**UN-HUMAN RIGHTS**

**OFFICE OF THE HIGH COMMISSIONER**

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**INTRODUCTION**

The aim of this document is to present a concise overview to assist in shaping the forthcoming reports of the Special Rapporteur for the Human Rights Council and General Assembly in 2024 on the subject of “Resettlement as a human rights concern” and thereby contribute by giving input to this UN issue.

**Resettlement** in the context of human rights refers to relocating individuals or communities, often for humanitarian or developmental reasons, while ensuring that their fundamental human rights are respected and protected throughout the process. This practice is typically employed in situations where people are displaced due to conflict, natural disasters, or development projects.

**RESETTLEMENT AS A HUMAN RIGHTS CHALLENGE: UNDERSTANDING THE ISSUES**

Resettlement as a human rights issue recognizes that the displacement and subsequent resettlement of individuals or communities can have significant implications for their well-being and human rights. It is essential to approach resettlement with a rights-based perspective, which means adhering to key human rights principles, including:

1. **Informed Consent:** Resettlement should never be imposed on individuals or communities. Those affected should be informed about the reasons for resettlement, the benefits and risks involved, and they should provide their free and informed consent.
2. **Non-discrimination**: Resettlement efforts must not discriminate against any group based on factors such as race, ethnicity, religion, gender, or socio-economic status.
3. **Right to Adequate Housing**: Resettled individuals have the right to adequate housing, which includes access to basic amenities, sanitation, and security.
4. **Right to Livelihood**: Resettlement should not deprive individuals of their means of livelihood. Efforts should be made to ensure that they can continue to earn a living and support their families.
5. **Right to Participation:** Affected individuals or communities should have the opportunity to participate in the decision-making process regarding their resettlement, and their voices should be heard.
6. **Protection of Vulnerable Groups:** Special attention must be given to vulnerable groups, such as women, children, the elderly, and persons with disabilities, to ensure their specific needs and rights are safeguarded.
7. **Compensation and Rehabilitation**: Adequate compensation and rehabilitation measures should be provided to those who are resettled, ensuring they are not left worse off as a result of the process.
8. **Access to Services:** Resettled individuals should have access to essential services like healthcare, education, and clean water in their new location. Resettlement as a human rights issue underscores the importance of carefully planning, executing, and monitoring resettlement efforts to prevent any violations of human rights and to uphold the dignity and well-being of those affected. It also emphasizes the need for accountability mechanisms to address any grievances or violations that may occur during the resettlement process.

**UNHCR’s PERSPECTIVE ON REFUGEE AND RESETTLEMENT CHALLENGES**

According to the U.N.H.C.R., resettlement is the process of transferring refugees from an asylum country to another nation that has agreed to admit them and ultimately provide them with permanent residency. Resettlement is designed to offer a lasting solution for refugees who find themselves in particularly vulnerable situations in their initial asylum country. This vulnerability may stem from factors such as medical, legal, or physical needs, having survived torture, or being women, girls, or children facing heightened risks: -

1. **Medical Needs:** Refugees with medical needs may have serious health conditions or disabilities that require specialized medical care or treatments that are not available in their current asylum country. Resettlement can provide them with access to the necessary healthcare and support to address their medical conditions effectively.
2. **Legal Needs:** Some refugees may face legal challenges, including unresolved legal status or issues related to their refugee status. Resettlement can offer them a chance to find a more secure legal status in another country and ensure they are not subjected to legal vulnerabilities or challenges.
3. **Survivors of Torture**: Refugees who have survived torture may suffer from severe physical and psychological trauma. Resettlement can provide them with a safe and supportive environment where they can receive specialized care, including mental health services, to help them recover and rebuild their lives.
4. **Women, Girls, and Children at Risk**: Women, girls, and children are often at increased risk of various forms of exploitation, abuse, and gender-based violence in refugee settings. Resettlement can offer them protection from such risks and provide access to education, healthcare, and social services, helping to ensure their safety and well-being.
5. **Heightened Risks:** Some refugees, particularly women, girls, and children, may face specific risks such as human trafficking, forced marriage, or recruitment into armed groups. Resettlement can remove them from these dangerous situations and provide a more secure environment where they can rebuild their lives free from these threats.

In essence, these factors highlight the vulnerabilities that certain refugees may experience in their host countries, making resettlement a crucial option to address their unique needs and protect their human rights. Resettlement programs aim to provide these individuals with a chance to lead safe and dignified lives in countries where they can receive the necessary care, support, and protection.

