

Mapping Report and Background Document

*A Human Rights Assessment of Development-Induced Displacement
and Options for Collaborative Responses*

April-August, 2011



Table of Contents

I) INTRODUCTION	4
A) Background	4
B) Rationale	4
C) Objectives	5
D) Methodology	5
II) SUMMARY OF FINDINGS	5
A) Relevant norms and standards	5
1. International legal standards	5
2. Diversity of national legal frameworks	8
3. Framing the human rights issues at stake	10
B) The scope and nature of the problem	11
1. Types of projects causing displacement	11
2. Political, economic and environmental drivers	13
3. Rationale behind a displacement-inducing development model	15
C) Actors, their approaches and the roles they play	16
1. Affected communities	16
2. Social Movements	17
3. Non-Governmental Organizations	18
4. The State	19
5. Private sector: companies and project financiers	20
6. Strategies for addressing development-induced displacement	22
D) Challenges	23
1. Poor governance and increased pressure on land	24
• Governance Deficit	24
• Heightened pressure on land	24
• Persecution of human rights defenders and the criminalization of resistance	25
2. Normative and implementation gaps and downward pressure on existing standards	25
• Gaps in legal standards	25
• Poor implementation	25
• Efforts to weaken existing standards	26
3. Prejudices and power imbalances	27
• Power asymmetries	27
• Presumptions about development and its	27

beneficiaries	
• Attitudes and policies toward affected populations	27
4. Challenges within the human rights community	28
• Limitations of conventional advocacy approaches	28
• Complex partnerships amongst civil society groups	29
5. Emerging Opportunities	29
A) What needs to change and what does success look like?	29
B) Entry points for advocacy	31
III) IDENTIFICATION OF NEEDS AND RECOMMENDATIONS	34
A) Needs Identified	34
1. Capacity-building and mutual learning	34
2. Expert support	35
3. Research	35
4. Financial assistance	36
B) Recommendations for ESCR-Net's role and the future direction of the project	36
IV) CONCLUSION	37
<u>ANNEXES</u>	
Annex 1: Mapping Participants	39
Annex 2: Case Study Summaries	40
Annex 3: Bibliography	

I) INTRODUCTION

A) Background

At the time this report was released, the International Network for Economic, Social and Cultural Rights (ESCR-Net) is comprised of 243 organizational and individual members, in 67 countries, who are working in pursuit of a range of social justice issues, using a human rights framework. ESCR-Net is composed of social movements and grassroots groups, international and national-level NGOs, think-tanks, legal organizations, independent experts, women's rights advocates and environmental justice organizations, among others.

The forcible displacement of communities caused by development projects has been identified by a number of members of ESCR-Net – foremost from the Social Movement Working Group - as a critical human rights challenge. In response to this defined priority, ESCR-Net has undertaken a project that aims to provide strategic support to communities facing development-induced displacement, by forging ongoing relationships of support and assistance as well as by advancing critical advocacy agendas to promote the human rights of affected communities. Overall, the project aims to:

- (1) map the field of forced displacement, particularly development-induced displacement (“DID”), and human rights;
- (2) carry out a knowledge-sharing and capacity-building workshop informed by the findings from a mapping exercise;
- (3) forge and develop strategic partnerships and ongoing relationships of support for communities facing forced displacement using innovative, cross-disciplinary tools to expand and deepen advocacy efforts in particular locations;
- (4) organize an international advocacy and solidarity mission to highlight a specific situation of forced displacement, lend support to affected communities and develop a platform for further advocacy efforts, and;
- (5) create an information and strategy exchange portal on development-induced displacement to help direct, real-time and effective communication and collaboration among advocates.

B) Rationale

Across the world, communities and social movements are mobilizing to claim their rights in the context of development projects. The range of actors involved in this field is both broad and diffuse, and extensive collaboration is necessary in order to effectively promote and protect the human rights of affected communities. The grassroots groups, social movements, NGOs and independent experts involved in this issue often belong to different communities of practice. Collectively they possess substantial capacity in terms of expertise, access, influence and other resources that affected communities require to challenge DID, and they have a real potential to advance human rights through carefully coordinated, collaborative action. A strategic response to the challenges posed by DID also requires a deep understanding of international human rights jurisprudence, as well as critical voluntary standards, and should be informed by cutting edge research and analysis.

Accordingly, ESCR-Net has carried out a mapping exercise in order to inform the direction of this project. The mapping attempts to identify the main issues and actors relevant to situations of development-induced displacement and discuss some of the various advocacy approaches employed. Focus has been placed on the ways in which social movements and grassroots groups are responding to these challenges, and the needs that they have identified - in terms of access to,

and collaboration with, individual and organizational resources - that ESCR-Net may be able to address.

The following discussion represents a modest overview reflecting some key perspectives. It is by no means exhaustive; and many complex topics have received just a cursory mention. In addition, minimal attention has been dedicated issues of resettlement and compensation, because the focus of most of the social movements informing this project has been on opportunities to avoid forced displacement rather than remedies after the fact. Finally, throughout the paper, some specific actors (countries, companies, project financiers and civil society organizations) are mentioned with the purpose of illustrating a particular point, but these references do not purport to fully characterize the situation in question.

The mapping report employs a human rights approach, in several ways. First, it begins with a brief discussion of international human rights laws and standards. Since its primary audience is social movements and NGOs working with a human rights perspective, and presumably already familiar with the human rights framework, it provides only a brief overview of international jurisprudence, as relevant to the topic of land and forced displacement. Second, this report assumes that the people affected by DID are central actors in the strategies that are being developed to challenge forcible displacement in the name of “development,” and attention is placed on recognizing and supporting these strategies.

It is impossible to recognize by name the countless people who have contributed to this mapping exercise. The ESCR-Net Secretariat wishes to express its deep gratitude to participants in the mapping interviews¹, many advisors to this project and several skilled interns.

C) Objectives:

With this mapping exercise, ESCR-Net has undertaken to explore the nature and scope of the human rights issues related to DID and resources available for strategic collaboration. The objectives are:

1. identify and describe the range of civil society actors working on issues related to the human rights impacts of development-induced displacement and the way they are framing and approaching this work;
2. take stock of the central challenges and opportunities for advocacy, including the key information and knowledge gaps and needs faced by social movements and human rights advocates;
3. explore emerging opportunities for advancing a human rights agenda in response to development-induced displacement and related situations;
4. highlight the central needs identified by affected communities, namely, related to knowledge-sharing, capacity-building and opportunities for new partnerships and collaboration; and

¹ See Annex 1 for complete list of mapping participants and collaborators

5. identify potential ways for ESCR-Net to contribute to efforts to advance a human rights response to the challenge of development-induced displacement, and recommendations for the course of the project.

D) Methodology

The mapping exercise was conducted mainly through forty four in-depth interviews and desk research conducted between April and August 2011. The interviews were carried out by staff in the ESCR-Net Secretariat, who also developed a bibliography for research, after which several qualified interns provided support to a broad literature review of academic writing, NGO reports and materials disseminated by grassroots groups and social movements.² Key findings and inputs from these readings are reflected in the present report, which has undergone multiple rounds of review. This report served as a central input to a workshop coordinated by ESCR-Net on DID (in South Africa, April 30 – May 4, 2012) and will guide future project activities. It is also intended to serve as a resource for ESCR-Net members, partners and supporters in their work to confront forced displacement.

II) SUMMARY OF FINDINGS

A) Relevant norms and standards

1. **International legal standards**

There exist a number of broadly accepted international norms as well as emerging regional and national-level jurisprudence establishing protections against forced evictions and displacement. They are discussed briefly in the section that follows.

Human rights has established that “[n]o one shall be arbitrarily deprived of his property,”³ and that “all peoples may, for their own ends, freely dispose of their natural wealth and resources.. In no case may a people be deprived of its own means of subsistence.”⁴ It recognizes the right to be free from “arbitrary or unlawful interference with his privacy, family, home or correspondence”⁵ and the right to adequate housing,⁶ as well as the recognition that “forced evictions are a gross violation of human rights.”⁷

The interpretive works of UN Committees overseeing compliance with international human rights treaties have further clarified the obligations of states in relation to these rights.⁸ The mandate-

² See Annex 3 for complete bibliography

³ Article 17, UDHR

⁴ Article 1, ICESCR; Article 1, ICCPR

⁵ Article 17, ICCPR; Article 12, UDHR

⁶ Article 11.1, ICESCR, Article 25, UDHR;

⁷ Commission on Human Rights (Res. 1993/77, para. 1)

⁸ Key among these contributions is General Comment #7: “The right to adequate housing (art. 11.1 of the Covenant): forced evictions,” as well as CESCR General Comment No. 4, paragraph 8, which states that “all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction...” The CESCR has also clarified that the right to food implies that food must be available, including “the possibilities either for feeding oneself directly from productive land or other natural resources” (CESCR General Comment No. 12, para. 12). The Committee has also addressed situations affecting the right to health for indigenous peoples who are removed from their lands, stating that “development-related activities that lead to the displacement of indigenous peoples against their will from their

holders of the UN Human Rights Council, have also contributed to emerging jurisprudence regarding human rights related to lands and displacement. These include the Guiding Principles on Internal Displacement developed by the former Special Representative to the Secretary General on Internally Displaced Persons⁹ and the Basic Principles and Guidelines on Development-Based Evictions and Displacement, developed by the former UN Special Rapporteur on Adequate Housing, among others.¹⁰

Recent developments in international law have sought to strengthen the protections for specific groups who are marginalized and vulnerable to discrimination. The Declaration of the Rights of Indigenous Peoples (DRIP), for example, recognizes that “[i]ndigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.¹¹

Since the adoption of the DRIP, several new instruments have emerged in recent years. The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention) addresses the obligations of States in the context of access to information and participation in decision-making about environmental issues.¹² Another source of law relevant in some cases is the African Union Convention for the

traditional territories and environment, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, has a deleterious effect on their health.” (CESCR General Comment No. 14, para. 27) It has also issued a number of Concluding Observations following the review of States which express concern regarding the exploitation of natural resources affecting the standard of living of particular ethnic groups and their link with their lands (see, for example, CESCR Review of Madagascar, para. 33, 2009). Several rulings and findings from the regional human rights systems (European, Inter-American and African) have also contributed to the developing jurisprudence on the issue, including: Centre for Minority Rights in Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya, Communication No. 276/2003 (4 February 2010); Centre on Housing Rights and Evictions (COHRE) v. Sudan, Communication No. 296/2005 (29 July 2010), and the Case of the Saramaka People v. Suriname, (Judgment of 28 November 2007)

⁹ Walter Kälin. “Guiding Principles on Internal Displacement: Annotations” *Studies in Transnational Legal Policy*, No. 32 (Washington, DC: The American Society of International Law and the Brookings Project on Internal Displacement, 2000). These Principles underscore the obligations of governments and international actors “to prevent and avoid conditions that might lead to displacement of persons,” and that the “prohibition of arbitrary displacement includes displacement... in cases of large scale development projects, which are not justified by compelling and overriding public interests.” The Guiding Principles also clarify that governments have the obligation to ensure that viable alternatives to displacement are explored. If displacement is indeed inevitable, the Guiding Principles emphasize that measures shall be undertaken to minimize population removal and its negative impacts, ensure that information is provided to affected people and guarantee that their free and informed consent is sought before displacement occurs.

¹⁰ E/C/N.4/Sub.2/1997/7, annex) and A/HRC/4/18. These guidelines address “evictions often planned or conducted under the pretext of serving the ‘public good,’ such as those linked to development and infrastructure projects (including large dams, large-scale industrial or energy projects, or mining and other extractive industries); land-acquisition measures associated with urban renewal, slum upgrades, housing renovation, city beautification, or other land-use programmes (including for agricultural purposes); property, real estate and land disputes; unbridled land speculation; major international business or sporting events; and, ostensibly, environmental purposes. Such activities also include those supported by international development assistance.” (para. 8). They also set forth a number of procedural rights, based on existing standards such as the right to information, the right of people to participate in development plans affecting them, the right to recourse and prohibitions against arbitrary eviction proceedings.

¹¹ Article 10, Declaration on the Rights of Indigenous Peoples

¹² The types of projects covered under the Convention include mineral, oil and gas refineries and the production and processing of metals, industrial plants that process timber products, the construction of large roads and ports, dams and pipelines, among others. It stresses that the concerned public shall be informed early in an environmental decision-making process regarding the proposed project activity, the nature of possible decisions, the responsible public authority

Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention) which calls on States parties to, whenever possible, prevent “displacement caused by projects carried out by public or private actors [and] ensure that the stakeholders concerned will explore feasible alternatives.”¹³ Other regional instruments, such as the African Commission (with the recent Enderois decision and others) and the ECOWAS mining code (currently under development) are two additional examples of the development of new standards related to development projects and displacement in the African region, while the Inter-American Commission for Human Rights has continued to hear cases related to the human rights impacts of megaprojects in Latin America.

2. Diversity of national legal frameworks

A comprehensive discussion of the norms established within domestic legal systems falls well beyond the purview of the present report. However, the topic merits a brief mention, as it relates to the way that states have interpreted their powers to expropriate lands and the manner in which land-use changes are regulated in different domestic legal systems.

In most countries around the world, laws related to land tenure and property revolve around the doctrine of *eminent domain*,¹⁴ which attributes to States an overriding prerogative to use –and seize – lands in order to promote activities deemed necessary for the national interest, even if they are already claimed, used or legally owned by people. While the principle of eminent domain is upheld by national constitutions across the world, there are notable differences in the way it is interpreted the extent to which the rationale for seizing land, and whether claims of *national interest* or *public purpose* are subject to public review or legal recourse. For example, the Indian Supreme Court has held that eminent domain is an attribute of sovereign power of the State and that “so long as the public purpose subsists, the exercise of power by the State to acquire the land of its subjects without regard to the wishes of the owner or the person interested in the land cannot be questioned.”¹⁵ In other countries, such as the U.S., the State’s decision on similar grounds is subject to judicial review and, usually, broad public debate.¹⁶

National-level laws and policies established to protect communities threatened with displacement also vary in both substantive and procedural ways, within different legal systems. In Bolivia, the State’s powers to expropriate lands, and the procedural protections afforded to affected people, are determined according to the specific industry that would utilize the lands in question. One law regulates the hydrocarbon sector, while a different law governs these same issues as they relate to

and procedures related to the project,” and that “the public should be given the opportunity to comment, directly or through consultative bodies [and] the result of the public participation shall be taken into account as far as possible.” (Article 8, c)

¹³ Article 10, African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)

¹⁴ Daniel P. Dalton. “A history of Eminent Domain” in *Public Corporation Law Quarterly*, Fall, 2006 No. 3 found at: <http://www.michbar.org/publiccorp/pdfs/fall06.pdf pp. 1-5> (last accessed 10/11/2011)

¹⁵ Ramanathan, Usha. “A Word on Eminent Domain,” in Lyla Mehta ed. *Displaced by Development — Confronting Marginalisation and Gender Injustice*, (New Delhi, India: Sage Publications, 2009)

¹⁶ See, for example, US Constitution, 5th Amendment, *Kelo vs. City of New London* (2005) and brief description at http://www.ij.org/index.php?option=com_content&task=view&id=920&Itemid=165 (last accessed 10/11/2011)

mining operations.¹⁷ In other countries, such as South Africa, a decision implying a change in the distribution or use of land (for any reason) obliges the State to obtain a majority decision by the community, which is tantamount to a requirement of consent by the affected population.¹⁸

There are also differences between the relative powers of national and local governments in decisions related to lands and natural resources. In Peru (and many other countries), the central government retains rights over subsoil resources and the authority to issue mining, oil and natural gas concessions.¹⁹ In the Philippines, on the other hand, local governments are more empowered to, for example, reject national development plans that would affect their lands, and administrative mechanisms enable communities to claim lands in ways that are not available to communities in other countries.²⁰

The extent of legal pluralism and existence of overlapping jurisdictions (between international, statutory and customary sources of law and between international public and international private law) also varies greatly across countries and regions. In Ghana, for example, the state retains the right to grant mining concessions, however, customary law in tribal areas establishes that lands can only be sold or transferred if the villagers residing in the area also agree. While statutory law might require only that the president of the community agree in writing to the transfer, local customs prohibit village chiefs from making unilateral decisions concerning these lands.²¹

3. Framing the human rights issues at stake

Social movements that have organized to respond to the threat of forcible displacement by development projects – by and large – identify the loss of rights to natural resources and livelihoods as a serious threat to the rights of their members.²² Many of these movements have described DID as a conflict between the right of the State to promote development versus those of peoples targeted to be moved,²³ and affect a range of human rights as they relate to lands, livelihoods, housing, food, health, water, culture, self determination and an adequate standard of living.

¹⁷ Interview with Jorge Cortes, Centro de Estudios Aplicados sobre los Derechos Económicos, Sociales y Culturales (CEADESC), June 7, 2011 and “Proyecto del Código Minero Boliviano se entregará al Ministerio de Minería” 15 October, 2010 available at: <http://lapatriaenlinea.com/?nota=44732> (last accessed 12/6/2011)

¹⁸Section 211(3) of the South African Constitution states that the courts are obliged to apply customary law when it is applicable, subject to the Constitution and any legislation that deals with customary law. See also Section 39(3) as well as *S v Makwanyane and Another* 1995 (3) SA 391 (CC) at paras 307-8; *Bhe and Others v Magistrate, Khayelitsha and Others; Shibi v Sithole and Others* 2005 (1) SA 580 (CC) at para 45; *Gumede v President of the Republic of South Africa and Others* 2009 (3) SA 152 (CC), at para 20; *Alexkor Ltd v The Richtersveld Community* 2004 (5) SA 460 (CC) in para 52; *Shilubana and Others v Nwamitwa* 2009 (2) SA 66 (CC) at para 45; *Tongoane and Others v Minister for Agriculture and Land Affairs and Others* [2010] ZACC 10; 2010 (6) SA 214; 2010 (8) BCLR 741 (CC). This point was gleaned from an interview with Janet Love, Wilmiem Wicomb, Henk Smith and Sarah Sephton, Legal Resource Centre, July 22, 2011

¹⁹ Ley Orgánica para el aprovechamiento sostenible de los recursos naturales. (Ley 26.821), available at:

http://faolex.fao.org/cgi-bin/faolex.exe?rec_id=006026&database=faolex&search_type=link&table=result&lang=eng&format_name=@ERALL

²⁰ Interview with Joji Carino, Tebtebba, May 24, 2011

²¹ Interviews with Keith Slack, Oxfam America, April 27, 2011 and Daniel Owusu-Koranteng, Wassa Communities Affected by Mining, May 24, 2011

²² Interviews with Renji George, Association for the Holistic Sustainable Development of Communities (AHSDC), May 10, 2011 and a human rights advocate from Sri Lanka who wishes to remain anonymous, July 27, 2011

²³ See, for example, the analysis of the Movement for the Survival of the Ogoni People (MOSOP) in Nigeria, Take Back the Land, USA, the Movimento dos Antigos por Barragens (MAB) in Brazil, the Nairobi Peoples Settlement Network in Kenya and the Coordinadora Andina de Organizaciones Indígenas, among others. See also Oliver-Smith, Anthony.

A human rights approach to DID is not monolithic, however, and the emphasis on specific rights varies, depending on the situation and the interests of whoever is framing the issue.²⁴ Many advocates, for example, approach the issue of DID primarily through a lens of the right to adequate housing in the context of forced evictions. Others frame the issue in the slightly more broad context of land grabbing where the main human rights issue is a violation of the right to food.²⁵ Some view development-induced displacement primarily as a result of discrimination and the unequal treatment for different groups, since it is often groups that are marginalized and subject to discrimination that bear the brunt of the impacts of large development initiatives.²⁶ Some have gone further, suggesting that displacement-causing projects could be understood as “ethnically targeted development,” or even “development cleansing.”²⁷ Several social movements representing affected communities – particularly indigenous peoples’ movements - have framed DID as an issue of self-determination and emphasized the right to participate in development decisions and the right to free, prior and informed consent.²⁸ At times the issue is framed as an issue of the right to development, and attention is paid to the potential of projects to contribute either to the development or impoverishment of those affected.²⁹

Some experts have described DID as the conceptual and legal nexus between human rights law and environmental law.³⁰ Others approach DID from a humanitarian perspective, which understands conflict to be both a cause and a result of forced displacement, requiring specific and complex humanitarian interventions.³¹ When DID involves “direct or indirect violence, the loss of homes, lands and property due to circumstances beyond the owner’s control, severe decline in their living standards and appalling housing and living conditions during their displacement,”³² some have argued that the human rights issues should be addressed according to international criminal law. According to this view, DID is understood as “a soft form of genocide or Crimes Against Humanity involving systematic and deliberate destruction of ethnic, racial and religious minorities and indigenous peoples.”³³ Many advocates also often focus on the civil and political rights issues at play when human rights defenders confronting DID are persecuted, criminalized or face threats to their lives and livelihoods.

