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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

Human rights of internally displaced persons

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, in accordance with General Assembly resolution [76/167](#) and Human Rights Council resolution [50/6](#).

* [A/77/150](#).



Report of the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary

Summary

In the present report, the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, provides reflections on her mandate at the end of her six-year tenure.

In the thematic section of the report, the Special Rapporteur examines the issue of development-induced displacement. She outlines the human rights challenges faced by persons displaced by development projects and identifies systemic challenges in the development space that may lead to arbitrary displacement and infringement of the human rights of those displaced. The Special Rapporteur makes recommendations to States, development actors, the international community, civil society and national human rights institutions.

I. Introduction

1. The present report is submitted to the General Assembly by the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, pursuant to General Assembly resolution [76/167](#) and Human Rights Council resolution [50/6](#). In the first part of the present report, the Special Rapporteur provides reflections on her six-year tenure at the end of her term. In the second part, she examines the phenomenon of displacement by development projects and its impact on the human rights of those displaced.

II. Reflections of the Special Rapporteur on her tenure

2. The Special Rapporteur on the human rights of internally displaced persons considers it to be a special privilege to have held the mandate for the past six years and thereby served as an advocate for the human rights of one of the most vulnerable groups caught in conflict, violence and human-caused and natural disasters in many countries of the world. She likewise expresses her gratitude to many Member States and their respective Governments, regional organizations, United Nations agencies, civil society and faith-based organizations, human rights entities, including national human rights institutions, and academic and capacity-building bodies for the numerous opportunities she has had to engage with them to contribute to enhancing their responsibilities and work to protect the human rights of internally displaced persons.

3. Since her assumption of the mandate in November 2016, she has embarked on the arduous task of building on the immense standard-setting legacy of her predecessors in the mandate, in particular in the development and dissemination of a substantive body of international human rights and humanitarian standards set out in the Guiding Principles on Internal Displacement ([E/CN.4/1998/53/Add.2](#)) and the Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons ([A/HRC/13/21/Add.4](#)), as well as the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) – the only regional binding treaty on the protection of internally displaced persons. In her first report to the Human Rights Council, in which she described her road map and strategy for the mandate ([A/HRC/35/27](#)), the Special Rapporteur specified her objectives of focusing on the implementation of those standards by consistently adopting a human rights-based approach, conducting coordinated advocacy for the rights of internally displaced persons, and raising awareness of neglected drivers of internal displacement and of specific vulnerable groups among internally displaced persons. The road map that the Special Rapporteur implemented was based on a series of stakeholder consultations with Member States and their various State and intergovernmental entities, United Nations agencies, and civil society organizations, as well as with the two previous holders of the mandate, Walter Kaelin and Chaloka Beyani. The Special Rapporteur remains indebted to them for their advice and constructive engagement. She shares the following reflections on her six-year term.

4. **The Guiding Principles on Internal Displacement as the basis for implementation of the protection of internally displaced persons.** Since its creation just under three decades ago, the work carried out under the mandate of the Special Rapporteur on the human rights of internally displaced persons has quickly evolved from mainly standard setting, which eventually produced the Guiding Principles on Internal Displacement and other standards, to the more encompassing work of promotion and advocacy, and of mainstreaming the human rights of internally displaced persons in the work of the United Nations and the international community.

Marking the twentieth anniversary of the Guiding Principles, the Special Rapporteur, the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Office for the Coordination of Humanitarian Affairs, with the endorsement of Austria, Honduras and Uganda, launched the three-year Plan of Action for Advancing Prevention, Protection and Solutions for Internally Displaced People 2018–2020, also known as the GP20 plan of action, which galvanized the international community to support the responsibility of States for the rights of internally displaced persons, firmly on the basis of international human rights standards and international humanitarian standards.¹

5. While standard setting on the rights of internally displaced persons continues, the emphasis is now placed more on the national and local levels, where States express their primary responsibility for the protection of internally displaced persons by adopting legislative or policy frameworks for accountability regarding their international obligations. For this momentous task, the international community should continue to lend its support to States through capacity-building and the provision of technical expertise. The Special Rapporteur thanks those States and stakeholders who are contributing to such law and policy initiatives at the State level and ensuring that they comply with international law. The Special Rapporteur recommends enhancing this stream, in particular through the Global Protection Cluster Task Team on Law and Policy and its work with lawmakers, especially in countries that host internally displaced persons, including the incorporation of the Kampala Convention into national law in African Member States. The Special Rapporteur further reminds all concerned of the importance of the participation of internally displaced persons in the various processes involved.

6. **The primary responsibility of States in the prevention of internal displacement, the protection of internally displaced persons and solutions to internal displacement.** While much has been said about the primary responsibility of States, with extensive elaboration on this subject by the previous mandate holders and in the project on internal displacement conducted by the Brookings Institution, the implementation of State responsibility on the basis of States' sovereignty has been rich in practice in many States, but also dire in others. In addition to the enactment and implementation of laws and policies on the rights of internally displaced persons, good practices have emerged in a number of countries concerning State governance, institution-building and practice on internal displacement. The report of the Special Rapporteur's predecessor on positive practices, governance structures and institutional arrangements for preventing and managing responses to the different stages of internal displacement (A/70/334) was followed up by the publication of a compilation of national practices in the context of the GP20 plan of action.² All of the examples of efforts provided in these documents – carried out through the work of executive, legislative and judicial branches of government – have shown that the assumption by States of their primary responsibility is concrete and deserves international support.

7. Meanwhile, on the issue of data and displacement, the Special Rapporteur is encouraged by developments supported by her predecessor, and which she has continued to support, with regard to States undertaking primary responsibility for the monitoring of internal displacement and the generation of much-needed data and statistics in their countries. With the support of the mandate holder, United Nations agencies and civil society organizations, the exercise of profiling situations of internal displacement has been enhanced with the provision to States of more systematic

¹ Available at www.ohchr.org/sites/default/files/Documents/Issues/IDPersons/GP20PlanOfAction.pdf.

² Hannah Entwisle Chapuisat, *Working Together Better to Prevent, Address and Find Durable Solutions to Internal Displacement: GP20 Compilation of National Practices* (2020).

international technical expertise through the Joint Internally Displaced Person Profiling Service. Moreover, the Statistical Commission provided a much-needed institutional context for efforts by the mandate holder, United Nations agencies and national statistics offices in numerous countries to facilitate the generation at the national level of official internally displaced persons statistics. In 2020, the Expert Group on Refugee and Internally Displaced Persons Statistics finalized the International Recommendations on Internally Displaced Persons Statistics, in which it provided an internationally agreed framework for countries and international organizations to improve the production, coordination and dissemination of high-quality official statistics on internally displaced persons that are consistent over time and comparable among regions and countries. The Special Rapporteur is encouraged by these developments, as they contribute to the State practice of taking responsibility for actional data on internally displaced persons.³ The challenge now is to implement those recommendations.

8. The essential nature of the participation of internally displaced persons and affected populations. Since the submission of the Special Rapporteur's very first report to the General Assembly, in which she focused on the participation of internally displaced persons in decisions affecting them (A/72/202), a broader consensus and integration of this principle have been undertaken at many levels inside and outside the United Nations. The message is clear – the effectiveness of any intervention or support for solutions to internal displacement can be sustained only with an internally displaced person-centred approach that enables such persons to take control of their lives and substantively decide on their futures. The Special Rapporteur is particularly pleased that the ensuing efforts of the Secretary-General through his action agenda on internal displacement⁴ have consistently incorporated the principle of the participation of internally displaced persons and emphasized their political agency, especially as citizens of the State. Indeed, the right to participation encompasses many aspects that are firmly rooted in international human rights law, from the prevention of arbitrary internal displacement to the protection of displaced persons during their displacement, and in efforts to attain durable solutions. This is a necessary mindset shift away from regarding internally displaced persons as mere beneficiaries of humanitarian assistance and towards a more proactive engagement and involvement of internally displaced persons as agents in their own right.

