigenous land often fails to deliver sufficient local benefits, and agreed compensation is frequently inadequate (see A/HRC/24/41).[59] Numerous examples illustrate that, all too often, projects purporting to be of "vital national interest" are not necessarily in the interest of all, and usually not in the interest of those directly affected (see A/HRC/55/53/Add.1, para. 50).

63. However, some natural resources and mining companies are developing new approaches to agreement-making and benefit-sharing with affected communities. In Canada, for example, First Nations, Métis and Inuit entities were partners or beneficiaries in nearly 20 per cent of the country's electricity-generating infrastructure in 2022, most of which produces renewable energy.[60] In Nepal, benefit-sharing policies in the hydropower sector formalize royalty distribution to communities, though issues with clarity and uneven distribution remain.[61] In Australia, land rights

[55] World Bank Group, "World Bank acknowledges shortcomings in resettlement projects, announces action plan to fix problems", 2015. Available at www.worldbank.org/en/news/press-release/2015/03/04/world-bank-shortcomings-resettlement-projects-plan-fix-problems. See also World Bank, "Involuntary resettlement portfolio review: phase II – resettlement implementation", 2014.

[56] Ana Maria Esteves, "A people-centred approach to assessing livelihoods impacts", *Impact Assessment and Project Appraisal*, vol. 39, No. 6 (2021), pp. 478–495.

[57] The Supreme Court of British Columbia released its decision in *Yahey v. British Columbia* on 29 June 2021. See https://news.gov.bc.ca/releases/2023WLRS0004-000043#:~:text=On%20June%2029%2C%202021%2C%20the,their%20traditional%20ways%20of%20life.

[58] Thayer Scudder, "A retrospective analysis of Laos's Nam Theun 2 dam", *International Journal of Water Resources Development*, vol. 36, No. 2 (2020), pp. 351–370.

[59] The Indigenous villages of Newtok and Nakapiak in Alaska, United States of America, each received $25 million for relocation as part of the tribal relocation assistance programme established in 2021, which was reportedly one quarter of the amount required for the full relocation of the communities.

[60] The Cree Nation has signed over 75 agreements with federal and provincial governments, including benefit agreements and agreements on payments to Cree communities. See Canada Energy Regulator, "Market snapshot: Indigenous ownership of Canadian renewable energy projects is growing", 2021; available at www.cer-rec.gc.ca/en/data-analysis/energy-markets/market-snapshots/2023/market-snapshot-indigenous-ownership-canadian-renewable-energy-projects-growing.html. See also Main Agreements of the Cree Nation Government; available at www.cngov.ca/governance-structure/legislation/agreements/#:~:text=In%202001%2C%20the%20Cree%20and,between%20the%20Cree%20and%20Quebec.

[61] International Centre for Integrated Mountain Development, "Benefit sharing and sustainable hydropower in Nepal", 2016.

regimes and Indigenous land use agreements include benefit-sharing mechanisms, with some agreements offering significant benefits packages and annual payments.[62]

64. **Contingency funding**. When mobilizing funds for resettlement planning, it is vital to allocate contingency funding, especially for higher-risk projects. Safeguards and loan agreements should require clients to establish contingency funds or insurance to address potential human rights impacts. Rights violations can profoundly affect both project viability and affected individuals, necessitating funds for infrastructure and resettlement needs. However, current development finance institution safeguards lack such a requirement.[63]

65. In 2008, 10 Ghanaian communities entered into agreements with Newmont Ghana Gold Limited for local job creation, development and decision-making; a decade later, research highlighted persistent challenges, including inadequate compensation for resettlement and adverse impacts on communities beyond the mining area.[64] This emphasizes the importance of comprehensive agreements, legal support, effective grievance mechanisms and project contingency funding for unforeseen challenges. Development finance institutions should also consider potential State financial liquidity crises, which can undermine the implementation of resettlement action plans and impair human rights-based resettlement, in particular for infrastructure projects with large-scale social impacts.

IV. Resettlement implementation

66. **State agencies' role**. State agencies are central to the successful implementation of resettlement projects. They are primarily responsible for overseeing project execution and ensuring adherence to international human rights standards. Beyond creating policy and regulatory frameworks, State agencies should manage land allocation, service provision and infrastructure development at resettlement sites. Their duties also include enforcing laws, protecting human rights, resolving conflicts and providing or overseeing redress mechanisms. For instance, they should mandate the presence of government officials or representatives during evictions and take measures to prevent gender-based violence or discrimination against women during relocation. However, in practice, State responsibilities are often delegated to private sector actors, with State involvement during implementation frequently lacking.