“Displacement, resistance and the critique of development: from the grassroots to the global,” discussed by de Wet, C. (Ed.). *Improving outcomes in development-inducing displacement and resettlement projects*. *Forced Migration Review*, 12 (January, 2002).

²⁴ Interview with Sawsan Zaher, ADALAH: The Legal Center for Arab Minority Rights, June 20, 2011

²⁵ See, for example, the varying approaches employed by the Housing International Coalition/Housing Land Rights Network, on the one hand and FIAN International, for an illustration of a ‘right to housing’ and ‘right to food’ perspective, respectively.

²⁶ Interview with Sawsan Zaher, ADALAH: The Legal Center for Arab Minority Rights, June 20, 2011

²⁷ Balakrishnan Rajagopal. “The Violence of Development” *The Washington Post*, August 9, 2001 found at: http://web.mit.edu/phrj/publications_faculty/oped_braj_violence_of_development.pdf

²⁸ Penz, P. (2002, January). Development induced displacement. *Forced Migration Review*, 12

²⁹ Interview with Thayer Scudder, International Network on Displacement and Resettlement, June 2, 2011

³⁰ Interview with Marcos Orellana, Center for International Environmental Law, USA, April 20, 2011

³¹ Interview with Abu Brima, Network Movement for Justice and Development, July 11, 2011. Thanks also to Emily Mattheisen for her contributions to this section.

³² Scott Leckie. “Toward a Right of Security of Place.” *Forced Migration Review*, 12. See, also, *Doe v. Unocal* at <http://www.earthrights.org/legal/doe-v-unocal> (last accessed 5/20/12) - pp. 20-21

³³: Roos, Stefanie Ricarda. “Development Genocide and Ethnocide: Does Int’l Law Curtail Development-Induced Displacement through the Prohibition of Genocide and Ethnocide?” *Human Rights Brief* Vol. 9, Issue 3, Brief 14 (2002)

Several mapping participants have also underscored the fact that population displacement is not always a one-stop incident, like an eviction that occurs within a given period of hours or days. Sometimes displacement happens gradually, via the progressive erosion of living conditions which assumes multiple forms, including progressive land grabs, degradation of the local environment from pollution and related environmental impacts, the destruction of crops and/or situations of ongoing harassment or attacks against people residing in project areas. This scenario seems to occur less in the context of specific development projects and more in times whereby the government has longer-term plans for the development of a given area, and therefore enables (either proactively or passively) people to be gradually pushed from the land to make room for resource extraction concessions or other initiatives.

In the end, regardless of the precise lens employed, most social movement leaders and advocates agree that forced displacement and evictions represent a practice that does grave and disastrous harm to civil, political, economic, social and cultural rights of countless individuals and groups.

B) The scope and nature of the problem

1. Types of projects causing displacement

Across the world, in both rural and urban areas, communities face real (and often imminent) threats of being forcibly removed from their lands and homes by development projects. In the past twenty years, over 250 million people have been displaced in the name of development,³⁴ and more are being displaced now than in decades past. The World Bank Environment Department estimates that roughly 10 million people are displaced each year due to dam construction, urban development, and transportation and infrastructure programs, although some experts have argued that the real number is closer to 15 million,³⁵ far more than those who flee armed conflicts and war. Development projects in India have displaced more than 60 million people over the past 60 years³⁶ and over 40 million persons in China were displaced the past half-century.³⁷ The FAO estimates that in the last three years, twenty million hectares traditionally used by small farmers or pastoralists have been acquired by foreign interests in Africa, leading to massive displacement, largely to

³⁴ Kate Hoshour and Jennifer Kalafut, "Development-Induced Displacement & Resettlement" *Issue Paper*, (San Francisco, CA: International Accountability Project, February 2007).

³⁵ Jason Stanley. "Development-induced Displacement and Resettlement" (January 2004) available at: <http://www.forcedmigration.org/research-resources/expert-guides/development-induced-displacement-and-resettlement/types-of-development-projects-causing-displacement>. (last accessed 9/17/11) See also Michael Cernea. "Development-induced and conflict-induced IDPs: bridging the research divide" found at: <http://www.fmreview.org/FMRpdfs/BrookingsSpecial/15.pdf> pp. 25-27

³⁶ Walter Fernandes, "Sixty Years of Development-induced Displacement in India," in Hari Mohan Mathur, ed. *India Social Development Report 2008: Development and Displacement*, (New Delhi: Oxford University Press 2008), pp 90-91.

³⁷ Kate Hoshour and Jennifer Kalafut, "Development-Induced Displacement & Resettlement" *Issue Paper*, (San Francisco, CA: International Accountability Project, February 2007).

facilitate the expansion of massive monocrop plantations to feed the growing consumer demand in higher-income or emerging markets.³⁸

In the past 30 years, economic development trends in many parts of the world have favored large-scale capital-intensive projects that require large amounts of lands (as well as water and other natural resources). These projects respond to distinct development priorities - consumer demand in some cases, the attraction of foreign investment in others. Sometimes a given project is particularly strongly promoted because of issues of national pride or identity.³⁹ However, projects such as hydroelectric dams, subsoil resource extraction, industrial agriculture and energy projects have drastic impacts on fragile, diverse ecosystems and the livelihoods of many people. Population displacement often results in particular and disproportional impacts on women, racial and ethnic minorities and other groups or types of people who are subject to discrimination. It also uniquely targets people living in poverty or extreme poverty and those who live at the margins of their respective countries' political and economic systems.

Large mono-crop plantations for the cultivation of foods or biofuels is a favored use of rural lands in much of the world south of the Equator, particularly in sub-Saharan Africa.⁴⁰ Tourism development (and the establishment of conservation areas or game parks related to that sector) has also prompted the removal of ethnic minorities and rural communities from their traditional lands.⁴¹ Forced displacement under the guise of environmental conservation and "sustainable" development is also a serious concern, particularly with the dramatic increase in projects devised as responses to climate change. Development projects linked to carbon offset schemes and forestry conservation initiatives promoted under REDD (Reduced Emissions from Deforestation and Degradation) and the Clean Development Mechanism have presented new incentives for moving people off of lands and taking over their management for profit.⁴² Large-scale infrastructure projects such as transportation systems and regional integration initiatives (such as the Regional Integration Initiative of South America, or IIRSA⁴³) also displace communities under the guise of development.

³⁸ Food and Agriculture Organization (FAO) "Land Grab or Development Opportunity? Agricultural Investment and International Land Deals in Africa," 2009, available at: <http://www.fao.org/docrep/011/ak241e/ak241e00.htm>, pp. 34-40. See also several reports issued by FIAN, such as: <http://www.fian.org/programs-and-campaigns/projects/land-grabbing>

³⁹ Interview with Sawsan Zaher, ADALAH: The Legal Center for Arab Minority Rights, June 20, 2011

⁴⁰ The *Tirana Declaration* describes land grabbing as large-scale land acquisition that results in human rights violations, particularly of women; flout the principle of free, prior, and informed consent of those affected; ignore the impacts on social, economic, and gender relations and the environment; and Eschew democratic planning, independent oversight, transparency and binding commitments on employment, benefit sharing meaningful participation. ILC (2011) "Tirana Declaration: Securing land access for the poor in times of intensified natural resources competition," International Land Coalition, available at: <http://www.landcoalition.org/about-us/aom2011/tirana-declaration>, (last accessed July 2011).

⁴¹ See, the case summary of forced displacement caused by tourism development in Sri Lanka at the end of this report. See also *Centre for Minority Rights in Development (Kenya) and Minority Rights Group International on behalf of Endorois Welfare Council v. Kenya* for one illustration of this link.

⁴² For more information see CDM-Watch at <http://www.cdm-watch.org/>

⁴³ Interview with Chad Dobson, Bank Information Center, April 25, 2011

Forced displacement also occurs regularly in major cities,⁴⁴ where poor residents are forced from their homes in the name of urban renewal or private development.⁴⁵ The Cairo 2050 plan offers an example of the scale of this phenomenon. There, the urban development plan aims to "redistribute" millions of poor residents and develop an internationally competitive city.⁴⁶ Informal urban settlements are also cleared and low-income residents are regularly evicted to make way for highways, sports stadiums and other infrastructure related to mega-events such, as the Olympic Games in Brazil, in 2014.⁴⁷ Marginalized urban residents also face threats of displacement and the demolition of their neighborhoods to make way for Special Economic Zones and other areas designated for industry and commerce.⁴⁸

Displacement-causing projects are often located in remote areas where there is little or no regular presence of the state and where the residents are often indigenous peoples, ethnic or racial minorities, small-scale fisher folk or peasants.⁴⁹ Sometimes these projects take place in contested areas, or areas where jurisdictions are unclear or disputed, in the case of border zones.⁵⁰ In both rural areas and cities, DID is often carried out in marginal areas like slums and informal settlements, where residents lack political and economic power, meaning that the impacts of projects are largely invisible to the general public and therefore rarely present significant political problems for implementing authorities.

2. Political, economic and environmental drivers

The neoliberal, market-based model of development is often implicated in forced displacement and other serious human rights abuses. This model tends to prioritize profit for private interests and powerful transnational capital while minimizing government intervention and regulation, problematically assuming or suggesting that the public or common good will automatically be served by any type of economic development. This paradigm further conceives of natural resources as means of production or source of energy for growing industrialization and urbanization, with priority often given to large, capital-intensive development projects. Food, water, and other necessities are treated foremost as commodities instead of human rights. This model is also consistent with the logic of a "green economy," in which land and natural resources remain means of production and commodities to be bought and sold.⁵¹ According to this model, the ability of people to access food, water, health and housing is subject to the whims of an unpredictable market. In 2007-2008, for example, world prices for food and fuels spiked sharply, caused in part by speculation in commodities markets and an increased profit margin for goods that could be produced or extracted from the land. These dramatic increases in the prices of commodities has

⁴⁴ Interview with Thayer Scudder, International Network on Displacement and Resettlement, June 2, 2011

⁴⁵ Interviews with Ryan Schlieff, WITNESS, May 24, 2011, Thayer Scudder, International Network on Displacement and Resettlement, June 2, 2011 and Humphrey Otieno, Nairobi Peoples Settlement Network, July 26, 2011

⁴⁶ Interview with Manal Tibe, Egyptian Center for Housing Rights, August 4, 2011., See also Jack Shenker. "For Cairo's slum dwellers, rockfall fears prompt hopes of a broader revolution: Struggle waged by poorest communities lays bare challenges facing post-Hosni Mubarak Egypt" *The Guardian*, 24 June, 2011

⁴⁷ See the case on forced evictions caused by megaevents in Brazil at the end of this report

⁴⁸ Interviews with Vijay Nagaraj, International Council on Human Rights Policy, May 11, 2011 and Thayer Scudder, International Network on Displacement and Resettlement, June 2, 2011

⁴⁹ Interview with Keith Slack, Oxfam America, April 27, 2011

⁵⁰ Interview with Renji George, Association of Holistic and Sustainable Development of Communities, May 10, 2011

⁵¹ Interview with Fernando Prioste Gallardo Vieira, Terra de Direitos, July 1, 2011

greatly intensified pressure on lands and natural resources and shifted the “cost-benefit” equation considered by governments in weighing the benefits of megaprojects in terms of profits and revenues versus their potential social or environmental costs.⁵²

The lack of protections against these shocks is, in great part, a consequence of the free-market economic policies that have prevailed in many parts of the world since the 1980’s, through which the capacity of states to protect their populations from market excesses has been progressively dismantled. The current trade and investment regime -- governed by the WTO, IMF, World Bank, and a number of regional and bilateral trade and investment agreements -- has significantly eroded the ability of states to establish clear environmental regulations and safeguards necessary to guarantee respect for the human rights of affected people.⁵³ Following several decades of aggressive neoliberal economic policies, including structural adjustment programs, free trade and investment policies, and austerity and privatization programs, the capacity of governments to ensure that projects do not impoverish people or result in the violation of human rights is highly constrained.

The financial sector has been recognized as another major driver of development megaprojects. The search for profitable investment is now motivating capital intensive projects, such as the extensive system of roads, ports, and railways, mono-crop plantations and mineral extraction projects that comprise the South American Regional Integration Initiative (IIRSA), or the port, oil pipeline, railway and motorway known as the Lamu Port South Sudan Ethiopia Transport Corridor (Lapsset).⁵⁴ Surplus capital in many emerging economies and a new push to invest it in projects overseas is further compounding this trend, particularly as they strive to meet increased internal demand for commodities, food and energy and expand their international influence.⁵⁵

The onset of climate change is another driver behind population displacement. As increasingly more populated areas of the world become uninhabitable due to rising sea levels, more frequent and intense extreme weather events, protracted droughts and desertification, it has been widely estimated that some 200 million people will be displaced by the year 2050.⁵⁶ While climate change is not a development project *per se*, it arguably falls within the scope of the present mapping since it

⁵²See International Food Policy Research Institute “2009 Global Hunger Index: The Challenge of Hunger: Focus on Financial Crisis and Gender Inequality” found at: <http://www.ifpri.org/publication/2009-global-hunger-index-and-Amazon-Basin-IIRSA-opens-the-way-for-rainforest-invasion> from “IIRSA y los pueblos indígenas aislados y vulnerables. El Puente Billingham y la Interoceánica: punto de no retorno para el genocidio y la devastación de la Amazonía”, by Pablo Cingolani, 21/11/10 available at: <http://www.creadess.org/indigenismo/iirsa-y-los-pueblos-indigenas-aislados-y-vulnerables-el-puente-billinghurst-y-la-interoceanica-punto-de-no-retorno-para-el-genocidio-y-la-devastacion-de-la-amazonia>, (last accessed 6/24/11)

⁵³ Interview with Keith Slack, Oxfam America, April 27, 2011

⁵⁴“Lamu port project launched for South Sudan and Ethiopia,” March 2, 2012, found at: <http://www.bbc.co.uk/news/world-africa-17231889> (accessed 4/6/2012)

⁵⁵Nuñez, Tristan, Denise Humphreys Bebbington and Andrés Mego. “IIRSA : another lost opportunity?” available at: <http://www.esrc.ac.uk/my-esrc/grants/RES-051-27-0191/outputs/read/c40486a6-58a6-403b-9824-0f747222fb1f> (last accessed 6/24/11)

⁵⁶ Brown, Oil. “Climate Change and Forced Migration: Observations, Projects and Implications.” A background paper for the 2007 Human Development Report, 2007-2008. (New York: United Nations Development Program, 2007)

is mainly caused by the predominantly fossil-fuel based development model to which most of the world's economies subscribe.⁵⁷ In recent years, countless projects have been devised that aim to respond to the challenges posed by climate change while promoting sustainable development. Promoted and incentivized by the Clean Development Mechanism, REDD and carbon offset schemes, hydroelectric dams, conservation areas and agro-forestry projects have all resulted in population displacement, leading many of those affected to question whether these projects can fairly be termed "clean," at all.⁵⁸

3. Rationale behind a displacement-inducing development model

Mining operations, oil drilling, infrastructure development, the hosting of mega-events and the establishment of parks and hotel complexes for tourism are commonly justified as contributing to the "national purpose," or "common good," even if they result in the displacement of communities and serious human rights violations. The "public interest perspective"⁵⁹ belies a series of assumptions about what constitutes development and whose interests take precedence over the interests of others. The model conventionally employed by decision-makers to calculate the social and environmental costs and benefits of policy decisions (cost-benefit assessments), is fundamentally problematic from a human rights perspective. One of the underlying premises of this model suggests that gains for the greater good (for example, raising a nation's GDP or energy supply) may justify the potentially negative impacts imposed on a small minority, and that projects that benefit the majority while harming a minority constitute legitimate development initiatives. This belief often goes unquestioned among policy circles, particularly when affected people do not represent a major political constituency and the government does not feel compelled to explore a least-displacing alternative.⁶⁰

A human rights perspective would reject the notion that people who are already marginalized should be expected to bear the brunt of development decisions that satisfy business or consumer demand and other aspirations of the broader (middle-class) society. It would argue that it is unacceptable to deprive people of a means of subsistence or regress in the fulfillment of their right to adequate housing (or a range of other rights) for the sake of some vague notion of "greater good." To do so would be fairly characterized as retrogressive and inconsistent with the obligation of states under international human rights law. In response, some advocates have focused on the development of alternative frameworks for quantifying all of the real costs of evicting people from their homes, in order to assume that the calculation of associated costs is conducted in a way that is

⁵⁷ For more information see the Center for International Environmental Law (<http://www.ciel.org/>), the Stockholm Environment Institute (<http://www.sei-international.org/>) and World Resources Institute (<http://www.wri.org/>), among other sources

⁵⁸ Interviews with Joanna Levitt, International Accountability Project, May 20, 2011 and Anja Kollmuss. See also Kate Hoshour. "Multiplying Displacement Impacts: Development as Usual in a Changing Global Climate" found at: <http://www.accountabilityproject.org/downloads/KateHoshourPaper.pdf>

⁵⁹ Penz, P. (2002, January). Development induced displacement. *Forced Migration Review*, 12

⁶⁰ Interviews with Vijay Nagaraj, International Council on Human Rights Policy, May 11, 2011 and Thayer Scudder, International Network on Displacement and Resettlement, June 2, 2011

inclusive of the real implications of forced displacement, particularly on people who are poor or live in situations of social marginalization.⁶¹

C) Actors, their approaches and the roles they play

1. Affected communities

The communities directly affected by development projects and the social movements that represent them are the central “rights-bearers,” and often best situated to analyze the particular nature of displacement threats and identify the future impacts of projects. These are the groups that must be empowered and supported to define the advocacy agenda in order to defend their lands and livelihoods and claim their human rights.⁶² Communities are often confronted with the difficult decision about whether they will consent to a project that often promises some local benefits while requiring people to move. They are also obliged to consider related questions such as what an acceptable level of compensation would entail. However, their right to meaningfully participate—and explicitly to free, prior and informed consent in the case of indigenous peoples—is regularly denied. Often, communities affected by mega-projects are poor and lack political power, which impedes their ability to be heard and meaningfully participate in the decisions that affect them. They regularly face various types of discrimination and seldom do they benefit fully from the fruits of market-based development initiatives. Generally excluded from the benefits of economic growth, communities most likely to be displaced in the name of development include slum dwellers, indigenous peoples, workers in the informal economy, fisher folk, small farmers and nomadic pastoralists. Women constitute the majority of people who depend on the land for their livelihoods. They are rendered particularly vulnerable to forced displacement given that, in many countries, their rights to land and property are not fully recognized, and they will often be excluded from formal negotiations that do take place with affected communities regarding resettlement and compensation.

