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Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development****Resettlement after evictions and displacement: addressing
a human rights crisis****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****Summary*

In the present report, submitted in accordance with Human Rights Council resolution 52/10, the Special Rapporteur elaborates on the current state of crisis with respect to resettlement of persons following evictions and displacement, which negatively affects the right to adequate housing and other human rights. While evictions and displacement are recognized as major human rights concerns, negative outcomes with regard to resettlement have yet to be acknowledged as a significant human rights issue globally. Such negative outcomes result in serious violations of the rights of those affected, including the right to adequate housing. With the present report, the Special Rapporteur aims to launch a clarion call to prevent and counteract the poor outcomes and negative impacts of resettlement in an age that is witnessing increased displacement caused by disasters, development, conflict, uncontrolled use of eminent domain, urbanization, industrial agriculture, climate change and other drivers. In the present report, the Special Rapporteur reviews existing standards in international human rights law on resettlement, its main drivers and the key reasons for the poor outcomes of resettlement and explores alternative pathways to improve the record of resettlement. He concludes with recommendations for avoiding and reducing the harm caused by displacement and poor resettlement outcomes and argues for the development of comprehensive global principles and guidelines to ensure that resettlement is undertaken in full compliance with human rights.

* The present report was submitted after the deadline in order to reflect the most recent developments.



Contents

	<i>Page</i>
I. Introduction	3
II. Resettlement under international law	4
III. Impact of resettlement on human rights	7
IV. Main drivers of resettlement: tackling the causes	10
V. Why resettlement often undermines human rights	13
VI. Towards improved resettlement	16
VII. Conclusions and recommendations	18

I. Introduction

1. Resettlement has significant impacts on the lives and well-being of people. While forced evictions and arbitrary displacement have long been recognized as gross violations of human rights, less attention has been given to what displaced persons endure after displacement. Many displaced communities have never been accorded durable solutions or offered the opportunity to resettle in conformity with international human rights standards. Regrettably, when people have been resettled, the outcomes have often been very poor, undermining the human rights of those affected.

2. In recent decades, the number of persons displaced owing to conflict, disasters, development, land grabs, “green grabs”,¹ and climate change has increased and is expected to continue to grow. Urbanization, land speculation and over-commodification of land and housing, uncontrolled use of eminent domain, industrial agriculture and water management, infrastructure projects, mega-events, violent conflicts, conservation, disasters and climate change are all drivers of large-scale displacement and resettlement.

3. While there are already several international standards on internal displacement and development-based displacement, the Special Rapporteur argues that there is a need to develop human rights principles and guidelines on resettlement of all kinds, building on existing human rights treaty law, international human rights standards, legal principles enshrined in national law and best international practices. The purpose of such guidelines is to close a significant protection gap, to harmonize existing standards and regulations and to ensure that any resettlement is carried out in conformity with human rights.

4. Although certain elements of resettlement, such as free, prior and informed consent and the right to participation, are acknowledged in certain international instruments and select national laws and policies, there are currently no general international guidelines that address all stages of the resettlement process and ensure that resettlement is carried out in full conformity with human rights standards. The lack of clear standards has led to inconsistent approaches by States, financial institutions, businesses and other actors. As a result, the human rights mechanisms of the United Nations continue to receive frequent reports of inadequate resettlement processes that do not respect the human rights of affected persons.

5. In the present report, submitted in accordance with Human Rights Council resolution 52/10, the Special Rapporteur identifies the human rights challenges that arise from and during the process of resettlement and takes stock of existing international law, regulations, policies and practices related to resettlement. Furthermore, he assesses gaps in the legal architecture and provides an analysis of the processes required to ensure that human rights related to resettlement are not only protected on paper, but are also respected in practice. The report does not focus on refugee resettlement involving cross-border efforts and processes for selecting and transferring refugees to third countries. To inform the report, the Special Rapporteur held an expert consultation on 29 November 2023, relied on written submissions and conducted extensive research. The Special Rapporteur is grateful to all who provided written submissions.²

6. While the terms “relocation” and “resettlement” are often used interchangeably in scholarly literature and standards, in the present report, resettlement is understood 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.

7. The present report contains the following sections: (a) resettlement under international law; (b) impact of resettlement on human rights; (c) main drivers of resettlement: tackling the causes; (d) why resettlement often undermines human rights; (e) towards improved resettlement; and (f) conclusions and recommendations.

8. In his forthcoming report to the General Assembly, the Special Rapporteur will address the lessons learned from different resettlement projects and discuss in more detail the

¹ See [A/HRC/52/28](#).

² Submissions are available at <https://www.ohchr.org/en/calls-for-input/2023/call-inputs-resettlement-human-rights-issue>.

human rights obligations of States, international organizations, businesses and other actors. In parallel, the Special Rapporteur will develop, in consultation with States, international organizations, United Nations agencies, experts, civil society and business representatives, a set of principles and guidelines on resettlement that he intends to present to the Human Rights Council in 2025.

II. Resettlement under international law

9. The present section provides an overview of current international law relating to resettlement and describes how the interpretation and neglect or lack of awareness of international law by States, courts, international institutions and businesses have adverse impacts on resettlement outcomes. It highlights the diffuse nature of the laws and standards pertinent to rights impacted by resettlement, as well as the distinct lack of a single, over-arching set of guidelines governing the resettlement process as a whole.

10. Resettlement affects, among other things, the rights to property and adequate housing. The Universal Declaration of Human Rights provides that everyone has the right to own property alone as well as in association with others and that no one shall be arbitrarily deprived of his property (art. 17). The right to adequate housing is enshrined in article 25 (1) of the Universal Declaration of Human Rights and in article 11 of the International Covenant on Economic, Social and Cultural Rights. The Committee on Economic, Social and Cultural Rights has elaborated on the scope of the right to adequate housing in its general comment No. 4 (1991), on forced evictions in its general comment No. 7 (1997) and on the relevance of land for economic, social and cultural rights in its general comment No. 26 (2022).

11. In general comment No. 4 (1991), adequate housing is defined to include security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy. The definition should also include sustainability.³ The right to housing is essentially an entitlement to live in safety and dignity in a secure home. Forced evictions have long been recognized as a gross violation of human rights and are *prima facie* incompatible with the requirements of the International Covenant on Economic, Social and Cultural Rights. In its general comment No. 7 (1997), the Committee on Economic, Social and Cultural Rights affirms that States must take all appropriate measures, to the maximum of their available resources, to ensure that adequate alternative housing, resettlement or access to productive land is available to those that are unable to provide housing for themselves.

12. In its general comment No. 26 (2022), the Committee on Economic, Social and Cultural Rights asks States to introduce and implement national legislation to ensure that eviction and resettlement processes are carried out in line with international human rights law. It underlines that any alternative housing provided should be safe and provide security of tenure, enabling access to public services, including education, health care, community engagement and livelihood opportunities. Every effort should be made not to break up communities, given their crucial role in supporting and sustaining neighbour networks and livelihood support. Prior to carrying out any evictions or changes in land use, States parties should ensure that all feasible alternatives are explored in consultation with the affected persons. In all cases, effective legal remedies or procedures should be provided to those who are affected by eviction orders.

13. Several international conventions and declarations recognize the rights of Indigenous Peoples and peasants to their lands. The United Nations Declaration on the Rights of Indigenous Peoples requires States to consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them (art. 19). States must have consent as the objective of consultation before undertaking projects that affect Indigenous Peoples' rights to land, territory and resources (art. 32). The International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169) also provides for the rights of ownership and

³ [A/HRC/52/28](#), para. 5.

possession by Indigenous People over the lands which they traditionally occupy (art. 14) and includes consent requirements (art. 6). The United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas specifies their right to land and adequate housing, their right to just and fair compensation and their right to return.