67. **Adapting to challenges**. Even with meticulous planning, resettlement efforts may face unforeseen challenges or contextual shifts requiring adjustments. Implementing agencies must preserve bureaucratic and organizational capabilities and adhere to established procedures for overseeing and monitoring relocation processes. This means remaining consistent with the plans and commitments made to communities. In addition, training and support should be provided to new project administrators who may lack local knowledge or relationships with the community.

68. **Role of development finance institutions**. In projects supported by development finance institutions, the institutions play a crucial role in overseeing

[62] See www.wa.gov.au/organisation/department-of-the-premier-and-cabinet/south-west-native-title-settlement.

[63] IFC has recently advocated for the establishment of a contingency budget, typically 10 to 20 per cent of the total resettlement cost, to address unexpected issues and ensure successful resettlement. See IFC, *Good Practice Handbook: Land Acquisition and Involuntary Resettlement*, 2023; available at www.ifc.org/content/dam/ifc/doc/2023/ifc-handbook-for-land-acquisition-and-involuntary-resettlement.pdf.

[64] Benjamin Boakye, Maggie Cascadden and others, "Implementing the Ahafo benefit agreements: seeking meaningful community participation at Newmont's Ahafo gold mine In Ghana", Social Sciences Research Network, 2020.

resettlement implementation. They ensure efficient use of funds, provide technical support and enhance local capacity. They also monitor compliance with standards and safeguards, manage risks and foster collaboration among stakeholders. In addition, they assist in dispute resolution, maintaining project momentum and building stakeholder trust. However, their effectiveness varies depending on institutional capacity, risk tolerance and challenges such as political instability or natural disasters.

69. **Law enforcement**. Military and security forces are often deployed during resettlement, tasked with "implementing resettlement" through forced evictions, land clearance and, in some instances, the use of lethal force. These actions undermine community engagement and demonstrate a blatant disregard for human rights by the State.[65]

70. **Human rights defenders**. Environmental and human rights defenders are increasingly targeted in the context of investment projects, often portrayed as obstacles to development or "enemies of the State".[66] They face harassment, arrests, violence and stigmatization. Although development finance institutions are increasingly incorporating safeguards against reprisals, research shows that clients are frequently implicated in these acts, hindering genuine engagement with local communities. To address this, all stakeholders must adopt a zero-tolerance policy toward threats, intimidation and violence directed at affected communities, their representatives or defenders. Project proponents should view human rights defenders and local civil society actors as partners in supporting rights-based approaches to resettlement.

71. **Grievance mechanisms**. Effective grievance processes must be in place before project implementation begins. These mechanisms are crucial for identifying and addressing issues before, during and after relocation, rather than merely providing remedies after harm has occurred. Despite this, resettlement projects have consistently been a source of complaints to development finance institution accountability mechanisms. Since 2004, independent monitors have registered 481 complaints related to displacement in international financial institution-supported projects.[67] However, only 16 per cent of these complaints resulted in successful dispute resolution, with no dispute resolution process reported in over 75 per cent of registered complaints.[68]

72. **Positive practices**. Some projects, such as the Southern Transport Development Project in Sri Lanka financed by the Asian Development Bank, have introduced positive resettlement practices and new institutional arrangements.[69] These include comprehensive resettlement implementation plans, recognition of entitlements for affected persons without land titles, and income restoration programmes. While this project faced challenges, complaints and court cases, engagement with the Bank's inspection and compliance review mechanisms helped to address these issues. This case highlights the need for deliberative, evidence-based and inclusive practices, as well as the importance of effective grievance mechanisms, corrective action plans and responsive decision-making during implementation.

[65] OHCHR, *Eviction and Resettlement in Cambodia: Human Costs, Impacts and Solutions*, 2012. See also communications OTH 24/2021, OTH 17/2022, OTH 133/2022 and AL OTH 99/2023.

[66] OHCHR, *Benchmarking Study of Development Finance Institutions' Safeguard Policies*. See also CEE Bankwatch Network, *More than Money: Development Banks must Strengthen Human Rights Safeguards*, May 2024.

[67] Of a total of 1,955 complaints logged by the Accountability Console, a project of the non-profit organization Accountability Counsel. See https://accountabilityconsole.com.