9. One significant process that is slowly gaining traction among many States and is supported by civil society and United Nations agencies is an attention to the political participation of internally displaced persons and their rights to vote in elections and to stand for election. In order to encourage further concrete implementation of the right of participation of internally displaced persons, the Special Rapporteur elaborated on these political rights in her final report to the Human Rights Council (A/HRC/50/24). The Special Rapporteur further contends that the work of furthering the participation of internally displaced persons remains unfinished and must be further enhanced through law and policy, governance structures, and programme conceptualization, implementation and evaluation at the ground level, with the participation of the affected populations in all their diversity.

10. The centrality of protection based on international human rights standards. The Special Rapporteur articulates her advocacy work on mainstreaming the human rights of internally displaced persons in the United Nations through her membership in the Inter-Agency Standing Committee and her engagement with various United Nations agencies and entities. At the time of drafting the present report, the Standing

³ European Union and United Nations, *International Recommendations on Internally Displaced Persons Statistics*, (Luxembourg, 2020), available at www.jips.org/jips-publication/international-recommendations-on-internally-displaced-persons-statistics-iris-2020/.

⁴ Available at www.un.org/en/content/action-agenda-on-internal-displacement/.

Committee is currently undertaking various reviews of United Nations policies on the centrality of protection in humanitarian action⁵ as well as on protection in humanitarian responses to internally displaced persons. Moreover, the United Nations and various stakeholders are attempting to weave a protection lens⁶ into the Secretary-General's call to action for human rights⁷ as it applies to policy, strategic and operational priorities of the United Nations. All of these efforts must succeed if the United Nations system is to implement effectively the human rights pillar of the Charter of the United Nations and ensure that human rights are an essential component in the humanitarian, development and peace nexus relating to internally displaced persons. The concept of centrality of protection is a crucial aspect in the delivery of humanitarian, development and peace policies and programmes in the field. The Special Rapporteur insists that the implementation of a human rights-based approach, based on international law, remains crucial to the prevention of arbitrary displacement and to ensuring protection and solutions. Technical and programmatic approaches alone cannot work without the political conditions that will eventually lead to social cohesion, economic sovereignty and political acceptance for internally displaced persons and their integration into mainstream societies, underpinned by human rights standards.

11. Throughout her term, the Special Rapporteur has placed a special emphasis on the prevention of arbitrary internal displacement in the context of conflict and violence, as elaborated on in her report to the General Assembly (A/76/169), in which she dissects the obligations of States to ensure, through a human rights-based approach, that internal displacement is avoided, or at least that its dire consequences to their own populations are minimized. The theme of prevention was also echoed in the report of the High-level Panel on Internal Displacement entitled "Shining a light on internal displacement: a vision for the future".⁸ In the above-mentioned report of the Special Rapporteur, she pointed out that there was an increasing gravity and intensity to internal displacement situations worldwide and that the number of internally displaced persons indicated an urgent need for States to dedicate increased efforts to preventing arbitrary displacement. Adopting a human rights-based approach to the prevention of arbitrary displacement does not mean, however, preventing people from moving. Liberty of movement and freedom to choose one's residence are rights protected under international human rights law, and displacement can have a protective nature and prevent other harm and human rights violations, in particular in situations where people leave their homes or places of habitual residence in search of safety. Instead, preventive measures must focus on addressing the conditions that lead to displacement and on protecting people from being forced to leave their homes, in line with international standards. Taking measures to prevent crises and conflict are essential to prevent the conditions leading to displacement. With increased awareness that prevention of arbitrary displacement is a necessity not merely to reduce the numbers of internally displaced persons in compliance with international law, but also to contribute to the cohesion of societies, good governance and solutions, the Special Rapporteur encourages Member States and the international community to ensure that prevention is embedded in their policies and programmes on internal displacement in all its phases.

⁵ Inter-Agency Standing Committee, "Statement on the centrality of protection in humanitarian action", available at <https://interagencystandingcommittee.org/inter-agency-standing-committee/iasc-principals-statement-centrality-protection-humanitarian-action-2013>.

⁶ See, for example, International Peace Institute, "The UN agenda for protection: policy, strategic, and operational priorities", March 2022, available at www.ipinst.org/2022/03/the-un-agenda-for-protection-policy-strategic-and-operational-priorities.

⁷ Available at www.un.org/en/content/action-for-human-rights/index.shtml.

⁸ High-level Panel on Internal Displacement, "Shining a light on internal displacement: a vision for the future", 2021, available at <https://internaldisplacement-panel.org/index.html>.

12. In her road map, the Special Rapporteur also stated the importance of raising awareness on some neglected drivers of internal displacement. In one of her reports to the General Assembly, the Special Rapporteur discussed internal displacement in the context of the slow-onset adverse effects of climate change (A/75/207), which was a much-needed discussion on a lesser-known cause of climate-induced internal displacement, as more attention is usually directed to displacement caused by the more dramatic sudden-onset drivers of climate-induced displacement. There is now extensive evidence of the widespread impacts of climate change on the enjoyment of human rights, such as the rights to life, health, housing, food, water and education, and on cultural rights and collective rights, including the rights of indigenous peoples and the right to self-determination. In that report, the Special Rapporteur contended that movement or mobility owing to slow-onset adverse effects of climate change might not be entirely voluntary or forced, but rather that it fell somewhere on a continuum between the two, with varying degrees of voluntariness and constraint. However, in cases where voluntariness is absent, such mobility would fall squarely within the notion of forced displacement, in accordance with the definition of internally displaced persons set out in the Guiding Principles on Internal Displacement. In view of what is now commonly accepted to be a “climate emergency”, the Special Rapporteur enjoins the international community to build on the practices in disaster risk mitigation and reduction to create a more comprehensive response to the rights of those displaced by climate change by, for example, further examining the potential for loss and damages affecting displaced peoples.

13. Another driver of internal displacement is “development-based” or “development-induced” displacement. While recognizing the significant benefits that development projects often bring to societies more widely, especially those in less developed countries, questions remain as to the appropriate criteria and parameters to be applied in cases where development could lead to internal displacement. The present report attempts to respond to these issues with a human rights lens regarding the protection of internally displaced persons.

14. The Special Rapporteur hopes that the implementation of the Secretary-General’s recently launched action agenda on internal displacement and the future work of his Special Adviser on Solutions to Internal Displacement will contribute to these much-needed outcomes, so that solutions are primarily focused on the attainment by internally displaced persons of their human rights. The Special Rapporteur reiterates her welcome⁹ of the commitment, as stated in the action agenda on internal displacement, to drive forward the implementation of human rights as a key step in preventing displacement crises and ensuring better protection and assistance for internally displaced persons and host communities, with protection and human rights remaining at the heart of the work of the United Nations.

15. With regard to solutions, the Special Rapporteur has consistently supported the dissemination and implementation of the Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons (A/HRC/13/21/Add.4). In the Framework, the Standing Committee elaborates eight criteria for the attainment of durable solutions, which further stress the centrality of protection and are based on human rights standards. Attempts have been made to ensure that these criteria are accessible in policy and in practice through the elaboration of indicators, in particular through an inter-agency durable solutions project¹⁰ initiated by the Joint Internally

⁹ Office of the United Nations High Commissioner for Human Rights, “UN Secretary-General’s action agenda on internal displacement: time to lead by example, UN expert says”, 27 June 2022, available at www.ohchr.org/en/press-releases/2022/06/un-secretary-generals-action-agenda-internal-displacement-time-lead-example.