14. Under the International Covenant on Civil and Political Rights, States may interfere with the right to choice of residence only where necessary to protect national security, public order, public health or morals or the rights and freedoms of others, and where it is consistent with the other rights recognized in the Covenant (art. 12). States also have the duty to ensure the human rights to food, and to safe drinking water and sanitation.⁴ These human rights are essential for the enjoyment of all other rights and interact to constitute the right to an adequate standard of living, forming also the basis of the right to life.

15. Similarly, the African Charter on Human and Peoples' Rights (art. 14), the American Convention on Human Rights (art. 21), and the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) (art. 8) and its Protocol No. 1, protect the right to property and the right to respect for private and family life and the home.

16. The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, ratified by 31 States, addresses internal displacement caused by armed conflict, natural disasters and large-scale development projects in Africa. The Convention defines internal displacement and sets out the obligations of States parties regarding relocation, including a duty to prevent displacement caused by projects carried out by public or private actors, to explore feasible alternatives, with full information and consultation of persons likely to be displaced by projects, and to carry out socioeconomic and environmental impact assessments of proposed development projects prior to undertaking such projects (art. X). Furthermore, it prescribes the right of people to make a free and informed choice on whether to return, integrate locally or relocate, and obligates States parties to consult affected persons to ensure their participation in finding sustainable solutions (art. XI) and to provide effective remedies (art. XII).

17. Paragraph 79 (gg) of the Principles and Guidelines on the Implementation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights, obliges States parties to ensure the right to resettlement, which includes the right to alternative land of better or equal quality, access to essential public services such as health care and education, as well as housing that satisfies adequacy criteria.

18. The Guiding Principles on Internal Displacement outline the rights of internally displaced persons to be protected from and assisted before, during and after displacement. Principle 28 stipulates that competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return or to resettle voluntarily in another part of the country. Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration. The Guiding Principles also clarify that national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction, but do not provide detailed guidance on the actual process of planning, implementing or monitoring resettlement.

19. The Framework on Durable Solutions for Internally Displaced Persons⁵ provides additional guidance to ensure the sustainable integration of internally displaced persons, including those who choose to integrate in another part of the country. The principles on housing and property restitution for refugees and displaced persons provide more specific guidance for restitution and compensation for housing, land and property of which persons have been arbitrarily deprived, but do not address the issue of resettlement in depth.

20. The basic principles and guidelines on development-based evictions and displacement have been structured to cover the entire displacement process, from prior measures to the

⁴ See General Assembly resolution 64/292.

⁵ [A/HRC/13/21/Add.4](#).

definitive resettlement of the affected community. They stipulate that, prior to evictions, planning and development processes should involve all those likely to be affected and include appropriate notice to all potentially affected persons, public hearings, effective dissemination of relevant information in advance, a reasonable time period for public review, the provision of legal, technical and other advice to affected persons, and opportunities for affected persons to challenge the eviction decision and/or to present alternative proposals and to articulate their demands and development priorities. Identified relocation sites must fulfil the criteria for adequate housing, and no resettlement should take place until a comprehensive resettlement policy consistent with internationally recognized human rights principles is in place. Despite their focus on many elements of resettlement planning, the basic principles and guidelines do not focus on conflict, disaster or climate-induced resettlement, nor do they cover all relevant details to ensure the full protection of human rights in the resettlement process.

21. The guiding principles on security of tenure for the urban poor clarify that States should adopt and implement a human rights-compliant resettlement policy to be applied where in situ solutions are not possible. Urban plans should incorporate citywide strategies for any necessary resettlement and identify available, suitable and safe locations for resettlement, ensuring access to livelihood opportunities, services and facilities. Authorities should not resettle any household until it has adopted a resettlement policy that is fully consistent with their international human rights law obligations. Decisions to resettle households should also be subject to judicial review.⁶

22. International human rights standards provide clear expectations with respect to specific elements of the resettlement process, such as the provision of compensation. The basic principles and guidelines on development-based evictions and displacement, International Finance Corporation (IFC) Performance Standards on Environmental and Social Sustainability (standards 5 and 7) and the principles on housing and property restitution for refugees and displaced persons include payment of fair compensation. The Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security stipulate that States should ensure a fair valuation and prompt compensation in accordance with national law. Among other forms, the compensation may be, for example, in cash, rights to alternative areas or a combination (sect. 16.3).

23. The Guiding Principles on Business and Human Rights specify the respective duties and responsibilities of Governments and private enterprises to prevent and address adverse impacts resulting from business activities, including voluntary and involuntary displacement and resettlement. Under the Guiding Principles, companies have an independent responsibility to respect human rights, while Governments have a duty to protect against human rights abuses by private sector actors. This includes enacting and enforcing laws that require companies to respect human rights, including in the context of resettlement.

24. The concept of relocation also features in international frameworks on disaster risk reduction and climate change adaptation, as well as in humanitarian guidance documents for armed conflicts,⁷ and most international financial institutions have adopted their own standards on resettlement for development projects they finance.⁸ The Sendai Framework for Disaster Risk Reduction 2015–2030, for instance, calls for the relocation, where possible, of human settlements in disaster risk-prone zones (para. 27 (k)). The draft articles of the International Law Commission on the protection of persons in the event of disasters, adopted in 2016, make it clear that all human rights are to be respected in the event of disaster.⁹

⁶ See [A/HRC/25/54](#).

⁷ See, for example, Office of the United Nations High Commissioner for Refugees (UNHCR), “South Sudan: Bentiu IDP sites A&B relocation due diligence checklist” (2022).

⁸ See, for example, World Bank, Environmental and Social Standard No. 5; and Organisation for Economic Co-operation and Development (OECD) Development Assistance Committee, “Guidelines for aid agencies on involuntary displacement and resettlement in development projects”, Guidelines on Aid and Environment, No. 3 (Paris, 1992).

⁹ [A/71/10](#), para. 48.

25. Despite these developments, there remains no globally accepted standard, agreed by States, on how to conduct resettlement in a human rights-compliant manner. Neither the conventions nor the human rights standards discussed above define when resettlement is permissible, map out resettlement processes in sufficient detail, or set out the duties that are incumbent on particular actors. Most standards on displacement address situations in which people are forced to leave their homes as a result of or in order to avoid the effects of armed conflict or disasters. They do not adequately address resettlement triggered by other drivers such as development, conservation or climate change mitigation.

26. While international human rights law already specifies certain duties and responsibilities of States and other actors in relation to resettlement, the current framework requires further attention to address protection gaps and to clarify the scope of existing rights.

27. Principles and guidelines on resettlement could draw on and harmonize existing international human rights law dispersed across various legal instruments, the work of United Nations treaty bodies, national legal standards and jurisprudence from domestic and international courts. Furthermore, such guidelines could also draw from relevant international humanitarian and international criminal law.