[68] Accountability Console cases, filtered by displacement (physical and/or economic). Available at https://accountabilityconsole.com/complaints/?issues=3&year_filed=&year_closed=&min_duration=&max_duration=.

[69] Asian Development Bank, *Challenges in Implementing Best Practices in Involuntary Resettlement: A Case Study in Sri Lanka*, 2016.

V. Follow-up on resettlement

73. **Monitoring and evaluation**. The monitoring and evaluating of resettlement efforts is essential for assessing outcomes and addressing challenges. These processes ensure that resettled individuals can fully enjoy their human rights, including adequate housing as defined by international law. Post-resettlement monitoring should include regular community visits, tailored to population size and vulnerability, to assess whether objectives are met and to address ongoing challenges, in particular for at-risk groups. A diverse group of stakeholders, including project proponents, government officials, civil society and local experts, should conduct these evaluations, although the ultimate responsibility for protecting human rights lies with the State. Coordination with representatives from both resettled and host communities is crucial to address conflicts, service accessibility, infrastructure maintenance, livelihood restoration, land productivity, income levels and social and economic integration.

74. **Challenges in measuring long-term impacts**. In practice, measuring, understanding and mitigating the true impacts of large-scale resettlement projects and livelihood interventions over time is extremely difficult. Economic displacement is often considered resolved once affected individuals or communities receive compensation and initial assistance according to the resettlement action plan or livelihood restoration plan. However, these plans, typically lasting three to five years, are generally insufficient and underresourced.[70] Often, development finance institutions exit projects once loans are repaid, leaving communities to navigate the long-term challenges on their own. It often takes until the second generation following resettlement for individuals to fully benefit from new economic opportunities or experience the complete negative or (the rare) positive effects once initial investments or stipends expire. Monitoring and evaluation efforts frequently neglect the multigenerational nature of resettlement, with livelihood restoration plans often being short-term and inadequately funded.

75. **Shortcomings in development finance institution safeguards**. Development finance institution safeguards tend to emphasize process requirements, outputs and "action plans" rather than actually monitoring results and addressing adverse impacts over time. For instance, projects may report on the payment of compensation in resettlement operations without detailing whether replacement land has been developed or livelihoods properly restored. Similarly, they may note that a consultation took place without providing details on its outcomes, or that a grievance mechanism was established without describing the types of grievances filed or the actions taken to address them.

76. **Internal versus external monitoring**. Within resettlement contexts, development finance institutions such as IFC typically conduct both internal and external monitoring.[71] Internal monitoring, carried out by the project resettlement team, focuses on resettlement progress and performance throughout planning and implementation phases. It serves as an implementation and risk-management tool as part of the environmental and social management system mandated by IFC performance standard 1. This includes surveys assessing satisfaction with allocated housing and community facilities (e.g. drinking water, power, schools, health clinics and access roads) one year after relocation. External monitoring assesses performance and compliance with applicable standards, such as performance standard 5 or other relevant benchmarks, and relies in part on internal monitoring activities. While

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[70] Andrew John Hart "A critical analysis of sustainable resettlement in the context of international development and hydropower", dissertation paper, University of Johannesburg, South Africa, 2021. Available at https://ujcontent.uj.ac.za/esploro/outputs/9912766207691#details.

[71] IFC, *Good Practice Handbook: Land Acquisition and Involuntary Resettlement*.

internal monitoring is essentially part of project implementation, and thus not aimed at producing accountable outcomes, a credible and professional internal process led by staff that are knowledgeable about and sensitive to human rights standards can be as effective as external monitoring that is independent and professional.

77. **Successful monitoring practices**. IFC has highlighted examples such as the Ahafo South mining project in Ghana, in which robust internal monitoring using qualitative and quantitative indicators, alongside tailored studies (such as perception reviews and evaluations of livelihood restoration activities) involving local consultants and external experts, successfully identified and rectified challenges during and after the resettlement phase.[72]

78. **Accountability ambiguities**. Despite progress, ambiguity remains regarding the accountability of project proponents, including development finance institutions and implementing partners. For instance, the European Bank for Reconstruction and Development places the responsibility for resettlement and livelihood restoration primarily on its clients, whether public entities or private companies.[73] While the Bank's external completion audit is aimed at rectifying shortcomings in resettlement plans, client responsibilities are determined on a case-by-case basis, lacking a comprehensive framework. The Asian Infrastructure Investment Bank reserves the right to defer the application of its safeguards in conflict settings.[74] In addition, development finance institution monitoring reports, often not publicly available, lack critical details on field visits, identified gaps and recommendations for improvement.[75]