¹⁰ Further information on the project is available at www.jips.org/tools-and-guidance/durable-solutions-indicators-guide/.

Displaced Person Profiling Service, in cooperation with the mandate holder's predecessor and launched during the term of the current Special Rapporteur. The Special Rapporteur has determined that these criteria are neither fully appreciated nor complied with when interpreted on the basis of international human rights law, in particular by humanitarian and development providers in the field. As indicated in the report of the High-level Panel on Internal Displacement entitled "Shining a light on internal displacement: a vision for the future", there is an imperative need for durable solutions for internally displaced persons, and the fact that internal displacement is still primarily viewed as a humanitarian issue is a key part of this problem. While in its report the Panel emphasizes the role of development in durable solutions, it also adds that the protection and the safety, security and rights of internally displaced persons should guide all aspects of the solutions approach. The Special Rapporteur emphasizes that the implementation of solutions, on the basis of human rights standards, must include host communities and must adopt a systems-wide and area-based approach.¹¹

16. One particular element of solutions for internally displaced persons that is slowly starting to attract concrete attention is the criteria for access to remedies. The Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons (A/HRC/13/21/Add.4) includes the widely misunderstood and neglected concept and practice of transitional justice for internally displaced persons. The Special Rapporteur has engaged on this issue during her term in a number of countries, some of which have robust, legislated transitional justice reparations programmes for internally displaced persons, while others are considering implementing such programmes. The Special Rapporteur, in her report presented to the General Assembly on transitional justice in the context of internal displacement (A/73/173), elaborates on transitional justice as part of solutions for internally displaced persons and firmly establishes internally displaced persons as victims of human rights violations or breaches of international humanitarian law. The Special Rapporteur encourages further work on this issue and recommends that the current, primary focus of transitional justice for internally displaced persons on housing, land and property rights (see A/HRC/47/37) and reparations be further expanded to include the other pillars of transitional justice, namely, the right to truth, the right to justice and guarantees of non-recurrence.

17. The implementation of protection activities at the national level, in particular by the international community, hand in hand with host Governments, remains a major challenge in many countries. With the structural reform of the network of resident coordinators and humanitarian coordinators, however, international leadership on human rights and on issues relating to internal displacement is now much clearer. The Special Rapporteur hopes that the Internally Displaced Persons Protection Expert Group, which she has established in collaboration with UNHCR and the Global Protection Cluster, will contribute to the enhancement of United Nations work by supporting country-level political will, national ownership and coordinated international support for comprehensive protection responses, including the building of a protective environment conducive to prevention and solutions to internal displacement.

18. **Multi-stakeholder approaches and intersectionality of rights of internally displaced persons.** The launch of the GP20 plan of action¹² by the Special

¹¹ Walter Kaelin and Hannah Entwisle Chapuisat, *Breaking the Impasse: Reducing Protracted Internal Displacement as a Collective Outcome* (United Nations publication, 2017), available at www.unocha.org/fr/publication/policy-briefs-studies/breaking-impasse-reducing-protracted-internal-displacement.

¹² Available at www.ohchr.org/sites/default/files/Documents/Issues/IDPersons/GP20PlanOfAction.pdf.

Rapporteur, UNHCR and the Office for the Coordination of Humanitarian Affairs, with the endorsement of Austria, Honduras and Uganda, ushered in a systematic, multi-stakeholder approach to current issues of internal displacement. Focusing on engaging national implementation of the Guiding Principles on Internal Displacement and taking up four work streams – namely, the participation of internally displaced persons, law and policy, data and analysis, and solutions to protracted displacement – the GP20 plan of action saw concerted action by stakeholders from the United Nations and civil society. The activities engaged in by the GP20 members, mainly with States Members of the United Nations, enabled the Human Rights Council to debate on substantive issues and current trends concerning the human rights issues affecting internally displaced persons, and they triggered policy consideration in the organizational cultures and policies of many stakeholders.¹³ Although the GP20 plan of action successfully concluded at the end of 2020, the group of organizations that were the driving force behind the GP20 Steering Group continues to collaborate under a new network known as GP2.0. Building on the lessons learned through the GP20 plan of action, this community of experts continues as an informal platform for joint initiatives and events, as well as for the sharing of information and good practices on internal displacement, focusing on State engagement. The Special Rapporteur is pleased to have contributed to and instigated these endeavours and affirms the importance of approaches to internal displacement that involve society as a whole.

19. Moreover, a multi-stakeholder approach to internal displacement facilitates differentiated responses to the intersectionality of the human rights of internally displaced persons, knowing that there are groups in the broad population of displaced persons who may be more vulnerable and marginalized than others. The Special Rapporteur therefore devoted one of her thematic reports to the rights of internally displaced children (A/74/261), in which she applied the Convention on the Rights of the Child to internal displacement, and another of her thematic reports to the rights of internally displaced persons with disabilities (A/HRC/44/41), in which she examined the specific experiences of persons with disabilities in the context of displacement and analysed the obstacles to the equal enjoyment of their rights. The Special Rapporteur encourages enhancement of disaggregated data in assessing displaced populations and customized responses to the rights and needs of the different groups.

20. An important group of stakeholders in the human rights of internally displaced persons that requires the utmost recognition is the national frontliners in the countries themselves. National human rights institutions are crucial actors in the protection and promotion of the human rights of internally displaced persons. In her report to the Human Rights Council (A/HRC/41/40), the Special Rapporteur examines their role in different contexts of internal displacement and considers obstacles to their engagement and their activities and positive practices at all phases of displacement, from prevention of the conditions leading to internal displacement to their roles in responses when displacement occurs and in processes to achieve durable solutions. Consequently, the Special Rapporteur highlights the critical role of national human rights institutions to ensure protection of human rights alongside and in collaboration with other national and international partners. With the increase in the number of internal displacement situations around the world, the Special Rapporteur is heartened by the increased activities of these institutions responding to the rights of internally displaced persons, encourages regional groups to enhance their sharing of practices

¹³ For a summary of the outcomes of the GP20 plan of action, see www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/multi-stakeholder-plan-action-advancing-prevention-protection-and-solutions-internally-displaced.

and expertise, and requests more support for their independence as effective institutional human rights monitors in internal displacement situations.

21. Last but not least, the Special Rapporteur highlights the importance of academic institutions and research and of capacity-building on internal displacement. The closure of the Brookings Institution project on internal displacement, through which the Institution had provided much research support to the mandate holder and produced valuable publications on internal displacement, was a major setback to the work of the Special Rapporteur. However, in recent years, academic institutions have rebounded with the establishment of some courses on internal displacement and others related to internal displacement issues.¹⁴ Academic and practitioner research and publications on various internal displacement issues are also on the rise,¹⁵ as is the integration of internal displacement issues into mainstream research, such as through the Health and Internal Displacement Network. The Special Rapporteur is likewise pleased with her continued collaboration with the International Institute of Humanitarian Law based in San Remo, Italy – a collaboration that dates back to her two predecessors and that has been strengthened with online courses. The internal displacement law and policy courses now offered by the Institute in English, French and Spanish have provided training to hundreds of government officials, United Nations protection specialists and civil society actors in over 50 countries. The Special Rapporteur thanks the many international donors who make these capacity-building and academic courses and publications possible, and she commends the academics, researchers and trainers behind these institutions for the creation of added knowledge, analysis and capacity for internal displacement protection, and their contribution to policy and programme implementation.

