

## Armed Conflict and Internally Displaced Persons in Nepal.

### Background:

Nepal witnessed a decade-long armed conflict started by the Communist Party of Nepal (Maoist). The war that started in 1996 in the name of "people's war," affected the general life across the country. Varied opinions are there regarding the underlying causes of the conflict. However, political mismanagement, corruption, high level unemployment, economic stagnation, discrimination and the soaring gap between the people in the urban and rural settings are considered to have been the major causes responsible for triggering and sustaining the conflict in the country. As the conflict continued, it gained support and trust from lots of poor and disadvantaged groups of the remote areas but there always was a large section of Nepali people condemning the brutal acts and indiscriminate killings carried out by the Maoists.

The armed conflict, besides creating many other bad impacts, disrupted the ordinary lives across the country and also negatively affected the social order displacing a large number of people. As the conflict escalated, people left their original places either on their own volition in search of security and economic opportunities or many others were compelled to be displaced. So, a large number of people funneled into the big cities within the country for the safety and an equal number of people turned into the cross-border migrants temporarily or permanently. However, no consistent data is available regarding the number, true reality and plight of the IDP's in Nepal.

In this context this compilation has tried to record the number, causes of displacement, national and international mechanisms and the commitments of the political parties regarding the IDPs in Nepal.

The table below shows figures of IDPs collected from various sources and documents.

IDP Figure	Source	Date	Comment/Limitation
70,425	GON	Sep-09	People displaced between 1996-2006
50,000-70,000	IDP Working Group	Jun-09	Number of people who have not received durable solutions.
50,000-70,000	OCHA	Jul-07	Estimate of IDP protection Group
38,000	GON	Aug-06	Sourced to NHRC,2006
2,00,000	UNHCR	May-06	
50,356	INSEC	Apr-05	Only covers period from 2001-2004
80,000	UNDP/RUPP	Jan-03	Only covers period from 2001-2003

Source: Internal Displacement Monitoring Centre. For details see,

<http://www.internaldisplacement.org/idmc/website/countries.nsf/%28httpEnvelopes%29/1949E98C81942B55C12571FE004D8821?OpenDocument>

### Causes of Internal Displacement during Armed Conflict:

Displacement during armed conflict was mostly caused due to violence and terror inflicted by the Maoists and the counter violence perpetrated by the security forces in the name of controlling. Many people were forced to abandon their places because of several forms of violence inflicted by the Maoists, namely killings, torture, abduction, threatening, extortion etc. The security forces and their next of kin were forced to migrate. Similarly, some were forced to abandon their homelands as they failed to donate as per the demand of the Maoists. The youths were forced to be displaced because they were stuck in between the atrocities of security forces and the Maoists. The Maoists forced them to join the militia whereas security forces harassed by arresting, interrogating and at worst by killing the innocent ones. Few instances of Maoists nominating the uninvolved local people into their people's government without their consent were observed, which ultimately generated fear leading them to migrate to a safer place. (Human Rights Year Book, INSEC, 2004)

### **International Framework for the protection of IDPs:**

Under current international law, there are no specific international conventions that set out the obligations of states with regards to Internally Displaced Persons (IDPs). This does not mean, however, that states have no obligations when it comes to the human rights of IDPs.

Persons who have turned into IDPs still remain citizens of their own country, and as such remain under the legal protection of the national authority of that state. This means that they should be guaranteed the rights enjoyed by the non-displaced citizens of that state, including those enshrined in domestic and international law. Furthermore, International Humanitarian Law (IHL), came into play during the situations of armed conflict, contains provisions that outlaw the deliberate displacement of persons or a group of persons. Under certain circumstances, such displacements could constitute a Crime against Humanity, or a War Crime.

In addition, the UN has adopted Guiding Principles on Internal Displacement which further lays out states' obligations. Although these Principles are not legally binding upon states, they do reflect the current standards of international law.

Some of the important principles stating state's obligations are:

- ✓ A state has the primary responsibility in ensuring the rights of IDPs. A state merely does not have the responsibility of ensuring the rights of IDPs rather they also have a duty to protect against displacement in the first place, especially for those who are dependent upon the land on which they live, such as indigenous peoples.
- ✓ A state must protect IDPs against the arbitrary deprivation of life; violations against their dignity and physical, mental and moral integrity arbitrary detention

or arrest; displaced children against becoming child soldiers; liberty of movement.

Some of the rights regarding of IDPs enshrined within it are:

- ✓ The right to know the fate and whereabouts of relatives; the right to family life; the right to an adequate standard of living, including to food and water provided by the government; and, the right to education.
- ✓ Throughout the document, the principles of equality and non-discrimination are further enshrined as well as the commitment to empowering women.

## **National Framework for the Protection of IDPs**

### **The Interim Constitution 2006**

The Interim constitution under part four under Responsibilities, Directive principles and Policies of the state rightly stresses for the upliftment of the life standard of IDPs via positive steps and incentives. Article 33<sup>®</sup> of the constitution states for conducting of the special programs to rehabilitate the displaced, providing of the relief for damaged private and public property, and rebuilding of the infrastructures destroyed during the course of the conflict as one of the state responsibilities.

