

# **Practising the “Guiding Principles” for Development’s Displacees : Problems and Prospects**

By

**Sudeep Basu\***

## **Introduction**

In the nearly two decades since the end of the Cold War, internal displacement has been recognized as a problem affecting virtually every region of the world and giving rise to legitimate international concern. The number of Internally Displaced Persons (IDPs) forced to flee their homes due to persecution, conflict, or natural and man-made disasters but not seeking shelter in a country outside their own outstripped the number of refugees worldwide as early as the mid-1990s. The impact of internal displacement is not restricted to the millions of people forced to flee their homes. Internal displacement also takes a political, economic, and social toll on the general population and neighbouring countries. In view of the mounting crisis of internal displacement, the United Nations Human Rights Commission created the mandate of the Representative to the United Nation Secretary General (RSG) on Internal Displacement in 1992. Secretary General Kofi Annan appointed Dr. Francis Deng as the first mandate-holder. During the Cold War, international attention to displacement had primarily focused on the plight of refugees, or persons seeking protection outside of their country of origin or habitual residence. As a result, the legal status of IDPs was poorly understood. One of the most important components of Dr. Deng’s mandate as RSG would turn out to be the development of a normative framework identifying rules of international law that applied to IDPs. The resulting Guiding Principles on Internal Displacement (hereinafter, the Guiding Principles) was submitted to the UN Human Rights Commission in 1998.<sup>1</sup>

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\* Is Assistant Professor at the Gujarat Institute of Development Research, Gota, Ahmedabad  
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## Locating Development-induced Displacement in the Guiding Principles

The Guiding Principles define internally displaced persons as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights, or natural or human-made disasters and who have not crossed an internationally recognized State border”. Based in part on this definition—and with a particular focus on those displaced by armed conflict, generalized violence, and human rights abuse—the US Committee for Refugees (USCR) estimated that there were more than 20 million IDPs worldwide in 2002.<sup>2</sup> These numbers, it might be said, encompass those who, if they were to cross an international border, could be considered refugees. Indeed it is this group—those displaced by conflict and human rights violations—which is generally thought to constitute “the internally displaced.” However, the definition set down in the Guiding Principles goes beyond refugee-like criteria to include those displaced by “natural or human-made disasters.” Principle 6, moreover, states that “Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence;” this prohibition against arbitrary displacement “includes displacement in cases of large-scale development projects which are not justified by compelling and overriding public interests”. The Guiding Principles apply to persons displaced by development projects, but internationally, persons uprooted by development projects often are not considered IDPs. They are not counted as IDPs by those collecting statistics and they are not given assistance by the organizations involved with IDPs (Cohen 2008:93). Although the Guiding Principles were not negotiated by governments, UN resolutions regularly refer to them as an “important tool” and “standard” for internally displaced persons and United Nations secretary-general has called upon governments to promote their adoption through national legislation.<sup>3</sup> In recent times those displaced by development projects “represent the single largest sub-category within the global totality of IDPs with most left impoverished by the experience” (Cernea 2006:26). It becomes necessary therefore, as Cernea states, “to fully mobilise the social science conceptual and operational tools available to address involuntary population displacement and resettlement” (Cernea 1996: 1515).

The Guiding Principles were the first guidelines developed within the context of human rights and humanitarian law to address internal displacement. It may be useful to imagine the three main types of displacement defined in the Guiding Principles—disaster-induced displacement, development-induced displacement, and conflict-induced displacement—as situated at three points along a continuum. At one end, in the context of disaster-induced displacement, states generally are not only

willing but interested in seeking outside aid and attention for victims of floods, famines, earthquakes and the like. At the opposite end of the spectrum, when conflict-induced displacement takes place, states tend to be quite restrictive or at least highly selective about who is to gain access to which displaced populations and for what purpose. Development-induced displacement occupies a middle ground. On the one hand, states may welcome outside funding and technical assistance to launch development projects. At the outset, as development projects are being planned, the international community may have the opportunity to promote “best practice” models including, first and foremost, the promotion of development models that avoid displacement altogether and to play active roles as donors, partners, and monitors. On the other hand, once development projects are in operation and displacement has occurred and especially if evidence exists of arbitrary treatment, impoverishment, or denial of rights states may grow less open to outside advice or remedies. The challenge for the international community, therefore, is to find the mechanisms for effective international response when national action proves ineffective and considerable suffering results to the persons concerned (Robinson 2003: 27).

