

## DUBLIN DECLARATION ON FAIR AND EQUITABLE LAND ACCESS



**We, the authors and supporters of the ‘Dublin Declaration on Fair and Equitable Land Access’ and the participants in a special session on Development-Forced Displacement and Resettlement at the 43<sup>rd</sup> annual conference of the International Association for Impact Assessment, which was held in Dublin, Ireland, 24-27 April 2024, RECOGNISE that:**

1. **Development strategies around the globe continue to exploit land<sup>1</sup> and other resources rapidly**, securing land access through market transactions, expropriation, acquisition of access rights, resumption, negotiated settlements, or by imposing restrictions on land use. This leads to escalating development-forced displacement and resettlement (DFDR). Cumulatively, projects to address emerging anthropogenic climate change are also escalating climate change displacement and resettlement (CCDR).
2. There is consensus among academics and practitioners that **DFDR resulting from projects** such as dams, extractives, transport, urban infrastructure, ports, special economic zones, agribusiness, solar and wind power, conservation, and climate change adaptation and mitigation, **is impoverishing millions of people each year.**
3. Whether for public or private sector projects, current approaches to secure project land access pose risks of **human rights violations and impoverishment**. The risks arise whatever the legal status of the affected person in relation to the land; and whether for urban or rural losses, temporary or permanent losses, partial or complete losses or losses of jobs, income, and business for affected enterprises. The losses might include: lost housing, income and livelihoods; lost sources of food, water, and essential resources; lost opportunities for education, healthcare, services, and jobs; lost cultural, social, economic, and political assets and rights; lost knowledge and practices; and loss of freedom of movement and even of life. These losses may impact people differently depending on age, gender, and other social characteristics. Affected people are those who experience such losses, together with similarly impacted people who host them in their new location.
4. **Current international standards which govern DFDR promote techno-managerial approaches** which assume that, with the right expertise and financing in place to develop resettlement and livelihood plans, in consultation with affected people, resettlement can have positive outcomes. One variant, ‘Resettlement with Development’, requires improved livelihoods and living standards, utilizing additional resources and benefit-sharing to promote

<sup>1</sup> The term ‘land’ includes all areas of land and water.

development opportunity. However, the evidence presented by proponents of these approaches demonstrates that there have been few successful cases of resettlement and many negative examples.

5. **People's movements and human rights organizations have periodically called for a moratorium on DFDR** pointing, among others, to the numerous human rights violations that result. They advocate a 'Development without Displacement' approach.
6. Recently, a group of DFDR scholars called for an **end to displacement and a fundamental rethink of development itself**, asserting that, only when displacement is no longer an option, will context-specific, human scale alternatives emerge. They labelled as myths the claims that, in the current context, displacement is inevitable for development, that resettlement can bring development to displaced people, that resettlement can be voluntary and consensual, that people can meaningfully participate in resettlement and rehabilitation planning, and that resettlement can be successful if 'best practices' are followed.
7. **Human rights principles, country legal frameworks, and the resettlement policies** of international lenders that relate to project land access **are beginning to converge**, but currently still do not adequately align; and their implementation in projects is often weak.
8. In projects seeking to secure land access, **human rights may not constitute enforceable legal rights**, be legally established, or be adequately protected in the lender policies that are imposed on borrowers for specific lender-financed projects.
9. **Current development strategies generally put developer interests and priorities above those of affected people.**
10. **Current approaches to securing project land access are disempowering, and they marginalise and impoverish affected people.** CCDR also risks incurring similar adverse impacts and outcomes. Both DFDR and CCDR are likely to lead to increasing inequality.

**We, therefore, DECLARE that it is time to introduce a 'Fair and Equitable Land Access' (FELA) Approach** by development projects as an alternative to DFDR. In FELA, project developers, lenders, and implementing agencies recognise, respect, and empower the people affected by development projects, centralising their agency, their decision-making role, and their enhanced wellbeing.

**We RECOGNISE that all human rights principles apply to DFDR-affected people**, before, during, and after their displacement. Among these, we recognise as being particularly salient the human rights principles expressed in the Universal Declaration on Human Rights (1948), the International Covenant on Civil and Political Rights (ICCPR) (1966), the International Covenant on Economic, Social and Cultural Rights (ICESCR) (1966), the United Nations Declaration of the Human Right to Development for All (1986), and the United Nations Declaration on the Rights of Indigenous Peoples (2007). The United Nations Declaration on the Right to Development for All establishes development as a right and puts people at the centre of the development process that enhances their wellbeing, in accordance with their values and interests, based on their active, free, and meaningful participation, the elimination of social injustice, and in the fair distribution of development benefits. The United Nations Guiding Principles on Business and Human Rights (UNGPs) recognize that private sector organizations also have duties to protect and respect the right of people affected by projects, and to remedy any negative impacts.