Many grassroots groups have utilized a broad range of strategies to unite and mobilize affected communities around projects that threaten to displace them from their lands. In some cases, their collective action is oriented to stopping projects from taking place, while in other cases their efforts have been directed toward negotiating an acceptable outcome within the framework of existing projects. Communities are not monolithic, however, and differences of opinion, identity and power exist, including at the most local, grassroots level. Often, for example, the opinions and proposals of female community members are taken less seriously than their male counterparts, or excluded completely. Whether the stratification is based on gender, ethnicity, clan or other variables, some community members enjoy greater degrees of social power than others. In addition, community members often differ in their views about the value of remaining on their lands versus the potential benefit that could be gained from, for example, cash compensation.⁶³ Sometimes, these differences of opinion are also manipulated by proponents of development projects, which often feeds conflict

⁶¹ See, for example, the Evictions Impact Assessment Tool developed by the Housing and Land Rights Network: <http://www.hlrn.org/spage.php?id=p2s=>

⁶² Interview with Humphrey Otieno, Nairobi Peoples Settlement Network, July 26, 2011

⁶³ Interview with Bhanu Kalluri: International Women and Mining Network, and the Dhaatri Resource Centre for Women, July 1, 2011

between members of affected communities.⁶⁴ It is also unfortunately frequent that project proponents will try to divide communities and empower those who are supportive of project plans to speak on behalf of the group, in order to be able to claim that they have obtained community consent.⁶⁵

2. Social Movements

Social movements are comprised of a range of civil society actors that coalesce around certain issues or demands; “a conscious, collective, organized attempt to bring about or resist large-scale change in the social order by noninstitutionalized means.”⁶⁶ These movements are organized in an effort to promote social change, “deliberately initiated and guided collective mobilizations to bring about relatively rapid social transformations.”⁶⁷ For the purposes of the present paper, social movements primarily encompass and represent the people who are directly affected by the issue that has prompted their mobilization.⁶⁸ While highly distinct in terms of membership profile, political analysis and context, they often represent a significant social force and are increasingly being recognized as primary agents of social change.⁶⁹

Social movements are in many senses informal structures. Leadership is usually exercised on a voluntary basis, rather than a professional one, and they tend to engage in strategies of struggle that transcend the regular channels of advocacy and political debate, which often prove to be inaccessible or ineffective for their purposes. Social movements regularly work under highly constrained conditions where they lack adequate financial and human resources, face limitations in the quality of their communications technologies and infrastructure and other operational challenges. In addition, as is the case with a range of human rights defenders working on issues of land and development, social movement leaders often face serious threats, persecution or criminalization as a result of their activities to promote and defend the human rights of affected communities and the members of their movements.⁷⁰

Social movements struggling against land seizures and DID are responding, in many senses, to similar challenges. The POSCO Pratirodh Sangram Samiti (PPSS), for example, confronts a model of development and land-use similar to the one being challenged by the Movimento dos Antigos por Barragens (Movement of Dam-Affected People, MAB) in Brazil. At the same time, the tactics that different movements employ to respond to these threats vary broadly. Tribal villagers in Odisha,

⁶⁴ Interviews with Daniel Owusu-Koranteng, Wassa Association of Communities Affected by Mining (WACAM), May 24, 2011 and Legborsi Saro Pyagbara, Movement for the Survival of the Ogoni People (MOSOP), July 29, 2011

⁶⁵ Interviews with Keith Slack, Oxfam America, April 27, 2011, Joanna Levitt, International Accountability Project, May 20, 2011, Bret Thiele, Global Initiative for Economic, Social and Cultural Rights, 13 June, 2011 and David Pred, Bridges Across Borders (Cambodia), June 13, 2011. See also: Dolores Koenig Toward local level development and mitigating impoverishment in DIDR, discussed by de Wet, C. ed. *Improving outcomes in development-inducing displacement and resettlement projects*. Forced Migration Review, 12. (January, 2002)

⁶⁶ Wilson, John. “Introduction to Social Movements.” (New York: Basic Books, 1973)

⁶⁷ Oommen, T.K. “Protest and Change: Studies in Social Movements.” (New Delhi: Sage Publications, 1990)

⁶⁸ Zurcher, Louis A., and David A. Snow. “Collective Behavior: Social Movements,” in Morris Rosenberg and Ralph H. Turner (eds.), *Social Psychology: Sociological Perspectives*. (New York: Basic Books, 1981) pp. 447-82.

⁶⁹ Smith, Jackie. “Social Movements for Global Democracy.” (Baltimore: Johns Hopkins University Press, 2008).

⁷⁰ Interview with a human rights advocate from Sri Lanka who wishes to remain anonymous, July 27, 2011

India, have engaged in non-violent resistance and civil disobedience in the tradition of Ghandi. Ogoni leaders from Nigeria are skillful in utilizing international human rights and environmental mechanisms. Fisher folk in Sri Lanka, whose access to food is threatened by large tourism projects, have developed broad alliances with small farmers, academics and urban groups around the concept of food sovereignty. The Nairobi Peoples Settlement Network, in Kenya, has utilized popular education, street theater and a variety of organizing tools in order to mobilize the residents of urban settlements to claim their rights in the face of impending evictions. In the U.S., the Take Back the Land movement is engaging in direct action by moving low -income families into foreclosed houses owned by the large banks that benefited from the major bail-out during the country's economic downturn.

The perspectives and philosophies of social movement-leaders are sometimes ideologically informed, but also reveal deep experiential knowledge, issues of identity, culture, and alternative world-views. In this respect, their struggle is often personal. They regularly bear the brunt of repressive responses by the government or vested private interests, including criminalization, defamation and physical abuses such as arbitrary detentions or violence. While these repressive tactics take a considerable toll, these movements are often decentralized and have several leaders; which allows them to continue their efforts even as some leaders are persecuted for their activities.

3. Non-Governmental Organizations

Alliances and networks between social movements, grassroots groups, NGOs and independent experts are critical in order to advance a human rights agenda and sustain the gains that are achieved. Each of these actors are particularly well-situated to play certain roles within broader, collective efforts to promote human rights in the context of development projects.

National-level non-governmental organizations (NGOs) regularly function under complex conditions, often in political environments whereby the space for independent civil society activism is restricted or otherwise compromised. They often struggle with irregular funding that limits their capacity to meet the great demand for their support. Many of their staff members are usually from the country or region where the organization conducts its programs and bring deep personal experiences and specialized expertise to bear in support of communities. They regularly offer legal aid, advocate for greater corporate responsibility, lobby their government for policy reform, teach community members skills for environmental monitoring, and help affected people organize themselves and better articulate their interests. They are usually well-informed about the particularities of the situations they confront and often articulate the political pragmatism required for effective, multi-level campaigns.

International NGOs are broadly recognized as highly important actors in the field of human rights. They often have unique access to companies, international human rights mechanisms, donor agencies and project financiers and sometimes the governments of countries where DID is occurring. They are often well-staffed organizations with some stable funding, strong boards, and recognized brands, which position them well for high-level advocacy. They also often have extensive capacities to conduct research. Many are based in strategic locations proximate to centers

of power (such as the United Nations or the World Bank), which allows a level of access to these institutions that is not regularly enjoyed by civil society groups operating at the national or local level.

Many times, the most effective activism and advocacy to promote human rights is achieved by an articulated effort of organizations at local grassroots, national, regional and international levels. Notably, several international and regional networks, including ESCR-Net, have emerged over the past couple decades, often with the explicit purpose of linking these different levels of advocacy and in recognition of the broad scope of many of these issues.

4. The State

When people are removed from their homes in the name of the public interest, the state bears the central responsibility for facilitating the acquisition of land and its transfer to the hands of investors or project developers.⁷¹ At the same time, as the undisputed central subject of international law, the state bears obligations to uphold human rights standards before, during and after such a process is carried out.⁷² Often, these roles are assumed at different levels between the central and local government, which leaves significant room for contradictions.

Representatives of the central government will often enter into negotiations with investors about project proposals in ways that exclude affected communities, which denies them the right to participate and to provide, condition, or withhold their consent. At times, the central government is virtually absent in discussions with local stakeholders. This either leaves local governments or the companies themselves to negotiate these prospects directly with community groups, often in ways that highlight severe imbalances of power.⁷³

In other cases, community relations regarding the project and its impacts are relegated to lower-level civil servants in regional or municipal governments. Depending on the context, local government representatives often count on a considerable degree of interpretive discretion with regards to the implementation of laws and policies. By virtue of their position and mandate, these workers often hold a favorable view about the development projects in question, and some community leaders and their advocates have perceived them to be indifferent or dismissive about their concerns.⁷⁴ At the local level, the process of land acquisition and population removal and

⁷¹ Interview with Bhanu Kalluri: International Women and Mining Network, and the Dhaatri Resource Centre for Women, July 1, 2011

⁷² Dolores Koenig Toward local level development and mitigating impoverishment in DIDR, discussed by de Wet, C. (Ed.). (2002, January). *Improving outcomes in development-inducing displacement and resettlement projects*. Forced Migration Review, 12. Interview with Legborsi Saro Pyagbara.

⁷³ Interview with Daniel Owusu-Koranteng, Wassa Association of Communities Affected by Mining (WACAM), May 24, 2011. Justice Lee Adoboe, "Bribery Scandal Rocks Newmont," *Financial Intelligence*, (August 26, 2009), available at: <http://www.myfinancialintelligence.blogspot.com/2009/08/bribery-scandal-rocks-newmont.html> (last accessed 6/10/11)

⁷⁴ Interview with Uma Singh, Center for Human Rights and Development, July 4, 2011

resettlement is often treated as mainly a technical issue,⁷⁵ rather than one that requires a substantial consultation process, for which local authorities are often not well-equipped.⁷⁶

5. Private sector: companies and project financiers

Displacement-causing projects are often financed (in whole or in part) by multilateral development banks like the World Bank and its affiliated institutions such as the International Finance Corporation, the Organization for Economic Cooperation and Development (OECD) and regional banks (the Asian Development Bank, Interamerican Development Bank and the African Development Bank). These institutions have long been subject to organized civil society pressure to ensure that the projects they support do not violate human rights or damage the environment. Considered by many to be standard-setters, each of these banks has developed a set of policies regarding displacement and resettlement, which are often the target for coordinated civil society advocacy campaigns.⁷⁷

Another growing source of project finance are governments of rapidly developing economies – whether in the form of projects financed by state-owned or majority-controlled banks (such as Brazil's BNDES or the Export-Import Bank of China) or by joint ventures between various government ministries and private investors. These emerging actors in development finance have rapidly expanded their project portfolios and presence into remote corners of Africa, South America and Asia, where they are increasingly undertaking large, land-intensive projects that seek to exploit natural resources to respond to a demand based far from the site of operations.⁷⁸

Private banks and investors, including financiers based in the country where the project is planned, are also important players.⁷⁹ Several of them have subscribed to the Equator Principles (EPs), a credit risk management framework for determining, assessing and managing environmental and social risk in project finance transactions. The EPs are comprised by voluntary principles that are

⁷⁵ International Network on Displacement and Resettlement (INDR) "A review of the International Hydropower Association's Draft Protocol for Assessing the Sustainability for Hydropower Dam Projects." p. 11 (December 11, 2009)

⁷⁶ *Addressing policy constraints and improving outcomes in DIDR projects- Alan Rew, Eleanor Fisher, and Balaji Pandey*, discussed by de Wet, C. ed. "Improving outcomes in development-inducing displacement and resettlement projects." *Forced Migration Review*, 12 (January 2002).

⁷⁷ See World Bank: OP-4.12 (available at:

<http://web.worldbank.org/WBSITE/EXTERNAL/PROJECTS/EXTPOLICIES/EXTOPMANUAL/0,,contentMDK:20064610~menuPK:4564185~pagePK:64709096~piPK:64709108~theSitePK:502184,00.html>), Asian Development Bank's Policy on Involuntary Resettlement (found at: <http://www.adb.org/documents/policy-involuntary-resettlement>) and the Operational Policy on Involuntary Resettlement of the Inter-American Development Bank (available at: www.iadb.org/document.cfm?id=2032100) All accessed 4/6/2012. Also Interview with Joanna Levitt, International Accountability Project, May 20, 2011

⁷⁸ Interviews with Aviva Imhoff, International Rivers, June 14, 2011, Kirk Herbertson, World Resources Institute, August 1, 2011 and Adina Matisoff, Friends of the Earth, June 29, 2011

See also World Resources Institute: "Emerging Actors in Development Finance: A Closer Look at Chinese and Brazilian Overseas Investments" found at: <http://www.wri.org/stories/2011/06/emerging-actors-development-finance-closer-look-chinese-and-brazilian-overseas-inves> (last accessed 6/20/11)

⁷⁹ Interview with Heike Drillisch, Counter Current, July 21, 2011. In the case of the problematic Iisu Dam in southeastern Turkey, following a successful advocacy campaign aimed at European financiers who agreed to withdraw funding, Turkish banks stepped into the void and provided the necessary financing to allow the project to move forward. In this case, civil society activists were able to devise creative and effective influencing strategies that were tailored to these new advocacy targets.

applied where total project capital costs exceed US\$10 million.⁸⁰ While the EPs have increased attention on, and promoted convergence around, common environmental and social standards, there is no official sanction for non-compliance, and their effect is hampered by inconsistent application, inadequate monitoring and low levels of adoption by financial institutions in developing markets.⁸¹ The EPs have been widely criticized by civil society groups for their weaknesses; at the same time, they are considered to be more progressive than many of the other voluntary principles guiding the financial sector.

The companies that carry out development projects are also, clearly, important actors. Many times they are transnational corporations, with headquarters based in countries where most of their capital originates and projects in several countries. Often many businesses are articulated in the form of a consortium, in which different corporations will own or run separate components of development projects, which creates additional obstacles to efforts to influence project outcomes. When they are partially or mostly state-owned, they are often subject to significant influence by their home country's foreign economic policy directives.⁸²

A few more private actors merit a brief mention. They include firms contracted to provide security for project operations or activities prior to their commencement (for example, evictions). A growing number of private consulting firms also offer their services regarding displacement and resettlement plans (an example being the Social Capital Group in Peru).⁸³ Social risk advisors are also very significant, as they directly inform the initial assessment of projected benefits and risks that determine whether or not investors proceed with projects under consideration by investors.⁸⁴

6. Strategies for addressing development-induced displacement

Various approaches to confront DID have been employed at different levels and led by different actors, often in concert. These include mass mobilization; research and documentation; policy advocacy; litigation; financial advocacy; strategic communications; use of environmental instruments and direct accompaniment of affected communities. Key strategies are discussed briefly in the section that follows.

Communities directly affected by forced displacement often employ creative tactics to express their resistance to the development project in question or to the planned relocation of people. While there are some exceptions, these tactics usually center in nonviolent direct actions such as mass

⁸⁰ The Equator Principles Association, *About the Equator Principles*, 2011, available at: <http://www.equator-principles.com/index.php/about-ep/about>. Currently 72 financial institutions in 27 countries have adopted the EPs, which covers over 70% of international project finance debt in emerging markets.

⁸¹ The Equator Principles Association, *About the Equator Principles*, 2011, available at: <http://www.equator-principles.com/index.php/about-ep/about>. See also Norton Rose, *Will the Equator Principles soon apply to corporate loans*, July 2011, available at: <http://www.nortonrose.com/knowledge/publications/53937/will-the-equator-principles-soon-apply-to-corporate-loans>, p.1 and BankTrack, *Bold Steps Forward, Towards Equator Principles that deliver to People and the Planet: A Civil Society Call to the Equator Principles Financial Institutions*, Open letter, 110 signatories, 14 January 2010, available at: http://www.banktrack.org/show/pages/the_equator_principles, p.3.

⁸² Interviews with Marco Simons, Earthrights International, August 1, 2011 and Adina Matisoff, Friends of the Earth, June 29, 2011

⁸³ Keith Slack, Oxfam America, April 27, 2011

⁸⁴ See Control Risks (<http://www.control-risks.com/Default.aspx?page=0>) for an example

mobilizations, civil disobedience and occupation of public space.⁸⁵ These strategies usually rely on the ability of social movements to mobilize broad popular support and convene many affected people for collective action. A number of groups have also developed strategic communications work in order to advance regional campaigns and advocacy agendas, including the use of video or social media.⁸⁶

Research and documentation is a valuable exercise, but one that requires a great deal of capacity. However, these are not mere academic exercises; rather, reports from extensive research and fact-finding initiatives are regularly a vital component of a broader advocacy strategy, often to demonstrate how specific states or other actors are failing to comply with their human rights obligations.⁸⁷

Policy advocacy is a critical strategy that entails strategic efforts to influence and promote changes in legislation, governmental policies and practices. Most advocacy efforts relevant to the present analysis aim to prevent population displacement from occurring and ensure that those affected by large development projects enjoy all of the protections accorded to them under international human rights law. Some advocates also focus on the issue of just compensation when displacement is inevitable, as well as the obligation to comply with procedural rights when evictions and resettlement is deemed to be necessary. Many advocates aim to frame the policy debate at the national level, advance the adoption of new standards, introduce legislation, or strive for the adoption of regulations aiming at enforcing existing laws.⁸⁸ Some also have expertise in utilizing regional and international human rights mechanisms, by means of the strategic engagement with the United Nations Human Rights Council and the Universal Periodic Review, the UN Special Procedures, and various treaty bodies, often through the submission of alternative reports.⁸⁹

A number of advocates use the legal system in an attempt to adjudicate human rights and seek the enforcement of previously agreed standards. The litigation strategy is regularly used to challenge statutes, reform administrative requirements or promote procedural guarantees in the context of evictions and displacement.⁹⁰ Approaches using litigation vary widely, ranging from a focus on administrative law to customary law and constitutional law. Sometimes, legal advocates utilize regional mechanisms to adjudicate cases, such as the African Court for People's and Human Rights, the European Court or the Inter-American Court. Other times legal experts will work mainly with reference to national statutes or constitutions to argue their case before the courts.⁹¹ Another promising legal strategy relates to the frameworks and tools of environmental law, including the

⁸⁵ Some examples include actions to resist displacement by Take Back the Land, USA, the POSCO Pratirodh Sangram Samiti (anti-POSCO People's Movement), India, and the Movimento dos Antigos por Barragens (MAB), Brazil

⁸⁶ See these innovative efforts by WITNESS to use communications as an advocacy tool to counter development-induced displacement: <http://www.witness.org/campaigns/forced-evictions> (last accessed April 20, 2012)

⁸⁷ See, for example, the reports produced by FIAN International, the Centre for Housing Rights and Evictions (COHRE) and Habitat International Coalition (HIC)

⁸⁸ Interview with Jorge Cortes, Centro para los Estudios Aplicados sobre los Derechos Economicos, Sociales y Culturales (CEADESC), June 7, 2011

⁸⁹ Interview with Legborsi Saro Pyagbara, Movement for the Survival of the Ogoni People, Nigeria, July 29, 2011

⁹⁰ Interview with Uma Singh, Center for Human Rights and Development, July 4, 2011

⁹¹ CEMRIDE in Kenya and the Legal Resource Centre in South Africa have employed this strategy creatively within the African regional institutions and mechanisms

Convention on Biodiversity and the UN Framework Convention on Climate Change, which are arguably relevant in many situations whereby large development projects result in environmental damage, in addition to population displacement and other human rights concerns.⁹²

Financial advocacy seeks to influence project financiers. The “follow the money” strategy was central to efforts to reform the policies of multilateral banks, such as the World Bank and the regional development banks mentioned above. Shareholder advocacy or various forms of public pressure on financiers can be effective, even when the legal or regulatory system is unable or unwilling to generate binding directives for practices that are consistent with human rights.⁹³

Finally, a number of organizations also work to provide *direct support and direct accompaniment* to communities confronting displacement. NGOs that carry out this strategy often are recognized as being willing to defer to the local organizations for spearheading advocacy and mobilization efforts, and focus its role mainly as a supporter of local efforts by people to organize, articulate their concerns and mobilize to claim their rights in their own voice.

D) Challenges

Large development projects often present serious threats to the ability for affected communities to realize their human rights, as a result of a series of factors. These include increased pressure on land upon a backdrop of poor governance; gaps in norms and their implementation and efforts to erode existing standards; power imbalances resulting from both policies and practices and the need for human rights advocates to learn new approaches and improve partnerships and alliances. The section that follows provides a brief discussion of these key challenges and some of the factors that make them so formidable.

1. Poor governance and increased pressure on land

The demand for land has increased dramatically in recent years, often in contexts where governance systems are weak and the State lacks the capacity – or political will – to provide protection for vulnerable communities. Where conflicts over land emerge, people who mobilize to promote and defend human rights are often persecuted and silenced.

Governance Deficit

In many countries where large development projects are promoted, government offices and agencies lack the capacity necessary to monitor projects and ensure that national and international standards are upheld. Displacement-causing development projects often occur in places where political and environmental governance is deficient or severely limited, where corruption is widespread, institutions are weak and laws are irregularly enforced.⁹⁴ In the Amazon region of

⁹²Interviews with Marcos Orellana, Center for International Environmental Law, April 20, 2011, Joji Carino, Tebtebba, May 24, 2011 and Legborsi Saro Pyagbara, Movement for the Survival of the Ogoni People (MOSOP), July 29, 2011

⁹³ See the work of International Accountability Project, Bank Information Center, USA and Bridges Across Borders, Cambodia for examples of strong financial advocacy, particularly in regards to the reform of safeguards of international financial institutions (for example: <http://www.bicusa.org/en/Issue.58.aspx>) (last accessed May 30, 2012)

⁹⁴IIRSA: Another lost opportunity? By: Tristan Nuñez, Denise Humphreys Bebbington and Andrés Mego

Peru, for example, an incomplete system of land zoning and management, untitled indigenous territories, protected areas and land conflicts overlap with resource extraction concessions and transit corridors. Generally, government agencies tasked with monitoring the enforcement of environmental and social standards are often insufficiently staffed and resourced. At times, legal systems are weak or lack independence and therefore fail to adequately enforce laws and rights established to protect communities.⁹⁵ In many cases, the authorities in charge of facilitating investment, on the one hand, and enforcing environmental and social protections, on the other, are disconnected or even working at cross-purposes.⁹⁶

Heightened pressure on land

Upon the backdrop of poor governance and generally weak institutional capacity to manage the impacts of large investments, the price of land has skyrocketed in recent years,⁹⁷ driven by heightened demand and speculation related to commodities, including for food (for human and animal consumption), biofuels and subsoil resources, such as oil, gas and minerals. In recent years, there has been an increased demand for energy, agricultural exports and tourism in both the Global North and in middle-and lower-income countries.⁹⁸ The phenomenon of land grabbing has been well documented and the findings of this body of work will not be replicated here.⁹⁹ For the purposes of the present report, it is sufficient to note that raising prices for commodities produced on (or extracted from) the land has intensified competition and strengthened the profit motive which creates a powerful incentive many displacement-causing projects.

Persecution of human rights defenders and the criminalization of resistance

Human rights defenders confronting land grabbing and evictions often confront serious forms of repression or conflicts with authorities or other actors, which may result in grave violations of the right to life, freedom from arbitrary detention, freedom from torture and a range of related rights. There also exists a marked trend toward the use of the law to silence human rights activists, either by criminalizing their activities in defense of human rights or filing baseless criminal and civil charges against them. Businesses or investors will also sometimes promote their interests through the use of legal provisions establishing protection from defamation as a means to silence project opponents. The criminalization of activists and defenders of economic, social and cultural rights

October 2007 (found at:

http://www.sed.manchester.ac.uk/research/andes/publications/conferences/Tristan%20etal%20PtoEquilibrio_English.pdf accessed 6/24/11)

⁹⁵ Interview with Uma Singh, Center for Human Rights and Development, July 4, 2011

⁹⁶ Interview with Ryan Schlieff, WITNESS, May 24, 2011.

⁹⁷ International Monetary Fund. "Global Land Rush" available at:

<http://www.imf.org/external/pubs/ft/fandd/2012/03/arezki.htm>

⁹⁸ Interviews with Fernando Prioste Gallardo Vieira, Terra de Direitos, July 1, 2011 and Korir Sing'oi Abe, Center for Minority Rights and Education (CEMRIDE), July 11, 2011

⁹⁹ See, for example, several reports on land grabbing produced by FIAN International, available at:

<http://www.fian.org/programs-and-campaigns/projects/land-grabbing>. See also research posted on

<http://farmlandgrab.org/> and research conducted as a part of the [Land Deal Politics Initiative](#), available at:

http://www.iss.nl/research/networks_and_projects/land_deal_politics_ldpi/ldpi_resources/, among others.

presents new threats to advocates and human rights defenders, and should be recognized as a substantial challenge in the context of DID.¹⁰⁰

2. Normative and implementation gaps and downward pressure on existing standards

International human rights law often falls short of adequately providing protection for communities affected by DID, due to gaps in norms and their implementation, as well as efforts to erode or dilute existing standards.

Gaps in legal standards

There exist some substantial gaps in the framework of international human rights law that fail to adequately provide protection for affected communities. In both international law and the legislation of many countries, the obligations of states and non-state actors in the context of DID are not fully defined or articulated at the level of general principles. The extraterritorial obligations of wealthy countries vis-à-vis the activities of the companies and banks operating outside of their jurisdiction have not been sufficiently recognized, despite vital efforts to clarify these obligations through the Maastricht Principles on Extra-Territorial Obligations (ETOs) of States in the area of Economic, Social and Cultural Rights. In addition, a comprehensive framework for the protection of the rights of internally displaced persons does not exist, particularly for situations whereby the state has taken active steps to facilitate their displacement.¹⁰¹ In countries that are undergoing constitutional reform or have adopted new constitutions, there often exists a gap between the old and new legal framework that is exploited by powerful interests.¹⁰²

Poor implementation

There also exist major challenges in the implementation of existing standards that have been adopted to provide protection for people confronted with DID.¹⁰³ The Basic Principles and Guidelines on Development-Based Evictions and Displacement, drafted by the UN Special Rapporteur on adequate housing in 2007, and earlier efforts have offered concrete guidance on implementing existing human rights standards relevant to DID, helping to overcome many of the gaps or lack of clarity outlined above. However, an ‘implementation deficit’ often arises from the large margin of discretion that many governments continue to assume in regards to the way that prevailing norms and standards are interpreted and applied.¹⁰⁴ For example, there have been cases whereby local governments have understood the right of indigenous peoples to free, prior and informed consent to be merely an administrative procedure – one that may require a public

¹⁰⁰ Interview with Legborsi Saro Pyagbara, Movement for the Survival of the Ogoni People, Nigeria, July 29, 2011 and a human rights advocate from Sri Lanka who wishes to remain anonymous, July 27, 2011

¹⁰¹ *Addressing legal constraints and improving outcomes in DIDR projects*, Michael Barutciski, discussed by de Wet, C. (Ed.). (2002, January). Improving outcomes in development-inducing displacement and resettlement projects. *Forced Migration Review*, 12.

¹⁰² Interviews with Korir Sing'oi Abe, Center for Minority Rights and Education (CEMRIDE), July 11, 2011, Jorge Cortes, Centro de Estudios Aplicados sobre los Derechos Económicos, Sociales y Culturales (CEADESC), June 7, 2011 and Alirio Uribe from Colectivo de Abogados José Alvear Restrepo, August 9, 2011

¹⁰³ See, for example, ESCR-Net's project on the Enforcement of ESCR judgments for more information

¹⁰⁴ Rew, Alan, Eleanor Fisher, and Balaji Pandey. “Addressing policy constraints and improving outcomes in DIDR projects,” referenced by de Wet, C., ed. Improving outcomes in development-inducing displacement and resettlement projects, in *Forced Migration Review*, 12 (January, 2002).

meeting of some sort, but not necessarily bearing any duty to incorporate the feedback received into its plans.¹⁰⁵ In addition, the safeguards and recourse mechanisms that exist are often seriously limited and widely perceived as inadequate, even as they are subject to persistent efforts to weaken or erode them further.¹⁰⁶

Efforts to weaken existing standards

Across industry sectors, powerful economic interests have tried to undermine or evade human rights standards in the context of development projects.¹⁰⁷ In 2001, for example, the World Bank adopted a revised policy regarding involuntary resettlement (OP/BP 4.12) which signals a retrogression of standards regarding the rights of communities who are displaced as a result of Bank funded projects. The new policy limits the costs of resettlement to “direct economic and social impacts” resulting from land acquisition, population removal and loss of assets and income sources. It departs substantially from the ways in which affected people and human rights advocates would define the costs of displacement, and it allows borrowers to distinguish – on their own - between direct and indirect costs and to determine the extent of their responsibilities.¹⁰⁸ In another example, the Draft Hydropower Sustainability Assessment Protocol (HSAP), developed by the International Hydropower Association, has been devised by the dams industry as an alternate framework that seeks to replace the strong standards established previously by the World Commission on Dams. An independent expert review of the Protocol found that it “gives governments and hydro project agencies an unjustified ‘escape window’ to bypass and tolerate weakly planned and insufficiently financed resettlement components and avoid information transparency and the attendant compliance with current international best practices.”¹⁰⁹

3. Prejudices and power imbalances

There usually exists a substantial imbalance of power between project proponents (financiers, governments and companies) and affected communities. This imbalance is often deepened by the dominance of certain economic development ideologies and the prevalence discriminatory attitudes and practices.

Power asymmetries

Project proponents possess large budgets, the backing of institutions of the state and teams of legal and technical advisors. Affected communities, however, usually have little more than the skills and capabilities of their members and the support of their partners.¹¹⁰ Communities often lack the access to information and capacities necessary to fully comprehend the drivers behind the projects

¹⁰⁵ Interview with Joji Carino, Tebtebba, May 24, 2011

¹⁰⁶ Barutcsiki, Michael. “Addressing legal constraints and improving outcomes in DIDR projects,” discussed by de Wet, C. (Ed.). (2002, January). Improving outcomes in development-inducing displacement and resettlement projects. *Forced Migration Review*, 12; Bartolomé, Leopoldo J., et. al. “Displacement, Resettlement, Rehabilitation, Reparation and Development” (World Commission on Dams, Thematic Review 1.3, Working Paper, 2000)

¹⁰⁷ Interview with Aviva Imhoff, International Rivers, June 14, 2011

¹⁰⁸ T.E. Downing. “Creating Poverty: the flawed economic logic of the World Bank’s revised involuntary resettlement policy” *Forced Migration Review*, 12.

¹⁰⁹ See International Network on Displacement and Resettlement (INDR) “A review of the International Hydropower Association’s Draft Protocol for Assessing the Sustainability for Hydropower Dam Projects.” Preamble. (December 11, 2009)

¹¹⁰ Interview with Keith Slack, Oxfam America, April 27, 2011

they are confronting, technical aspects and impacts, and the way decisions that affect their lands and homes are made. Often they become aware of problematic projects only after key decisions have been made and the project is soon to commence, compelling them to react quickly, with far less time and resources than project proponents.¹¹¹ Furthermore, in cases whereby they are able to access and comprehend information related to development projects and express their concerns, their voices are often ignored by bureaucrats and business people located far from the site of operations or actively silenced in the service of powerful interests.

Presumptions about development and its beneficiaries

Prioritizing profitability and working to minimize government regulation, the dominant neoliberal paradigm often leads to large-scale, capital (and land-) intensive megaprojects as a preferred development strategy. In the name of economic growth, the promotion of megaprojects has largely been accepted uncritically within the mainstream development establishment and embraced within developing countries as vital to providing energy, infrastructure, and exports. National legal systems often possess – and enforce - a number of protections and supports for private investors and wealthy individuals at the expense of those who are affected.¹¹² Policymakers tend to address their human rights obligations and policies in isolation from other economic or financial considerations.¹¹³ In many countries, the government office in charge of approving concessions, licenses and contracts with companies is the same one that is tasked with facilitating foreign investment and business operations (as opposed to the human rights offices, for example), whose decision-makers often award preferential treatment, access and support to project proponents over community representatives.

Attitudes and policies toward affected populations

It has been widely recognized that the people most severely affected by forced displacement are often women, populations living in poverty, ethnic and racial minorities and other groups that are vulnerable to discrimination. They are seldom perceived as key political constituents, and policymakers are often more tolerant of negative impacts affecting these groups than they would if the same impacts affected other citizens.¹¹⁴ In some cases, laws exist that directly discriminate against some groups and make it exceedingly difficult for them to claim their rights.¹¹⁵ Other times, they are excluded by virtue of the beliefs and attitudes held by project proponents, members of governments or civil servants. In Mongolia, for example, many civil servants regularly express disdain for the nomadic herders whose lives are affected by large mine projects that impede their access to lands for grazing purposes.¹¹⁶ Similarly, spokespeople for communities confronting

¹¹¹ Interview with Ryan Schlieff, WITNESS, May 24, 2011

¹¹² Interview with Joanna Levitt, International Accountability Project, May 20, 2011 and interview with Thayer Scudder, International Network on Displacement and Resettlement, June 2, 2011

¹¹³ Interview with Ryan Schlieff, WITNESS, May 24, 2011

¹¹⁴ Interview with Legborsi Saro Pyagbara, Movement for the Survival of the Ogoni People (MOSOP), July 29, 2011

¹¹⁵ Narula, Smita. "Broken People: Caste Violence Against India's Untouchables" available at: <http://www.hrw.org/reports/1999/india/India994.htm>

¹¹⁶ Interviews with Uma Singh, Center for Human Rights and Development, July 4, 2011, Keith Slack, Oxfam America, April 27, 2011, and Sawsan Zaher, ADALAH: The Legal Center for Arab Minority Rights, June 20, 2011. See also David A. Kirschbaum, "Israeli Legalized Discrimination" in *Israel Apartheid – A Basic Legal Perspective*, (Israel Law Resource Center: February 2007)

displacement-causing development projects will often express vocal complaints against government officials and others who they associate with the project. These situations often lead to misunderstandings and a loss of trust, which further hampers constructive communication regarding the project and possible alternatives.

4. Challenges within the human rights community

Social movements, NGOs and other civil society organizations have discovered the need to learn new approaches and strategies to confront DID and have defined some complex challenges in their efforts to work in partnerships and new alliances with one another.

Limitations of conventional advocacy approaches

Multilateral funding institutions (MFIs) like the World Bank and regional development banks remain de facto standard-setters, with their policies on involuntary displacement and resettlement often considered central reference points. In many respects, they have proven to be fairly susceptible to efforts to influence their policies, given that their boards consist of representatives of States and their activities are usually made public.¹¹⁷ From these experiences, a number of advocacy organizations have learned some strategies and tactics that are less effective in influencing other development financiers, particularly those based in emerging economies that are rapidly becoming a major source of financing for development projects.¹¹⁸ Generally-speaking, companies based in emerging economies have developed far fewer guiding standards for their engagement with communities who will be affected. They will often negotiate projects at the level of the central government, after which it is presumed that the responsibility for negotiating the project, its impacts and questions of benefits-sharing with local stakeholders corresponds to the host government.¹¹⁹ It is increasingly being recognized that some of the more adversarial tactics (including “naming and shaming” and boycotts) can be ineffective or counter-productive, and different tactics such as collaborative engagement in research and the cultivation of relationships with key government offices may offer greater chances of success.¹²⁰ This may require that advocates seeking to promote the rights of communities affected by large development projects of this nature build on their knowledge gained from prior advocacy experiences while tempering or further refining the tactics employed.¹²¹

Complex partnerships amongst civil society groups

When international, national and locally-based organizations form partnerships for collaboration, some challenges are bound to arise, particularly when roles are not clearly defined or presumptions about agenda-setting, process and implementation have not been fully discussed. Some mapping participants described a tendency for some large international or national organizations to assume leadership and direction over the planning and strategic direction of a given initiative, and treat

¹¹⁷ Interview with Joanna Levitt, International Accountability Project, May 20, 2011

¹¹⁸ See summary of the POSCO project in India, at the end of this report

¹¹⁹ This practice is not exclusive to companies based in emerging markets, but it has been suggested by mapping participants that it is particularly prevalent with these actors

¹²⁰ Several environmental organizations, including Friends of the Earth, International and the World Resources Institute possess considerable expertise in this arena.

¹²¹ Interviews with Joanna Levitt, International Accountability Project, May 20, 2011 and Adina Matisoff, Friends of the Earth, June 29, 2011

grassroots groups more as junior implementing agents rather than true partners in a joint endeavor. And even in cases where efforts are made to respect the voice of those affected, high-impact NGOs sometimes run the risk of occupying limited influencing space in the name of affected communities. At the same time, partnerships between organizations and movements are often critical if social change efforts are going to be successful. The development projects most likely to cause population displacement and associated impacts are often highly technical in nature; their plans are often opaque or difficult to comprehend (or influence) without specialized knowledge, expertise, or capacity.¹²² In essence, there exist unique roles to be played by experts as well as by affected communities and the organizations and movements that represent them. It is a challenge to develop effective, appropriate and positive partnerships to confront DID that enable social movements and grassroots leaders to express the concerns and demands of their members while benefitting from the valuable skills, know-how and access that formal organizations possess.

5. Emerging Opportunities

A) What needs to change and what does success look like?

An effective response to development-based forced displacement requires affected communities and human rights advocates to define that which must be changed, and what would it look like if this change were achieved. The mapping exercise elicited a range of responses, but several themes clearly stood out. They include the need to challenge prevailing concept of development that results in forced displacement; create new laws and norms while increasing efforts to implement existing standards; develop new corporate accountability mechanisms; and strengthen the organization of affected communities at the grassroots level. In efforts to contribute to joint agenda-setting and collaborative planning amongst ESCR-Net members and partners, the following section offers some general considerations that should inform collective efforts to address DID and its drivers.

One of the most prevalent themes throughout the mapping exercise is the way in which the concept of “development” is understood and what that model of development implies. As discussed above, the large development projects resulting in forcible displacement are often megaprojects that require large amounts of land and promise a significant profit margin for the project’s investors. These projects raise the fundamental question: *development for whom?* The dominant paradigm argues that, by raising a country’s GDP or simply attracting foreign investment, a project is contributing to the country’s economic development. However, many social movements disagree, arguing that these projects feed an insatiable demand for commodities and wealth in ways which are both materialistic and unsustainable, while making low income people poorer in the process. A fundamental challenge to the threat of DID would therefore require questioning the megaproject-centered paradigm as the necessary development path and exploring the various alternatives that exist for improving livelihoods and reducing poverty.¹²³

¹²² Required expertise ranges from the environmental sciences to planning and urban design, budget analysis to corporate accountability and litigation, depending on the case.

¹²³ Interviews with Joji Carino, Tebtebba, May 24, 2011, Abu Brima, Network Movement for Justice and Development, July 11, 2011 and Legborsi Saro Pyagbara, Movement for the Survival of the Ogoni People (MOSOP), July 29, 2011, Thayer Scudder, International Network on Displacement and Resettlement, June 2, 2011 and Joanna Levitt, International Accountability Project, May 20, 2011

Another opportunity to effectively challenge DID concerns the adoption of new laws, both internationally and nationally, in order to fill the normative gaps that exist with regards to land rights; the right of free, prior and informed consent; recognition of customary laws related to land tenure and the issue of compensation and resettlement, among other relevant topics. A related – and equally important – issue is the need to promote a more thorough application and enforcement of existing laws and standards that are intended to protect communities against forcible evictions, enable them to realize their rights to their lands and natural resources, and hold governments accountable for respecting, protecting and fulfilling those rights.¹²⁴

In order to effectively counter DID, it is also necessary for private companies and project financiers to be held accountable to adopt and comply with stronger human rights policies. This requires mechanisms to ensure that development projects comply with human rights standards – starting with the duty to initiate (in good faith) information-sharing, dialogue and consultation with affected communities, and to take seriously the input received. Companies should be prohibited from undertaking actions that undermine international standards.¹²⁵ Finally, community members must also have access to recourse when there are grievances and receive protection from acts of intimidation or violence against them for their activities in defense of human rights.¹²⁶

A final theme that emerged throughout the mapping concerns the need for members of affected communities to be well-organized and capable of mobilizing to voice their concerns and demands. This requires that their representative organizations and movements function effectively and enjoy strong degrees of internal accountability between the leadership and their members. Often times, affected people would also benefit from partnerships and other forms of alliance with advocacy organizations, experts and others who possess new capacity and resources.¹²⁷ In sum, there continues to be a pressing need to support the ongoing organization and coordination amongst affected people and between them and their potential and actual allies.

B) Entry points for advocacy

The mapping exercise identified some different current trends which have captured the energy and attention of a number of civil society groups and human rights organizations. These include recent efforts to promote international recognition of human rights related to land; the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (the OP); new efforts to

¹²⁴ Interviews with Alirio Uribe, Colectivo de Abogados José Alvear Restrepo, August 9, 2011, Uma Singh, Center for Human Rights and Development, July 4, 2011, Humphrey Otieno, Nairobi Peoples Settlement Network, July 26, 2011 and Silvia Emanuelli, Habitat International Coalition (HIC)/America Latina, July 28, 2011

¹²⁵ Some actions taken by companies that have been reported in the context of this mapping – and clearly fail to comply with existing standards - include bribery of local representatives, false “consultation” meetings or public rhetoric that contributes to an environment whereby human rights defenders are persecuted and/or criminalized. See summary of case in Ghana, at the end of this report. From interviews with Keith Slack, Oxfam America, April 27, 2011, Bhanu Kalluri: International Women and Mining Network, and the Dhaatri Resource Centre for Women, July 1, 2011, Joji Carino, Tebtebba, May 24, 2011 and Daniel Owusu-Koranteng, Wassa Association of Communities Affected by Mining (WACAM), May 24, 2011

¹²⁶ Interview with Chad Dobson, Bank Information Center, April 25, 2011

¹²⁷ Interviews with Abu Brima, Network Movement for Justice and Development, July 11, 2011 and Legborsi Saro Pyagbara, Movement for the Survival of the Ogoni People (MOSOP), July 29, 2011 and Fernando Prioste Gallardo Vieira, Terra de Direitos, July 1, 2011

promote corporate accountability and reform the policies of large donors to mega-development projects, and work to clarify the obligation to establish “demonstrable public acceptance” or consent by those people who stand to be affected by displacement-causing projects. These processes are indicative of opportunities for increased collective work to challenge development-induced displacement, and are briefly discussed in the following section.

Many mapping participants have underscored the need to work collectively toward a stronger and more enforceable recognition of human rights related to land and territories. There has been a great deal of energy invested in advancing this issue within the UN human rights system – particularly in the context of the Draft Declaration on the Rights of Peasants. Beyond the UN Human Rights Council, other opportunities also exist within the UN system. For example, the recently adopted Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests of the Food and Agriculture Organization have strengthened recognition of some of the key human rights issues relating to lands. Other initiatives, such as strategic planning for mainstreaming a human rights-based approach at UN-HABITAT, also could be perceived as opportunities to strengthen the treatment of land as a human right. A substantial number of members and partners of ESCR-Net are working actively on this issue, including several members of the Network’s Working Group for Social Movements and Grassroots Groups.¹²⁸

There also exists a global civil society campaign to promote the ratification and implementation of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.¹²⁹ At the time of this report, the protocol had eight parties but two more ratifications were pending, suggesting that this instrument would soon enter into force. This protocol gives groups and individuals the opportunity to bring cases to the Committee on Economic, Social and Cultural Rights in cases where these rights have allegedly been violated and domestic remedies exhausted, notably encouraging greater attention to human rights and access to justice for violations of ESC rights at the national level.¹³⁰

With the recently concluded mandate of the former UN Special Representative to the Secretary General on Business and Human Rights and the resulting Guiding Principles on Business and Human Rights,¹³¹ civil society groups remain eager to promote stronger standards for corporate accountability, ensuring access to accountability and remedy when human rights violations involving business do occur. In struggles to ensure their human rights, social movements are often

¹²⁸See, for example, the work of Ekta Parishad, La Via Campesina, FIAN International, Housing International Coalition (HIC), Terra de Direitos, CEMIRIDE, the Legal Resources Center, the National Fisheries Solidarity Organization, the Coordinadora Andina de Organizaciones Indígenas, and many more members of ESCR-Net. Additional information can be found in Gelbspan, Thea and Vijay Nagaraj. “Seeding Hope? Land in the International Human Rights Agenda: Challenges and Prospects” found at: <http://www.escr-net.org/node/364868> (last accessed 1/6/13)

¹²⁹ See more information about the the NGO Coalition for the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) at <http://opicescr.escr-net.org/>.

¹³⁰ Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, A/RES/63/117, 10 December 2008, available at:

http://www.ohchr.org/Documents/Press/OP_ICESCR.pdf (last accessed January 11, 2013)

¹³¹ See overview of the Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises, available at:

<http://www.ohchr.org/EN/Issues/Business/Pages/SRSGTransCorpIndex.aspx> (last accessed January 11, 2013)

directly engaging in confrontations with companies and creative tactics to lobby shareholders, financiers and government bodies associated with displacement-causing companies. In addition, companies and investors are giving increasing attention to corporate social responsibility (CSR), largely due to effective civil society pressure. While CSR should not be confused with the need for stronger accountability mechanisms or binding human rights obligations, new attention to the costs of improper or abusive business practices signals both the success of and an ongoing opportunity for collaborative advocacy. In addition, the upcoming review of the safeguard policies of the World Bank is also expected to generate space for organizations and social movements to join forces to push for substantial changes in the way projects are funded when they result in involuntary resettlement.¹³²

The World Commission on Dams made an important contribution by establishing the principle that projects must be met with a “demonstrable public acceptance,”¹³³ or a “social license to operate.”¹³⁴ Since their findings more than a decade ago, the right of communities to participate in decisions that will affect them, and to be consulted when their lands or livelihoods are at stake, has been an increasingly accepted standard. Building on this notion, the UN Declaration on the Rights of Indigenous Peoples made a strong contribution by introducing the right of indigenous peoples to free, prior and informed consent.¹³⁵ Many companies have stated their adherence to this standard and have proven eager to be able to claim that they have complied with this standard. It should be noted that approaches to obtaining evidence of community consent have varied widely, and further elaboration about the specific obligations of state and non-state actors are still lacking. In some cases, communities confronting DID have collected signatures or even convened local referenda in order to establish community positions regarding their consent (or lack thereof).¹³⁶ In other cases, the right to free, prior and informed consent is clarified and interpreted in specific contexts through litigation.¹³⁷ While the approach may vary, efforts to promote the right to free, prior and informed consent represents an opportunity to promote stronger protections for communities and bolster efforts to safeguard them from measures aimed at diluting their effectiveness.

Opportunities also exist at the regional level to promote the strengthening human rights protections in the context of projects that displace people. Within Africa, a process is underway to promote a common mining code for all of the countries that are members of the Economic Community of West African States (ECOWAS). Some mapping participants are also working to engage the African Commission for Peoples and Human Rights and have found some of its Working

¹³² See more information about this review at Inclusive Development International (<http://www.inclusivedevelopment.net/world-bank-safeguards-campaign/>), International Accountability Project and Bank Information Center (BIC)

¹³³ American University International Law Review. "The Report of the World Commission on Dams-Executive Summary." American University International Law Review 16, no. 6 (2001): 1435-1452.

¹³⁴ Prno, Jason and Scott Slocombe. "Exploring the origins of 'social license to operate' in the mining sector: Perspectives from governance and sustainability theories." In *Resources Policy*, Volume 37, Issue 3, September 2012, Pages 346-357

¹³⁵ See, for example, a [guide to free, prior and informed consent](#) published by Oxfam, a [guide to free, prior and informed consent](#) developed by Revenuewatch and principles developed by the [Forest Peoples Programme](#), among others

¹³⁶ For example, around the proposed gold mine project in Tambogrande Peru (2002-2003) and multiple cases in the Philippines and Australia. Interview with Joji Cariño, Tebtebba, May 24, 2011.

¹³⁷ Interview with Janet Love, Wilmien Wicomb, Henk Smith and Sarah Sephton, Legal Resource Centre, July 22, 2011.

Groups to be quite receptive.¹³⁸ Some are also working to apply the principles of the Convention for the Protection and Assistance of Internally Displaced Persons (IDPs) in Africa, recently-adopted by the African Union. Similar opportunities –either to promote higher standards or to ensure and utilize existing human rights protections – also exist in other regions,. For example, following a ruling by the Inter-American Commission for Human Rights that imposed an injunction to prevent Brazil from proceeding with the construction of the Belo Monte dam, several governments of the Americas have taken steps to attempt to weaken the regional human rights system and further limit its authority to stop States from proceeding with projects that are determined to threaten the human rights of affected communities.¹³⁹

There are also a number of opportunities in specific countries, like Kenya and Bolivia, where new constitutions were recently adopted. Successful mobilizations by organizations and social movements led to the incorporation of key human rights provisions and the space for promoting new laws and policies aimed at securing human rights.¹⁴⁰ In some countries, such as Kenya, laws regarding land rights are being re-evaluated and subjected to public comment, which represents an opportunity to influence the policies and practices that give rise to situations of development-based forced displacement.¹⁴¹ In other countries that are emerging or recently recovering from protracted internal conflicts and civil wars, advocacy on DID will likely converge with efforts to promote the rights of IDPs or refugees previously displaced by conflict or natural disasters.¹⁴² These opportunities, while recognizably more domestic in nature, still offer opportunities for harnessing the collective capacity of the international human rights community to strengthen laws and their enforcement as they relate to DID.

III) IDENTIFICATION OF NEEDS AND RECOMMENDATIONS

A) Needs Identified

Mapping participants identified a number of things that are needed in order to meaningfully confront threats of forced displacement. These include capacity building and support for mutual learning amongst affected people; advisory support from experts; research assistance and financial resources. A general summary of these points follows.

1. Capacity-building and mutual learning

Communities affected by large development initiatives require early information about the anticipated impacts of projects and the way that decisions about projects are made. They also

¹³⁸ Interviews with Legborsi Saro Pyagbara, Movement for the Survival of the Ogoni People (MOSOP), July 29, 2011, Janet Love, Wilmien Wicomb, Henk Smith and Sarah Sephton, Legal Resource Centre, July 22, 2011 and Korir Sing'oi Abe, Center for Minority Rights and Education (CEMRIDE), July 11, 2011.

¹³⁹ "Reforms Could Weaken Pan-American Rights Body" Inter Press Service, December 08, 2012, available at: <http://www.globalissues.org/news/2012/12/08/15475> (last accessed on 1/3/2013)

¹⁴⁰ Interviews with Jorge Cortes, Centro de Estudios Aplicados de los Derechos Economicos, Sociales y Culturales (CEADESC), June 7, 2011 and Korir Sing'oi Abe, Center for Minority Rights and Education (CEMRIDE), July 11, 2011

¹⁴¹ Interviews with Humphrey Otieno, Nairobi Peoples Settlement Network, July 26, 2011 and Ryan Schlieff, WITNESS, May 24, 2011

¹⁴² Interviews with a human rights advocate from Sri Lanka who wishes to remain anonymous, July 27, 2011 and Alirio Uribe, Colectivo de Abogados José Alvear Restrepo, August 9, 2011

require information about the drivers behind the projects they are confronting and the larger trends that offer a context for their specific struggles.¹⁴³ Human rights education is seen as vital by many local groups, including documentation skills, capacity to utilize the UN system and advocacy skills to change policies and practices of both governments and businesses.¹⁴⁴ Another major area where skills-building is required relates to efforts to influence the public debate regarding the development model that is promoting projects that cause forcible displacement.¹⁴⁵ Mapping participants have emphasized the value of communication skills, including media work and video documentation, in order to enhance their campaigning efforts. These capacities would help organizations and movements influence the public development discourse and defend themselves against attempts to characterize their activities inaccurately or criminalize their activism.¹⁴⁶

Support for efforts to organize and mobilize people who are particularly susceptible to serious human rights impacts from displacement is also clearly needed. Mutual learning exchanges between movements struggling to confront forcible displacement were highlighted as particularly valuable, especially when they assist grassroots leaders to develop organizing tools to help affected communities evaluate and reach an internal consensus about project proposals in order to best participate in public hearings, negotiations or consultations regarding certain projects. In some cases, it has also been suggested that a broader platform of affected communities would be instrumental.¹⁴⁷

Additionally, many affected communities are vulnerable to repression and persecution for their activities in defense of their rights. In this connection, they require effective and well-coordinated support and assistance to protect the foundation of any capacity, their leaders and wider membership.

2. Expert support

Local human rights defenders also identified a need for advisory support from experts in order to help communities frame their demands according to national and international standards, define adequate compensation, and decide what to demand in negotiations around project proposals. They have also identified a need for expert support in designing effective strategies to resist displacement. Grassroots leaders often lack knowledge about the channels of influence that are available in order to leverage change at the level of project financiers and companies, for which they rely on their partners and allies for support. Other times, legal assistance is most needed - whether direct legal participation in litigation proceedings (or inputs such as the submission of an

¹⁴³ Interview with Chad Dobson, Bank Information Center, April 25, 2011

¹⁴⁴ Interviews with Legborsi Saro Pyagbara, Movement for the Survival of the Ogoni People, July 29, 2011, Chad Dobson, Bank Information Center, April 25, 2011, Daniel Owusu-Koranteng, Wassa Association of Communities Affected by Mining (WACAM), May 24, 2011, Korir Sing'Oei Abe, Center for Minority Rights Development, July 11, 2011, Abu Brima, Network Movement for Justice and Development, July 11, 2011

¹⁴⁵ Interview with Joanna Levitt, International Accountability Project, May 20, 2011

¹⁴⁶ Interview with Korir Sing'Oei Abe, Center for Minority Rights Development, July 11, 2011, Abu Brima, Network Movement for Justice and Development, July 11, 2011, Ryan Schlieff, WITNESS, May 24, 2011, Chad Dobson, Bank Information Center, April 25, 2011, Legborsi Saro Pyagbara, Movement for the Survival of the Ogoni People, July 29, 2011 and Keith Slack, Oxfam America, April 27, 2011

¹⁴⁷ Interview with Abu Brima, Network Movement for Justice and Development, July 11, 2011

amicus brief), assistance in proposing laws in some cases, and assistance utilizing UN recourse mechanisms.¹⁴⁸

Technical support is also needed, for example, to assist some local groups to conduct an independent review of an environmental impact statement,¹⁴⁹ to conceptualize the costs of an eviction¹⁵⁰ or to prepare community spokespeople about how engage in public consultations about project plans, negotiate resettlement options and monitor environmental and social impacts of projects.

3. Research

A research agenda appears to be developing for the field of human rights advocacy against forcible displacement. It includes the need for long-term studies on cases of displacement (and resettlement) which can clarify inter-generational and internal distributional impacts,¹⁵¹ a comparative evaluation of land tenure systems and rules of procedure involved in lands seizures across different national contexts, and the conceptual and practical relationship between property rights and human rights. Further documentation of specific cases of DID – and the strategies that affected communities are utilizing – is also required. Needed research will necessarily assume multiple forms, ranging from fact-finding missions to video documentaries to published reports. These research outputs are most effectively used when they are conceived as a part of broader advocacy campaigns.¹⁵²

4. Financial assistance

The cost of resistance is great, and it is not surprising that financial support has been identified as a particular need in order to sustain ongoing efforts to organize communities, cover the operating costs of leaders, conduct grassroots trainings and leadership development activities, and mobilize people to action.¹⁵³ A number of mapping participants, particularly social movements, also signaled a need for a rapid response funding mechanism that could provide fast and effective financial support for communities to support their efforts to resist evictions and related threats.

4. Recommendations for ESCR-Net's role and the future direction of the project

This mapping also collected some suggestions regarding how ESCR-Net might address some of these needs. These recommendations include connecting organizations and social movements around information exchange, mutual learning and solidarity actions; helping advocates and social

¹⁴⁸ Interviews with Joji Cariño, Tebtebba, May 24, 2011, Korir Sing'Oei Abe, Center for Minority Rights Development, July 11, 2011 and Daniel Owusu-Koranteng, Wassa Association of Communities Affected by Mining (WACAM), Ghana, May 24, 2011

¹⁴⁹ See, for example, Robert Moran. "The Conga Mine, Peru: Comments on the Environmental Impact Assessment (EIA) and Related Issues." available at: <http://denjustpeace.org/wordpress/wp-content/uploads/Peru-Conga-REM-Rept-English-March-84.pdf> (last accessed 1/3/13)

¹⁵⁰ See a description of the Eviction Impact Tool developed by HIC/HRLN, at: <http://landtimes.landpedia.org/newsdes.php?id=o2g=&catid=pQ==&edition=ow==> (last accessed 1/12/2013)

¹⁵¹ Interviews with Vijay Nagaraj, International Council on Human Rights Policy, May 11, 2011 and Ted Scudder, International Network on Displacement and Resettlement, June 2, 2011

¹⁵² Interviews with Korir Sing'Oei Abe, Center for Minority Rights Development, July 11, 2011 and Abu Brima, Network Movement for Justice and Development, July 11, 2011,

¹⁵³ Interview with Legborsi Saro Pyagbara, Movement for the Survival of the Ogoni People, July 29, 2011

movements to frame their concerns and demands in reference to international human rights standards; and supporting efforts at promoting a stronger international recognition that land is a human right. These suggestions are discussed briefly below.

A number of mapping participants have suggested that ESCR-Net may contribute to efforts to resist forcible displacement by facilitating the exchange of information and mutual learning between organizations and social movements and bring these groups together to address, together, the drivers behind DID. ESCR-Net is widely perceived as an ideal platform for these groups to forge contacts and, eventually, partnerships or alliances to help them influence the projects that affect their lives. ESCR-Net has also been asked to help social movements develop and sustain relationships with resource persons and organizations that could provide technical assistance and expert advice. Mapping participants that work closely with affected communities have also underscored the value of coordinating solidarity initiatives between communities and movements facing similar situations, which may encourage their members to persist and breathe life into their struggles.

It has been suggested that ESCR-Net could provide assistance to efforts to frame situations, involving the displacement of people by development projects, as human rights issues and provide support in devise human rights-based strategies and responses. This could help counter suggestions that DID corresponds only to the voluntary realm of corporate social responsibility and could help human rights defenders to refute accusations that they are “anti-development” or against progress, which is often alleged. It has been suggested that ESCR-Net could play an instrumental role in further developing human rights vocabulary and analysis to address DID.

Finally, it has been recommended that ESCR-Net continue to support efforts aimed at promoting recognition, within the UN human rights system, of human rights related to land, as well as advancing compliance with existing international standards related to land through the strategic utilization of UN treaty bodies, the Universal Periodic Review, special procedures and regional courts, among others. Several participants have underscored the need, in particular, to stress the implementation of the Basic Principles and Guidelines on Development-Based Evictions and Displacement, presented by the former UN Special Rapporteur for adequate housing, and have suggested that ESCR-Net should reaffirm these standards and promote their utilization and application by States and non-state actors.

IV) CONCLUSION

Forcible displacement, often associated with large-scale development projects, poses serious threats to human rights. These projects respond to diverse drivers, including the search for profitable investment; the desire for economic growth; urbanization; consumer demand for foods, energy and other commodities; tourism; and even environmental conservation measures, among others. While forcible displacement is increasingly recognized as a major human rights challenge, the way grassroots activists and human rights advocates have conceptualized the rights-issues at-stake varies according to the context and specific histories involved but often includes: the right to

adequate housing, the right to food, the right to self-determination, the right to land and livelihood, the right to information and participation, and/or a range of cultural rights.

There exists considerable consensus in terms of the specific challenges that must be confronted in order to effectively promote human rights in the face of development-induced displacement. Many policy decisions tend to favor certain types of development projects (specifically, megaprojects that require large amounts of land and investment) over other types (such as local subsistence agriculture or worker-owned enterprises). Given this overriding preference, the way that government officials assess the costs and benefits of development projects often conflicts with the perspectives of people who are affected. Most mapping participants also agree that the problem of development-induced displacement reflects both legal gaps and a problem of implementation, as well as efforts by vested interests to weaken existing standards and accountability mechanisms in favor of voluntary measures. Poor governance, discrimination against communities often most affected by development projects, and a general imbalance of power between project proponents and affected communities have also been widely recognized as central human rights challenges. Finally, the need to develop mutually beneficial partnerships between grassroots activists and human rights advocates and experts has also been a reoccurring theme throughout the mapping.

Communities that stand to be affected by DID have employed a broad and creative range of strategies and tactics. On one end of the spectrum are activities of mass mobilization, civil disobedience and occupation of public space, as well as work to support and accompany these grassroots struggles in a direct capacity. On the other end are specialized approaches such as litigation, corporate accountability advocacy and the development and advocacy of legislative or regulatory proposals. There have also been concerted efforts to apply and strengthen international standards by conducting advocacy with multilateral financial institutions and other development financiers. Efforts to utilize international or regional human rights mechanisms and complaints proceedings as well as the tools and mechanisms of environmental law have also been pursued. There have been countless experiences conducting policy advocacy to affect national laws and procedures related to evictions, displacement and resettlement. The use of communications tools and media for distinct purposes (ranging from video documentation to social media and GPS mapping technologies) has proven to be a critical strategy that has been employed.

A growing recognition of the concerns related to development-induced displacement and the impressive array of approaches and resources which our members have deployed suggests that ESCR-Net is well-positioned to help to advance a human rights response, by assisting organizations and social movements confronting DID to overcome their perceived isolation and enable them to enjoy more active and operational ties of solidarity, amongst each other and with new allies. The Network has also been advised to continue to promote and facilitate information exchange and mutual learning, as well as to forge new connections between grassroots movements and experts or other “resource persons” or organizations that possess technical or highly specialized skills, expertise and/or access. The types of expertise that have been identified as needed mirror closely the areas of work coordinated within the Network; primarily corporate accountability, adjudication and economic policy analysis, as well as facilitating connections between social movements and

grassroots groups. ESCR-Net has also been advised to provide ongoing support to build the capacity of members and partners to utilize human rights to confront forced displacement, conduct effective advocacy, influence the development debate in their respective localities, while providing support to social movements that are attempting to organize affected people, articulate their concerns and demands, mobilize their members and – overall – set forth compelling and viable proposals for social justice and the full realization of human rights. Finally, by bringing together NGOs, social movements, and individual advocates in multiple spaces to learn, debate, and strategize, ESCR-Net has a recognized role in helping to facilitate shared analysis and collective advocacy, guided by members and allies.

As stated in the introduction, the present report is not intended to provide an exhaustive or authoritative evaluation of all of the issues, actors, approaches and cases of development-induced displacement. Instead, it offers an overview of the main drivers, challenges, actors, strategies and gaps amongst the broad and dispersed community that is using human rights to respond. This report drafted to inform ESCR-Net's workshop on development-induced displacement in Johannesburg, South Africa, in May 2012, and the direction of its overall project on this topic. The ESCR-Net Secretariat is deeply grateful for the many contributors to this exercise.

Annex 1: MAPPING PARTICIPANTS

1. Joji Cariño, Tebtebba Foundation, Philippines
2. Legborsi Saro Pyagbara, Movement for the Survival of the Ogoni People, Nigeria
3. Renji George, Association of Holistic and Sustainable Development of Communities (AHSDC), India
4. Humphrey Otieno, Nairobi People's Settlement Network, Kenya
5. Saeed Baloch and Jamil Hussain, Pakistan Fisherfolk Forum, Pakistan
6. Abu Brima, Network Movement for Justice and Development, Sierra Leone
7. Daniel Owusu-Koranteng, Wassa Association of Communities Against Mining (WACAM), Ghana
8. Bhanumathi Kalluri, Red Internacional de Mujeres y Minería, India
9. Herman Kumara, National Fisheries Solidarity Movement (NAFSO), Sri Lanka
10. Joanna Levitt, International Accountability Project, USA
11. Chad Dobson, Bank Information Center, USA
12. Keith Slack, Oxfam America, USA
13. Vijay Nagaraj, International Council on Human Rights Policy, Switzerland
14. Ryan Schlieff, WITNESS, USA
15. Marcos Orellana, Center for International Environmental Law, USA
16. Anja Kollmuss CDM-Watch, Belgium
17. Sandra Ratjen, International Commission of Jurists, Switzerland
18. Aviva Imhof, International Rivers, USA
19. Silvia Manuelli, Housing International Coalition - Latin America, Mexico
20. David Pred, Bridges Across Borders, Cambodia
21. Marco Simons, Earth Rights International, USA
22. Kirk Herbertson, World Resources Center, USA
23. Adina Matisoff, Friends of the Earth, USA
24. Heike Drillisch, Counter Current, Germany
25. Brittany Scott, National Economic and Social Rights Initiative (NESRI), U.S.A
26. Sawsan Zaher, ADALAH: The Legal Center for Arab Minority Rights, Israel
27. Korir Sing'Oei Abe, Center for Minority Rights Development (CEMIRIDE), Kenya
28. Sofia Monsalve, FIAN International, Germany
29. Fernando Prioste, Terra de Direitos, Brazil
30. Senjo Singh, National Centre for Advocacy Studies (NCAS), India
31. Sarah Sephton, Henk Smith, Wilmien Wicomb and Janet Love, Legal Resources Centre, South Africa
32. Uma Singh, Center for Human Rights and Development, Mongolia
33. Areli Sandoval, Equipo Maiz - Espacio DESC, Mexico
34. Ercan Ayboga, Akarsuhareketleri (River Movements Network), Turkey
35. Manal Tibe, Egyptian Center for Housing Rights, Egypt
36. Balakrishnan Rajagopal, Director of the Center for Human Rights and Justice, Massachusetts Institute of Technology, USA
37. Ted Scudder/International Network on Displacement and Resettlement, USA
38. Stephen Marks, Harvard School of Public Health and chairman of the High-Level Taskforce on the Right to Development, USA
39. Bret Thiele, Global Initiative for Economic, Social and Cultural Rights, USA
40. Miloon Kothari, former Special Rapporteur on Adequate Housing and Housing International Coalition – South Asia, India
41. Bruce Jenkins, Independent Researcher, USA
42. Bahram Ghazi, Office of the High Commissioner for Human Rights, Switzerland
43. Muriel Mignot, Independent Consultant, Angola
44. Leandro Scalabrín, Movimento dos Antigos por Barragens (MAB), Brazil
45. Jorge Cortes, Centro de Estudios Aplicados de los Derechos Economicos, Sociales y Culturales (CEADESC), Bolivia
46. Alirio Uribe, Colectivo de Abogados, Colombia

Annex 2: SUMMARIES OF CURRENT CASES OF DID

CASE 1:

Trapped “between the fence and the deep sea”

*Luxury tourism and displacement in Sri Lanka*¹⁵⁴

With a population of approximately 22.3 million people, the island nation of Sri Lanka has experienced major upheaval in the past two decades. A protracted conflict between the Sinhalese majority and the Tamil separatists rocked the country for twenty years, displacing several hundreds of thousands of people from their homes. As of July 2011 more than 220,000 people were still displaced, living in camps, transitional housing or with host families.¹⁵⁵ The country was also heavily affected by the Tsunami of 2004, which killed over 30,000 persons and displaced some 100,000 families.¹⁵⁶ Many fishing communities were relocated to homes several kilometers inland, which required daily (and costly) travel back and forth to the ocean in order to fish. As a result, many fisher folk abandoned fishing and became reliant on temporary labor and government assistance. The government is now seeking to rebuild the country and generate economic development in the wake of the damages caused by the conflict and Tsunami, including massive displacement and loss of livelihood resources for many residents. However, many of the large development projects being promoted under this program are preventing IDPs from returning to their fishing and farming activities, and displacing more families in their midst.¹⁵⁷

A large-scale tourism development initiative is being actively promoted by the government, which aims to bring 2.5 million tourists to Sri Lanka by 2016 (from 0.6 million that visited the country in 2010.) A main component is the Kalpitiya Dutch Bay Resort Development Project, which contemplates the construction of seventeen hotels with a capacity of 10,000 beds; close to half of which will be four and five star luxury hotels. Official projections suggest that the project will generate 37,500 indirect and direct jobs, although the actual benefit in terms of jobs creation is unclear. Government estimates of the negative impacts of the project are widely perceived to be inaccurate, in part because it has maintained that people will not be displaced or lose their access to their means of subsistence.¹⁵⁸

¹⁵⁴ This primary source for this case summary is a Sri Lankan human rights advocate who requests to remain anonymous.

¹⁵⁵ CIA, *The World Factbook: Sri Lanka*, available at <https://www.cia.gov/library/publications/the-world-factbook/geos/ce.html>, accessed August 15 2011 and IDMC, *Sri Lanka: IDPs and returnees remain in need of protection and assistance*, available at <http://www.internal-displacement.org/countries/srilanka>, accessed August 15 2011

¹⁵⁶ CNN, “Tsunami Death Toll”, February 22, 2005, available at http://articles.cnn.com/2004-12-28/world/tsunami.deaths_1_death-toll-tsunami-tamil-eelam?_s=PM:WORLD, accessed August 15 2011.

¹⁵⁷ Tourism Concern, “Sri Lanka: Tourism - the road to ruin or repair?” August 14, 2009, available at <http://www.tourismconcern.org.uk/index.php?mact=News,cntnt01,detail,0&cntnt01articleid=176&cntnt01returnid=79>, and “Sri Lanka: Post-tsunami displacement”, available at <http://www.tourismconcern.org.uk/index.php?page=sri-lanka-2>, accessed August 15, 2011..

¹⁵⁸ “Tourism Development Strategy: 2011-2016.” Ministry of Economic Development, p. 4 (available at : www.srilanka.travel/catalog/view/theme/default/image/pdf/English.pdf) and “STOP: The Displacement of Coastal Communities in the name of Wonders in Asia.” Report of the Fact Finding Mission on Land & Sea Grabbing issues at Kalpitiya Islands in Puttlam district in Sri Lanka. available at : <http://prajaabhilashanetwork.blogspot.com/2011/03/tourism-in-kalpitiya-stop-and-review.html> (accessed April 6, 2012)

However, the prime real estate slated for the development of tourism corresponds to the beaches and waters on which the area's fisher folk depend. The peninsular Kalpitiya region located in the Puttalam district of the North Western province of Sri Lanka is forested by mangroves, diverse types of vegetation and marine species. Some 10,000 low income, small-scale fishing families live in Kalpitiya, which enjoys less access to education, healthcare and other basic services, compared to other areas in the country.¹⁵⁹ Fishing families often live on the beaches and move their homes in accordance with the tides. However with beach properties being fenced as new hotels emerge, they are unable to move inland. In Mohottuwarama village, for example, more than one thousand people have been trapped "between the fence and the deep sea," as the sea encroached and they were unable to move inland as a result of the newly erected fences.¹⁶⁰ Residents of Kalpitiya have also highlighted the damage that large-scale tourism and construction will have on the marine life and island eco-systems, especially with the addition of sewage systems, electricity, and other infrastructure projects.¹⁶¹ Villagers affected by the projects and their advocates have voiced serious concern about the threats that large-scale tourism development poses to the right to work, property rights, the right to adequate housing and the right to an adequate standard of living.¹⁶²

The impacts of large-scale tourism development in Sri Lanka also pose grave threats to the realization of the right to food. Since the country's independence in 1948, small-scale coastal fisheries have provided 60-70% of the total yearly fishing in the country and the predominant source of animal protein for the 70% of the population.¹⁶³ If fisher folk are denied access to the beaches, the entire supply chain of affordable fish will be undermined. Fishing is also closely linked with other economic activities, such as the operation of landing boats, net maintenance, fish drying, the construction of temporary settlements and women's' employment in the retail trade. While some 111,650 fishers depend directly on small-scale coastal fishing, it is estimated that 1 million people depend on related activities, including fish handling, processing and retailing.¹⁶⁴ The loss of beach access, or points where for coastal small-scale fishers anchor their boats therefore has significant implications for the entire population of Sri Lanka.

The affected communities living on Kalpitiya have expressed serious concern about the lack of consistent information about the project, noting that the statements issued by government officials often run counter to information shared by other political figures or religious leaders. Without clear information about the course of the projects or the anticipated impacts for their local way of life, they are progressively losing access to the lands and beaches and witnessing the destruction of the mangroves, an environment that they have traditionally used and occupied for generations, with serious impacts on their culture and way of life. Their freedom of movement is also severely

¹⁵⁹ IFFM, "Between the Fence and the Deep Sea: Tourist development in Kalpitiya, Sri Lanka" final report, March 16, 2011, available at www.sacw.net/IMG/pdf/Sri_Lanka_IFFM_final_report-16-03-11.pdf.

¹⁶⁰ *Ibid.*

¹⁶¹ Tourism Concern, "Sri Lanka: Post-tsunami displacement", available at <http://www.tourismconcern.org.uk/index.php?page=sri-lanka-2>, accessed August 15, 2011.

¹⁶² ICCPR, Article 2(1), ICESCR Article 11, UNDHR Article 25(1), CRC Article C24(1)c and Article 27(1)

¹⁶³ "Ceylon Fisheries: Recommendations of Experts on Fisheries Development, Research, Socio-Economic and Development Problems" (1951).

¹⁶⁴ Ministry of Fisheries and Aquatic Resources Development, "Annual Fishery Statistics 2010." Available at <http://www.fisheries.gov.lk/statistics.html>.

constrained. Many families are unable to access their churches or mosques, as fences are being erected across roads leading to the tourism project.

A broad grouping of fisher folk, farmers and urban intellectuals have mobilized to demand food sovereignty, defined as “the right of nations and peoples to control their own food systems, including their own markets, production modes, food culture and environments.”¹⁶⁵ Their demands have centered on security of tenure for fisher families and the ability of fisher folk to continue to access beaches in order to engage in their traditional economic activity.¹⁶⁶ The food sovereignty movement in Sri Lanka argues that tourism should not impede the ability of people to enjoy sustainable livelihoods. Affected communities have mobilized to demand the right to information about the project, the right to be consulted and have a meaningful say in how decisions around the project are carried out. They are arguing that proceeds from tourism should be directed to benefit local communities, progressively raise their standard of living.¹⁶⁷

The strategies employed by affected communities and their allies in the broader food sovereignty movement are diverse. They have included participation in people’s tribunals and litigation related to land rights in the legal system. They have pursued land titles while raising awareness within the country and beyond, by coordinating visits by environmentalists, media outlets and an international fact finding mission. They have approached local and national authorities, submitted petitions to some diplomatic missions and sought recourse at the UN Human Rights Council. Human rights defenders who have participated in these activities often do so at great peril, and many of them have faced serious threats to their lives and physical integrity in an apparent reprisal for their work related to these large development projects. Operating with great sensitivity, they have persisted in their efforts, broadening their base of support by affiliating themselves with several international networks dedicated to issues of land and human rights.

CASE 2:

Forcible land acquisition for “public purpose”

The case of POSCO in India

In many respects, the world’s largest democracy has served as a model for upholding human right standards. Many of the Directive Principles of State Policy contained in articles 36 to 50 of the country’s Constitution reflect key provisions of the ICESCR, and the Indian legislature has enacted a number of laws giving effect to its treaty obligations.¹⁶⁸ Some economic, social and cultural rights issues (particularly relating to health and food) have been interpreted by the Supreme Court as

¹⁶⁵ C Schiavoni, "The Global Struggle for Food Sovereignty," *Journal of Peasant Studies*, 36, no. 1 (2009): 682-689,

¹⁶⁶ Statement from Civil Society Preparatory Workshop to the Global Conference on Small-Scale Fisheries (4SSF), Bangkok, Thailand, 11 to 13 October 2008.

¹⁶⁷ Coast Conservation Department, “Sri Lanka’s Fisheries Sector Study, Final Report” Vol. 1 & 2, (FAO/ADB Cooperative Programme Investment Center, 1988), available at <http://www.coastal.gov.lk/bookLibrary/fishing.html>.

¹⁶⁸ Constitution of India and <http://www1.umn.edu/humanrts/edumat/IHRIP/circle/justiciability.htm>

integral to the right to life and directly justiciable, for which India's judiciary is widely viewed as progressive by the international human rights community. At the same time, India's desire to attract investment has sometimes spawned conflict with many rural populations and tribal groups who live in areas that are rich in natural resources and rely on their ability to access and use their lands for their livelihood. On the other hand, the power of the State according to the Land Acquisition Act allows the government to take lands by citing "the public purpose" without having to justify the decision before judicial review.¹⁶⁹

Representing India's single largest current source of foreign direct investment with an initial value of US \$12 billion,¹⁷⁰ The Korean Pohang Iron and Steel Company (POSCO) is planning to build an integrated steel plant and captive power station in Jagatsinghpur, Odisha. With a poverty rate around 45%,¹⁷¹ the state is home to many indigenous and tribal people who live in isolated areas without basic infrastructure and services.¹⁷² Most depend on access to the land and water to meet their basic needs and sustain their livelihood. The POSCO project will affect 11 villages, mainly within the districts of Dinkia, Nuagaon and Gadakujang and will require massive land acquisition and the displacement of many of those situated nearby the site of the project. Government and company representatives have projected that 4,004 acres of land will be utilized and some 2,500 people would be displaced, but independent estimates anticipate that upwards of 13,000 acres will be required and well over 22,000 will have to move.¹⁷³

The Orissa¹⁷⁴ Resettlement and Rehabilitation Policy adopted in 2006 contains no requirement to obtain the free, prior and informed consent of affected families prior to land acquisition and no guarantee of land for those who are displaced.¹⁷⁵ Villagers confronting displacement by the POSCO project lack protections to ensure that their human rights are not violated. The relocation sites would not support the cultivation of the betel-vine, representing a huge economic loss and the

¹⁶⁹ "Saldanha, Leo F. and Bhargavi S. Rao. "Tearing Through the Water Landscape:" Evaluating the environmental and social consequences of POSCO project in Odisha, India (Environment Support Group: 27 May, 2011) available at: <http://www.esgindia.org/resources/r>"

¹⁷⁰ "Saldanha, Leo F. and Bhargavi S. Rao. "Tearing Through the Water Landscape:" Evaluating the environmental and social consequences of POSCO project in Odisha, India (Environment Support Group: 27 May, 2011) available at: <http://www.esgindia.org/resources/r>"

¹⁷¹ World Bank:

<http://www.worldbank.org.in/WBSITE/EXTERNAL/COUNTRIES/SOUTHASIAEXT/INDIAEXTN/0,,contentMDK:20952860~pagePK:141137~piPK:141127~theSitePK:295584,00.html>

¹⁷² http://docs.google.com/viewer?a=v&q=cache:foSDrVby0Aoj:www.unido.org/fileadmin/user_media/Services/PSD/Clients_and_Networks/CDP_in_Orissa_web_site2.pdf+poverty+in+odissa+india&hl=en&gl=us&pid=bl&srcid=ADGEEsi2EgwdHSSfbtXNsH6jj3jJIWAgSf_WpZbl_ZEGCcv9h64boNgNjEM6wKdfjth_5DLhhYA81psfArbyn2AG5ek5t5lsr1FQWWVWMSUIgrUjk3059xNwRcLSTCSW25NE92CtqemK&sig=AHIEtbQw-RuvFwilEe-yyuKIOq03gNeP0g

¹⁷³ "Saldanha, Leo F. and Bhargavi S. Rao. "Tearing Through the Water Landscape:" Evaluating the environmental and social consequences of POSCO project in Odisha, India (Environment Support Group: 27 May, 2011) available at: <http://www.esgindia.org/resources/r>"

¹⁷⁴ In 2006 the state was re-named Odisha. Prior to this date, it was known as Orissa.

¹⁷⁵ See: http://docs.google.com/viewer?a=v&q=cache:kdFGDjnOLtIj:www.aitpn.org/Issues/II-07-06-ORRP.pdf+weaknesses+in+Orissa+Resettlement+and+Rehabilitation+Policy+of+2006&hl=en&gl=us&pid=bl&srcid=ADGEESHm39cxoE9KwIciEv5WKjozb4sNwObYKAXcPkQdtLohNzMjBowilfqOERPapRW3tZ-n-a6zLbnU-aX8lLeskr6FYqKYwixL2W0PqVZYHIOfWZSKjndKfAV1v3-KoNMMrEtSGiz&sig=AHIEtbT9b9lxkLSxtzfoCyb6p12_8mC7cg

disruption of traditional livelihoods that have sustained these families for many generations.¹⁷⁶ Compensation is highly inadequate. POSCO has agreed to pay displaced betel nut farmers Rs400,000-Rs500,000 (US \$ 8,700 - \$10,800) and offer one job for every family. However, each betel nut vine can earn around Rs10,000 (\$222) per month, which far exceeds the amount awarded as compensation.¹⁷⁷

Villagers have expressed concerns that the steel plant and power station will destroy rice paddies, fish-ponds, cashew crops and betel-vine cultivation and cause water-logging on agricultural lands which will threaten their right to work.¹⁷⁸ It will also seriously erode the area's mangrove forests that protect against cyclones; with serious implications for the right to life and security of people living in one of the most cyclone prone areas in the world.¹⁷⁹ Several species of fish and shrimps also live in the mangrove swamps and fisher folk would face serious threats to their right to food and health if they were destroyed. The project will reportedly utilize excessive amounts of water from the Mahanadi River which threatens to create scarcity for local domestic and irrigation purposes and grave consequences on the right to health. Forced displacement and other impacts of the project also pose major threats to the right to adequate housing and standard of living.

The villagers living in areas affected by the project, organized under the banner of the Posco Pratirodh Sangram Samiti (the anti-POSCO People's Movement, or PPSS) have engaged in non-violent acts of civil disobedience, in the Gandhian tradition. Women and children from the villages slated for displacement have conducted actions where they lie at the entry of their village and refuse entry by the state police. The authorities have proceeded to occupy the project area immediately surrounding the communities, and villagers confront regular instances of harassment and threats due to their ongoing presence. The PPSS has worked with several partners in order to expand their advocacy strategies, including through media work, engagement with the National Human Rights Commission, and campaigns that aim to influence the financiers of the project and the company's headquarters in Korea. They have developed several strategic international relationships, including with a number of Korean civil society organizations and several members of ESCR-Net.¹⁸⁰

¹⁷⁶ Report by the Independent Fact Finding Team on Issues Related to the Proposed POSCO Project in Jagatsinghpur (Orissa) 19th to 22nd April, 2007

¹⁷⁷ See <http://www.ft.com/cms/s/0/6ece0e64-9e5c-11e0-8e61-00144feabdc0.html#axzz1WSBDwFUj>

¹⁷⁸ "Saldanha, Leo F. and Bhargavi S. Rao. "Tearing Through the Water Landscape:" Evaluating the environmental and social consequences of POSCO project in Odisha, India (Environment Support Group: 27 May, 2011) available at: <http://www.esgindia.org/resources/r>"

¹⁷⁹ "Saldanha, Leo F. and Bhargavi S. Rao. "Tearing Through the Water Landscape:" Evaluating the environmental and social consequences of POSCO project in Odisha, India (Environment Support Group: 27 May, 2011) available at: <http://www.esgindia.org/resources/r>"

¹⁸⁰ Discussion with Prasant Paikray, spokesman of the PPSS

CASE 3:

The energy behind forced displacement:¹⁸¹

The Belo Monte Dam in Brazil

With Brazil's rapid growth as the region's economic power, internal demand for electricity and water has increased substantially in recent years. Energy autonomy is an important goal in this rapidly developing country, where power outages are commonplace and resources are plentiful. Yet, from the perspective of the people affected by large dams and similar megaprojects, the prevalent model of energy development is driven more by the interests of capital accumulation than any objective development imperative.

Brazil's 2011-2020 energy expansion plan calls for the construction of 48 additional large dams, of which 30 would be in the country's Legal Amazon region¹⁸². A landmark project within this scheme, the government views the Belo Monte Dam complex as a solution to the country's current energy crisis and has attempted to start the project several times in the last 40 years. The Brazilian government says the construction of the Belo Monte dam, the world's third largest hydroelectric dam complex, on the Xingu River in the Amazon, is urgently required if the country is to keep pace with soaring domestic energy demand resulting from a booming economy that grew 7.5% last year. Now, thanks to new infrastructure investment programs such as the Program to Accelerate Growth and financing from the central bank BNDES, the project was commenced in June 2011.

The populations that are going to be displaced or otherwise affected by this mega-project have strong cultural ties to their lands, in particular indigenous and riverine communities. In the area of the town of Altamira, there is a large concentration of impoverished families who live in houses on stilts, long accustomed to the ebbs and flows of the river. These people depend on the river for their livelihood and for the survival of their cultures and way of life, within the harmonious, traditional relationship between the Xingu River area and its inhabitants.

The population affected by Belo Monte, estimated at, has not been allowed to participate in major decisions concerning this project. Indigenous people who have an internationally recognized right to free, prior and informed consent, have not been consulted or given adequate information about the dam, despite guarantees in the Brazilian Constitution and international human rights standards. As a matter of fact, Brazil rejected a request by the Inter-American Commission on Human Rights to halt the project until the irregularities regarding the rights of indigenous people could be investigated further.

The construction of the Belo Monte Hydroelectric dam is causing permanent negative impacts on the peoples of the Amazon. Some of the most long lasting impacts involve 100 km of dry river in the region of the Big Bend of the Xingu, between the wall and primary Powerhouse which pose grave threats to the right to food for the indigenous people of the Xingu and local fishermen.

¹⁸¹ The primary source for this summary is Antonio Claret of the Movement of Dam Affected People (MAB). Several secondary sources are also, cited below

¹⁸² Brazil, MME (Ministério de Minas e Energia). 2011. Plano Decenal de Expansão de Energia 2020. MME, Empresa de Pesquisa Energética (EPE). Brasília, DF, Brazil. 2 vols. http://www.epe.gov.br/PDEE/20111229_1.pdf

The Belo Monte basin floods an area of 500 km², or 50,000 hectares, equivalent to 50,000 official size soccer fields. The canal of the basin to the main powerhouse will be 470 meters wide and can reach 80 feet deep, with an approximate length of 30 km. In these permanently occupied areas, there are several construction sites, access roads, and other necessities for the construction of the dam, built in areas of old-growth forest which holds great value for the biodiversity in the Amazon region. The environmental and social impacts of the construction and influx of workers to this remote area presents serious threats to the right to housing, the right to an adequate standard of living, the right to health and a range of cultural rights.

The right to access essential services is also under threat. Most widely cited studies estimate that Belo Monte will affect close to 60,000 people, of which around 30,000 live in the city of Altamira. The city's population has doubled in the last decade and in the last year, with the start of construction of the dam, it has grown from 100,000 to approximately 140,000 people. This rapid growth is provoking a breakdown in the provision of essential services in the city, and mounting chaos as a result. There is a marked increase in violence, 80% increase in demand for emergency room services, a lack of vacancies in schools, and increased homelessness are some of the main problems.²

A good portion of those affected live and depend on the area downstream of the dam, where the flow will be reduced by some 20%, even while its population is not recognized as affected. The government and businesses, however, have been cunning in driving this process, by associating the image of Belo Monte with the core concept of "development" and attempting to co-opt dam opponents, as evidenced by the over 14 million Brazilian *reais* poured in indigenous villages in the last year.¹⁸³

The construction of the dam has continued at full steam for a period of almost a year. The so-called mitigation measures are moving slowly or stalled. The families of the areas already occupied by the companies, declared as public utility, are forced to leave, with or without compensation. Households located in the areas affected by the dam do not know the direction that their lives will take, they are receiving inconsistent and contradictory information by companies, and they are living in grave insecurity.

Studies prove that the socio-economic impacts of the Belo Monte dam are greatly diminished in the eyes of government officials. The Environmental Impact Assessment (EIA) underestimates the rural population, and therefore the number of people directly affected by Belo Monte could be double from the number indicated in the studies. Only through new studies can the real number be confirmed.¹⁸⁴

¹⁸³ Movimento Xingu Vivo Para Sempre, available at: <http://xingu-vivo.blogspot.com/2012/04/complexo-de-hidretricas-no-amazonas.html>

¹⁸⁴ International Rivers <http://www.internationalrivers.org/node/4727>

Social movements from around the world are responding to these threats with media campaigns, local community mobilizations, and by building alliances across sectors and raising awareness. International organizations engaged in longer-term campaigns include International Rivers and Amazon Watch, as well as a number of national NGO's such as Movimento Xingu Vivo, Inter-American Association for Environmental Defense and the Instituto Socioambiental.

The Movement of Dam Affected People (MAB), present today in 14 Brazilian states, has been making great effort to organize and mobilize those affected by the Belo Monte dam. They work closely with various local communities and organizations, including indigenous people, fishermen, farmers, city dwellers and others. MAB is conducting various activities, including meetings with the affected people, protests, and complaints, with the aim of organizing popular resistance and struggle for human rights. They are also working in the Amazon and other regions of Brazil, leading the debate on energy policy with the question 'energy for what and for whom?' They defend the notion that energy should be at the service of improving the quality of life of people and their sovereignty. MAB has engaged with national and international alliances, community organizing, and awareness-aising within the broader society in efforts to compel the government of to comply with their human rights obligations. Unfazed by the recent failure of the Interamerican Human Rights Commission to address the concerns prompted by this project, MAB continues to mobilized affected people in and around the project area to defend their rights and to demand that development projects are designed to benefit the country's poorest and most marginalized people, rather than at their expense.

CASE 4:

The real price of gold

*Mining and displacement in Ghana*¹⁸⁵

In Ghana, minerals contribute 37% of the country's total exports. In some regions mining is the predominant economic activity; 40% of the Wassa West district, for example, is covered by mining concessions.¹⁸⁶ Large-scale gold mining utilizes vast amounts of land and water and often results in serious environmental impacts related to the use of cyanide in extraction processes. While countries anticipate great economic returns from mining, history has shown that subsoil natural resource extraction often leads to environmental damage, conflict and widening social and economic inequalities, particularly where environmental regulations and human rights protections are weak or nonexistent.¹⁸⁷

¹⁸⁵ The primary source for this summary is Daniel Owusu-Koranteng, Wassa Association of Communities Affected by Mining (WACAM). Several secondary sources are also, cited below

¹⁸⁶ FIAN. "Human rights violations in the context of large-scale mining operations." (FIAN International: Geneva, Switzerland, January, 2008) available at: <http://www.fian.org/news/resources/documents/others/mining-related-human-rights-violations-ghana/pdf>.

¹⁸⁷Michael Ross. "Extractive Sectors and the Poor" (Boston, MA: Oxfam America, 2001) available at: <http://www.sscnet.ucla.edu/polisci/faculty/ross/oxfam.pdf>.

The U.S.-based Newmont Mining Corporation is establishing an open pit gold mine in the Ajenjua Bebo Forest Reserve in the Birim North District, in Eastern Ghana, which is planned to open in 2013.¹⁸⁸ The Akyem mine is expected to occupy an area 2.6 km long and 0.8 km wide and destroy an estimated 183 acres (74 ha) of forest. The project is anticipated to bring about, detrimental effects on wildlife (including some endangered species) and water resources and the creation of waste piles 60-100 meters high.¹⁸⁹It has also required the relocation of a substantial number of people. The first phase of the mine (Ahafo South) displaced approximately 9,500 people, and an expansion of the mine (Ahafo North) is expected to displace another 10,000.¹⁹⁰

Mining provides relatively short-term economic benefits through new investment, infrastructure development and the creation of jobs, but, its long-term effects on a range of human rights are often not fully addressed when concessions are being awarded. However, the destruction of vegetation, forest wildlife and farmlands has serious implications for the ability of residents situated nearby operations to realize their right to food. The use of toxic materials and acids during the gold mining process often has impacts on the quality of drinking water and, consequentially, people's ability to realize their right to health.¹⁹¹The rights of women are specifically affected by the impacts of mining on health, food and water, particularly given the domestic roles for which they are often responsible. The environmental and social impacts of large-scale gold mining in Ghana also has far-reaching implications for cultural rights, as the company plans to exhume bodies from the royal mausoleum (a traditional burial ground) in the Birim North District in order to make way for dumping grounds for mine waste.¹⁹²

The Ahafo project gained notoriety when it caused Newmont to receive the "Public Eye Award" in 2009.¹⁹³ Key among reasons for grievances against the company was Newmont's treatment of affected communities during consultation proceedings. Prior to the establishment of Ahafo South, the majority of the residents of the affected communities expressed clear opposition to project plans, and many were surprised to hear Newmont's subsequent claims that local consent had been obtained.¹⁹⁴ In August of 2009, the Ghanaian media reported that Newmont issued \$42,000 total in payment as a bribe to four village chiefs in order to persuade them to express consent for the mine

¹⁸⁸ "Golden Rules: Making the Case for Responsible Mining." (Washington, D.C: EARTHWORKS and Oxfam America, 2007) available at: <http://www.nodirtygold.org/goldenrulesreport.cfm>.

¹⁸⁹ No Dirty Gold, "Newmont's Ahafo Cyanide Spill," January 21, 2010, available at: <http://www.nodirtygold.org/NewmontAhafoSpill.cfm>

¹⁹⁰ "Wassa District: Ahafo Mine" available at: http://www.nodirtygold.org/wassa_district_ghana.cfm last accessed 5/4/12)

¹⁹¹ World Rainforest Movement, "Ghana: Newmont Mining corp. threatens AjenjuaBebo Forest and neighboring communities." (*WRM's bulletin N° 135, October 2008*), last accessed 10/12/12, available at: <http://www.wrm.org.uy/bulletin/135/Ghana.html>

¹⁹² Masahudu Ankiilu Kunateh, "Newmont Wants Dead Royals Exhumed." *The Chronicle*, (August 2, 2011), available at: <http://ghanaian-chronicle.com/news/lead-stories/newmont-wants-dead-royals-exhumed/>.

¹⁹³ The Public Eye Awards. "Hall of Shame", (2009), available at: <http://www.publiceye.ch/en/hall-of-shame/newmont/>

¹⁹⁴ Interview with Daniel Owusu-Koranteng, Wassa Association of Communities Affected by Mining (WACAM), May 24, 2011

on behalf of their communities and defend Newmont against concerns raised by the United Nations' Human Rights Council regarding its operations in the country.¹⁹⁵

Plans to resettle populations displaced by the project have also been problematic. Managed by a private consulting firm, rePlan, the resettlement plan provides for the relocation of 300 households affected by the Akyem Mine. Similar plans are underway for resettlement related to Newmont's second mining project in the country, the Ahafo Mine.¹⁹⁶ The UN Human Rights Council noted in 2010 that neither Newmont nor the government of Ghana have ensured that the resettlement process will be fair and equitable, and that farmers who have lost their land have not been offered new lands and have been dispossessed of their means of accessing food.¹⁹⁷ Neither plan reflects an adequate solution for new housing and land for the large number of families displaced by the project, nor does it succeed in guaranteeing that affected people will not be left impoverished as a result. The fairness of compensation levels and overall compliance with relevant provisions of Ghana's Constitution have also been questioned¹⁹⁸ Many residents have, in fact, refused to relocate, arguing that Ghanaian laws entitling displaced people to adequate, prompt and fair compensation and suitable alternative land have not been complied with. Similar standoffs have taken place regarding displacement caused by the Akyem mine.¹⁹⁹

Organized under The Wassa Association of Communities Affected by Mining (WACAM), a national platform of community members has mobilized people and engaged in solidarity actions with communities resisting displacement.²⁰⁰ They have engaged in media advocacy and other strategies to seek to hold Newmont accountable for chemical spills and the bribery of village leaders.²⁰¹ In efforts to resist a "race to the bottom" where countries lower community protections in efforts to attract mining investment, advocates across West Africa (including WACAM) came together in 2008 and 2009 to influence the development of a regional mining code within ECOWAS, the economic community of West African states, to, among other things, respect the rights of communities to free, prior and informed consent in the context of mining projects in Africa.²⁰²

¹⁹⁵ Justice Lee Adoboe, "Bribery Scandal Rocks Newmont", *Financial Intelligence*, (August 26, 2009), available at: <http://www.myfinancialintelligence.blogspot.com/2009/08/bribery-scandal-rocks-newmont.html>

¹⁹⁶ See rePlan, "Akyem Mine", available at: <http://www.replan.ca/our-work/projects/akyem> for more information

¹⁹⁷ Report of the Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights, Okechukwu Ibeanu, A.HRC.15.22.Add.1, available at:

http://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/A.HRC.15.22.Add.1_EFS.pdf

¹⁹⁸ Interview with Daniel Owusu-Koranteng, Wassa Association of Communities Affected by Mining (WACAM), Ghana, May 24, 2011

¹⁹⁹ Namely, of Article 20 (3) of the 1992 Constitution and Section 74 (2) of the Minerals and Mining Act, 2006, Act 703

²⁰⁰ "Ghana: Newmont told to stop abusing community rights," *Statement, Ghanaian Chronicle*, Mines and Communities: August 8, 2011), available at: <http://www.minesandcommunities.org/article.php?a=11095>

²⁰¹ "WACAM Highlights the Negative Impact of Surface Mining," *Ghana Web*, (May 26, 2008), available at: <http://www.ghanaweb.com/GhanaHomePage/economy/artikel.php?ID=144400>; WACAM Ghana, available at <http://www.wacamghana.com/>.

²⁰² Mashudu Ankiilu Kunateh, "ECOWAS to Implement Common Mining Code by 2012", *The Chronicle*, (June 1, 2009), available at: <http://allafrica.com/stories/200906010741.html>

CASE 5:

Land grabbing for real estate development

Displacement in coastal Pakistan²⁰³

More than two-thirds of the population of Pakistan live in rural areas and depend on fishing or agriculture for their livelihood. A relatively arid country, fresh water sources are limited and irrigation is crucial to support agriculture in the country's rural areas.²⁰⁴ Fresh- and salt-water resources are preserved largely thanks to the coastal mangrove forests in Pakistan that cover approximately 129,000 hectares in the Indus Delta. The mangroves enable the residents of the area to sustain themselves from fishing, agriculture, and raising livestock and they serve as breeding grounds for several species of fish and shrimp and ensure that fishing is accessible to small-scale fisher folk who lack sophisticated fishing technologies.²⁰⁵ They protect against coastal erosion by trapping sediment and stabilizing the coast line, and they buttress coastal areas from sea water intrusion, flooding and damage from tides and large waves during periods of extreme weather.²⁰⁶ Rural villagers in and around the Indus Delta also value mangroves for the lumber they produce, which is resistant to rot and insects. The trees are also used as firewood and fodder for livestock.

Several statutes and administrative decrees have been adopted to protect the mangroves. Pakistan's Forest Act of 1927's declared the trees to be a protected species and prohibited their destruction, and in 2010 the Forests and Wildlife Department of Sindh Province declared the mangroves to be "Protected Forests." These decrees, however, have not been sufficient to guarantee protection of the mangroves and the fisher folk who depend on them to survive in the face of growing pressure on the mangrove swamps due to the rising value of coastal land.²⁰⁷

Since the early 1990's, politically-connected local elites have begun to acquire coastal lands around Karachi, cut down the mangrove trees and fill in the swamps in order to convert and sell the land to real estate. The grabbing of mangroves and coastal lands has intensified as the market for coastal properties has grown and has become emboldened by the refusal by the authorities of Pakistan to enforce the laws prohibiting this activity.

Surrounded by mangrove forests on three sides, Kaka Pir is a small fishing village, with a population of about 600, located approximately 15 km from the city of Karachi. The area's fisher folk are able to sustain themselves thanks to regular access they have to the sea via a wide creek and a natural

²⁰³ The primary source for this summary is Jamil Hussein, Pakistan Fisherfolk Forum. Several secondary sources are also, cited below

²⁰⁴ Dr. Pamela Stedman-Edwards, ed. "Pakistan: Mangroves" available at http://www.wwfpak.org/forest_mangrove.php (last accessed 10/14/2011)

²⁰⁵ Jamil Juenjo, "PAKISTAN: Destruction of the Indus Delta: A case of human rights" June 27, 2011, available at: <http://alaihah.wordpress.com/2011/06/27/destruction-of-the-indus-delta-a-case-of-human-rights/>

²⁰⁶ World Wildlife Fund. "Mangroves Importance." available at: http://wwf.panda.org/about_our_earth/blue_planet/coasts/mangroves/mangrove_importance/ (last accessed 5/4/12)

²⁰⁷ "PFF Struggle for Conservation and Protection of Mangrove Forests" Pakistan Fisherfolk Forum, 2011 available at: www.esrc-net.org/usr_doc/PFF_Report.pdf (last accessed 5/4/12)

harbor.²⁰⁸ Fisher folk organized in local unions represented by the Pakistan Fisher Folk Forum (PFF) have reported growing food insecurity and water scarcity as a result of the loss of the mangroves.²⁰⁹ In consequence, the loss of fish and crustaceans that used to inhabit the mangrove swamps has posed grave threats to the ability of the fisher folk to realize the right to food and right to work. Coastal populations have also become more vulnerable to hurricanes, changing tides and floods with serious implications for right to health and right to life.²¹⁰ As the land grabbing continues to intensify, fisher folk have mobilized to defend the mangroves and their human rights and have confronted intimidation, persecution, criminalization and violence as a consequence of their activities.

In recent years, a growing conflict over the lands in and around Kaka Pir village has intensified, leading to a growing wave of political violence by members of the landed elite, with grave implications for a range of civil and political rights. Inaction by the authorities and repeated efforts to press criminal charges against fisher folk engaged this struggle has created an environment that further enables impunity and silences the voice of these grassroots environmental and human rights defenders, resulting in grave consequences. In January of 2011, fishing facilities and homes in Kaka Pir were attacked by a group of some 40 armed assailants, after which, local police officers refused to process charges against the individuals witnesses claimed were responsible. On May 5th 2011, two members of the PFF were murdered, reportedly by individuals involved in the earlier attack. On May 19th Pakistani police forces allegedly fired into a crowd of protestors gathered to demand justice for the assassinated fisher folk leaders. Following this event, in July of 2011 two fisher folk leaders were abducted and one was severely beaten by individuals that witnesses say are affiliated with the same landed interests behind the other assaults. In the face of these repeated offenses, the affected fisher folk have mobilized together with the Pakistan Fisherfolk Forum to seek broader solidarity with their efforts to stop land grabbing, protect the mangroves, defend their livelihoods and resist efforts to persecute and repress their activities in defense of human rights.²¹¹

²⁰⁸World Wildlife Fund. "Study on Knowledge, Attitudes & Practices of Fisherfolk Communities about Fisheries and Mangrove Resources." (2005) available at :

http://docs.google.com/viewer?a=v&q=cache:Go73nBkoxm0J:www.wwfpak.org/pdf/tp_kap_kakapir_village.pdf+Kaka+Pir+village&hl=en&pid=bl&srcid=ADGEEsGvFVUpHndyKSwGpZktV73H5h1xUxDUYZVJPj3d8xH_sR8r6Nvaru466kIvXVXuaHtcoMyO9a81v0Ae_ohpuPKJZv2xyyH_pLlez4BSfzpSEPyvh1P8jiWEw_gVuH2oUgECx|x&sig=AHIEtbS5mXIFgStbhMZt4VVKTQe18IDvYA (last accessed 5/4/12)

²⁰⁹ Asian Human Rights Commission, Urgent Action, available at: <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAU-024-2011>

²¹⁰PFF Struggle for Conservation and Protection of Mangrove Forests" Pakistan Fisherfolk Forum, 2011 available at: www.escri-net.org/usr_doc/PFF_Report.pdf (last accessed 5/4/12)

²¹¹ Ahmed, Norman. "Kakapir village: Fishermen fear the elusive 'mangrove mafia' and eco-devastation" (The Express Tribune, August 12, 2011) available at: <http://tribune.com.pk/story/229508/kakapir-village-fishermen-fear-the-elusive-mangrove-mafia-and-eco-devastation/> (last accessed 1/6/13)

CASE 6:

Evictions to make way for the Games *Displacement by mega-events in Brazil*²¹²

With an estimated population of 203 million, Brazil's urban areas are home to some 87% of the country's residents²¹³ where the poor often dwell in slums or informal settlements. In the *favelas* located on the outskirts of cities, access essential services is poor and people struggle to make a living. Many slum dwellers in Brazil experience regular harassment and mistreatment from state authorities who frequently treat them as if they were criminals and regard low income sections of the city as a problem that should disappear. One way to pursue this would be to convert these areas of the city in order to accommodate new urban development priorities.²¹⁴ In 2014, Brazil will be hosting the FIFA World Cup tournament and the Olympic Games will be held in the country in 2016. These two large international gaming events (also referred to as "mega-events") will bring thousands of people into urban centers, requiring large investments and creating a number of social and spatial challenges. In anticipation of the Games, Brazil is planning to spend some 24 billion *reals* (over US \$15 billion) in efforts to beautify 12 of its major cities²¹⁵ and build new sports stadiums, transport infrastructure, accommodations and tourism facilities.²¹⁶

Within the construction zone, an estimated 1.5 million families (some 50 million people) are facing forced evictions and the demolition of their homes, and many have had to relocate to areas far away from their original dwelling and place of work.²¹⁷ According to the Public Federal Ministry, some 4,450 families (more than 15 thousand people) living in informal settlements in and around in the city of Belo Horizonte face the prospect of being forcibly removed in the lead-up to the Games. In Curitiba, plans to expand the city's airport will result in the displacement of at least one thousand families, and more than 3,500 families will be removed to make way for the expansion of an expressway in Fortaleza. In Rio de Janeiro, where the summer Olympic Games will be held, several thousands of people face threats of forced evictions and the demolition of their homes and

²¹² The primary source for this case summary was Terra de Direitos, Brazil. WITNESS and Justica Global also provided material and key insights regarding this case.

²¹³ CIA, "The World Factbook: Brazil", available at <https://www.cia.gov/library/publications/the-world-factbook/geos/br.html>, accessed August 20, 2011.

²¹⁴ Clarissa Hugué, & Ilona Szabó de Carvalho, "Violence in the Brazilian favelas and the role of the police" *New Directions for Youth Development*, No. 119, (Fall 2008), p. 93-109.

²¹⁵ These cities include: Fortaleza, Recife, Natal, Salvador, Manaus, Cuiabá, Rio de Janeiro, São Paulo, Curitiba, Belo Horizonte, Brasília and Porto Alegre.

²¹⁶ Documento da Articulação Popular Nacional pela garantia dos Direitos Humanos, no contexto dos Megaeventos (July 31, 2011) available at : <http://comitepopulario.wordpress.com/documento-da-articulacao-popular-nacional-pela-garantia-dos-direitos-humanos-no-contexto-dos-megaeventos/> (last accessed 5/4/12)

²¹⁷ Amnesty International, "Brazil Human Rights" (2011), available at <http://www.amnestyusa.org/our-work/countries/americas/brazil> (last accessed 11/27/12)

neighborhoods to make way for roads, tourist facilities, hotels, sports stadiums and related infrastructure.²¹⁸

The Brazilian government has recognized that there exist weak mechanisms of control over the operations leading to the World Cup 2014. The Audit Court has addressed several management problems in recent reports, including a runaway budget, lack of transparency regarding public works, overpricing, contractual irregularities and impacts on the residents of host cities populations.²¹⁹ Concern has also been expressed regarding the absence of dialogue about alternatives to displacement, eviction orders issued with little advance notice, the use of violence during evictions proceedings and the inadequacy of housing solutions offered to affected families.

Forcible displacement has serious implications on the ability of those affected to realize their right to an adequate standard of living, particularly to adequate housing. Displacement of street vendors and others working in the informal market from the areas where they have sustained their livelihood will seriously affect the right to work. The lack of transparency surrounding these projects also poses challenges for affected groups to access justice and realize due process rights, as well as the right to be consulted and participate in plans that will affect them. Furthermore, the Government of Brazil has invoked a 'state of exception' for the lead-up to the events by which many regular procedures which recognizes the rights of affected people have been suspended or abbreviated, leaving affected residents of the informal settlements few avenues for recourse. Also, while millions of dollars are being allocated towards projects for these sporting mega-events, poor communities are still awaiting basic investments in public services such as hospitals, kindergartens, schools and health clinics. Generally, decisions regarding new construction projects have been characterized as "very authoritarian, top-down, with no public audiences, no democratic participation — and it's going to change the city forever."²²⁰

Civil society organizations and social movements have denounced forced displacement, intimidation, violence, degrading work conditions and the "ethnic and social cleansing" of the cities and issued demands for an end to forced displacement and evictions, improving the living conditions of the poor, and the repudiation of the 'state of exception,' mentioned above. Advocates are demanding transparency and information access regarding project plans and financial information increased public consultation in the project plans and respect for the labor rights of workers directly or indirectly linked to the Games. They are also insisting that compensation or resettlement plans guarantee that people who are evicted will be able to access alternative and

²¹⁸"Sobre o relatório do ONU - Copa 2014, Olimpíadas 2016 e Megaprojetos: Remoções em curso no Brasil" (May 5, 2011) available at:

http://web.observatoriodasmetropoles.net/index.php?option=com_content&view=article&id=1646%3Asobre-o-relatorio-do-onu-copa-2014-olimpiadas-2016-e-megaprojetos-remocoes-em-curso-no-brasil&catid=34%3Aartigos&Itemid=138&lang=pt (last accessed 5/4/12)

²¹⁹CARTA DE APRESENTAÇÃO DO COMITÊ POPULAR DA COPA DO MUNDO DE 2014 - CURITIBA, PARANÁ (June 7, 2011) available at : <http://copa2014curitiba.wordpress.com/2011/06/07/carta-de-apresentacao-do-comite-popular-da-copa-do-mundo-de-2014-%E2%80%93-curitiba-parana/> (last accessed 5/4/12)

²²⁰ Quote from Chris Gaffney, a visiting professor of urbanism at Rio's Fluminense Federal University, found in [Stuart Grudgings, "Brazil under fire for World Cup slum evictions"](#), (May 10, 2011), available at: <http://www.reuters.com/article/2011/05/11/us-brazil-worldcup-slums> (last accessed 1/14/12)

comparable housing. Thus far, civil society activism has been successful in prompting criticism of Brazil by the OAS²²¹ and the UN, a report by the UN Special Rapporteur on Adequate Housing²²² and a series of reports related to human rights violations in the 12 cities hosting the FIFA world cup tournament. Many have leveraged broad international movements claiming “a right to the city” and have utilized informational portals (such as the one established by the UN Special Rapporteur on Adequate Housing) to publicize their concerns. Affected communities have also mobilized to voice their demands, and a number of them have begun to learn new tools – such as video advocacy – to document their experiences and broadcast their grievances through various media outlets, in efforts to generate increased debate and oversight within Brazil and beyond.

²²¹ See: Caria Conner, “Social Change through the World Cup”, *Americas Quarterly*, (August 10, 2011), available at <http://www.americasquarterly.org/node/2812> (last accessed 10/28/12)

²²² See: “UN Rapporteur on Housing Concerned by World Cup and Olympics Preparations in Brazil”, (International Justice Resource Center: April 2011), available at <http://ihrlaw.org/2011/04/26/un-rapporteur-on-housing-concerned-by-world-cup-and-olympics-preparations-in-brazil/>

Annex 3: BIBLIOGRAPHY

International Law:

UN General Assembly, 3rd Session, *Universal Declaration of Human Rights*, A/RES/217 A (III), 10 December 1948.

UN General Assembly, 21st Session, *International Covenant on Economic, Social and Cultural Rights*, A/RES/2200 (XXI), 16 December 1966.

UN General Assembly, 21st Session, *International Covenant on Civil and Political Rights*, A/RES/2200 (XXI), 16 December 1966.

UN General Assembly, 20th Session, *International Convention on the Elimination of All Forms of Racial Discrimination*, A/RES/2106 A (XX), 21 December 1965.

UN General Assembly, 61st Session, *United Nations Declaration on the Rights of Indigenous Peoples*, A/RES/61/295, 2 October 2007.

Kalin, Walter, "Guiding Principles on Internal Displacement: Annotations", *Studies in Transnational Legal Policy*, No. 32 (Washington, DC: The American Society of International Law and the Brookings Project on Internal Displacement, 2000).

"The Practice of Forced Evictions: Comprehensive Human Rights Guidelines on Development-based Displacement: Annex 1 of the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living", A/HRC/4/18, available at http://www2.ohchr.org/english/issues/housing/docs/guidelines_en.pdf.

Policies of Multilateral Development Banks

African Development Bank, "Involuntary Resettlement Policy", (November 2003), available at <http://www.afdb.org>.

Asian Development Bank, "[A Community Guide to the ADB Involuntary Resettlement Safeguards](http://babcbodia.org/adbguide/)", (Bridges Across Borders Cambodia: May 2011), available at <http://babcbodia.org/adbguide/>.

Inter-American Development Bank, "Involuntary Resettlement in IDB Projects: Principles and Guidelines" (Washington D.C.: 1999), available at www.iadb.org/document.cfm?id=362003.

Organisation for Economic Cooperation and Development (OECD), "Guidelines on Aid and Environment No. 3", *Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects*, (Paris: 1992) available at <http://www.oecd.org/dataoecd/37/27/1887708.pdf>.

World Bank, "Operational Policy on Involuntary Resettlement", OP 4.12, (2001), available at <http://go.worldbank.org/ZDIJXP7TQ0>

Publications by International Organizations:

Center on Housing Rights and Evictions (COHRE). Forced Evictions: Violations of Human Rights: Global Survey of Forced Evictions No. 8, Geneva , June 2002.

COHRE, [Bridges Across Borders Cambodia](#) and the Housing Rights Task Force, "[World Bank project tied to forced evictions in Cambodia](#)", *Press Release*, (March 8, 2011).

CounterCurrent, "Dam construction in Turkey and its impact on economic, cultural and social rights," *Submitted on 14 March 2011 to the UN Committee on Economic, Social and Cultural Rights for its 46th Session*, May 2011, Parallel report in response to the Initial Report by the Republic of Turkey on the Implementation of the International Covenant on Economic, Social and Cultural Rights.

International Bank for Reconstruction and Development, "Management Report and Recommendation in Response to the Inspection Panel Investigation Report", *Cambodia: Land Management and Administration Project*, (World Bank: January 21, 2011).

Refugees International. "The Challenge of Responding to Development Induced Displacement," *Refugees International Bulletin*, (May 8, 2002), available at www.refugeesinternational.org.

Ekta Parishad and South-South Solidarity "Achieving People's Control over Land and Livelihood" New Delhi, 1st to 5th March 2011, Report from the first Meeting on Global Movement 2012

United Nations High Commissioner for Refugees, "Chapter 1: Current Dynamics of Displacement", *The State of the World's Refugees 2006*, (April 2006), available at <http://www.unhcr.org/4a4dc1a89.html>.

United Nations High Commissioner for Human Rights, "Sub-Commission on Prevention of Discrimination and Protection of Minorities," *Expert Seminar on the Practice of Forced Evictions*, Geneva, June 11-13, 1999), UN Doc: E/CN.4/Sub.2/1997/7, (July 2, 1997).

World Bank Group, "[Investigation Report, Cambodia: Land Management and Administration Project](#)", *The Inspection Panel*, (November 23, 2010).

World Bank Group, "Rising global interest in farm land: can it yield sustainable benefits?", (2010), available at siteresources.worldbank.org/INTARD/.../ESW_Sept7_final_final.pdf.

Academic Literature - Books:

McCully, Patrick. *Silenced Rivers: The Ecology and Politics of Large Dams*, 416 p., (London: Zed Books, 2001).

Picciotto, Robert, Warren Van Wicklin and Edward Rice (eds.), *Involuntary Resettlement: Comparative Perspectives*, 146 p., (Washington, D.C.: World Bank Series on Evaluation and Development 2, Transaction Publishers, 2000).

Robinson, Jenny (ed.), *Development and Displacement*, 256 p., (Oxford: The Open University, Oxford University Press, August 2002).

Scudder, Thayer, *The Future of Large Dams: Dealing with Social, Environmental, Institutional and Political Costs*, 408 p., (London: Earthscan Publications, 2005).

Academic Literature - Chapters:

Barutciski, Michael, "International Law and Development-induced Displacement and Resettlement", In *Development-induced Displacement: Problems, Policies and People*, Chris de Wet (ed.), 71-104. New York: Berghahn Books, 2006.

Cernea, Michael M., "Bridging the Research Divide: Studying Development Oustees", In *In Search of Cool Ground: War, Flight and Homecoming in Northeast Africa*, Tim Allen (ed.), 293-317. London: United Nations Research Institute for Social Development, Africa World Press, 1996.

Cernea, Michael M., "Risks, Safeguards and Reconstruction: A Model for Population Displacement and Resettlement", In *Risks and Reconstruction: Experiences of Resettlers and Refugees*, M. Cernea and C. McDowell (eds.), 11-55. Washington D.C.: World Bank, 2000.

Clark, Dana, "Power to the People: Moving towards a Rights-Respecting Resettlement Framework", In *Development and Dispossession: the Crisis of Forced Displacement and Resettlement*, A. Oliver-Smith (ed.), 181-200. Santa Fe: School for Advanced Research Press, 2009.

Downing, Theodore E., "Mitigating Social Impoverishment when People are Involuntarily Displaced," In *Understanding Impoverishment: the Consequences of Development-induced Displacement*, Christopher McDowell (ed.), 33-48. Oxford: Berghahn Books, 1996.

Downing, Theodore E., "Avoiding New Poverty: Mining-Induced Displacement and Resettlement" London: International Institute for Environment and Development 2002

Downing, Theodore E. and Carmen Garcia-Downing. Under review. "Development that Impoverishes is Not Development: Safeguards against the loss of social capital and other anti-democratic consequences that may result from development-induced displacement." Paper presented to the Arab Reform Conference on Challenges and Concerns Facing Civil Society. March 2007

Fernandes, W., "Sixty years of development-induced displacement in India", In *India Social Development Report 2008: Development and Displacement*, Hari M. Mathur (ed.), 89-102. New Dehli: Oxford University Press, 2008.

Johnston, Barbara Rose, "Development Disaster, Reparations and the Rights to Remedy: The Case of the Chixoy Dam, Guatemala", In *Development and Dispossession: the Crisis of Forced Displacement and Resettlement*, A. Oliver-Smith (ed.), 201-224. Santa Fe: School for Advanced Research Press, 2009.

Kalafut, Jen, "Phulbari coal project: A displacement disaster in the name of development", In *A Phulbari Coal Project: Studies on Displacement, Resettlement, Environmental and Social Impact*, J. Kalafut and R. Moody (eds.), 9-52. Dhaka: Samhati Publications, 2010.

Koenig, Dolores "Toward Local Development and Mitigating Impoverishment in Development-Induced Displacement and Resettlement," In *Development-induced Displacement: Problems, Policies and People*, Chris de Wet (ed.), 105-140. New York: Berghahn Books, 2006.

Laczko, F. & Warner, K., "Migration, Environment and Development: New Directions for Research", In *International Migration and Development. Continuing the Dialogue: Legal and Policy Perspectives*, Joseph Chamie and Luca Dall'Oglio (Eds), 235-253. New York and Geneva : IOM and Center for Migration Studies, 2008.

Mathur, Hari M., "Introduction and Overview", In *India Social Development Report 2008: Development and Displacement*, Hari M. Mathur (ed.), 3-13. New Dehli: Oxford University Press, 2008.

Nayak, Ranjit, "Risks Associated with Landlessness: An Exploration Toward Socially Friendly Displacement and Resettlement, In *Risks and Reconstruction: Experiences of Resettlers and Refugees*, M. Cernea and C. McDowell (eds.), 71-107. Washington D.C.: World Bank, 2000.

Scudder, Thayer, "Development-induced Impoverishment, Resistance, and River-basin Development", In *Understanding Impoverishment: the Consequences of Development Induced Displacement*, Christopher McDowell (ed.), 49-75. Oxford: Berghahn Books, 1996.

Articles:

Balakrishnan, Rajagopal, "The Violence of Development," *Washington Post*, 9 August 2002.

Bosshard, Peter, "The Dam Industry, the World Commission on Dams and the Hydropower Sustainability Assessment Forum (HSAF) Process", *Water Alternatives*, Volume 3, Issue 2 (June 2010): 58-70

Briscoe, John, "Overreach and Response: The Politics of the WCD and its Aftermath", *Water Alternatives*, Volume 3, Issue 2 (June 2010): 399-415.

Cariño, Joji & Marcus Colchester, "From Dams to Development Justice: Progress with 'Free, Prior and Informed Consent' since the World Commission on Dams", *Water Alternatives*, Volume 3, Issue 2 (June 2010): 423-437.

Caspary, Georg, "The Impacts of Development-induced Displacement on Human Security", *Human Security Journal*, Volume 4 (2007): 70-81.

Cernea, Michael M., "Development-induced and Conflict-induced IDPs: Bridging the Research Divide." *Forced Migration Review*, Special Issue (December 2006): 25-27, available at <http://www.fmreview.org/FMRpdfs/BrookingsSpecial/15.pdf>.

Dore, John & Louis Lebel, "Gaining public acceptance: A Critical Strategic Priority of the World Commission on Dams", *Water Alternatives*, Volume 3, Issue 2 (June 2010): 124-141.

Goodland, Robert, "The World Bank versus the World Commission on Dams", *Water Alternatives*, Volume 3, Issue 2 (June 2010): 384-398.

Locher, Helen, Geir Yngve Hermansen & Al., "Initiatives in the hydro sector post World Commission on Dams – The Hydropower Sustainability Assessment Forum", *Water Alternatives*, Volume 3, Issue 2 (June 2010): 43-57.

Loneragan, Steve, "The Role of Environmental Degradation in Population Displacement," *Environmental Change and Security Report*, no. 4, (Washington, DC: Woodrow Wilson Center): 5-15.

Mander, Harsh, "A people savaged and drowned", *Frontline*, Vol-20 issue 08, April 12-25, 2003. Available at <http://www.frontlineonnet.com/fl2008/stories/20030425005312400.htm>.

Mehta, Lyla, "Displaced by Development: Gender, Rights and 'Risks of Impoverishment,'" *id21 Insights*, Issue 44 (December 2002). Available at <http://www.eldis.org/id21ext/insights44art2.html>.

McDonald-Wilmsen, Brooke & Michael Webber, "Dams and displacement: Raising the Standards and broadening the Research Agenda", *Water Alternatives*, Volume 3, Issue 2 (June 2010): 142-161.

McGee, Brant, "Participation with a Punch: Community Referenda on Dam Projects and the Right to Free, Prior, and Informed Consent to Development", *Water Alternatives*, Volume 3, Issue 2 (June 2010): 162-184.

Moore, Deborah, John Dore & Dipak Gyawal, "The World Commission on Dams + 10: Revisiting the Large Dam Controversy", *Water Alternatives*, Volume 3, Issue 2 (June 2010): 3-13.

Penz, Peter "Development, Displacement and Ethics," *Forced Migration Review*, Issue 12, (January 2002): 4-5.

Pettersson, Bjorn, "Development-induced Displacement: Internal Affair or International Human Rights Issue?" *Forced Migration Review*, no. 12 (January 2002):16-19, available at <http://www.fmreview.org/FMRpdfs/FMR12/fmr12.6.pdf>

Richter, Brian, Sandra Postel & Al., "Lost in Development's Shadow: The Downstream Human Consequences of Dams", *Water Alternatives*, Volume 3, Issue 2 (June 2010): 14-42.

Roos, Stefanie R., "Development Genocide and Ethnocide: Does International Law Curtail Development-Induced Displacement through the Prohibition of Genocide and Ethnocide?," *Human Rights Brief*, vol. 9, issue 3 (American University's Washington College of Law: Spring 2002), pp. 14-18.

Stanley, Jason, "Development-induced Displacement and Resettlement", *FMO Research Guide*, (January 2004), available at http://repository.forcedmigration.org/show_metadata.jsp?pid=fmo:5135.

Working papers:

Bartolomé, Leopoldo J., et. al., "Displacement, Resettlement, Rehabilitation, Reparation and Development", *WCD Thematic Review*, Social Issues I.3. Cape Town: World Commission on Dams, 2000.

Cernea, Michael M., "Involuntary Resettlement in Development Projects. Policy Guidelines in World Bank Financed Projects", *World Bank Technical Paper*, No. 80. Washington D.C.: The World Bank, 1988.

Pakistan Fisherfolk Forum, "PFF struggle for Conservation and Protection of Mangroves Forests", (PFF:2011), available at www.escri-net.org/usr_doc/PFF_Report.pdf.

Saldanha, Leo F. & Bhargavi Rao, *Tearing through the Water Landscape: Evaluating the environmental and social consequences of POSCO project in Odisha*, 38 p., Bangalore: Environment Support Group, May 2011.

Sampat, Preeti "Special Economic Zones in India: Reconfiguring Displacement in a Neoliberal Order?" (unpublished?)

Hoshour, Kate and Jen Kalafut, "A Growing Global Crisis: Development-Induced Displacement and Resettlement", *International Accountability Project Issue Paper*, (2007) available at: <http://www.accountabilityproject.org/section.php?id=28>

Panos Media, "Forced to Move", *Large Development Projects and Forced Resettlement, Briefing No. 4*, London, (1992).

Robinson, Courtland W., "Risks and Rights; the Causes, Consequences and Challenges of Development-Induced Displacement," *Occasional Paper in the Brookings-SAIS Project on Internal Displacement*. Washington, DC, USA: The Brookings Institution and the Johns Hopkins University (May 2003).