22. In the implementation of the tasks set out for her by the General Assembly and the Human Rights Council in their respective resolutions, over the past six years the Special Rapporteur has strived in her activities, country visits and dialogues to address all relevant issues with a human rights-based approach using international human rights law and, where relevant, international humanitarian law and disaster law. The Special Rapporteur provides these reflections on the outcomes of her six-year term with the awareness that such outcomes were the result of collaboration and engagement by a wide range of interlocutors, who she sincerely acknowledges and thanks. The Special Rapporteur wishes to reaffirm the importance of collaboration in ensuring principled approaches to the broad challenge of promoting the human rights of internally displaced persons.

III. Development-induced displacement and the human rights of internally displaced persons

23. Development brings important benefits to society – reducing poverty, improving living standards, enabling self-determination and expanding access to services. Moreover, development is an inalienable human right, as established by the Declaration on the Right to Development and the Vienna Declaration and Programme of Action, and one that also enables the realization of other rights. Development underpins durable solutions for internally displaced persons by providing the livelihood opportunities necessary for sustainable integration or reintegration and by

¹⁴ See, for example, the University of London online course on internal displacement, conflict and protection, available at www.london.ac.uk/courses/internal-displacement-conflict-and-protection.

¹⁵ See, for example, the Researching Internal Displacement platform (<https://researchinginternaldisplacement.org/>).

improving service delivery for displaced persons and host communities in areas of settlement.¹⁶

24. However, development projects can also cause internal displacement, impeding the realization of human rights. While internal displacement is often seen as an issue linked to conflict, disasters and climate change, development projects regularly force communities around the world to leave their homes. In its report, the High-level Panel on Internal Displacement noted the importance of this challenge, citing the effects of development megaprojects among the leading drivers of new displacement.¹⁷ However, development-induced displacement is something of an “orphaned issue” in terms of global governance, as it is not perceived as a humanitarian issue and, as such, falls outside the remit of agencies that traditionally address forced displacement.¹⁸

25. The Declaration on the Right to Development emphasizes that individuals should be empowered to be active participants in their development. In line with her focus on strengthening the participation of internally displaced persons, in the present report the Special Rapporteur will examine the situation of persons displaced by development projects, highlighting the human rights challenges they face as a result of such displacement, and make recommendations to relevant stakeholders to prevent, mitigate and address the consequences of development-induced displacement.

26. The Special Rapporteur thanks all stakeholders who engaged in consultations for the present report, including those in academia, civil society, development finance institutions and the Office of the United Nations High Commissioner for Human Rights (OHCHR).

IV. Development-induced displacement: definition and terminology

27. Defining development-induced displacement – also called development-based displacement – can be controversial. Development finance institutions use the term “involuntary resettlement”. However, this language optimistically emphasizes the solution – resettlement – rather than the human rights challenges of displacement. Displacement by development projects may occur without sustainable resettlement materializing in practice or even in principle. Recognizing the particular challenges faced by those displaced by development projects without human rights protection or durable solutions, in the present report the Special Rapporteur will refer to “development-induced displacement”.

28. Even this terminology is controversial, as some have argued that it does not adequately capture the forced element of such displacement.¹⁹ Such force may be physical – through violence or threats against affected communities – or legal, if States use expropriation through eminent domain, or the threat thereof, to compel

¹⁶ United Nations Development Programme, “Internal displacement: a development challenge with a humanitarian face”, September 2021, available at www.undp.org/blog/internal-displacement-development-challenge-humanitarian-face.

¹⁷ High-level Panel on Internal Displacement, “Shining a light on internal displacement”.

¹⁸ Internal Displacement Monitoring Centre, “What does development-caused displacement look like in Africa?”, December 2016, available at www.internal-displacement.org/expert-opinion/what-does-development-caused-displacement-look-like-in-africa; and W. Courtland Robinson, “Risks and rights: the causes, consequences, and challenges of development-induced displacement”, paper prepared for the Brookings Institution and Johns Hopkins University School of Advanced International Studies Project on Internal Displacement, Washington, D.C., 2003, p. 3.

¹⁹ Nadine Walicki, “Expert round table on displacement caused by development: event summary”, paper prepared for the Internal Displacement Monitoring Centre, 2017, p. 7.

populations to move or accept less than adequate compensation. People may be displaced by development projects even without receiving eviction orders, owing to the environmental footprint of certain projects having a negative impact on their health, food security or livelihoods that eventually forces them to move. Such people often face greater challenges in securing their rights, as they may not be officially recognized as project-affected. States or development actors²⁰ may fail to respect or enforce the rights of affected populations before, during and after displacement. Affected populations may be unaware of their rights or unable to safely gain access to effective remedy mechanisms.²¹ Development-induced displacement under any of these circumstances constitutes arbitrary displacement.

29. Certain development projects are especially likely to induce displacement. The most well-known types are large-scale energy and transport infrastructure projects (dams, roads, highways, canals, power plants, railways, airports and spaceports), extractive projects (mines, oil and gas fields, and energy pipelines), and large-scale agribusiness. These projects can displace people through their extensive requirements for land and through their environmental impact on communities' health, food security and livelihoods.

30. Even development projects with ostensibly benign aims can provoke significant displacement. Conservation projects have the important aim of safeguarding wildlife and the environment yet often result in the displacement of indigenous peoples from their lands, which they have managed sustainably for generations. Tourism projects, such as the development of resort zones or the construction of stadiums for global sporting events, may lead to the forced eviction and arbitrary displacement of local communities. Urban renewal or "city beautification" projects can benefit local communities, yet they often result in those communities being forcibly evicted or displaced by economic pressures as renewed neighbourhoods become more desirable to wealthier groups.

V. International legal standards

A. Human rights instruments

31. The Guiding Principles on Internal Displacement establish that the prohibition of arbitrary displacement includes cases of large-scale development projects unless justified by compelling and overriding public interests (principle 6). Arbitrariness, as clarified by the Human Rights Committee, should not be equated with illegality – as displacement can be legal under national law yet arbitrary under international law – but should be interpreted more broadly to include elements of appropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity and proportionality.²²

32. Principle 7 obliges authorities to explore all possible alternatives to displacement. If no alternative emerges, authorities must base displacement on a legal decision, provide full information on the reasons and procedure for displacement and on compensation and relocation, seek affected communities' free and informed consent, and involve them in relocation planning. Displacement proceedings should not violate the fundamental rights of the displaced (principle 8). Authorities should prevent in particular the displacement of indigenous peoples and other groups with a special dependency on and attachment to their lands (principle 9) and should comply

²⁰ Public, private or multilateral development financiers or implementers and their intermediaries.

²¹ *Remedy in Development Finance: Guidance and Practice* (United Nations publication, 2022), p. 30.

²² Human Rights Committee, general comment No. 36 (2019), para. 12.

with the right to effective remedy for rights violations (principle 7 (f)). These principles apply to development-induced displacement.