The U.N.H.C.R. serves as one of the fundamental pillars of international refugee protection. It predates the adoption of the 1951 Convention relating to the Status of Refugees and serves as the bedrock of international law that focuses on safeguarding human dignity and rights. In Art. 14 of the U.N.H.C.R., there is also an articulation of the right to seek and enjoy asylum in other countries when facing persecution.

The principles enshrined in the U.N.H.C.R are mirrored in the definition of a refugee, wherein persecution in one's home country is regarded as a grave infringement of human rights. To illustrate, if there exists a threat to violate Art. 5 of the U.N.H.C.R, which prohibits torture, cruel, inhuman, or degrading treatment, within one's home country, this will constitute an act of persecution in accordance with the 1951 Refugee Convention. This serves as a fundamental component of the refugee definition as outlined in the convention. Additionally, the rights articulated in the U.N.H.C.R find reflection in the provisions concerning the status of refugees within the host country. For instance, Art. 13 of the Declaration safeguards the freedom of movement within a country, a concept which has been incorporated into Art. 26 of the Convention, pertaining to the freedom of movement for refugees in their host country.

**EMERGING ISSUES AND OBJECTIVES RELATED TO RESETTLEMENT**

As per the reports of the **World Bank,** nearly ***10 lac people*** are displaced and resettled every year. Development projects often arise after extensive planning, and those initiating them are already aware of the displacement they will cause. Sadly, despite this prior knowledge, those overseeing these projects often neglect the resettlement and rehabilitation of displaced individuals. These projects prioritize economic efficiency over the well-being of those who lose their land, livelihoods, and stable social and cultural lives. It's crucial to recognize that those who sacrifice significant portions of their assets for development projects should be considered stakeholders in these endeavors. They deserve to be included in the development process. The strategies designed for the resettlement and rehabilitation of those displaced by development projects can also be applied to those affected by natural and human-made disasters. In our country, there is growing awareness of the negative impacts of such events due to their increasing frequency. To address this, the government has taken some institutional measures, such as forming committees at various levels. However, these initiatives mostly exist on paper, and their actual response to events has yet to be significant.

**ENSURING EFFECTIVE IMPLEMENTATION OF LEGAL PROTECTIONS AND SAFEGUARDS IN RESETTLEMENT: COMPILING BEST PRACTICES:**

Ensuring that legal protections and safeguards related to resettlement are not merely theoretical but also respected in practice requires a multi-faceted approach that involves various stakeholders, including governments, international organizations, NGOs, and affected communities. Compiling good practices can help guide efforts in this direction.

1. **Clear and Comprehensive Legislation**:
2. Clarity and Specificity: National legislation should clearly define the rights and protections of displaced persons, including their entitlements during resettlement processes.
3. Alignment with International Standards: Ensure that the national legal framework aligns with international human rights standards, including treaties and conventions related to refugees, internally displaced persons (IDPs), and human rights.
4. **Awareness and Training:**
5. Customized Training: Develop tailored training programs for government officials, law enforcement, and community leaders, highlighting the legal framework, the rights of displaced persons, and the importance of adherence to legal safeguards.
6. Sensitivity Training: Include sensitivity training to raise awareness about the specific needs and vulnerabilities of displaced populations, such as gender-sensitive training.
7. **Effective Monitoring and Oversight:**
8. Independence: Establish monitoring bodies or ombudsman offices that are independent from the entities responsible for resettlement to ensure impartiality and objectivity.
9. Mandate and Authority: Grant these oversight bodies the authority to investigate complaints, conduct regular inspections, and report publicly on their findings.
10. **Community Engagement:**
11. Participatory Approach: Foster genuine community participation by involving displaced communities in all stages of resettlement planning, from project design to implementation and evaluation.
12. Informed Decision-Making: Ensure that communities receive adequate information and are empowered to make informed decisions about their resettlement options.
13. **Transparency and Information Sharing:**
14. Timely Information: Displaced persons should receive timely and accurate information about the resettlement process, including project timelines, compensation procedures, and available support services.
15. Accessible Communication: Information should be provided in languages spoken by the affected communities, and accessible formats should be available for those with disabilities.
16. **Capacity Building:**
17. Empowering Local Organizations: Strengthen the capacity of local NGOs and civil society groups to advocate for the rights of displaced persons and to monitor resettlement processes effectively.
18. Training and Resources: Provide training, resources, and funding to build the technical and organizational capacity of these local actors.
19. **Conflict Resolution Mechanisms:**
20. Accessible Mechanisms: Establish accessible and impartial conflict resolution mechanisms that are trusted by affected communities. These mechanisms should be capable of resolving disputes swiftly and fairly.
21. Alternative Dispute Resolution (ADR): Consider incorporating alternative dispute resolution methods, such as mediation, into the process to encourage amicable solutions.
22. **Adequate Compensation and Rehabilitation:**
23. Fair Compensation: Ensure that displaced persons receive fair compensation for their losses, including land, property, and livelihoods, based on transparent valuation methods.
24. Comprehensive Rehabilitation: Provide access to rehabilitation services, such as housing, healthcare, education, and livelihood support, to help displaced individuals and communities rebuild their lives.
25. **Legal Aid Services:**
26. Free Legal Aid: Establish or support legal aid services that offer free legal assistance to displaced persons, especially those facing legal challenges related to resettlement.
27. Legal Awareness: Conduct legal awareness campaigns to inform displaced persons about their rights and the availability of legal aid services.
28. **Regular Reporting and Documentation:**
29. Transparent Reporting: Encourage all stakeholders, including governments, NGOs, and monitoring bodies, to regularly document and report on resettlement processes, challenges, and successes.
30. Public Access: Make these reports publicly available to ensure transparency and accountability.