III. Impact of resettlement on human rights

28. Not all resettlement experiences are negative. Many people who are resettled are able to successfully integrate into new communities and build new and fulfilling lives.¹⁰ However, adverse human rights impacts have been well documented when resettlement is poorly conceived, planned and implemented without meaningful consultation with and participation of the affected persons or without any recourse to remedy. In addition to the right to adequate housing, a broad range of other human rights can be affected by resettlement practices. Resettlement is often associated with: (a) loss of land and access to natural resources, including to common property and services; (b) increased homelessness or placement in inadequate housing; (c) loss of access to public infrastructure, water and sanitation, education or health care; (d) cultural loss that results in alienation, status deprivation and social disarticulation; (e) loss of jobs and sources of livelihood; (f) food insecurity; (g) marginalization, including dislocation from and breakdown of social networks; (h) increased morbidity and mortality and psychological impacts, including trauma; (i) increased risk of conflict and violence with host communities; and (j) disproportionately unequal impacts on vulnerable groups, including women, racial, ethnic and religious minorities, children, older persons, migrants and Indigenous Peoples.¹¹

29. Resettlement has been strongly associated with threats to and violence against human rights defenders, and has regrettably frequently resulted in disproportionate use of force by security officials, arbitrary detention, torture, inhuman or degrading treatment and punishment, or even the killing of persons opposing resettlement.

30. The Internal Displacement Monitoring Centre estimates that 61.5 million people were internally displaced due to conflict and violence and 9 million were displaced due to disasters at the end of 2022.¹² Millions more have been displaced by economic development and State-sponsored infrastructure, poverty alleviation and population redistribution schemes. Research indicates that as many as 300 million people were displaced globally by development interventions in the period from 1997 to 2017 – a rate of 10 million to 15 million

¹⁰ See European Bank for Reconstruction and Development, *Resettlement Guidance and Good Practice* (2017); and Michael M. Cernea, “Compensation and benefit sharing: why resettlement policies and practices must be reformed”, *Water Science and Engineering*, vol. 1, No. 1 (March 2008).

¹¹ See Michael M. Cernea, “Impoverishment risks, risk management and reconstruction: a model of population displacement and resettlement”, paper presented at the United Nations Symposium on Hydropower and Sustainable Development, Beijing, 27–29 October 2004; and 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), pp. 34–52.

¹² See Internal Displacement Monitoring Centre, Global Internal Displacement Database. Available at <https://www.internal-displacement.org/database/displacement-data>.

people per year.¹³ More recent estimates, for the period 2011–2020, suggest that this number may have exceeded 20 million per year.¹⁴

31. Although estimates differ, it is clear that development projects, extreme weather events and conflict are resulting in the involuntary displacement of millions of people each year, and the number of people in need of resettlement is predicted to grow.¹⁵ An estimated 700 million people may be at risk of displacement by drought alone by 2030,¹⁶ and the severity and frequency of floods is projected to increase.¹⁷ Assisting those who are displaced by natural events, climate change and development processes to resettle and rebuild their lives, livelihoods and communities thus presents an enormous challenge to States and to the international community.

32. The growing scale of displacement has been accompanied by an increasing number of reported violations of human rights, evidenced, among other things, by the ever-growing number of communities reaching out to the Special Rapporteur requesting his intervention. The human rights impacts of displacement and resettlement are similar irrespective of the cause – development, conflict or disasters – and there is a growing recognition of the similarities.¹⁸ Many infrastructure and other development projects could be developed in such a way as to avoid or minimize the need for resettlement by conducting option assessments and exploring all possible alternative designs first, while ensuring that resettlement is in full compliance with international law. People who are resettled to make way for development projects should also be entitled to access to the substantial benefits that their ordeal makes possible.¹⁹

33. A major human rights issue is whether the people being resettled consent to their move. While arbitrary displacement is illegal, voluntary resettlement is seen to be acceptable. However, the communities being asked to move may face equally unpalatable choices: their right to remain in place may place them in danger, while their resettlement may be presented as a fait accompli with no choice. Under these conditions, even voluntary resettlement may well constitute forced displacement, giving rise to the risk of illusory consent.²⁰ In addition, the true costs, losses and damages incurred by displaced persons and households are often not fully accounted for in resettlement, where quantification and related consultation methods are rarely adequate to assess the immediate and longer-term economic and non-economic loss and damage and enable full remedy and reparation.

34. The social costs of involuntary resettlement that fails to respect the dignity, capabilities and worth of displaced people can be enormous and are well documented. Many cases have shown that too often resettlement planning and implementation have been deficient to the point of impoverishing affected communities.²¹ This burden falls disproportionately on those who are at the bottom of the social ladder in many countries, people who belong to ethnic, racial and religious minorities, Indigenous Peoples, low caste

¹³ See Nadine Walicki, Michael J. Ioannides and Bryan Tilt, “Dams and internal displacement: an introduction” (Internal Displacement Monitoring Centre, 2017).

¹⁴ See Michael M. Cernea and Julie K. Maldonado, “Challenging the prevailing paradigm of displacement and resettlement: its evolution, and constructive ways of improving it”, in *Challenging the Prevailing Paradigm of Displacement and Resettlement: Risks, Impoverishment, Legacies, Solutions*, Cernea and Maldonado, eds. (Abingdon, Oxon, and New York, Routledge, 2018).

¹⁵ See William L. Partridge and David B. Halmo, *Resettling Displaced Communities: Applying the International Standard for Involuntary Resettlement* (Lanham, Maryland, Lexington Books, 2020).

¹⁶ See United Nations, *The Sustainable Development Goals Report 2022*.

¹⁷ See Kaoru Kakinuma and others, “Flood-induced population displacements in the world”, *Environmental Research Letters*, vol. 15, No. 12 (December 2020).

¹⁸ Robert Muggah, “A tale of two solitudes: comparing conflict and development-induced internal displacement and involuntary resettlement”, *International Migration*, vol. 41, No. 5 (2003), p. 5; and Michael M. Cernea, “Development-induced and conflict-induced IDPs: bridging the research divide”, *Forced Migration Review* (December 2006).

¹⁹ See Cernea, “Compensation and benefit sharing”.

²⁰ See David James Cantor, “Conceptualising ‘relocation’ across displacement contexts”, *Journal of International Humanitarian Legal Studies* (9 October 2023).

²¹ See Cernea and Maldonado, “Challenging the prevailing paradigm”; and Partridge and Halmo, *Resettling Displaced Communities*.

groups, women and the rural poor, who have little voice in decision-making. Indeed, such disproportionate impacts may well be seen as a form of indirect targeting of minorities which has been termed “development cleansing” – a kind of ethnic cleansing by means of displacement and marginalization.²² Despite the development of policies and legal frameworks to guide and regulate different aspects of resettlement of displaced populations, actual recorded incidences of successful community resettlement remain rare. Conversely, when affected communities are properly consulted and project planning and implementation includes appropriate stakeholder engagement and support, resettlement can and does avoid excessive social harms.²³

35. Many human rights have been violated in the context of projects involving resettlement, including the right to development, self-determination, cultural identity, life, food, livelihood, adequate housing and land, the rights to assemble, associate, protest and speak and the rights to participation, remedy, restitution, compensation and reparation.²⁴ Given that human rights are interdependent, violations of the right to adequate housing alone can significantly undermine access to education, work, health care or other services. People who are resettled often have difficulty accessing basic services owing to language barriers, financial constraints, discrimination or a simple lack of availability. Resettlement also disrupts people’s livelihoods when they lose their jobs, land or businesses, which in turn has a devastating impact on their ability to support themselves and their families. This can have a heavy impact on people’s cultural identity, when they are forced to leave behind their traditional ways of life and adapt to a new culture, and disrupt social and family networks, with the consequent loss of a socioeconomic safety net.