In their study, *Masses in Flight*, Francis Deng and Roberta Cohen recommend “recasting sovereignty as a concept of responsibility, that is, as an instrument for ensuring the protection and welfare of those under a state’s jurisdiction” (Cohen & Deng 1998: 275). They suggest, furthermore, that a balance must be struck “between the principle of nonintervention in internal affairs and the equally compelling obligation to provide humanitarian assistance and promote observance of human rights.” Put in terms more directly relevant to development-induced displacement, for example, the state’s right of “eminent domain”— the power of a state to take private property for public use needs to be balanced against a human being’s right to home and property. In this light, development can be the proper expression of a state’s responsibility to ensure the protection and welfare of its citizens. Where development leads to arbitrary displacement, injustice and impoverishment, the responsibility still falls primarily upon the state to take corrective action.

The inclusion of development-induced displacement within the Guiding Principles definition poses several clear challenges, both to the representative of the secretary general and to the many United Nations and international agencies, governments, and nongovernmental organizations concerned with the IDP problem. First, the number of people worldwide that should be counted as IDPs under the Guiding Principles framework will add at least 10 million or more people per year to the existing estimates of conflict-induced displaced persons. Some would say that this only adds more people to a system responding inadequately at best to the current number of 20 to 25 million victims of conflict-induced displacement. Second, in addition to diluting the limited aid and attention available, one observer has suggested that the inclusion of development-induced

displacement in the Guiding Principles will lead to a loss of coherence in the protection regime. Development projects can be so varied in terms of causes and number of people affected that it would be difficult to apply these Principles in every situation. Third, there would be resistance from governments if “development-induced displacement” was included in the definition of IDPs. “States may consider that their inclusion would give considerable scope to the international community to find pretexts to interfere in their domestic affairs” (Saha 2000: 26). States generally are quite willing to grant access to assist victims of natural disaster and, at least when it serves their purpose, may permit aid to victims of conflict-induced displacement. But, “governments naturally fight harder to maintain the concept of national sovereignty when the perpetrator of displacement is the state itself” (Pettersson 2002: 17). As a cause of displacement, it must be said that development is different. Some disasters may be inevitable just as some conflicts may be necessary but no one would view them as a good in and of themselves. Development, on the other hand, is seen as a right to which all people should have access. But just as people have a right to development, they have a right to be protected from development’s negative effects, including arbitrary eviction and the loss of economic, social, civil and political rights. When displacement does occur as a result of development—and especially before it occurs; international guidelines and evolving international norms affirm that its goal is to improve lives and livelihoods and require that it should be a transparent and participatory process.

### **Multilateral Agency’s Resettlement and Rehabilitation Policy (R&R policy)**

As of 2000, about 300 development projects supported by the World Bank involved involuntary resettlement.<sup>4</sup> World Bank’s detractors generally credit the Bank as being the first major development agency to formulate a comprehensive policy on involuntary resettlement, at least for those projects with which it is involved. Responding to criticism of what one report called “the devastating social impact of poorly planned population relocation,” the World Bank first took steps more than 20 years ago to make resettlement of relocated populations an integral rather than peripheral part of project planning and implementation.<sup>5</sup> In December 2001, following a lengthy process of review and internal consultation (as well as external consultations with selected borrower countries and NGOs), the World Bank published a revised Operational Policy on Involuntary Resettlement, OP 4.12. The focus of the revision was on “removing ambiguities and taking lessons of implementation into account, without changing the key objectives and principles of the policy.”<sup>6</sup> The operational policy covers “direct economic and social impacts that both result from Bank-assisted investment projects, and are caused by a) the involuntary taking of land resulting in relocation or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood, whether or not the affected persons

must move to another location; or b) the involuntary restriction of access to legally designated parks and protected areas resulting in adverse impacts on the livelihoods of the displaced persons” (World Bank’s Operational Policy on Involuntary Resettlement 4.12).