**We DECLARE that Fair and Equitable Land Access must be implemented in such a way that the six core principles set out below, together with their associated key recommendations, are adequately addressed.**

**Principle 1: Recognize the rights, knowledge, and agency of affected people, and their right to enhanced wellbeing.**

- **Recommendation 1:** Grant recognitional justice to all affected groups by acknowledging and granting them their rights, status, legitimacy, and respect in negotiating agreements relating to project land access.
- **Recommendation 2:** Recognize the rights of women and men of all ages and capacities to engage in culturally appropriate dialogues designed to enhance land access-related laws and regulations.
- **Recommendation 3:** Recognize the rights of affected women and men of all ages and capacities to engage in culturally appropriate and gender-sensitive dialogues designed to define their own objectives and strategies for enhanced wellbeing through economic, social, cultural, and political development. This includes the right to say no to development projects where they consider this is warranted, and the right to derive significant development benefits on their own terms in return for agreeing to a project.

**Principle 2: Promote inclusive decision-making through a fair and transparent procedure from the outset and throughout the lifecycle of the project.**

- **Recommendation 4:** Full and effective participation of all relevant actors in inclusive decision making is fundamental to a fair and transparent land access procedure prior to and throughout the project lifecycle. Affected women and men of all ages, capacities, and socio-economic identities must have the opportunity to engage and participate, with special consideration to children. All responsible entities, including developers and sponsoring agencies, must provide sufficient information, opportunity, financing, and resources to empower all affected people, commensurate with the level of project impacts, to enable them independently to represent their own interests, values, knowledge, and priorities in dialogue and negotiation regarding the project and their terms and conditions on which it may proceed.
- **Recommendation 5:** This support, before project approval, enables the affected people to review the project land access needs, options, and alternatives, including a ‘no-project’ option. Any project-affected Indigenous Peoples must be allowed to give or withhold their Free, Prior and Informed Consent. Dialogue procedures for Broad Community Support (greater than 80%) should be implemented for all affected communities.
- **Recommendation 6:** Throughout the project lifecycle, should it proceed, this support empowers the affected people to formulate their own development objectives for their enhanced future wellbeing; as well as to design appropriate and acceptable programs, including strategies, measures, mechanisms, processes, outcomes, indicators of success, and means of verification.

- **Recommendation 7:** Such support enables the affected people to negotiate legally binding contracts with project developers, including measures to avoid, minimize, and mitigate displacement impacts and to ensure communities achieve enhanced wellbeing and benefits, which are enforceable through access to independent arbitration and remediation.
- **Recommendation 8:** Lenders, governments, and projects must establish a policy of zero tolerance of any threats, intimidation, or violence against affected peoples, their representatives, and/or human rights defenders.
- **Recommendation 9:** The United Nations should consider establishing capacity that would focus on harmful DFDR and seek to raise standards for land access across all government and private sector agencies that implement projects involving planned resettlement.

### **Principle 3: Ensure a fair distribution of impacts and benefits and align with the Sustainable Development Goals.**

- **Recommendation 10:** Before project approval is given, potentially affected people should have participated in identifying and weighing-up the distribution of all the anticipated economic, social, cultural, and political costs of resettlement against the distribution of likely project benefits. Understanding the full costs is essential to determine whether the project is appropriate, viable, has an adequate business case, and is in the broader public interest. Affected people should be part of the decision-making about projects that relate to these assessments.
- **Recommendation 11:** During project preparation and implementation, independent analysts, in consultation with affected people, must identify the structural and power constraints to equitable decision-making, achieving gender equity, and to the equitable distribution of the benefits from the resettlement process. Together, they should recommend supporting measures in cooperation with the affected people.
- **Recommendation 12:** The project should investigate and include project land access strategies that might be suggested by affected people that might maximise their land security and ownership status.
- **Recommendation 13:** Where there are serious livelihood impacts, the project must implement effective, sustainable livelihood enhancement measures for all affected people, regardless of their legal status in relation to the land. This requires feasibility studies to be undertaken to explore and justify all avoidance and mitigation measures with a clear theory of change based on expert opinion, benchmarking of similar projects, inter-generational equity principles, and community co-design.
- **Recommendation 14:** The project must investigate and, when requested by affected people, include benefit-sharing schemes for the affected people, in cash or in kind, while incorporating measures to limit poor investment decisions and financial dependency.
- **Recommendation 15:** Developers and appropriate government agencies must address any material, tangible losses as well as any immaterial, intangible losses of social, cultural, psychological, or political capital that are essential to attachments to place, sites, networks, knowledge, skills, heritage, language, or identity. Additionally, the agreed measures must be sufficient to counter the disruption of displacement, to enable the affected people to catch up and benefit from development as might their non-affected peers.
- **Recommendation 16:** Project staff should engage closely with affected people to focus on building flourishing communities centred around longer-term community perspectives on enhanced wellbeing, rather than only on short-term housing and compensation.