36. Non-economic losses, including cultural losses, such as the loss of heritage, graves and religious places, must be fully accounted for and remedied, including through appropriate recognition and compensation. A recent study reviewing 203 resettlement case studies documented loss of livelihood and limited economic opportunities as a frequent consequence of resettlement. Although physical outcomes, such as the provision of services and infrastructure, improved in some cases, outcomes with respect to natural, financial, social and cultural assets were typically significantly worse.²⁵ Empirical research also demonstrates that people subjected to resettlement are at risk of and often experience disenfranchisement and exploitation.²⁶

37. Resettlement also results in broader societal costs, which may stem from long-term social, economic and cultural impacts on the resettled communities or increased tensions with host communities. When the budgeting of funds for resettlement is not in place prior to project implementation or is insufficient, when project costs overrun or when there is inadequate budgeting for post-relocation support, negative outcomes are very likely. Communities that become less self-sufficient often require additional support to address inadequate resettlement outcomes. Prolonged support, financial and otherwise, may require a larger investment of resources by the State and other parties. Many project-affected people in failed resettlement sites move back to original sites or migrate to urban areas, often to informal settlements without security of tenure and often without jobs, putting themselves at risk of forced evictions and further displacement. This triggers homelessness, housing precarity, land disputes and a further drain on underresourced local services, all of which entail a broader cost to society, which underlines the value in getting resettlement right the first time.

38. Resettlement, particularly when poorly executed, can have long-lasting negative effects on multiple generations. The social and environmental impacts can be complex and

²² See Balakrishnan Rajagopal, “The violence of development”, *Washington Post*, 9 August 2001.

²³ See Annah E. Piggott-McKellar and others, “A livelihood analysis of resettlement outcomes: lessons for climate-induced relocations”, *Ambio*, vol. 49, No. 9 (September 2020), pp. 1474–1489.

²⁴ See Balakrishnan Rajagopal, “The state of large hydropower”, paper presented at a workshop of the Massachusetts Institute of Technology Displacement Research and Action Network entitled “The state of hydropower projects today: lessons from the past for the course ahead”, May 2016. Available at <https://static1.squarespace.com/static/56340b91e4b017e2546998c0/t/58c9b6c4f5e23111fb56b76a/1489615402885/May+6th+2016+Workshop+Proceedings+and+Notes.pdf>.

²⁵ See Piggott-McKellar and others, “A livelihood analysis”.

²⁶ See Cantor, “Conceptualising ‘relocation’”.

can continue to be felt by communities for years, sometimes across generations. The same may apply to host or neighbouring communities living in the same area as resettlement sites. The World Bank has acknowledged long-standing legacy issues related to resettlement caused by the Tarbela hydropower project in Pakistan, for instance,²⁷ which include unresolved compensation and resettlement court cases still affecting the lives of those displaced decades earlier.²⁸

39. The lack of inclusive resettlement procedures can trigger and perpetuate social conflict.²⁹ People who object to or hold up projects are often seen as obstacles to development that need to be removed. Resettlement that provides adequate housing and an adequate standard of living mitigates conflict. Inclusive and participatory resettlement facilitates political participation and self-determination, the exercise of voting rights, participation in civil society and investment in communities, which are often absent when resettlement is involuntary or poorly executed.

40. Vulnerability to human rights violations during resettlement may result from multiple and intersecting forms of inequality and structural and societal dynamics that lead to diminished and unequal levels of power and enjoyment of rights. Often resettlement has disproportionate impacts on vulnerable groups such as women, racial, ethnic and religious minorities, children, older persons, migrants or Indigenous Peoples, resulting in their further marginalization and discrimination. It is therefore important to consider gender and other demographic, cultural and socioeconomic differences at all stages of resettlement planning and implementation.

IV. Main drivers of resettlement: tackling the causes

41. Displacement is caused or justified by many stated reasons: climate change, conservation, violent conflict, urbanization, disaster or health protection, population management, industrialization, infrastructure development and poverty reduction strategies. In addition, there are other structural root causes that the Special Rapporteur cannot fully explore in the present report, such as land speculation and the financialization of land, housing and climate policies, economic development models that are centred around large infrastructure and land deals, including through “green grabs”, unchecked growth of the use of eminent domain, poor land governance and models of property rights that shrink common property resources through the imposition of markets, among other things.³⁰ The most prominent proximate drivers of resettlement can be organized into the following categories:

(a) *Disasters and climate change.* Drivers include natural disasters such as flooding, heatwaves and wildfires, landslides, tsunamis, typhoons, earthquakes and volcanic eruptions, which are unpredictable and typically occur without notice. They also include “slow-onset” events such as rising sea levels, salinization, land and forest degradation, loss of biodiversity, desertification, drought and famine. Climate change and associated extreme weather events and disasters occur globally but tend to affect low-income communities more frequently. Social, economic and political conditions mediate exposure and susceptibility to the physical impacts of disasters, and marginalized groups tend to live in higher-risk areas, have limited resources and are often excluded from or underrepresented in decision-making bodies.³¹ Too often, post-disaster reconstruction favours the interests of elites and promotes privatization or land grabs. It should also be noted that conservation-related displacement

²⁷ See Muhammad Kamran, “Gender and development-induced resettlement: a case study of Tarbela Dam resettlement in Pakistan”, *Pakistan Journal of Women’s Studies*, vol. 26, No. 2 (2019), pp. 89–103.

²⁸ See World Bank, Report No. PAD1728 (2016).

²⁹ See [A/78/160](#).

³⁰ See Ben White and others, “The new enclosures: critical perspectives on corporate land deals”, *The Journal of Peasant Studies*, vol. 39, No. 3-4 (2012), pp. 619–647; Saskia Sassen, “Land grabs today: feeding the disassembling of national territory”, *Globalizations*, vol. 10, No. 1 (2013), pp. 25–46; and Olivier De Schutter and Balakrishnan Rajagopal, eds., *Property Rights from Below: Commodification of Land and the Counter-Movement* (London, Routledge, 2019).

³¹ See World Bank, *Inclusive Approaches to Disaster Risk Management: A Qualitative Review* (2022).

and resettlement, especially from forest areas, is increasing owing to the creation and expansion of protected areas, parks, reserves and sanctuaries and the financialization of climate risks, including through the United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (UN-REDD) and climate mitigation initiatives.³² As all stages of housing construction, management and demolition have strong environmental impacts, it is of key importance to avoid unnecessary housing demolition and resettlement and to ensure that resettlement is not only human rights-compliant, but also socially and environmentally sustainable;³³

(b) *Planned development projects and eminent domain.* These include infrastructure, green energy production, other energy projects and public works. Development projects such as hydroelectric and irrigation dams, airports, roads and transmission lines are usually justified as serving the public good, even though the benefits may be captured by private interests or accrue to a dominant segment of the public. Land is typically acquired or expropriated in advance through the use of eminent domain or compulsory purchase orders, which provide the State with the power to acquire or expropriate private properties for a public purpose. Frameworks for compensation to landholders often stipulate payment of “fair market value”, although provisions also exist for in-kind or land-for-land compensation in many countries.³⁴ Infrastructure projects typically involve significant financing from the State as well as international development institutions, which often play a central role in their implementation, and therefore have a critical role in the resettlement of affected people.³⁵ Policies and legislation enabling special economic zones usually allow for their development without the formal approval or prior assessment of environmental and social impacts, and have frequently resulted in forced evictions and resettlement that is not human rights-compliant;³⁶

(c) *Urbanization.* Rural to urban migration – often occurring as a consequence of disasters, conflict, development-based displacement or poverty – has resulted in systemic patterns of inequality, social exclusion and a lack of adequate housing in many cities. Urban development or redevelopment projects that respond to pressure for urban growth, commercial interests or beautification of urban areas have resulted in the evictions of millions of people globally, often disrespecting the rights of those living in peri-urban communities or informal settlements.³⁷ Evictions are a common means of clearing land to develop private properties or expressways in urban landscapes. Displacement often occurs in areas with low incomes and poor housing and without security of tenure and targets those without political or social power;³⁸

(d) *Extractive industries.* The extraction of natural resources such as oil, gas, minerals, mining and wood products regularly results in land being acquired by the State or by private actors, leading to displacement and resettlement.³⁹ While natural resource extraction remains vital to the economies of many countries, negative social impacts are particularly pervasive in sectors such as mining.⁴⁰ Extractive industries often require the

³² See the targets set in the Kunming-Montreal Global Biodiversity Framework (see <https://www.cbd.int/gbf/targets/>).