The Asian Development Bank (ADB) formally adopted an involuntary resettlement policy in 1994. Like the World Bank policy on which it was modeled, it seeks to avoid involuntary resettlement, if possible, minimize displacement where it is unavoidable, and ensure that the displaced people receive adequate assistance to restore their living conditions to at least the pre-project levels.<sup>7</sup> ADB implementation procedures require that an Initial Social Assessment (ISA) be conducted for every development project in order to identify the people who may be beneficially and adversely affected by the project. It should assess the stage of development of various sub-groups and their needs, demands, and absorptive capacity. It should also identify the institutions to be involved in the project and assess their capacities.<sup>8</sup> Where population displacement is unavoidable, a detailed resettlement plan with time-bound actions and a budget is deemed to be required. Resettlement plans are to be built around a development strategy and compensation, resettlement and rehabilitation packages to be design to generally improve or at least restore the social and economic base of those to be relocated.

### **Guiding Principles and National Frameworks**

One of the most encouraging signs of international acceptance of the Guiding Principles on Internal Displacement has been the proposal, adoption, and implementation of numerous laws, policies, and decrees addressing internal displacement in all regions of the world. Almost twenty countries have enacted laws and policies explicitly based on the Guiding Principles to date, while other countries have acted to regulate specific problems related to displacement in a manner consistent with their international obligations without necessarily referencing the Guiding Principles.<sup>9</sup> These developments reflect a growing realization that internal displacement must be addressed at the national level, both as a matter of legal obligation and national interest. However, both the complexity of the international legal standards reflected in the principles and the range of domestic legislative and policy issues they must be applied to present significant obstacles to exercising national responsibility.

As set out in Guiding Principle 3, national authorities have the primary duty and responsibility to provide protection and assistance to IDPs. What are governments expected to do in order to fully comply with that obligation? While international and regional supervisory bodies can and should be encouraged to play an important role in response to situations of internal displacement and in promoting and implementing the Guiding Principles, such efforts should fundamentally be subsidiary and supplementary to efforts at the national level. This is in line with the general

approach of the Guiding Principles, which seeks to reinforce state responsibility in situations of internal displacement. First, national governments, in fundamental ways, are key to any efforts that might reduce overall development-induced displacement and mitigate its risks. Therefore, firstly, governments should become familiar with the Guiding Principles and the provisions that are applicable to development projects. Secondly, governments should examine and incorporate these Principles as well as World Bank guidelines into their own policies and laws. Thirdly, governments should be encouraged to adopt their own National Action Plans on Human Rights that include provisions for prevention and protection against arbitrary displacement due to development.

One fundamental step that states can take to exercise their responsibility with regard to internal displacement is to take steps to prevent it. Such measures should focus on both preventing unnecessary displacement and, when displacement is unavoidable, taking steps to mitigate its harmful effects. As set out in Guiding Principle 5, the most important factor in preventing displacement is to accord full respect to international law, in particular human rights and humanitarian law—an undertaking that goes beyond the drafting of laws and policies and has implications for all branches of government. Raising awareness of the existence and nature of internal displacement among all relevant stakeholders and of the steps necessary to address it is an important precondition for the implementation of laws and policies on internal displacement. National awareness is especially important in the context of IDP laws and policies, which often may be required to respond to the particular vulnerabilities of IDPs through special measures, such as targeted humanitarian aid or facilitated document replacement, that are not available to others. It is therefore crucial for members of the general public and especially those living in communities hosting large numbers of IDPs to understand that such measures are neither politicized nor arbitrary, but rather necessary to place fellow citizens disadvantaged by displacement in a position of legal and material equality. It requires mention that the same principles of non-discrimination that govern states’ treatment of IDPs vis-à-vis the non-displaced population also hold within IDP populations. Internally displaced populations are typically diverse, and it is important to ensure that some segments do not arbitrarily receive worse treatment than others.