33. The basic principles and guidelines on development-based evictions and displacement include and expand on the above points. They emphasize that forced evictions²³ are a gross violation of human rights (paras. 1–9). Duty bearers should ensure that development-based evictions do not constitute forced evictions (para. 10) and should adapt laws and policies to protect the right to adequate housing (paras. 21–30). Human rights safeguards are necessary prior to, during and after evictions (paras. 37–68). Evictions should only occur in exceptional circumstances, be authorized by law, be carried out in accordance with international human rights standards, be undertaken solely to promote the general welfare, and ensure compensation and rehabilitation (para. 21). Effective project disclosure entails appropriate notice, a reasonable time period for review, public hearings, and the provision of legal and technical advice to affected populations (para. 37), including on planned resettlement (para. 56). The basic principles also outline protection and assistance standards, including conditions under which evictions should be carried out, the criteria for adequate housing (paras. 43–51, 55–58), and measures to provide those displaced with appropriate compensation and remedy, including the principle of like-for-like compensation for lost land (paras. 59–63 and 72).

34. The Guiding Principles on Business and Human Rights apply to States and private development actors. They oblige States to create a legal environment conducive to the respect for human rights by businesses (principles 1–10). Businesses should prevent or mitigate adverse human rights impacts that are directly linked to their operations by their business relationships, even when they have not directly contributed (principle 13), and they should have policy commitments to meet their human rights obligations (principle 15). Businesses should undertake impact assessments and human rights risk analyses prior to commencing operations, including meaningful consultations with affected persons (principle 18), and should integrate the findings of these assessments into their operational processes (principle 19). Businesses should proactively respect international human rights and treat the risk of contributing to human rights abuses as a compliance issue (principle 23). Businesses should facilitate remediation of adverse human rights impacts, including by establishing their own grievance mechanisms, and States should provide access to a range of judicial and non-judicial grievance mechanisms, in line with established criteria for effectiveness (principles 22, 25–29 and 31).

35. The Kampala Convention obliges States parties to prevent arbitrary displacement (art. IV), including development-induced displacement (art. X), and calls on States parties to prevent such displacement, explore feasible alternatives, provide affected persons with full information and consultation, and carry out pre-implementation socioeconomic and environmental impact assessments of proposed development projects.

B. Safeguard policies of the international financial institutions

36. The major international financial institutions have safeguard policies dealing specifically with development-induced displacement, termed “involuntary

²³ Defined in the basic principles as “acts and/or omissions involving the coerced or involuntary displacement of individuals, groups and communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating or limiting the ability of an individual, group or community to reside or work in a particular dwelling, residence or location, without the provision of, and access to, appropriate forms of legal or other protection” (para. 4).

resettlement”.²⁴ Anticipated or actual violations of safeguard policies may be addressed through institutional independent accountability mechanisms or through project-level grievance redress mechanisms. While the primary purpose of these policies is to guide the operations of the institution in question, the policies, in particular those of the World Bank Group, have a “soft law” influence on the normative environment, as they have been reflected in and incorporated into the policies of other public and private financial institutions (A/HRC/22/46/Add.3, para. 14).

37. The Group’s key safeguards on land acquisition and involuntary resettlement – the World Bank environmental and social standard 5 and the International Finance Corporation performance standard 5 – cover many of the above-mentioned international human rights principles, including the avoidance of displacement in cases where alternatives are possible, the prohibition of forced evictions, the informed engagement of communities throughout all phases of resettlement planning, the restoration of livelihoods and living standards, access to grievance mechanisms, and transparent compensation for lost assets (in-kind for land where feasible). Affected populations include communities with and without formal tenure, host communities, and those with user rights to project-affected land and resources.

38. Special procedures mandate holders have previously highlighted how these safeguards could be strengthened in policy and practice. 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 recommended that the safeguards limit development-induced displacement to exceptional circumstances on the basis of a welfare assessment of those to be displaced, explicitly guarantee the right to adequate housing in line with international human rights standards, and establish procedural guidelines for evictions (A/HRC/22/46/Add.3, paras. 19–44). The Special Rapporteur on the right to development recommended holding financial intermediaries accountable for upholding safeguard policies, combating reprisals against persons raising concerns about development projects, and strengthening stakeholder engagement and project disclosure, observing that the technical nature of consultations often precluded the substantive participation of civil society. He further noted a lack of monitoring to ensure that engagement and disclosure safeguards were implemented in practice and pointed out that the right to engagement was distinct from the right to consent, and that, even if affected communities enjoyed the right to engagement, their ability to resist or refuse projects might still be limited (A/75/167).

39. These critiques underscore the gaps in human rights protection in these institutions’ safeguard policies, the limited implementation of these policies in practice, and the ineffectiveness of institutional remedy mechanisms in providing redress. Communities displaced by development projects thus face significant barriers to the enjoyment of their human rights even when policies are in place to mitigate these impacts. The human rights impacts on communities displaced by actors with weak or absent safeguard policies – which may be the rule rather than the exception – are likely to be even more severe.

²⁴ For a comparative analysis of these institutions’ policies, see Miloon Kothari and Maria L. Bertelli, “Multilateral institutions and development-based displacement: a comparative analysis of involuntary resettlement policies”, in *The Other Side of Development: Displacement, Involuntary Settlement and Rehabilitation* (Routledge, forthcoming 2022).

VI. Potential consequences of development-induced displacement on the enjoyment of human rights

40. While some of the more frequent human rights implications of development-induced displacement are detailed below, these are illustrative rather than exhaustive, as this complex process can affect the enjoyment of the full spectrum of human rights.²⁵

41. The right to adequate housing²⁶ encompasses the rights to freedom of movement and choice of residence and the right to freedom from arbitrary interference with one's privacy, family or home,²⁷ as well as protection from forced evictions.²⁸ Development-induced displacement can challenge the realization of these rights. Homelessness is a frequent consequence of development-induced displacement, in particular in cases where resettlement and compensation programmes are absent or insufficient.²⁹ Even in cases where those displaced are provided with alternative housing, it may not conform with international human rights standards for adequate housing (E/1992/23, annex III). The involuntary nature of many cases of development-induced displacement violates the right to the choice of residence, as well as to freedom from interference with one's home.

42. In cases where evictions for development projects occur without appropriate protection and assistance, they can amount to forced evictions, which are a gross human rights violation.³⁰ Depending on the manner in which they are planned and carried out, development-induced evictions may imperil the right to freedom from cruel, inhuman and degrading treatment, the right to security of person, including protection from arbitrary arrest and detention, and even the right to life,³¹ in addition to all of the other rights detailed in this section and the following sections.³²

43. The right to work and protection against unemployment³³ and the right to property³⁴ are imperilled by development-induced displacement, which frequently leads to landlessness, loss of access to common property and joblessness.³⁵ Landlessness leads to sharp declines in income for those affected, while loss of access to common property may affect in particular those who use but do not own community lands for livelihoods, including women, pastoralists, peasants and the poor. Taken together, the loss of land and access to common property may not only infringe on the right to own property but can also imperil the right to work, as displaced communities may not be able to work in the absence of their traditional lands and common property. Joblessness is another frequent consequence of displacement for communities relocated to areas where they are unable to practise familiar livelihoods.

²⁵ Lidewij van der Ploeg and Frank Vanclay, "A human rights based approach to project induced displacement and resettlement", *Impact Assessment and Project Appraisal*, vol. 35, No. 1 (2017), p. 35.

²⁶ International Covenant on Economic, Social and Cultural Rights, art. 11.1.

²⁷ International Covenant on Civil and Political Rights, arts. 12 and 17.

²⁸ OHCHR, "The human right to adequate housing", available at www.ohchr.org/en/special-procedures/sr-housing/human-right-adequate-housing.

²⁹ Michael M. Cernea, "Impoverishment risks and reconstruction: a model for population displacement and resettlement", *Economic and Political Weekly*, vol. 35, No. 41 (2000), p. 3664.

³⁰ Commission on Human Rights resolutions 1993/77 and 2004/28.