³³ See A/HRC/52/28; Arun Agrawal and Kent Redford, “Conservation and displacement: an overview”, *Conservation & Society*, vol. 7, No. 1 (2009), pp. 1–10; and Joshua Hammond, “Salvaging the United Nations REDD program against the backdrop of international human rights violations”, *Denver Journal of International Law & Policy*, vol. 45, No. 4 (2017).

³⁴ See, for example, the Land Acquisition Act, 2034 (1977), of Nepal, which allows for “allotment of other lands in exchange”.

³⁵ See Office of the United Nations High Commissioner for Human Rights (OHCHR), *Baseline Study on the Human Rights Impacts and Implications of Mega-Infrastructure Investment* (2017).

³⁶ See Land Watch Thai, *Special Economic Zones and Land Dispossession in the Mekong Region* (Land Watch Thai and Heinrich Böll Stiftung Southeast Asia, 2021).

³⁷ See A/70/270.

³⁸ See OHCHR, Cambodia country office, *Eviction and Resettlement in Cambodia: Human Costs, Impacts and Solutions* (2012). See also communication IDN 5/2021. All communications mentioned in the present report are available at <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>.

³⁹ See A/78/155.

⁴⁰ See Prosper Issahaku Korah and others, “Analysis of livelihood issues in resettlement mining communities in Ghana”, *Resources Policy*, vol. 63, issue C (2019).

expropriation of land, leading to the displacement of communities, which are frequently undercompensated.⁴¹ The commercial exploitation of forests is also a major driver of displacement, particularly of Indigenous Peoples. Land for natural resource extraction is typically acquired in areas where it can be obtained at a low cost and where people are already impoverished. Involuntary resettlement driven by the extractive industries in the name of development is often a reflection of unbalanced distribution of development benefits and risks, inequality and marginalization of poor communities;⁴²

(e) *Agribusiness*. The rapid expansion of agribusiness in the form of land concessions and plantations for the production of export crops such as palm oil, sugar cane, cotton, soybeans and fruit, as well as beef cattle ranches, is a common driver of displacement and resettlement and can also remove land and resources for local food supply. Forced evictions and involuntary resettlement facilitated by multinational corporations, foreign investors, local governments and businesses have led to mass displacements of rural populations globally.⁴³ In some instances, enterprises purchase the land directly; however, in most cases, land is expropriated by States exercising eminent domain;⁴⁴

(f) *Violent conflict*. Millions displaced by violent conflict live in temporary or inadequate camps for internally displaced persons or refugees, often for decades. It is not uncommon to see entire generations of families spending their lives in refugee camps. Lebanon hosts an estimated 1.5 million long-term Syrian refugees,⁴⁵ and the Islamic Republic of Iran approximately 750,000 Afghans, many of whom have been there for decades.⁴⁶ Camps for internally displaced persons and refugees are designed as a temporary solution; however, durable solutions are required when it becomes clear that return to the place of origin is unlikely or impossible. Such durable solutions can take the form of in situ integration into host communities or resettlement to another location.⁴⁷ In order to ensure that those who choose to be resettled have their rights protected, more specific human rights guidelines for resettlement are necessary.

42. It is important to situate the drivers of displacement in their historical context. In a number of countries, government approaches to land appropriation, rural and urban development, and national socioeconomic development initiatives have been influenced by the legacy of colonialism or racially discriminatory laws. For example, the destruction of traditional systems of land use to satisfy the demands of the internal and international markets and the reduction in small-holder farming in the countryside are considered legacies of strategic resettlement in late colonial Kenya.⁴⁸

43. Poverty alleviation programmes are also major drivers of resettlement. The poverty alleviation resettlement programme of China serves as an example of a State-sponsored, policy-driven, large-scale resettlement initiative.⁴⁹ The programme provides an example of

⁴¹ See Ghulam Dastgir Khan and others, “Mining-induced displacement and resettlement in Afghanistan’s Aynak mining community: exploring the right to fair compensation”, *Resources Policy*, vol. 74, issue C (2021).

⁴² See Subhabrata Bobby Banerjee, “Markets and violence”, *Journal of Marketing Management*, vol. 34, No. 11-12, pp. 1023–1031; and Theodore E. Downing, “Avoiding new poverty: mining-induced displacement and resettlement” (International Institute for Environment and Development and World Business Council for Sustainable Development, April 2002).

⁴³ See, for example, the data set on land concessions in Cambodia available at https://www.licadho-cambodia.org/land_concessions/.

⁴⁴ See A/HRC/21/63/Add.1/Rev.1.

⁴⁵ See UNHCR, Lebanon factsheet, August 2023.

⁴⁶ See UNHCR, “Protracted refugee situations explained”, 28 January 2020. Available at <https://www.unrefugees.org/news/protracted-refugee-situations-explained>.

⁴⁷ See E/CN.4/Sub.2/2005/17.

⁴⁸ See communication GBR 5/2021. See also Moritz Feichtinger, “A great reformatory: social planning and strategic resettlement in late colonial Kenya and Algeria, 1952–63”, *Journal of Contemporary History*, vol. 52, No. 1 (February 2016).

⁴⁹ See A/HRC/35/26/Add.2 and A/HRC/35/26/Add.2/Corr.1; E/C.12/CHN/CO/2; and Tek Sheng Kevin Lo and Mark Wang, “How voluntary is poverty alleviation resettlement in China?”, *Habitat International*, vol. 73 (March 2018), pp. 34–42.

the complex relationship between institutional innovation and economic development⁵⁰ and the need for cross-government functionality and implementation of rigorous standards at different levels of government.

44. Business operations have contributed significantly to the rise in resettlement that is not compliant with human rights. The recent proliferation of corporate policy commitments on land rights, free, prior and informed consent, and displacement has not been matched by progress in ensuring respect for land and housing rights in corporate practices. Investor human rights commitments exist but remain limited, and, despite recent progress, institutional investors rarely address human rights in a systematic or principled way. The significant growth in monitoring and ratings initiatives designed to evaluate corporate performance and incentivize progress reflect, and are indicative of, the limited progress made on promoting responsible business conduct and rights-compliant resettlement practices.⁵¹

V. Why resettlement often undermines human rights

45. The damaging impacts of resettlement on human rights have long been documented. From observing resettlement processes, a number of design and implementation trends can be identified that demonstrate why particular practices and legal regimes often result in poor outcomes for affected persons. Inadequate stakeholder engagement in project conception, design, implementation and follow-up, project megalomania, funding constraints, resettlement processes undermined by insufficient or contradictory laws and policies, and lack of good faith and poor enforcement of laws and policies have all resulted in negative outcomes for resettled communities.