79. **Access to justice and effective remedy**. All individuals have the right to access justice and effective remedy, which can take various forms, including truth, justice, reparations, memorialization and guarantees of non-recurrence. However, in resettlement cases, the approach to remedy often devolves into a blame game or is viewed as a reputational risk rather than a collaborative effort for better outcomes.[76]

80. **Grievance mechanisms and their limitations**. Project-level grievance mechanisms vary in mandate and capacity, often serving as a last resort. Despite requirements such as those in IFC performance standard 5 and guidance note 5 for establishing grievance mechanisms at the start of projects, many lack reference to effectiveness criteria from United Nations human rights standards. Furthermore, many development finance institutions, including IFC, lack policies for addressing unresolved human rights issues at project closure or upon the institution's exit, leaving unremedied harms unaddressed.[77] Remedy has gained renewed attention within institutions since 2020, driven by policy developments at IFC and the Multilateral Investment Guarantee Agency and successive multilateral development bank safeguard policy and accountability review processes. In 2023, IFC and the Multilateral Investment Guarantee Agency began public consultations on a new approach to remedial action and responsible exit principles. The Australian bank ANZ, for example, agreed to provide a financial package to Cambodian families

[72] Ibid.

[73] European Bank for Reconstruction and Development, *Resettlement Guidance and Good Practice: Roles And Responsibilities in Resettlement*, 2017, p. 15.

[74] Asian Infrastructure Investment Bank, *Environmental and Social Framework*, para. 53.1.

[75] OHCHR, *Benchmarking Study of Development Finance Institutions' Safeguard Policies*; and CEE Bankwatch Network.

[76] Ibid.

[77] OHCHR, *Remedy in Development Finance: Guidance and Practice*.

forcibly displaced by a sugar company that the bank financed in 2011, acknowledging that its due diligence on the project was inadequate.[78]

81. **Scrutiny on commercial banks and financial institutions**. Commercial banks and financial institutions face increasing scrutiny regarding their responses to adverse human rights impacts, leading to a rise in human rights policies.[79] The Equator Principles emphasize the avoidance of negative impacts on ecosystems and communities and suggest providing remedies for human rights impacts where residual impacts remain unavoidable.[80] However, clients, rather than lenders, are held responsible, and very few investors effectively provide remedies for those affected by their investments (see A/HRC/56/55).[81] While principles 5 and 6 require banks to ensure that the high-risk projects that they finance have stakeholder engagement processes and project-level grievance mechanisms, they lack an accountability mechanism to address alleged breaches and to provide effective remedies to harmed communities. Only a minority of financial institutions acknowledge their impact on people and the planet, and even fewer disclose their processes for identifying human rights risks within their operations and financing activities.[82] The right to return in project-induced displacement is not typically addressed in post-resettlement evaluations, leaving affected individuals without recourse.

82. **Legal challenges in seeking remedies**. Victims of human rights abuses stemming from resettlement often face procedural obstacles when seeking justice through legal avenues. Requirements such as locus standi can make it difficult for civil society organizations to represent displaced communities and hold companies, including investors and parent companies, accountable. Legal accountability may be blocked by claims of immunity by international organizations and development finance institutions. Legal systems may also place a heavy burden of proof on claimants, making it challenging to seek remedies in court. The exorbitant costs of litigation, lack of legal aid and delays in the justice system exacerbate these challenges, depriving resettled communities of fair and timely recourse for human rights violations.

83. **Nuclear legacy of the Marshall Islands**. The nuclear legacy of the Marshall Islands, resulting from 67 nuclear tests by the United States between 1946 and 1958, exemplifies the challenges of mitigating and remediating resettlement harm.[83] Despite the United States declaring Bikini Atoll safe in 1968, returning residents experienced a tenfold increase in Caesium-137 levels, leading to their relocation again in 1978.[84] Rongelap was also declared safe and resettled in 1957, only to be re-evacuated in

[78] Australia, National Contact Point for the OECD Guidelines for Multinational Enterprises, Follow-up statement regarding complaint submitted by Equitable Cambodia and Inclusive Development International on behalf of Cambodian families, 27 February 2020. See also BankTrack, "ANZ agrees to landmark settlement with Cambodian farmers displaced", 2020; available at www.banktrack.org/article/anz_agrees_to_landmark_settlement_with_cambodian_farmers_displaced_by_sugar_company_it_financed.