³¹ International Covenant on Civil and Political Rights, arts. 6–7 and 9.

³² United Nations Human Settlements Programme (UN-Habitat) and OHCHR, "Forced evictions", fact sheet No. 25/Rev.1, 2014, pp. 5–6.

³³ International Covenant on Economic, Social and Cultural Rights, art. 6.

³⁴ OHCHR, "Land and human rights: standards and applications", 2015, p. 54.

³⁵ Cernea, "Impoverishment risks and reconstruction", pp. 3663–3664.

44. Development-induced displacement threatens the right to an adequate standard of living and the continuous improvement of living conditions.³⁶ It can lead to marginalization or “downward mobility” as livelihoods are downgraded, if not lost, and professional skills go unused or become obsolete.³⁷ Relocation areas may lack access to basic services that communities previously enjoyed, or these services may already be in use by host communities and become overburdened by new arrivals. It may be difficult to gain access to services that require fluency in the local language. Taken together, these phenomena amount to a continuous deterioration of living standards, in contrast to the right to continuous improvement of living standards. The quality of compensation and resettlement programmes also has an impact on the enjoyment of this right. Compensation should be provided in a timely manner on the basis of a comprehensive valuation methodology and should serve as bridging assistance with respect to comprehensive livelihoods restoration programmes. However, such programmes are the rare exception – the World Bank Inspection Panel has found that the policy goal of conceiving and executing resettlements as sustainable development programmes has not been achieved in many of the cases investigated.³⁸ The right of host communities to an adequate living standard may also be adversely affected, as the arrival of the displaced may increase competition for local services, resources or jobs, and there may be no provision for host communities to receive assistance or compensation to offset these impacts.³⁹ This points to the necessity of area-based approaches in resettlement programmes, taking into account the impacts on both the displaced and the host communities.

45. Other rights that may be affected by development-induced displacement include the right to food,⁴⁰ the right to health⁴¹ and the right to education.⁴² Food insecurity is a frequent consequence of development-induced displacement, owing to the loss of productive land and livelihoods. Increased morbidity and mortality may result from stress, trauma and higher rates of communicable disease. Education for children is disrupted by relocation, and some children may never return to school.⁴³

46. Development-induced displacement may have a particular impact on the rights of women, in violation of the Convention on the Elimination of All Forms of Discrimination against Women (notably art. 14 (g), which mandates equal treatment for women in land resettlement schemes). Governments may not recognize women as heads of households, thereby denying them compensation for land or assets lost.⁴⁴ Tenure systems often discriminate against women, which is a pattern that may be transposed or exacerbated during relocation ([A/HRC/22/46/Add.3](#), para. 46). Development actors may establish discriminatory relocation and compensation policies, such as by imposing a higher age limit for unmarried women to claim compensation than for unmarried men.⁴⁵ Women may depend more on communal resources – having user but not ownership rights over productive land, for example –

³⁶ International Covenant on Economic, Social and Cultural Rights, art. 11.

³⁷ Cernea, “Impoverishment risks and reconstruction”, pp. 3663–3664.

³⁸ World Bank Inspection Panel, “Involuntary resettlement”, Emerging Lessons Series No. 1 (Washington, D.C., International Bank for Reconstruction and Development and World Bank, 2016), p. 19.

³⁹ Cernea, “Impoverishment risks and reconstruction”, pp. 3666–3667.

⁴⁰ International Covenant on Economic, Social and Cultural Rights, art. 11; for more details on development-induced displacement and the right to food, see [A/HRC/13/33/Add.2](#).

⁴¹ International Covenant on Economic, Social and Cultural Rights, art. 12.

⁴² *Ibid.*, art. 13 and Convention on the Rights of the Child, art. 28.

⁴³ Cernea, “Impoverishment risks and reconstruction”, pp. 3665–3666.

⁴⁴ Robinson, “Risks and rights”.

⁴⁵ Cernea, “Impoverishment risks and reconstruction”, p. 3666.

but may neither be compensated for this loss nor have access to comparable community resources in relocation areas.⁴⁶

47. The rights of indigenous peoples to self-determination, livelihoods, development, control over their lands and resources, and protection from displacement are detailed in articles 3, 4, 8, 10, 18, 20, 23 and 26–28 of the United Nations Declaration on the Rights of Indigenous Peoples. Nonetheless, they continue to be disproportionately affected by development-induced displacement. The relatively unexploited nature of their lands makes them a prime target for the extractive, hydropower, agribusiness and conservation sectors, and a significant gap remains between the recognition and the implementation of indigenous rights.⁴⁷

VII. Challenges in addressing development-induced displacement and the human rights of those displaced

A. Inadequate disclosure, consultation and consent

48. Disclosure and consultation are well-established safeguards; however, the manner in which they are carried out can be more of a “tick-the-box” exercise than a genuine effort to engage affected communities.⁴⁸ Information provided may be incomplete, inaccessible or provided too late for effective action. Development actors may not be open to changing their plans on the basis of feedback from the communities, rendering consultation “meaningless” as it amounts to little more than a listening exercise. Free participation may be curtailed by the use of public health restrictions as a pretext for limiting attendance or by the presence of security forces or armed groups, who may use intimidation or violence to discourage opposing views.

49. In evaluating the consent provided by affected populations to the acquisition of their lands, States and development actors may only deem non-consensual those land transactions that involve expropriation through force or eminent domain, while regarding all other scenarios as “willing buyer willing seller” situations. However, there are many ways in which “voluntary” transactions may have elements of coercion. Project developers may withhold information or provide inaccurate information on the project’s impacts, on the affected community’s rights to contest the project or on relocation assistance, which encourages affected populations to provide consent either on the basis of false pretences or because they feel the only alternative would be expropriation, to which even minimal compensation would be preferable. Power disparities between affected communities and those aiming to acquire their land may problematize the former’s ability to give free consent.

50. Land tenure patterns may also influence the quality of consent. Formal tenure for communal lands may be held by elites, or elites may position themselves as the rightful owners of that land, leading project developers to seek and obtain only their consent, even though other members of the community who may also be affected by the loss have not consented to the transaction. Project developers may also apply “divide and conquer” approaches, fomenting or exploiting divisions within communities to obtain the consent of some members and represent it as that of the whole community. They may also use supportive factions to pressure resistant members of the community (see [A/HRC/32/35/Add.3](#)). Those with use rights but not

⁴⁶ Robinson, “Risks and rights”.

⁴⁷ For a detailed analysis, see *State of the World’s Indigenous Peoples: Rights to Lands, Territories, and Resources*, vol. V (United Nations publication, 2021).

⁴⁸ *Remedy in Development Finance*, p. 38.

ownership rights, such as pastoralists, tenant farmers or renters, may not have their consent sought at all.

51. The lack of adequate disclosure and consultation can lead to the human rights violations described previously but is also in itself a violation of affected communities' right to participation, which, as derived from the International Bill of Human Rights, implies that all citizens have an equal right to participate in decisions that affect them, including those concerning development, displacement and relocation.⁴⁹ The Special Rapporteur has consistently affirmed the right of participation of internally displaced persons when confronted by internal displacement, regardless of the cause (see A/72/202). When compounded by a lack of consent, inadequate disclosure and consultation may also infringe on the right to self-determination,⁵⁰ which includes the right of all peoples to dispose of their natural wealth and resources, and which States have a positive obligation to safeguard.