An important starting point in addressing displacement in laws and policies could be the question of whether the current legislative framework needs to be changed.<sup>10</sup> Most countries have a hierarchy of legal norms that must be respected in the process of responding to displacement. Generally speaking, the strongest rules, such as laws of a constitutional character, also are the hardest to make or change, while less binding forms of regulation can be passed more quickly and with less deliberation and consensus. The most binding norms in most systems are laws with constitutional status, which typically require passage by a qualified majority of the legislature.

However, constitutional frameworks are generally very broadly framed and tend to include bills of rights that reinforce international human rights obligations at the domestic level, protecting the whole population, including IDPs. As a result, only in rare instances should constitutional change be necessary to respond to internal displacement. Problems are more likely to arise at the level of ordinary laws, which may often be passed by national or regional legislatures by a simple majority. Ordinary laws rarely explicitly mention human rights; they tend to set out the concrete procedures and modalities through which individuals are able to realize internationally guaranteed rights in their daily lives. In playing this important role, laws often are supplemented by other types of regulation, such as executive orders or decrees (which may, under certain circumstances, have the force of law) and administrative regulations. While policies and plans may be drafted and adopted with fewer formalities than laws, the process should nevertheless be transparent and inclusive. The drafting of policies provides an unparalleled opportunity to consult with IDPs to ensure that their capacities, as well as those of relevant civil society actors, are harnessed in formulating a response to the problem of displacement. National policies should be broadly framed in order to allow for quick and coordinated action in response to future waves of displacement as well as existing situations. To that end, they should include provisions regarding all causes of displacement and all aspects of displacement (prevention, protection and assistance during displacement, and durable solutions), as well as specific measures to be taken to identify and protect especially vulnerable IDPs.

### **Comparisons and Obstacles: Institutional Arrangements and National R&R Policy of India**

The purpose of Section II of the Guiding Principles, comprising Principles 5 through 9, is to ensure that individuals and groups are not subjected to involuntary displacement except when absolutely necessary and that in such cases; displacement is not carried out in an arbitrary manner, in violation of international law. When large-scale development projects involve planned and permanent relocation of affected populations, those projects must comport with existing international standards in order to avoid human rights violations.<sup>11</sup> Domestic legal frameworks rarely set out an explicit guarantee of freedom from arbitrary displacement as such. However, many national constitutions affirm relevant rights, such as the right to freedom of movement and choice of residence. Development projects, especially large-scale projects, often require relocation of affected populations. Some relocation may not be fully justified—for example, because the project, with some modifications, could have been implemented with less severe consequences for affected people. In other cases, relocation is carried out in a manner that violates the right to life and security or property, because no compensation is paid or offered sites are not suitable for relocation.

Laws and policies governing planned permanent resettlement of development-affected populations ought to be in accordance with well-established international guidelines, including, in particular, the World Bank’s Operational Policy on Involuntary Resettlement 4.12 as well as the Guiding Principles.<sup>12</sup> In particular, resettlement must be justified by “compelling and overriding public interests” (Principle 6 (1) (c)), and it must take place in a manner that does not give rise to human rights violations (Principles 7–9). In order to ensure human rights compatibility, resettlement laws and policies should also reflect the 2006 Basic Principles and Guidelines on Development-Based Evictions and Displacement. Those principles further clarify the steps state authorities should take in order to avoid arbitrary displacement in the course of development projects, identifying criteria for ensuring the adequacy of resettlement sites and noting that voluntary return to development sites must be facilitated in exceptional instances in which conditions allow for it. Implementation of Guiding Principles is faced with numerous obstacles. The primary one being that the principles are not a legally binding instrument. Therefore, numerous states have not incorporated the provisions guaranteeing the human rights of the internally displaced persons, like right to freedom of movement etc, into their regulatory framework. At the same time, there is movement at the regional level to develop a legally binding instrument. In Africa, the member states of the International Conference of Great Lakes Region (ICGLR) having ratified the Protocol on the Protection and Assistance to Internally Displaced Persons, which entered into force in June 2008, are obliged to incorporate the Guiding Principles into their domestic legal systems. Erin Mooney points out the ideal State responses to internal displacement within the Framework of National Responsibility. Mooney writes, “It must embrace people uprooted by all possible causes – conflict, disasters and development projects; ensure that the special protection and assistance concerns of the special groups within IDP populations are addressed; national responsibility must extend across all phases of displacement, collective contributions from all relevant branches of government” (Mooney 2005: 11-14). Comparing Multilateral Agency’s standards on R&R with India’s National R&R Policy (NRRP) – 2007 would facilitate assessment of NRRP policy in terms of the benchmarks set by the Guiding Principles.