[79] OHCHR, *Remedy in Development Finance: Guidance and Practice*.

[80] Equator Principles 4, 2020, "Preamble".

[81] Only 20 per cent of financial institutions publicly acknowledge their impact on people and the planet according to independent benchmarking; outside the minimum legal requirements, less than 7 per cent of the 400 institutions assessed disclose the process that they have in place to identify human rights risks and impacts within their own operations, and less than 3 per cent do so within their financing activities.

[82] World Benchmarking Alliance, Financial System Benchmark. Available at www.worldbenchmarkingalliance.org/publication/financial-system.

[83] OHCHR, "Addressing the challenges and barriers to the full realization and enjoyment of the human rights of the people of the Marshall Islands, stemming from the State's nuclear legacy", 2024.

[84] International Atomic Energy Agency, *Radiological Conditions at Bikini Atoll: Prospects for Resettlement*, 1998, pp. 7 and 8.

1985 owing to lingering radioactivity and related health consequences.[85] Radioactive fallout will persist in the Marshall Islands for centuries, keeping the Bikinians and Rongelapese displaced on climate-vulnerable islands,[86] illustrating the compounded impacts of the nuclear legacy and climate change.[87] The Nuclear Claims Tribunal, funded with $150 million by the United States, assessed over $2.3 billion in damages for four atolls. However, due to depleted funds, compensation has been partial, and no Marshallese have received the full amount. This nuclear legacy underscores the ongoing loss of housing, land and cultural heritage, highlighting the lack of durable, rights-based resettlement solutions for displaced communities.

84. **Rare examples of development finance institutions providing remedy**. Instances of development finance institutions providing remedy are rare. The World Bank-supported Uganda Transport Sector Development Project, for example, gave rise to numerous serious human rights concerns, including sexual assault of women and girls and child labour. Following an investigation by the Bank's Inspection Panel, the Bank cancelled the project and suspended all lending to Uganda pending reform of the country's systems for implementing the Bank's environmental and social safeguards. The Bank's management report and recommendations acknowledged multiple failures that had contributed to adverse impacts on local communities, and the Bank mobilized its rapid social response trust fund to support victims and prevent reoccurrence.[88] Similarly, the United Republic of Tanzania has been defunded by both the World Bank and the European Commission owing to its treatment of affected Masai communities.[89] Rarely deployed, measures such as defunding are a blunt tool, often resulting from ad hoc decisions made at senior levels and typically driven by negative publicity or legal claims against project donors.

VI. Conclusions and recommendations

85. **The concept of human-centred resettlement is not new; however, persistent challenges in planning and implementation and the neglect of outcome-oriented processes have led to a human rights crisis. There is an urgent need to address the widespread lack of understanding and empathy regarding displacement and resettlement impacts throughout project life cycles, regardless of the reasons for resettlement. Human rights-based resettlement planning should involve full participation and consultation of affected communities from project inception, allowing them to propose and discuss alternatives to resettlement while considering gender, cultural and socioeconomic factors and power dynamics.**

86. **The Special Rapporteur previously provided detailed recommendations on resettlement (see A/HRC/55/53), and the following recommendations should be read in conjunction with that report.**

87. **The Special Rapporteur recommends that States:**

(a) **Contribute to the development of the principles and guidelines on resettlement, as proposed by the Special Rapporteur, and subsequently work to**

[85] United States of America, Government Accountability Office, *Report to the Chairman of the Committee on Environment and Public Works*, 2024.

[86] Marshall Islands, *National Adaptation Plan (Papjelmae)*, 2023.

[87] United States, Government Accountability Office, *Changing Conditions May Affect Future Management of Contamination Deposited Abroad During U.S. Cold War Activities* (GAO-24-104082), 2024, pp. 19 and 20.

[88] OHCHR, *Remedy in Development Finance: Guidance and Practice*.