46. In many large-scale infrastructure and urbanization development projects, investors do not comply with human rights standards. This tends to be true whether the investor is a transnational business enterprise or an international organization. International financial institutions are generally wary of acknowledging the need for enforcing such compliance, despite their own legal obligations and the extraterritorial human rights obligations of Member States. Many States eschew recognition of involuntary displacement as a class of forced eviction. This position, which avoids adherence to human rights obligations, may also extend to development assistance and other forms of extraterritorial investment and development.

47. National laws and regulations are often not enforced or monitored by public authorities, especially in relation to extraterritorial activities of transnational business enterprises. Poor implementation can be attributed to various factors, including poor governance, corruption, lack of funding (including for State monitoring), lack of willingness or capacity of government officials or business actors, competing financial and other interests and lack of judicial independence and access to justice.

48. National laws, regulations and contracts, even where they are enforced, are not always aligned with international human rights law and often reflect power imbalances, historical injustices and discriminatory practices.⁵² For instance, projects that result in involuntary displacement frequently do not comply with international human rights standards. Domestic regulations provide for varying approaches to determining compensation, resulting in

⁵⁰ See Shi Guoqing, Jiang Tianhe and Sun Zhonggen, “Evolution of land administration law and resettlement regulation in China: setting new standards”, in *Resettlement in Asian Countries: Legislation, Administration and Struggles for Rights*, Mohammad Zaman, Reshmy Nair and Shi Guoqing, eds. (Abingdon, Oxon, and New York, Routledge, 2022), pp. 56–70.

⁵¹ See [A/HRC/47/39/Add.2](#); OECD, *Stocktaking Report on the OECD Guidelines for Multinational Enterprises* (2022); the World Benchmarking Alliance corporate human rights benchmark (see <https://www.worldbenchmarkingalliance.org/corporate-human-rights-benchmark/>) and food and agriculture benchmark (see <https://www.worldbenchmarkingalliance.org/food-and-agriculture-benchmark/>); and the Oxford Famine Relief Organization (Oxfam) Behind the Brands campaign (see <https://www.behindthebrands.org>).

⁵² See [A/73/310/Rev.1](#), [A/76/408](#), [A/HRC/31/54](#) and [A/HRC/49/48](#). See also African Commission on Human and Peoples’ Rights, *Centre for Minority Rights Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya*, 276/2003, 4 February 2010.

inconsistent and often negative outcomes.⁵³ Most large-scale evictions of communities, especially of rural and Indigenous communities and persons living in informal settlements, occur as the result of the exercise of eminent domain in one form or another,⁵⁴ and Governments frequently resort to enforcing expropriation processes rather than fostering genuine support for public or private projects through negotiation with the affected people.⁵⁵

49. Those displaced by land acquisition are frequently entitled to “fair market” or “just” compensation. However, the level of compensation provided by Governments and private actors is often insufficient to cover losses borne by the affected persons. Research undertaken to determine whether national compensation procedures complied with international human rights standards found that only 8 of the 50 countries assessed had established alternative approaches to calculating compensation where land markets were weak or non-existent. Compensation that is based on the market value of land at the time of acquisition can seriously disadvantage poor and vulnerable landholders where land markets are weak.⁵⁶

50. The difference in approach is in part a consequence of varying definitions of key terminology such as fair compensation, which in turn reflects a lack of consensus at the international level. The basic principles and guidelines on development-based evictions and displacement and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, for example, stipulate that the State must provide or ensure fair and just compensation when eviction is unavoidable. However, they do not define the term “fair compensation” or include a mechanism or process for its calculation.

51. Contracts drafted and negotiated by public and private actors often do not factor in the agency of affected persons, the degree of consent or power dynamics, and thus frequently neglect alternative propositions. Where such contracts are with foreign corporations from powerful countries, those corporations may enjoy immunity from local courts and access to legal forums such as investor/State dispute arbitration panels or tribunals where their property rights are more highly valued than the human rights of those affected on the ground.

52. Many States lack human rights and environmental due diligence laws. The lack of legally binding and enforceable standards on corporate due diligence, combined with obstacles to accessing justice in the face of corporate abuse, has allowed corporations and investors to disregard human rights abuses and environmental harm and to prioritize profit over and above measures necessary to respect human rights and to deliver positive outcomes for resettled communities. This is particularly problematic where key processes or operations, such as livelihood restoration, are outsourced to private actors who have contrasting commercial incentives.

53. Consultations with affected people are often inadequate, limiting the participation of the people to be resettled in the preparation, planning and implementation of resettlement projects.⁵⁷ Consultations are often subverted by project proponents, with public meetings taking place after projects have already been approved in places to which affected people cannot afford to travel. Resettlement action plans are not made public or not made available in local languages, project proponents set the agenda for consultations, and affected persons are often given insufficient time to comment.

54. The affected persons are too often regarded as lacking expert knowledge or as potentially adverse or problematic stakeholders, instead of as project partners that possess unique local knowledge. States and other stakeholders regard counterproposals as a barrier to progress and project implementation, instead of an opportunity for active collaboration in

⁵³ See Korah and others, “Analysis of livelihood issues”.

⁵⁴ See [A/HRC/47/43](#).

⁵⁵ See 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.

⁵⁶ See Nicholas K. 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).

⁵⁷ See Piggott-McKellar and others, “A livelihood analysis”.

project design and planning. Human rights defenders and others who speak out often face severe restrictions and punishment for their legitimate work. A failure to listen to communities results in misunderstanding or disregard for the priorities of project-affected persons, rather than positioning communities as key actors and focusing on the concept of benefit-sharing as a critical driver for success.⁵⁸

55. Resettlement is too often regarded as a housing project, although many other human rights are affected. Resettlement practices tend to focus on addressing the need for replacement housing and provision of financial compensation, without due attention to the other dimensions of life that are affected by being resettled. The lack of restoration of essential public services and limited livelihood opportunities can lead to dire outcomes, irrespective of whether replacement housing is provided.

56. Limited access to justice, lack of legal oversight and control and lack of judicial independence are common issues. Too often, victims have inadequate access to effective grievance mechanisms, legal aid and remedy. When grievance mechanisms of international financial institutions, such as the World Bank Inspection Panel, are approached, the boards and management of the institutions make the final determination about whether policies or standards were violated, not the national courts. The recommendations of such mechanisms do not always result in action by the international financial institutions, Governments or private companies.⁵⁹ International financial institutions enjoy immunity from national processes in most cases, and thus are secure from legal challenges from human rights victims, despite a recent landmark ruling of the Supreme Court of the United States of America against the International Finance Corporation.⁶⁰

57. Most international financial institution safeguards are not aimed at ensuring rights-based resettlement, and political and financial considerations sometimes dominate decision-making on project approval and implementation, the degree of participatory decision-making and responses to independent investigations. Newly created international financial institutions have not fully set up or utilized their own safeguards and investigation mechanisms.⁶¹ The vast majority of private investors, especially those involved in infrastructure and other large development projects, have yet to meaningfully engage with their human rights responsibilities.

58. The insufficiency of financial resources to ensure rights-based resettlement is a recurring challenge. The traditional method favoured by Governments has been to provide compensation to affected persons, which is rarely sufficient to rebuild livelihoods and to secure an adequate standard of living. Innovative methods of benefit-sharing, where proceeds from the project also assist the displaced in rebuilding their lives, offer a possible solution to the question of satisfactory support for rehabilitation and resettlement.⁶²

59. Insufficient monitoring, evaluation and post-project support hinder accountability. A failure to conduct adequate monitoring and evaluation prevents continuous learning and improvement, limits the ability to adjust programmes and prevents improvement of resettlement programmes through the tracking of progress on objectives agreed with resettlement actors and of resources allocated to each phase of the resettlement process.