### **(a) Application**

The NRRP-2007 is applicable to involuntary displacement resulting not only from project-related land acquisition but also due to any other reason. The Multilateral agencies policies attribute no less importance to economic displacement than they do to physical displacement, as the former may result in long-term hardship and impoverishment of the affected persons and communities. There is no minimum threshold prescribed by MLAs to trigger applicability of their involuntary resettlement policies.

However, prior to the NRRP-2007 certain state legislations like the Maharashtra R&R policy did impose a minimum number of displaced persons that were required for the policy’s application. The NRRP furthered this qualification by fixing a different number. It states that the policy only applies where the appropriate government is of the opinion that there is likely to be involuntary displacement of four hundred or more families en masse in plain areas, or two hundred or more families en masse in tribal or hilly areas, or in the areas mentioned in the schedule V or VI of the constitution<sup>13</sup>.

### **(b) Consultation**

The importance of including consultation and participation mechanisms for IDPs in any law or policy affecting their interests is derived from the Guiding Principles. The principles emphasize the importance of IDP participation in programmes and decision-making processes that involve their interests. Principle 29(2) stipulates that “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 consultation and opinion of the displaced persons is crucial to the formulation of the R&R policy. The international, national and state level policies witness a gradual deterioration in the provisions that empower the displacees to have a say in the displacement process. While the World Bank and Asian Development Bank use terms like “meaningful consultation” and “fully informed”, some of the state legislations narrow the consultation to only resettlement site etc. The NRRP on the other hand, provides a detailed framework to the kind of issues on which the opinion or consultation is necessary. It caters to specific needs by referring and consulting the Tribal Advisory Councils where tribal communities are displaced.<sup>14</sup> It makes declaration of affected areas and resettlement areas to be made public.<sup>15</sup> It allows the administrator to make a survey and census of the affected persons known to public and submit the recommendations to the appropriate government based on the survey and corresponding objections and suggestions.

### **(c) Social Impact Assessment**

The initial socio-economic study is crucial from the point of view of assessing the impact and repercussions of the displacement. The World Bank standard reiterates its significance by stating that the needs assessment be done at the early stages of the project. The ADB standard recommends that through such report the identification of those can be made who are adversely or beneficially affected. The NRRP assesses the impact in terms of community properties and infrastructure. A crucial criticism to this is the absence of a provision that assesses the impact on “communities”.<sup>16</sup>

**(d) Community Facilities and Amenities must be Provided**

The international standards emphasize upon the importance of infrastructural and public services. In new resettlement sites or communities, infrastructure and public services are deemed as necessary to improve, restore or maintain accessibility and levels of service for the displaced persons and host communities. The NRRP on the contrary can be seen as a positive measure that goes into minute details like water, schools and health care and contribute to socio-economic development of the periphery of a project site. All infrastructural facilities must be made mandatory where a large number of families are affected.