[89] See https://apnews.com/article/tanzania-world-bank-tourism-project-suspension-5d03e1baab0b9081bd632d0211a6ca40 and www.survivalinternational.org/news/13943.

integrate them into resettlement policies, land administration systems and relevant legal frameworks;

(b) **Review national legislation, policies and guidelines, including laws on eminent domain and land acquisition, to ensure full compliance with international human rights standards and uphold the right to remain, the right to return and – only if these options are completely infeasible – the right to adequate housing, resettlement or access to productive land. Resettlement should be an option of last resort, only after meaningful consultations or at the request or with the agreement of an overwhelming majority of the affected community;**

(c) **Provide active oversight to ensure that international organizations, development finance institutions and private sector actors respect international human rights standards. This should include incorporating United Nations human rights standards, including the Guiding Principles on Internal Displacement, into management frameworks. States should safeguard against abuses by mandating that development finance institutions and their commercial partners perform human rights due diligence in all instances in which resettlement may occur;**

(d) **Conduct proactive short-, mid- and long-term monitoring and provide legal support and access to redress mechanisms to ensure that resettlement does not have long-term negative human rights impacts;**

(e) **Establish a global mechanism, independent of development finance institutions and other lenders, mandated to receive and consider complaints related to human rights abuses in the context of resettlement. That institution should be staffed by independent experts who report to the Human Rights Council. Alternatively, States should strengthen existing special procedures of the Council to focus on resettlement accountability.**

88. **The Special Rapporteur recommends that international organizations:**

(a) **Contribute to the development of the principles and guidelines on resettlement and integrate them into resettlement policies, land administration systems and relevant legal frameworks;**

(b) **Review existing policies, guidelines and safeguards and develop new procedures as necessary to ensure that international organizations have a mandatory policy on resettlement based on international human rights standards;**

(c) **Observe the highest possible respect for international human rights standards, including the right to adequate housing, whenever international organizations are involved in potential resettlement processes;**

(d) **Establish grievance mechanisms and ensure that effective remedies are provided, with clear pathways for redress and compensation for any damage caused by resettlement projects that they support;**

(e) **Withhold, suspend or cancel project cooperation and partnership, including benefits that accrue to States such as World Heritage designations, where there have been serious or persistent human rights violations.**

89. **The Special Rapporteur recommends that development finance institutions:**[90]

(a) **Contribute to the development of the principles and guidelines on resettlement and integrate them into development and resettlement policies and safeguards;**

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[90] Drawn from OHCHR, *Benchmarking Study of Development Finance Institutions' Safeguard Policies*.

(b) **Ensure that development finance institution safeguards and policies include a commitment to: (i) respect human rights in connection with the projects that they finance; and (ii) require their clients to respect human rights, avoid infringing on the human rights of others and address adverse human rights risks and impacts;**

(c) **Explicitly integrate international human rights standards within safeguard policies to strengthen the framework for: (i) risk assessment; (ii) ongoing, risk-based due diligence; (iii) addressing risks throughout the value chain; and (iv) providing remedies;**

(d) **Include land tenure assessments that encompass traditional, customary, informal and Indigenous rights as well as formal ownership rights. Resettlement projects should be considered high-risk by default, with safeguards and agreements requiring contingency funds or insurance for remedying adverse human rights impacts;**

(e) **Reassess the approach to remedy, incorporating structures, responsibilities and mechanisms for effective remediation into project and contractual conditions from the outset;**

(f) **Update safeguard policies to clarify the expectation that all adverse impacts should be remedied, and revise mitigation hierarchies to provide for remedy when other actions to prevent or mitigate harms are insufficient;**

(g) **Require that clients establish contingency funds or insurance for remedying negative environmental and social impacts related to resettlement;**

(h) **Mandate upfront disclosure of information regarding lending, financial intermediaries and any planned resettlement, or require a compelling public case for non-disclosure.**

90. **The Special Rapporteur recommends that private sector actors:**

(a) **Align policies and practices with the Guiding Principles on Internal Displacement, and ensure that human rights and environmental risks related to resettlement are effectively identified and addressed. In addition, corporate leaders should prioritize human rights and sustainability targets over compliance-centric, tick-box approaches;**

(b) **Prioritize providing remedies to victims of adverse impacts from resettlement, halting the harm and preventing its recurrence. This should take precedence over traditional contractual remedies such as suspending payments or cancelling contracts. Remediation processes must prioritize the human rights of affected individuals over commercial interests;**

(c) **Provide incentives and sanctions within organizations for greater compliance by personnel with human rights and environmental standards, including relating to resettlement, protect and heed whistleblowers and encourage qualified impact investments as financial partners.**