60. Recent cases continue to point to adverse impacts connected to resettlement processes. While impacts are varied and stem from the unique circumstances and context of the individual situation, the cases referenced here are illustrative and serve to demonstrate how rights can be affected during different stages of the resettlement process, including during

⁵⁸ See OHCHR, *Study on the Human Rights Situation of Communities Living in Resettlement Sites in Cambodia and Draft Resettlement Guidelines* (2022).

⁵⁹ See [A/HRC/53/24/Add.4](#).

⁶⁰ *Jam et al. v. International Finance Corp.*, docket No. 17-1011, Decision, 27 February 2019.

⁶¹ The Complaints-resolution, Evaluation and Integrity Unit of the Asian Infrastructure Investment Bank has not accepted any complaints relating to Bank-funded projects to date. Two complaints that alleged lack of consultation with affected communities and inadequate compensation for land were deemed ineligible as at 29 October 2023 (see <https://www.aiib.org/en/about-aiib/who-we-are/project-affected-peoples-mechanism/submission/track-all-submission.html>).

⁶² See Michael M. Cernea, "Financing for development: benefit-sharing mechanisms in population resettlement", *Economic and Political Weekly*, vol. 42, No. 12 (2007).

preparation, design, appraisal, planning and implementation, as well as in post-resettlement monitoring and evaluation.

61. The Mandalika project, situated in the West Nusa Tenggara Province of Lombok, includes parks, resorts, hotels and an international racetrack circuit. Well-founded allegations indicate that implementation of the Mandalika project has resulted in serious human rights violations and abuses committed by the Government of Indonesia and the Indonesia Tourism and Development Corporation. These include forced evictions and involuntary resettlement of Indigenous Peoples, intimidation and threats against those opposing land acquisitions, loss of cultural and religious sites, and a lack of access to decent livelihoods and effective remedies.⁶³ This has been attributed to insufficient due process protections, a deeply flawed project resettlement action plan, a lack of informed consent from affected persons and poor implementation and enforcement by the Asian Infrastructure Investment Bank of its own Environmental and Social Framework.⁶⁴

62. In Zimbabwe, the construction of the Tokwe-Mukosi dam in 1998 was designed to boost food production in the drought-affected area of Chivi district. Heavy flooding in 2014 resulted in evacuations and reportedly displaced over 20,000 people. The Government moved people to a resettlement site 150 km from their original homes.⁶⁵ During the floods, the Government determined the resettlement trajectory by selecting people for resettlement at random, breaking connections between communities and controlling access to food, water, sanitation, shelter, health and education. The police and army reportedly conducted violent evictions without compensation.⁶⁶ The Committee on the Rights of the Child highlighted concerns about destitution faced by displaced children and their families as a result of forced resettlement, noting severe malnutrition and disease, incidences of abuse and sexual violence committed against children, and disruption of education.⁶⁷

63. In a study on resettlement in Cambodia, sites were found to lack basic services, in particular potable water, roads, food security, power sources, and sanitation, health and education services.⁶⁸ Numerous Indigenous households felt that the compensation for their cultural sites was insufficient and therefore unjust. Roughly a quarter of households did not have access to sufficient food, and one fifth of households (including almost half of the Indigenous households) had children out of school and working to earn income. Resettlement contributed to debt, as households took on loans to improve their housing and livelihood conditions, and many households have been living on site for over 10 years without land titles.

VI. Towards improved resettlement

64. Resettlement must never be resorted to too easily. It must be treated as a last option to be resorted to when it becomes unavoidable for reasons of safety or for the benefit those affected. Resettlement must be considered a right of displaced persons when return to their previous place of residence is not possible or would put them or their human rights at risk. Resettlement should never unlawfully restrict the freedom of choice of residence. Nobody should be forced to resettle in a particular location or community. Resettlement must comply with human rights standards, be proportionate, avoid recourse to force and ensure benefit-sharing beyond compensation through negotiated agreements with affected persons. Resettlement is a complex, multidimensional, dynamic and long-term process that requires a holistic, comprehensive and human rights-based approach. When affected persons are fully involved in resettlement efforts that focus on rebuilding their livelihoods and improving their

⁶³ See communications OTH 24/2021, OTH 133/2022 and OTH 99/2023.

⁶⁴ See communication OTH 99/2023.

⁶⁵ See Human Rights Watch, *Homeless, Landless, and Destitute: The Plight of Zimbabwe's Tokwe-Mukosi Flood Victims* (2015).

⁶⁶ See Blessing Mucherera and Samuel Spiegel, "Forced displacement: critical lessons in the protracted aftermath of a flood disaster", *GeoJournal*, vol. 87, No. 5 (October 2021).

⁶⁷ See [CRC/C/ZWE/CO/2](#).

⁶⁸ OHCHR, *Study on the Human Rights Situation of Communities Living in Resettlement Sites in Cambodia*.

living standards, positive outcomes can be achieved. Independent research by anthropologists, economists and other experts has documented the positive effects of successful resettlement on livelihoods in areas that are prone to frequent flooding or landslides and in cases of expropriation for large-scale economic development projects.⁶⁹

65. Several countries, including Brazil, Canada, China, Colombia and Japan, have reportedly made significant investments in addition to compensation for post-displacement reconstruction.⁷⁰ Project design and planning processes have helped reduce and minimize displacement. For example, through design-level studies by the Electricity Generating Authority of Thailand, the planned height of the Pak Mun hydroelectric dam crest was lowered by several metres, reducing the number of displaced people from an estimated 40,000 to about 1,000.⁷¹ Similarly, various legal and policy measures in China have expanded the institutional and financial capacity to respond to resettlement, such as the creation of a post-resettlement development fund in which contributions of power companies would be deposited.⁷²

66. Fiji is seen as a leader in managing climate displacement, including by supporting community resettlement. Its new standard operating procedures for the Planned Relocation Guidelines (2023) set out rights and obligations in the context of climate-induced displacement and how these rights should be upheld in practice, including for the relocation of informal settlements.⁷³

67. The achievement of positive outcomes from resettlement processes requires the proactive, collaborative and genuine participation of project-affected people from the outset, beginning with design and planning and extending to the execution and post-execution phases. Resettlement should be conducted as a planned, voluntary process that factors in the power dynamics of stakeholders and the agency of affected peoples. Rather than a group to be consulted periodically, affected persons should be considered as partners, participate in and help shape decisions about planning and implementation, and benefit from the development projects and their proceeds. Transitional support should be provided for resettlement, and minimum income guarantees or livelihood support programmes must be included in planning processes to ensure that people are able to rebuild their lives. Vulnerable communities may need long-term financial support, and non-economic aspects, such as heritage, culture, graves and antiquities, must be included when designing new resettlement sites, compensation and support.

68. Benefit-sharing approaches can have long-term positive impacts on project-affected people, well beyond marginally replacing certain lost assets, and may help avoid many of the negative outcomes commonly associated with resettlement.⁷⁴ Decisions about benefits and the allocation of funds should be taken in a participatory process with project-affected persons. All feasible alternatives to displacement and resettlement must be explored in consultation with affected persons, and States should uphold the right to remain in situ whenever possible and desired by residents.

69. If, after obtaining meaningful consent from affected persons – and in the case of Indigenous Peoples, free, prior and informed consent – relocation is agreed upon, adequate alternative housing and land, as appropriate, of similar or greater size, quality and cost, must be provided. Such housing and land should be as close as possible to the original place of residence and, to the extent possible, the community's sources of livelihood and the

⁶⁹ See Partridge and Halmo, *Resettling Displaced Communities*.