**(e) Scheduled Castes /Scheduled Tribes and Others**

The World Bank policy states that the resettlement plan requires “particular attention paid to the needs of vulnerable groups among those displaced, especially those below the poverty line, the landless, the elderly. Women and children, indigenous peoples, ethnic minorities or other displaced persons who may not be protected through national land compensation legislation”.<sup>17</sup> Though the NRRP and some of the state legislations like Orissa can be viewed as a step towards providing the marginalized sections with a substantive relief, the issue lies in the fact that entitlement for the tribal people, dalits and religious minorities is brought within the same provision. The need of each of these communities needs to be looked at differently. The NRRP also has separate provision for the poor/untitled/otherwise vulnerable, but this has created considerable problems. It encourages the preparation of a tribal development plan with detailed procedure for settling land rights that are due but not restoring titles of tribals on alienated land.<sup>18</sup> The NRRP also provides for free of cost land for community and religious gathering, to the extent decided by the appropriate government.<sup>19</sup> While the Orissa policy defines them as vulnerable sections, the NRRP refers to them as those below poverty line. What is crucial here, is that many communities that belong to the scheduled caste or tribe could also be vulnerable and below poverty line communities. NRRP has special provisions for Project Affected Families (PAFs) of Scheduled Tribes, but treats scheduled castes families with general PAFs. The policy merely reiterates the fact that the PAFs of scheduled caste category enjoying reservation benefits in the affected zone shall be entitled to get the reservation benefits at the resettlement zone. For scheduled tribes the policy says each (PAFs) of scheduled tribes category shall be given preference in allotment of land and will be re-settled close to their natural habitat in a compact block so that they can retain their ethnic, linguistic and cultural identity and very generously mentions free of cost land for community and religious gathering.

### **(f) Oversight should be Established**

The World Bank standards also suggest for loan agreements that provide for borrower’s obligation to carry out resettlement. The NRRP in its attempt to provide for a more comprehensive structure provides for an internal as well as an external mechanism. A Committee to be appointed to monitor and review the implementation of R&R, and carry out post-implementation social audits Internal oversight: Oversight Committee for R&R in the concerned ministry/department of the appropriate government. The external mechanism sets up a national rehabilitation commission that is set up by the central rather than the state government.<sup>20</sup> The state legislations like Maharashtra policy establishes an oversight by allocating specific duties to the project authority that would allow supervision and guidance. The policy allows the state government to appoint a committee to advise the state or the officer connected with the scheme of rehabilitation.

### **(g) Grievance Redressal Mechanism**

Though the international standards fail to provide for such a mechanism, the national and state level policies provide few standards. The national policy mandatorily appoints an ombudsman who is responsible for the time-bound disposal of grievances.<sup>21</sup> Although NRRP provides a robust redressal mechanism, there is no way of addressing the grievances of persons who may actually get affected but have not get an opportunity to represent themselves in the plan/scheme that is drawn.

## **Conclusions**

Guiding Principles on Internal Displacement set forth the rights of IDPs and the obligations of national authorities towards them. Less clear, however, has been what governments concretely can do to ensure that these rights are respected and responsibilities fulfilled. The legal and policy frameworks that currently exist reflect a diversity of approaches, ranging from a wholesale adoption of the Guiding Principles without details about implementation to a detailed adaptation of the Guiding Principles to address specific national circumstances. The case for arguing that development-induced displacement is explicitly covered by the Principles is bolstered by Principle 6.2 but it raises some pertinent questions - What is meant by the ambiguous concept of “compelling and overriding public interests”? Who has authority to adjudicate that “compelling and overriding public interest” can justify forcing people off their lands?

If we accept that international human rights are universal in scope it follows that the “public” is the whole population in a given area and not only the economic and political elite. Walter Kalin, one of the drafters of the Guiding Principles, has suggested that “development-related displacement is permissible only when compelling and overriding public interests justify this

measure, that is, when the requirements of necessity and proportionality are met”.<sup>22</sup> Though these guidelines provide guidance to governments, aid agencies and lenders on involuntary resettlement and rehabilitation of populations displaced by development projects, they do not shed further light on the issue of “necessity and proportionality”. These concepts are therefore left to be worked out by those who should apply the Guiding Principles: governments and non-state actors.