#### **Principle 4: Ensure high standards of professionalism and planning and sufficient resources to improve the lives of affected people and their communities.**

- **Recommendation 17:** Developers and governments should provide evidence that competent teams with social scientists exist to support a FELA process and have appropriate social expertise and field experience in community development, and skills such as gender equity, sustainable livelihood enhancement, innovative land access, benefit sharing strategies, cultural and heritage transformation, health and wellness, etc.
- **Recommendation 18:** Sufficient funds must be provided to enable a proper FELA planning process that can address all impacts, provide for agreed benefits, and for contingencies. Also, adequate resources must be provided so that affected people can access independent expertise. Sufficient funding must be available to address any necessary remedial action throughout the project cycle.
- **Recommendation 19:** The timeframe for planning, implementation and follow-up of FELA must be sufficient to allow affected people meaningful engagement and shared or devolved decision-making in options assessment, project planning, and negotiations on their preferred objectives, strategies, and outcomes. There must be sufficient time for implementation, verification, and remediation (which may take up to 10 years).

#### **Principle 5: Address power differences and contextual factors.**

- **Recommendation 20:** Project developers must consider potential socio-political impacts by conducting a political scan to identify the power brokers and to determine whether equitable negotiations with affected people can be undertaken. Steps must be taken to ensure that there is no corruption throughout the whole process.
- **Recommendation 21:** A project's environmental, social, cultural, political, and economic impacts may be categorized either as 'complicated problems' (i.e. can be resolved by good practice) or as 'wicked problems' (i.e. cannot be easily resolved). For wicked problems, a FELA process would recognize that linear, expert-led plan approaches will not work, and an inclusive, transdisciplinary approach will be required, including questioning whether the project itself is justified and appropriate.
- **Recommendation 22:** Project developers, together with local communities, must proactively assess contextual factors, and be prepared to reassess and potentially redesign or reconsider projects if these factors are found to be particularly hazardous for the affected people.

#### **Principle 6: Ensure remedy and accountability through access to Grievance Redress Mechanisms, remediation, and legal recourse.**

- **Recommendation 23:** Affected people and communities must have access to a choice of grievance redress mechanisms to provide effective remedy for project-induced harms, adverse impacts on their human rights, and non-compliance with commitments made by the developer in agreements.
- **Recommendation 24:** There must be multiple channels available to affected people and communities to access remedy, including: company-level grievance mechanisms for household-level, non-systematic grievances; independent fact-finding; mediation; and compliance and arbitration processes to enforce legal agreements between affected communities and project developers, and the environmental and social requirements in investment or procurement contracts. These non-judicial grievance mechanisms should not preclude access to justice through judicial or administrative action.
- **Recommendation 25:** Affected people and communities must be given access to independent lawyers to support them through any necessary contracting, mediation, arbitration, and other remedial processes.
- **Recommendation 26:** Shareholders, lenders, buyers and other business entities that enable the project must ensure accountability by establishing human rights grievance processes to give effect to their responsibilities under the United Nations Guiding Principles on Business and Human Rights. In addition to their responsibilities to enable or

contribute to remedy, these stakeholders must also institute material consequences for project developers that fail to prevent or promptly remedy adverse human rights impacts.

**We RECOGNISE that implementing this Declaration may include:**

- Further work with developers, lenders, NGOs, governments, international agencies, and communities, especially to implement the FELA approach.
- Refining, publicising, and seeking endorsements for the Declaration more widely.
- Allocating specific responsibilities for its implementation.
- Implementing the FELA Approach, as framed in this Declaration, in projects and identifying the lessons that can be learned.
- Advocating for governments, lenders, and companies to incorporate the FELA Approach in their laws, standards, and practices.
- Comparing this Declaration with alternative ways of proceeding, for example, Resettlement with Development, or a Moratorium on resettlement.
- Adapting this Declaration to be suitable to other forms of displacement and resettlement, for example, climate change displacement and resettlement (CCDR).

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