B. Insufficient global and longitudinal data

52. There is no agreed global figure or estimate for the overall number of people living in forced displacement owing to development projects, in sharp contrast with the situation for those displaced by conflict or disasters.⁵¹ In the absence of such data, it is difficult to raise awareness regarding development-induced displacement, as opponents may easily argue that the phenomenon does not exist or is so limited as to not warrant the international community's attention. Another significant drawback is the lack of an agreed methodology, unlike in conflict or disaster scenarios, to track development-induced displacement.

53. A further lacuna is the absence of longitudinal data on outcomes for persons displaced by development projects. Properly evaluating the long-term human rights impacts of displacement, the efficacy of resettlement programmes and the "winners and losers" of development-induced displacement requires thorough and disaggregated longitudinal monitoring and evaluation. Such assessments may evaluate whether the project, relocation and compensation provided have a positive, negative or mixed impact on affected populations' living standards and the enjoyment of their human rights and, crucially, how different segments of the population have been affected, including those who may face additional barriers or discrimination owing to characteristics such as age, gender, disability or minority status.⁵² Such assessments should be repeated over time, as post-project outcomes may vary dramatically depending on the period at which the population is surveyed.⁵³ However, such longitudinal analysis is not a regular feature of development projects, especially after project completion.⁵⁴

⁴⁹ Robinson, "Risks and rights".

⁵⁰ International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights, art. 1.

⁵¹ Walicki, "Expert round table on displacement caused by development", p. 9.

⁵² World Bank Inspection Panel, "Involuntary resettlement", p. 7.

⁵³ Brooke Wilmsen and Andrew van Hulst, "Following resettled people over time: the value of longitudinal data collection for understanding the livelihood impacts of the Three Gorges Dam, China", *Impact Assessment and Project Appraisal*, vol. 35, No. 1 (2017).

⁵⁴ World Bank, "World Bank acknowledges shortcomings in resettlement projects, announces action plan to fix problems", 4 March 2015, available at www.worldbank.org/en/news/press-release/2015/03/04/world-bank-shortcomings-resettlement-projects-plan-fix-problems.

C. Limited scope of due diligence

54. Due diligence should be comprehensive in geographical scope and in consideration of human rights risks. Development actors may underestimate the geographical area or population that will be affected by a project by focusing only on its physical footprint rather than its secondary impacts, such as restrictions on access to routes, land or resources.⁵⁵ States and development actors may not see human rights due diligence as a routine obligation, or they may carry out such analysis only in circumstances that are judged to be particularly high risk⁵⁶ or when there is opposition. Those developers that do carry out such due diligence may see it as a one-time exercise rather than an ongoing process to assess emerging risks at different phases of implementation. Multilateral and international development actors may fail to adequately evaluate the local legal framework and institutional capacity before delegating sensitive tasks to local authorities.

55. Due diligence should also inform project closure or the decision for a development actor to exit. The term “responsible exit” covers planned and unplanned exits by development financiers and refers to the obligation of these actors to ensure that project-affected people are not left worse off after their involvement.⁵⁷ In the context of development-induced displacement, this means ensuring that those displaced and resettled have livelihoods and living standards that are at least equivalent to pre-displacement levels. This requires ongoing monitoring and evaluation of the socioeconomic status of project-affected populations over an appropriate period of time, which, as detailed previously, is largely absent.

56. Development actors with strict safeguards may be tempted to “cut and run” when rights violations are brought to their attention. However, this is unlikely to leave those displaced better off, as the project may be taken over by an actor with fewer safeguards. Development actors may seek to exit a project upon its completion; however, the consequences of displacement on project-affected communities may endure far longer. Responsible exit entails working with States and others who will take over management of the project to ensure that assistance to project-affected communities continues until their human rights and living standards have been restored. In practice, however, responsible exit is an emerging concept even for development institutions with some rights standards in place, and these considerations are not systematically applied.⁵⁸

D. Constrained access to effective remedy

57. Remedy mechanisms may fail to conform with the standards outlined in principle 31 of the Guiding Principles on Business and Human Rights.⁵⁹ There may be no remedy mechanism in place at all, or remedy may be provided only through national judicial systems, thereby limiting its effectiveness when the State is the defendant if the separation of powers is not well established. Remedy mechanisms frequently lack the power to enforce their decisions. Complainants report unawareness of remedy mechanisms, inability to meet stringent eligibility criteria for complaints, long delays in the adjudication process, a lack of clear communication, a lack of access to the relevant expertise and information necessary to meaningfully

⁵⁵ World Bank Inspection Panel, “Involuntary resettlement”, p. 5.

⁵⁶ *Remedy in Development Finance*, p. 18.

⁵⁷ *Ibid.*, p. 92.

⁵⁸ *Ibid.*, p. 9.

⁵⁹ For a full analysis, see Caitlin Daniel and others (eds.), *Glass Half-Full? The State of Accountability in Development Finance* (SOMO, 2016), pp. 46–59, and *Remedy in Development Finance*, annex II.

engage in grievance processes, and the limited integration of human rights issues within the scope of such mechanisms.⁶⁰

58. There are also significant levels of attrition as cases proceed through the review process; not all cases are found eligible, and even fewer cases lead to results.⁶¹ Communities and individuals may face challenges in lodging cases without support from civil society organizations.⁶² There may also be an accountability gap if the primary development institution works through financial or operational intermediaries, as the primary funder's safeguards and remedy mechanisms may not be effectively applicable to these parties (A/HRC/45/28, paras. 24 and 34).

59. Special Procedures mandate holders have raised the issue of protection for those seeking remedy related to development projects on multiple occasions (see, for example, A/HRC/45/28, paras. 31–36, and A/HRC/36/40, paras. 44–49). Human rights defenders and environmental defenders who have raised concerns regarding development projects have been the target of reprisal attacks, both through violence and through criminalization of dissent (for further details, see A/HRC/47/39/Add.2). Development institutions may lack the ability to extend to complainants security measures other than anonymity and may not see protection as being within their remit.⁶³ States may even be seen to be complicit in the commission of, or tolerance of, such reprisal attacks.

60. The lack of access to effective remedy not only prevents affected communities from being able to advocate effectively for their human rights but is also in itself a rights violation.⁶⁴ Attacks against and criminalization of those seeking remedy, as well as the absence of effective measures to ensure their protection, also violate the rights to life and to freedom from arbitrary arrest and detention.

E. Defining rights-based development

61. Development is often interpreted as macroeconomic growth, expanded trade and increased consumption (A/HRC/36/40, para. 19). States that promote large development projects despite the costs of displacement often argue that the benefits to the overall population outweigh the costs borne by the few who are displaced – the notion that one “can’t make an omelette without breaking some eggs”. Cost-benefit analyses carried out by development actors may favour moving ahead with projects if, as is often the case, costs and benefits are considered in the aggregate rather than with reference to which segments in society will benefit and which will bear the costs.⁶⁵ Social, environmental and human rights safeguards may be seen as additional cost factors, despite evidence to the contrary (see A/70/274). Some development agencies may have internal incentives for staff to prioritize moving ahead with projects rather than focusing on negative externalities, such as displacement, in particular for politically important projects or if success is measured in terms of project volume.⁶⁶

62. By contrast, a rights-based approach to development analyses the inequalities that underpin development challenges and aims to redress discriminatory practices

⁶⁰ Daniel and others (eds.), *Glass Half-Full?*, pp. 46–59.

⁶¹ *Ibid.*, pp. 10–16.

⁶² *Ibid.*

⁶³ Daniel and others (eds.), *Glass Half-Full?*, p. 55.

⁶⁴ International Covenant on Civil and Political Rights, art. 2.

⁶⁵ Cernea, “Impoverishment risks and reconstruction”, pp. 3671–3672.