Although the Guiding Principles were not written to address all specific issues of development-induced displacement, they are relevant and applicable to situations of displacement caused by development projects. In this regard, the Guiding Principles 7, 9, 18, 28 and 29 are in line with the World Bank guidelines relating to involuntary resettlement. Although the NRRP 2007 is a far superior policy as compared to the earlier R&R policies of the government, the Policy falls short of the policies and practices advocated by the Multilateral Agencies, with respect to the threshold level for applicability of R&R benefits and emphasis on time line for implementation of R&R. It is generally observed that IDPs cannot regain their property because they lack documents proving their ownership. Sometimes, people displaced for long periods cannot recover their property even if return becomes possible because of statutes to the effect that those who have abandoned property for a stipulated period have lost their rights. This can allow those who arbitrarily displaced people by force to become rightful owners. It is obvious that in such situations the headmaster of a local school, the national election commission or other authorities will stick to the laws immediately regulating their work and not apply the Principles of which they are unaware. This shows how existing domestic laws on internal displacement have not always succeeded in clarifying how the rather abstract Guiding Principles should be translated into concrete actions.

## References

- Cernea, Michael. (1996). “Public Policy Responses to Development-Induced Population Displacements.” *Economic and Political Weekly*. Vol. 31, No. 24, pp. 1513-1523.
- Cernea, Michael. (December 2006). “Development-induced and conflict-induced IDPs: bridging the research divide.” *Forced Migration Review*, Special Issue, pp. 26-27.
- Cohen, Roberta and Deng, Francis M. (1998). *Masses in Flight: Global Crisis of Internal Displacement*, Washington: Brookings Institution Press.
- Cohen, Roberta. (2008). “Key Policy Debates in the Internal Displacement Field.” *Refugee Watch* 32, pp. 89-105.
- Kalin, Walter. (2000). “Guiding Principles on Internal Displacement – Annotations”, Washington D.C. American Society of International Law and the Brookings Institution Project on Internal Displacement.
- Mooney, Erin. (2005). “The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern.” *Refugee Survey Quarterly* 24(3), pp. 9-26.
- Mooney, Erin. (October 2005). “National Responsibility and internal displacement: a framework for action.” *Forced Migration Review*, pp. 11-14.

- Pettersson, Bjorn. (2002). “Development-induced displacement: Internal Affair or International Human Rights Issue.” *Forced Migration Review* 12, pp. 16-19.
- Robinson, Courtland W. (2003). “Risks and Rights: The causes, consequences and challenges of development-induced displacement”, <http://www.brookings.edu/fp/projects/idp/articles/didreport.pdf>.
- Saha, K.C. (2000). Rethinking the Guiding Principles: the Case of the Kashmiri Pandits. *Forced Migration Review* 8, pp. 26-28.
- World Bank, (2001) *Operational Policies on Involuntary Resettlement 4.12*, New York: World Bank Operational Manual.

## Notes

<sup>1</sup> U.N. Econ. & Soc. Council [ECOSOC], *Guiding Principles on Internal Displacement*, U.N. Doc. E/CN.4 /1998/53/Add.2 (Feb. 11, 1998) (prepared by Francis M. Deng). For the purposes of the Guiding Principles, the term “internal displacement” describes situations in which individuals and groups are (1) forced or obliged to leave and remain away from their homes, but (2) remain within the borders of their own countries.

<sup>2</sup> Another non-governmental organization, the Global IDP Project, estimated that at least 25 million people were internally displaced in 47 countries in 2002. See generally Global IDP Project, *Global Overview* ([www.idpproject.org](http://www.idpproject.org)).

<sup>3</sup> However, no institutional arrangement exist for those uprooted by development projects although the World Bank and regional development banks like the Asian Development Bank have been encouraging governments to adopt national laws and policies to assist these people in compliance with international standards.

<sup>4</sup> These projects represented 20 percent of the World Bank’s portfolio and had “adversely affected” 2.6 million people (548,000 households) through physical or economic displacement as a result of land acquisition. For more on this see World Bank, March 2001, *Involuntary Resettlement: The World Bank’s Environmental and Social Safeguard Policies* ([www.worldbank.org](http://www.worldbank.org)).

<sup>5</sup> In operational objectives first drafted in 1980 and updated periodically since then, the World Bank has emphasized that “involuntary resettlement may cause severe long-term hardship, impoverishment and environmental damage unless appropriate measures are carefully planned and carried out” (World Bank, December 2001, *Operational Policies OP4.12, Involuntary Resettlement* (New York: World Bank Operational Manual).