⁷⁰ See Cernea, "Compensation and benefit sharing".

⁷¹ See World Bank, Operations Evaluation Department, "Recent experience with involuntary resettlement: Thailand – Pak Mun", Report No. 17541 (June 1998); and Partridge and Halmo, *Resettling Displaced Communities*.

⁷² Xiaonan Chen, Frank Vanclay and Jin Yu, "Evaluating Chinese policy on post-resettlement support for dam-induced displacement and resettlement", *Impact Assessment and Project Appraisal*, vol. 39, No. 5 (2021), pp. 396–404; and Cernea, "Financing for development".

⁷³ Submission by the Asia-Pacific Academic Network on Disaster Displacement. Available at <https://www.ohchr.org/en/calls-for-input/2024/call-inputs-resettlement-human-rights-issue>.

⁷⁴ Christopher Schulz and Jamie Skinner, "Hydropower benefit-sharing and resettlement: a conceptual review", *Energy Research & Social Science*, vol. 83 (January 2022).

cohesiveness of the community should be retained. While livelihood restoration is often stated as a goal of resettlement, contemporary thinking has become more focused on improving livelihoods and enabling affected people to transition to new and improved circumstances, by enhancing livelihood opportunities and access to basic public services for instance, as well as compensating for the emotional and personal toll that resettlement imposes. The selection of the resettlement site should be made through meaningful consultations with the affected community, and no relocation should take place until conditions are in place for dignified living in accordance with the right to adequate housing and the terms of the resettlement plan have been agreed upon.

70. Access to justice must be ensured throughout the process, not just when an eviction is imminent or after it has taken place. Access to justice should not be confined to judicial remedies, although they are essential. The remedies available to affected persons must be plural when many actors are involved in resettlement, such as an international financial institution, a State agency and a private company, with access to multiple forums. After resettlement has been carried out, it is very important to monitor and evaluate resettlement sites and the conditions of those resettled and their host communities to assess whether all the terms of the resettlement plan that was agreed upon have been carried out and whether all applicable human rights, including the right to adequate housing, have been fully respected or protected. Such monitoring and evaluation efforts must be transparent, and their results and reports must be accessible to the public.

71. In order to achieve human rights-compliant outcomes, a fundamental shift in devising resettlement plans, setting resettlement goals, and deciding whether and how resettlement proceeds is necessary. This will require setting a higher standard for resettlement in general and much closer consideration of how to fully protect the rights of affected people.

VII. Conclusions and recommendations

72. **The present report demonstrates the need for profound reform of how resettlement is planned, implemented and financed. Resettlement presents an array of fairly consistent and predictable problems that emerge from highly complex, often pressurized and uniquely local circumstances. It is therefore essential to use the extensive body of knowledge, empirical evidence, best practice and legal principles available to guide resettlement processes in a way that supports sustainable social, economic and human development, as defined and envisioned by affected communities, and is fully consistent with international human rights law. This will be beneficial not only for practitioners working on resettlement from legal, policy and operational standpoints, but also, most importantly, for the people affected.**

73. **There is a critical need for international guidelines that detail what a human rights-based approach to resettlement should include. Resettlement entails a number of specific duties that must be fulfilled in accordance with international human rights law. Such guidelines should include detailed specifications for planning, implementation and evaluation of resettlement to ensure full compliance with human rights norms in practice. The lack of such guidelines has led to inconsistencies in the interpretation and application of existing guidelines, human rights standards and policies, resulting in adverse human rights outcomes. Global standards for resettlement that comply with human rights and are consistent with the Sustainable Development Goals would contribute to norm- and institution-building and better human rights and project outcomes, and significantly advance the protection of the rights of those displaced owing to climate change, disasters, development or violent conflict.**

74. **The Special Rapporteur recommends that States, regional, local and other public authorities, international organizations, United Nations bodies and agencies, international financial institutions and business enterprises, as appropriate:**

(a) **Recognize in law, policy and practice that all human beings have a right to remain where they live and that, if they are forced to leave, they have a right to return, or, where return is not feasible or desired, a right to resettlement that is fully consistent with international human rights norms and standards;**

- (b) **Reform current laws, practices and institutions that govern land, property and housing, and in particular land acquisition laws, including eminent domain, to avoid or reduce the incidence of displacement and resettlement, and ensure that resettlement is undertaken in compliance with international human rights norms and standards;**
- (c) **Avoid evictions and involuntary resettlement of communities in the context of conservation, ecotourism, eco-city development or other eco-justified projects, including for climate change mitigation, and ensure that strategies incorporating resettlement, whether as part of housing, development or poverty alleviation policies, take climate risks into account and are coordinated with climate policies;**
- (d) **Reform laws on the use of eminent domain and adopt measures to ensure respect for the free, prior and informed consent of Indigenous Peoples before any resettlement is undertaken and that meaningful, realistic and inclusive participatory processes are carried out with all affected persons and communities in all stages of resettlement;**
- (e) **Adopt binding policies, laws and regulations on resettlement based on the recommendations contained in the present report;**
- (f) **Review existing housing and land policies and mechanisms for determining fair compensation to ensure that involuntary evictions and displacement are prevented and that non-monetary, intangible and cultural losses are included in any assessment of compensation or reparation for loss of land and housing;**
- (g) **Proactively engage and seek the partnership of communities that are at risk of resettlement during the entire process of resettlement, from design, needs assessment, implementation and post-project evaluation through necessary changes to laws, policies, staff and organizations;**
- (h) **Implement durable solutions for voluntary return, in situ integration and resettlement of persons displaced within or across international borders, and ensure their full participation in all solutions, with a view to protecting the realization of all their human rights;**
- (i) **Fully engage host communities where resettlement will occur to lessen any negative impacts and respond to any conflicts or tensions with resettled communities and individuals;**
- (j) **Strengthen access to justice, including by easing access to courts, non-judicial bodies and inspection panels, as appropriate, at the local, national or international levels, and provide legal aid and support to those who have grievances concerning their resettlement;**
- (k) **Require the approval of eviction orders that will result in resettlement by a competent and independent judge before such orders can be implemented;**
- (l) **Require that any eviction of a larger number of households can only be approved and implemented after a resettlement action plan has been developed in consultation with the affected persons that sets out all details related to the planned resettlement, including the site, land, housing, public services, compensation and reparation to be provided;**
- (m) **Develop and offer benefit-sharing models that go beyond monetary compensation for resettled people based on negotiated agreements;**
- (n) **Provide transitional and livelihood support programmes to ensure that people are able to rebuild their lives even as they move towards resettlement and that transition arrangements will in no case be unreasonably long;**
- (o) **Ensure that all bilateral investment treaties, investor-State arbitration clauses in agreements or other economic agreements that provide for investment in land and housing incorporate a provision that calls for respect for all relevant human rights, especially the rights to adequate housing and land, and ensure that such treaties or**

agreements provide for full financing for all resettlement that results from such investments;

(p) Ensure that international organizations, including international financial institutions and United Nations agencies, establish or accede to effective complaint mechanisms to provide legal remedies to individuals and communities for adverse outcomes from resettlement that result from their practices and policies;

(q) Ensure that business enterprises respect the right to adequate housing and other rights impacted by resettlement practices within their respective spheres of activity and influence, including by requiring human rights due diligence and ensuring effective operational grievance mechanisms in accordance with the Guiding Principles on Business and Human Rights;

(r) Contribute to and support the development of a set of principles and guidelines on resettlement to be presented to the Human Rights Council for its consideration.