⁶⁶ *Remedy in Development Finance*, pp. 25–26.

and unjust distributions of power that impede development progress.⁶⁷ The Declaration on the Right to Development calls on States to ensure that national development policies improve the well-being of all individuals in society, on the basis of their active, free and meaningful participation and the fair distribution of development benefits. Moreover, the Declaration holds that every human person and all peoples are entitled to participate in development, have the right to self-determination, and hold sovereignty over their natural resources. The Sustainable Development Goals emphasize that no one will be left behind and the importance of reaching the furthest behind first.⁶⁸ The full realization of the right to development thus means that every individual should benefit equally from development. This requires a dedicated and proactive approach to the eradication of inequality.

VIII. Conclusions and recommendations

63. **Unlike displacement caused by conflict or disasters, development-induced displacement can be prevented through appropriate policy choices and by States fully implementing their existing human rights commitments. This requires a change in mindset, one that is centred on individuals and communities and empowers them to realize their right to development rather than paternalistically treating them as passive subjects whose agency is subordinate to State interests. The recommendations below are provided in that spirit.**

A. Ensure meaningful disclosure, participation and consent

64. **States should:**

(a) **Evaluate the consensual nature of land transactions with more nuance by considering power and information disparities that could influence the quality of consent; undertake detailed and context-specific assessments of tenure systems; and oversee negotiations to reduce coercive practices;**

(b) **Ensure that public health restrictions do not pose undue limitations on the ability of affected communities to participate in disclosure and consultation processes;**

(c) **Prohibit the presence of armed groups and security forces during disclosure and consultation processes so as to ensure that discussions are free from intimidation or violence.**

65. **States and development actors should:**

(a) **Ensure that information provided to affected populations is timely, is provided in a space and format that is physically, culturally and linguistically appropriate and accessible for all literacy levels, and is updated in advance of each phase of project planning and implementation;**

(b) **Improve the quality of disclosure and consultation processes by providing disclosure and consultation venues that are accessible to all groups, including women, persons with disabilities, older persons, indigenous peoples**

⁶⁷ United Nations Sustainable Development Group, “Universal values principle one: human rights-based approach”, available at <https://unsdg.un.org/2030-agenda/universal-values/human-rights-based-approach>.

⁶⁸ OHCHR, “Development agenda at risk unless States honour political and financial commitments, UN experts warn”, 2 December 2016, available at www.ohchr.org/en/press-releases/2016/12/development-agenda-risk-unless-states-honour-political-and-financial.

and minorities, and by ensuring meaningful participation and continuous and good-faith consultation throughout all phases of the project cycle;

(c) Seek the informed consent of, rather than merely engaging, affected populations by providing them with the opportunity to shape development and resettlement plans, propose alternatives or refuse projects entirely, in line with the right to development;

(d) Facilitate access to legal and technical assistance to enable affected communities' informed participation.

66. The international community, national human rights institutions and civil society should:

(a) Monitor and report on the quality of disclosure, participation and consent in relation to development projects with displacement impacts and advocate for improved practices;

(b) Provide legal and technical assistance to affected communities to improve the quality of their engagement.

B. Create an enabling environment for the realization of human rights in the context of development projects

67. States should:

(a) Incorporate relevant human rights standards into national law, including the Guiding Principles on Internal Displacement, the basic principles and guidelines on development-based evictions and displacement, and the Guiding Principles on Business and Human Rights, and establish or mandate a body to oversee implementation in practice;

(b) Ensure prompt and impartial investigation and prosecution of incidents of reprisals against those raising concerns regarding development projects.

68. States and development actors should:

(a) Make human rights due diligence a systematic part of the project cycle, and operationalize the results thereof, by:

(i) Undertaking risk assessment related to displacement and assessment of the local legal framework and institutional capacity prior to any project;

(ii) Ensuring that all human rights risk assessments accurately assess the totality of the affected population, the catchment area, and the primary and secondary risks related to development-induced displacement;

(iii) Providing performance incentives for not proceeding with development projects assessed as having undue human rights impacts;

(iv) Evaluating the human rights impacts of disengaging from a project prior to the decision to disengage;

(b) Improve the effectiveness of remedy mechanisms by:

(i) Facilitating access to free legal and technical assistance for communities to gain access to remedy mechanisms; and ensuring that remedy mechanisms are accessible and reliable, that they operate transparently, and that they provide enforceable judgments within a predictable time frame;

(ii) **Holding intermediaries and third parties responsible for respecting the State or actor's established environmental, social and human rights standards and adopting zero-tolerance policies towards reprisal incidents.**

69. **National human rights institutions and civil society should:**

(a) **Support and report on the quality of human rights due diligence and risk analyses and provide capacity-building to strengthen human rights awareness and enforcement;**

(b) **Provide free legal and technical assistance to affected communities to help them gain access to remedies and proactively bring eligible issues before relevant remedy mechanisms;**

(c) **Advocate for the incorporation into national law of international human rights standards and principles related to development-induced displacement.**

70. **The international community should:**

(a) **Provide States with technical assistance and capacity-building to strengthen human rights legal frameworks and institutional capacity in the context of development, and develop national laws and policies related to development-induced displacement that align with international human rights standards;**

(b) **Advocate for policies related to development-induced displacement that align with international human rights standards within multilateral development actors and provide oversight of implementation;**

(c) **Create or mandate a multilateral body to address development-induced displacement globally.**

C. Adopt a rights-based approach to development

71. **States should adopt and promote national development plans that promote the realization of the right to development.**

72. **States and development actors should:**

(a) **Support affected communities in their efforts to realize the rights to work, property and an adequate standard of living, including by:**

(i) **Providing fair, adequate and timely compensation for all assets lost, including communal property, using transparent and proper valuation methods, while moving beyond compensation-only approaches to include the livelihood support that is necessary for displaced communities to regain their pre-displacement standards of living;**

(ii) **Ensuring that resettlement arrangements in compliance with international standards for adequate housing are agreed on with affected communities and are fully in place prior to any evictions or demolitions;**

(b) **Promote the realization of the right to development by:**

(i) **Avoiding displacement for development projects whenever possible, limiting it to exceptional circumstances;**

(ii) **Enabling those displaced to benefit from development gains generated by the project and utilizing disaggregated cost-benefit analyses as the basis for development decision-making.**

73. The international community, national human rights institutions and civil society should advocate for development models that align with international human rights commitments, including the Declaration on the Right to Development and the imperatives of the Sustainable Development Goals.

D. Close the data gap

74. States and development actors should:

(a) Collect, publicize and regularly update disaggregated statistics on the number of people displaced by development projects they lead or finance and detail the methodology used;

(b) Collect baseline data on the human rights situation and living conditions of project-affected populations, disaggregated by group; conduct regular follow-up evaluations, including post-project, to assess how the enjoyment of human rights and the living standards of project-affected populations change over time; and publish these data and make them available;

(c) Use the above-mentioned data to inform policy decisions related to development projects, relocation and compensation.

75. National human rights institutions and civil society should:

(a) Ensure that persons internally displaced by development projects are included in human rights monitoring and assessments and in advocacy work, and that they benefit from humanitarian assistance extended by humanitarian organizations;

(b) Monitor State and third-party compliance with international human rights standards related to development and displacement and report the results thereof to the international human rights system.

76. The international community should create or mandate a multilateral body to serve as a repository of global data concerning development-induced displacement and agree on common statistical methods for data collection and estimation.

77. The Working Group on the issue of human rights and transnational corporations and other business enterprises and 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, have endorsed the recommendations above.