<sup>6</sup> Wolfensohn, James. Memorandum to the Executive Directors, *Operational Policy on Involuntary Resettlement. Draft OP/BP 4.12*, (September 2001). The overall objectives of the Bank’s policy on involuntary resettlement are as follows: Firstly, involuntary resettlement should be avoided where feasible, or minimized, exploring all viable alternative designs. Secondly, where it is not feasible to avoid resettlement, resettlement activities should be conceived and executed as sustainable development programs, providing sufficient investment resources to enable the persons displaced by the project to share in project benefits. Displaced persons should be meaningfully consulted and should have opportunities to participate in planning and implementing resettlement programs. Thirdly, displaced persons should be assisted in their efforts to improve the livelihoods and standards of living or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher (World Bank’s Operational Policy on Involuntary Resettlement 4.12).

<sup>7</sup> Since 1994, the ADB has financed 80 projects involving resettlement in 12 countries. Between 1994 and 1999, an average of about 120,000 people each year are affected by ADB-funded resettlement projects, 60 percent of whom are in China, followed by 17 percent in Vietnam, 12 percent in Bangladesh, 7 percent in Indonesia, and 2 percent in Cambodia. Transport projects accounted for 78 percent of all displacement with energy and water supply/irrigation projects each recording 9 percent of people relocated. For details see Asian Development Bank, September 2000. *Special Evaluation Study on the Policy Impact of Involuntary Resettlement* (Manila: ADB), pp.1-2.

<sup>8</sup> The ISA should identify “the key social dimension aspects (such as involuntary resettlement, indigenous peoples, poverty reduction and women in development) that need to be addressed under the project” see Asian Development Bank, August 1995, *Involuntary Resettlement* (Manila: ADB), p.11.

<sup>9</sup>For a compilation of national laws and policies on internal displacement, see [http://www.brookings.edu/projects/idp/Laws-and-Policies/idp\\_policies\\_index.aspx](http://www.brookings.edu/projects/idp/Laws-and-Policies/idp_policies_index.aspx). For a searchable database, see generally ([www.idpguidingprinciples.org](http://www.idpguidingprinciples.org)).

<sup>10</sup> Experience shows that an effective response to displacement almost always requires legislative action because (1) current laws pose unintended obstacles to the ability of IDPs to realize their rights or (2) they do not, on their own, provide a sufficient basis for addressing the needs of IDPs. For an elaboration on this viewpoint see The Brookings Institution–University of Bern Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policy Makers*, (October 2008), p.27.

<sup>11</sup> See The Brookings Institution–University of Bern Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policy Makers*, (October 2008) p. 43.

<sup>12</sup> The World Bank, the Organization for Economic Co-operation and Development, and the Asian Development Bank have developed policies for the resettlement of development-affected populations meant to ensure that their livelihoods and standard of living are restored to at least their pre-displacement levels.

<sup>13</sup> See National Resettlement and Rehabilitation Policy 6.1 and 7.1. Retrieved from <http://www.dolr.nic.in/NRRP2007.pdf> on 06/08/2010.

<sup>14</sup> *Supra* note 13 at 6.15.3.

<sup>15</sup> *Supra* note 13 at 6.2.

<sup>16</sup> *Supra* note 13 at 4.2.2.

<sup>17</sup> *Supra* note 13 at 8.

<sup>18</sup> *Supra* note 13 at 6.1.

<sup>19</sup> *Supra* note 13 at 7.21.7.

<sup>20</sup> *Supra* note 13 at 4 and 9.5.

<sup>21</sup> *Supra* note 13 at 8.3.

<sup>22</sup> Walter Kalin, *Guiding Principles on Internal Displacement – Annotations*, p. 17. For an interpretation of the concepts, the “requirements of necessity and proportionality”, Kalin refers to the World Bank’s Operational Directive 4.30 on Involuntary Resettlement and the OECD’s Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects.