



Harikrishna

Development-induced displacement: internal affair or international human rights issue?

by Bjorn Petterson

If the exact number of conflict-induced IDPs is unclear (most observers agree there are 20-25 million), the number of those displaced by development projects is even harder to estimate.

Extensive research findings presented by the World Commission on Dams have shown that between 40 and 80 million people have been forced to leave their homes as a result of the construction of large hydroelectric dams alone.¹

In 1994 the government of India admitted that 10 million people displaced by dams, mines, deforestation and other development projects were still 'awaiting rehabilitation', a figure regarded as very conservative by most

independent researchers. In China the government has admitted that 7 million development-induced IDPs lived in 'extreme poverty' in 1989.²

When the lives of so many people are being disrupted, why is there such deafening silence surrounding development-induced IDPs? During the last decade the UN has gradually paid more attention to conflict-induced displacement, belatedly recognising that IDPs are just as vulnerable as refugees and by far outnumber those

who have fled across a border. What is now required to direct the international community's attention to the development-induced displaced? Will they remain silent victims of government and corporate neglect? This article draws attention to forced displacement as a violation of human rights, looking both at how development at projects cause displacement and the widespread neglect of displaced populations in need of resettlement and restitution of livelihoods.

The UN Guiding Principles and development-induced displacement

Francis Deng, the UN Secretary General's Special Representative on

Narmada protesters outside Congress Party headquarters, Mumbai, Sept 2001.

IDPs, has been instrumental in drawing international attention to the plight of conflict-induced IDPs. His work has contributed to the improvement of government and UN responses to conflict-induced IDPs. The set of international norms – the UN Guiding Principles on Internal Displacement – developed by him and his legal team may not be international binding law but are based on international human rights and humanitarian law.

In order to see what scope there is for the Principles to be used to address the plight of development-induced displaced persons, we need first to determine if the Guiding Principles actually apply to development-induced IDPs. A quick reading of the definition of a displaced person in the Guiding Principles shows this is not immediately apparent. It states that:

“Internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.”

However, the expression “in particular” before the listing of the causes indicates that the list is not exhaustive. Francis Deng and Roberta Cohen have argued that the construction of hydroelectric dams could be considered a “human-made disaster” and therefore that those displaced fall within the definition in the Guiding Principles.³

The case for arguing that development-induced displacement is clearly covered by the Principles is bolstered by Principle 6.2(c) which reads:

“The prohibition of arbitrary displacement includes displacement: [...] (c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests [...]”

But what is meant by the ambiguous concept of “compelling and overriding public interests”? Who has authority to adjudicate that “compelling and

overriding public interest” can justify forcing people off their lands?

Walter Kalin, one of the drafters of the Guiding Principles, has suggested that “development-related displacement is permissible only when compelling and overriding public interests justify this measure,

that is, when the requirements of necessity and proportionality are met”.⁴ For an interpretation of the last concepts, the “requirements of necessity and proportionality”, Kalin refers to the World Bank’s Operational Directive 4.30 on Involuntary Resettlement⁵ and the OECD’s Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Development Projects.

However, though these guidelines provide excellent guidance to governments, aid agencies and lenders on involuntary resettlement and rehabilitation of populations displaced by development projects, they do not shed further light on the issue of “necessity and proportionality”. These concepts are therefore left to be worked out by those who should apply the Guiding Principles: governments, non-state actors, UN agencies and the Representative of the Secretary General himself.

Deconstructing the language of development-induced displacement

Because “overriding public interest” and “necessity and proportionality” determine whether forced displacement of a population as a consequence of an infrastructure project is a human rights violation or a legitimate development project, it is important to reflect on these words. We need to continue challenging the assumptions behind the words used to justify large-scale forced displacement.

Who is “the public”? If we accept that international human rights are universal in scope it follows that the “public” is the whole population in a given area and not only the economic and political elite. To take the example of India (where more than 80% of rural households have no electricity) one could argue that expanding the electricity supply network in rural

areas would be more “necessary” than producing more electricity for a mostly urban elite.⁶ This argument is backed by the World Commission on Dams’ conclusion that large dams “produce benefits that accrue to groups other than those who bear the social and environmental costs”.⁷

why is the UN so hesitant to address the issue?

Could “proportionality” be made more quantifiable? In the case of a hydroelectric project the authorities could determine a “justifiable” number of households-to-be displaced per projected megawatt produced. Of course, such a cynical method of determining proportionality assumes that the electricity produced will benefit the population equally – clearly not the case where a small minority enjoy access to electricity.

If the displaced are not properly resettled and their capacity to earn a living is not restored to them, it becomes irrelevant if the project forcing them off their land is of an “overriding public interest”. It is still the reality that their rights have still been violated.

UN lack of interest in development-induced displacement

It has been left to NGOs, the media and academics to probe the government-inflicted human rights abuses related to development-induced displacement and to highlight the plight of millions of IDPs forced off their land. If, as we have seen, the Guiding Principles and binding international human rights law⁸ prohibit forced displacement (conflict- or development-induced) not justified by overriding public interest, why is the UN so hesitant to address the issue? How can the international community justify, for example, the fact that in Georgia UNHCR has for the past decade attended to the needs of 272,000 relatively well-off conflict-induced IDPs while at least 21 million development-induced displaced in India are not even an issue to UNHCR (or to any other UN agency)?

Governments naturally fight harder to maintain the concept of national sovereignty when the perpetrator of displacement is the state itself. Governments are generally more likely

to allow the international community access to displaced populations when the majority of IDPs have been displaced by non-state actors as in Colombia or Angola. When, however, the state is heavily involved (as in Burma, China or Russia), access is very limited. This lack of access is, to some extent, now being challenged by the UN in situations where the victims are displaced by conflict. We are yet to see similar UN pressure when displacement occurs as a result of development projects.

Development-induced IDP populations are found in countries which are State Parties to important UN human rights conventions. As part of the periodic reporting and review process of the implementation of these conventions, the UN should solicit country-specific information on forced displacement. The Committee on Economic, Social and Cultural Rights has included such requests in their reporting guidelines issued to states but has received very little information on forced evictions. Furthermore, in order to assess the

Committee on Economic, Social and Cultural Rights on issues of particular importance for the fulfillment of these rights. It would therefore be appropriate for the Committee to solicit and analyse reports from both the government and from NGOs on the consequences of large-scale development projects in China.

If these rights are being violated in the context of internal displacement, it would be useful for the Committee members in their analysis and review procedures to make use not just of the relevant articles of Covenants but also the UN Guiding Principles on Internal Displacement.

national sovereignty comes with certain human rights responsibilities

The reason for this indifference is to be found in the UN's interpretation of: i) a legitimate development project of overriding public interest, protected from international interference by the concept of national sovereignty, and ii) a human rights violation of concern to the international community. In the case of India, are we not clearly looking at the latter? Interpreting the displacement of millions of people in terms of national sovereignty, the UN has not addressed the issue with the government of India or, for that matter, with any other government.

Is it not time to more energetically pursue UN Secretary General Kofi Annan's idea that national sovereignty comes with certain human rights responsibilities towards the citizen of a truly sovereign country?⁹ The argument made by the US Committee for Refugees in relation to conflict-induced displacement in India is just as valid in relation to development IDP: "India cannot, however, fail to take steps to protect and assist the displaced, prevent others from doing so, and yet reject the international community's humanitarian interest in the fate of those affected."¹⁰

UN human rights mechanisms and development-induced violations

If UN agencies are not yet convinced that development-induced displacement often amounts to a human rights violation, they should at least use existing human rights mechanisms to require governments to provide information on the fate of development-induced IDPs. Some of the largest and most neglected devel-

opment-induced IDP populations are found in countries which are State Parties to important UN human rights conventions. As part of the periodic reporting and review process of the implementation of these conventions, the UN should solicit country-specific information on forced displacement. The Committee on Economic, Social and Cultural Rights has included such requests in their reporting guidelines issued to states but has received very little information on forced evictions. Furthermore, in order to assess the

conditions under which these persons are resettled (if at all), the fulfillment of these citizens' economic, social and cultural rights after displacement should also be analysed. Article 12 of the UN International Covenant on Civil and Political Rights (ICCPR) covers the right to liberty of movement and freedom to choose one's residence and the UN Human Rights Committee is monitoring its implementation. The Indian government had to present its next periodic report under the ICCPR before the end of 2001 and should be encouraged to address the issue of those who have had their right to freedom of movement violated through forced displacement. The Committee should also request that NGOs, in accordance with common practice, submit information on this specific subject.

India is also a State Party to the Convention on the Elimination of Racial Discrimination. It should thus be asked to explain to the Committee on the Elimination of Racial Discrimination why 40-50% of the development-induced population is made up of *adivasi* tribal people when *adivasis* only comprise 8% of the Indian population.¹¹

China, which became a State Party to the UN International Covenant on Economic, Social and Cultural Rights this year, will similarly have to report on the status of these rights and should be encouraged to address the situation of forced evictions and development-induced IDPs. As with the ICCPR, it is common practice that national and international NGOs inform the members of the

The increased attention to human rights violations stemming from development-induced displacement does not have to be limited to these three conventions. All six of the UN's treaty-monitoring bodies could be used to gain a better understanding of the phenomenon.¹² Monitoring mechanisms not linked to specific human rights conventions (UN working groups, special representatives and special rapporteurs) should similarly be encouraged to address the issue.

The Secretary General's Representative on Internal Displacement should play a key role in addressing and clarifying the difference between a development project of "overriding public interest" which properly resettles the displaced and a forced displacement which violates international human rights. Such guidance would be well received by the international community, currently confused by the fact that the UN Guiding Principles cover development-induced displacement but the activities of the Representative do not.

Given his current workload and the very limited resources at his disposal, it would not be realistic to ask the Representative to address country-specific situations of development-induced displacement. However, he could play a very important role in drawing the attention of the Working Group of the UN Inter-Agency Standing Committee to the plight of development-induced IDPs. This would enable appropriate member agencies of the IASC to explore ways of including development-induced IDPs as beneficiaries of protection and assistance activities.



Sujit Patwardhan

Friends of the River NARMADA

नर्मदा की घाटी में
अब लड़व जागि है
चलो उठो, घनो उठो,
रोकना विनाश है।

Such a human rights approach could prove fruitful. State Parties to the international Covenants have, of their own free will, agreed to a review of the implementation of these human rights instruments. It has become common practice for committees monitoring the Conventions to include in their Concluding Observations concrete recommendations on how UN agencies can contribute to an enhanced fulfilment of specific rights. The Committees are thus able to recommend that governments approach, for example, UNDP to offer support for resettlement of development-induced IDPs or UNHCR to offer protection to this same population. The international community is beginning to recognise misguided 'development projects' which displace millions of people and destroy their livelihoods for what they really are: violations of human rights.

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1. World Commission on Dams (WCD) *Dams and Development*, 16 November 2000, p104. Report available at www.dams.org/report.
2. International Rivers Network/Human Rights in China 'Major Problems Found in Three Gorges Dam Resettlement Program', March 12, 1998, p7.
3. Nuclear or chemical accidents would be other examples of "human-made disasters". Francis Deng and Roberta Cohen *Masses in Flight*, p16-17.
4. Walter Kalin *Guiding Principles on Internal Displacement - Annotations*, p17.
5. Now being converted to an Operational Policy / Bank Procedure (OP/BP 4.12). See <http://Inweb18.worldbank.org/essd/essd.nsf/All/ECC741F851ED3CA852567ED004C9BE8>
6. The Indian writer Arundhati Roy argues that the benefits of dams, including increased drinking water supply, do not benefit the poor. Roy *The Cost of Living*, p94-95. See also WCD 'Profile of

beneficiaries', *Dams and Development*, 16 November 2000, p125.

7. WCD *Dams and Development*, 16 November 2000, p120.

8. See, for example, the right to liberty of movement and freedom to choose one's residence (International Covenant on Civil and Political Rights, Article 12, or the Universal Declaration of Human Rights, Article 13).

9. See for example: UN Secretary General, Kofi Annan, in *The Economist*, 18 September 1999.

10. US Committee for Refugees *Northeast India's Hidden Displacement*, 2000, p19.

11. Amnesty International, India *Persecuted for challenging injustice - human rights defenders in India*, 26 April 2000, Part III, Section 3.

12. UN Human Rights Committee, Committee on Economic, Social and Cultural Rights, Committee against Torture, Committee on the Elimination of Discrimination against Women, Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child.