**Laws, regulations, and safeguard policies** related to resettlement vary significantly depending on the specific context and the entities involved, such as states, international organizations, international financial institutions, multilateral and bilateral development agencies, and businesses.

1. **International Legal Framework:**
2. Universal Declaration of Human Rights: Resettlement policies must respect the fundamental human rights and freedoms of individuals, including the right to an adequate standard of living and the right to be protected from arbitrary displacement.
3. International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR): These treaties emphasize the protection of civil, political, economic, social, and cultural rights in the context of resettlement.
4. **States:**
5. National Legislation: Many countries have specific laws and regulations that govern resettlement processes, ensuring that they are carried out in a fair, just, and transparent manner.
6. Land Acquisition and Rehabilitation and Resettlement Acts: Some countries have enacted laws like the Land Acquisition Act, which outline procedures for land acquisition, compensation, and rehabilitation of affected populations.
7. **International Organizations and Financial Institutions:**
8. World Bank's Operational Policy on Involuntary Resettlement: The World Bank has a comprehensive policy that aims to protect the rights and well-being of people affected by development projects, including provisions for adequate compensation and resettlement assistance.
9. United Nations Guiding Principles on Business and Human Rights: These principles outline the responsibilities of businesses to respect human rights, including those affected by their activities, such as resettlement.
10. **Multilateral and Bilateral Development Agencies:**
11. Environmental and Social Safeguard Policies: These agencies often require projects they fund to adhere to strict environmental and social safeguard policies, which include provisions for resettlement planning, compensation, and community engagement.
12. **Businesses:**
13. Corporate Social Responsibility (CSR) Policies: Responsible businesses may develop their own CSR policies that include provisions for community engagement, livelihood restoration, and the protection of human rights during resettlement processes.
14. Free, Prior, and Informed Consent (FPIC): Businesses engaging with indigenous or affected communities may be required to obtain FPIC, ensuring that affected populations have a say in project decisions, including resettlement.
15. **Community Engagement and Consultation:** Most policies emphasize the importance of involving affected communities in the planning and decision-making processes related to resettlement.
16. **Compensation and Livelihood Restoration**: Policies often outline principles for fair and adequate compensation for loss of assets and income, as well as support for livelihood restoration and income-generation opportunities.
17. **Monitoring and Grievance Mechanisms**: Effective monitoring and grievance mechanisms are crucial components of resettlement policies, allowing affected individuals and communities to voice concerns and seek redress for grievances.

**CONCLUSION**

Resettlement is a complex and multifaceted issue that demands a rights-based approach. It is essential to acknowledge and address the human rights dimensions of resettlement to prevent harm, ensure justice, and promote sustainable development. The U.N. underscores the importance of aligning resettlement efforts with international human rights standards and calls for collective action to protect and promote the rights of affected populations in all resettlement contexts. The U.N. remains committed to working with member states, stakeholders, and civil society to advance the human rights agenda in resettlement, recognizing that protecting human rights is central to achieving peace, security, and sustainable development for all.