### **National Policy for Internally Displaced People, 2007**

Prior to the National Policy for Internally Displaced People 2007, the definition of IDPs was limited only to the displaced people as a result of armed conflict. However, this national policy 2007 incorporates all the displaced people either it be as a result of armed conflict or man made or natural calamities within its purview. The IDP policy is mostly based on the International Guiding Principles on Internal Displacement issued by the UN, which includes the basic notions of Universal Declaration on Human Rights and other several human right treaties. The major insights of the policy are:

- ✓ The policy defines IDP as a person displaced as the result of armed conflict or man made or natural calamities or for the sake of security from such effects within the country in different places besides ones own habitual residence.
- ✓ The three main policies considered by it are:
  - **Protection of Human Rights:** Prohibits discrimination against IDPs on the basis of any grounds either it be for providing facilities or protection. Protection of the properties of IDPs and right to cast vote are also the essentials of this policy.

- **Regarding relief:** IDPs should be provided the guarantee as to their shelter, security, food and health based on the availability of the resources. Orphans, single women, disabled, old aged people and pregnant women should be prioritized in every cause. Various sorts of vocational trainings, educational packages and educational assurance for the children of displaced people are also considered within it.
  
- **Regarding Rehabilitation:** Freedom in selecting the residence for IDPs, government's support in returning of the confiscated properties, loan facilities for the displaced people from natural calamities, participation of the displaced people in the schemes of rehabilitation with special focus on women are the main elements of this policy.

### **Various Commitments by the Political Parties Regarding IDPs**

#### **1. 12 Point Agreement between Seven Political Parties and Nepal Communist Party, 22 November 2005:**

The CPN (Maoist) expressed its commitment to create an environment so that the displaced in the course of armed conflict could return and stay with dignity in their respective places. Furthermore, CPN-M expressed its commitment to return the land and property that were seized with malafide intentions and in an unjust manner.

#### **2. Comprehensive Peace Accord, 21 November 2006:**

The Comprehensive Peace Accord (hereinafter CPA) was signed in 2006 between the government of Nepal and the then CPN- Maoist ending a decade long armed conflict. The accord binds the signatories to uphold the fundamental principles and standards of human rights like Universal Declaration on Human Rights 1948, International human rights principles and instruments and so forth. This, in an indirect way, obliges the contracting parties to uphold the norms and values regarding IDPs for their protection. Similarly, the CPA has expressed the commitment explicitly in clause 5.2.4 focusing specially on the relief and rehabilitation mechanisms for the IDPs .

### **INSEC's Contribution Related to IDPs:**

INSEC started to work in the field of IDPs in 2005, during the phase of armed conflict itself. Most highlighted work during that phase was the successful returning of the IDPs in Jumla on June 27, 2005 for the first time with the support of DFID. A total of 1173 persons were successfully returned to their respective homes from 2005-2006 with the support of various stakeholders namely, DFID, Action Aid, Lutheran and Caritas.

A project entitled "Advocating for Appropriate and Coordinated IDPs Return" was implemented in 5 districts (Morang, Dhanusha, Baglung, Surkhet and Kailali) in 5 development regions from February – May 2007, where a large number of IDPs had been living. Monitoring and research, documentation, networking and coalition building, communication and information sharing were the modalities of the program implementation. The main objectives of the project were to return and reintegrate IDPs in their respective residences and to ease the environment for government to commit for providing short term relief support to the IDPs.

INSEC implemented the project named "Assistance of IDP Returnees in Nepal" in 24 districts of Mid and Far-Western development regions from August 2007 to August 2008 with the financial support from USAID and technical support of SC/US and in co-ordination with NRCS.

- ✓ In the beginning of the project (August- Sept. 2007), assessment and identification process of IDPs was carried out to find the situation of IDPs and their basic needs.
- ✓ A total of 15 information centers were established to disseminate information about IDPs and related activities for providing assistance to IDPs and IDP returnees in co ordination with NRCS.
- ✓ To make the environment favorable to return the displaced people in their places of origin, INSEC conducted 35 events of district level interactions with the concerned stakeholders to share the findings of assessment as well as to make them aware of the provisions in the CPA, the Interim Constitution and Policy and Directives on IDPs.
- ✓ Interactions/meetings and counseling to the IDPs were carried out to assure the IDPs of their safety and to encourage them to return to the places of their origin.
- ✓ Interactions/meetings, dialogues and other related activities were organized during the project period for sensitization and reconciliation of IDPs, other conflicting parties in the host community.
- ✓ To monitor the living condition of IDPs at the places of origin, regular follow up and monitoring at the district headquarters and local level were conducted through INSEC's district representatives and project team.
- ✓ With the collective efforts of INSEC, NRCS and Save the Children, a total of 5991 IDPs of 981 households were successfully able to return to their places of origin. Besides this, a total of 1037 IDPs of 172 households were found to have settled in the place of displacement with the initiation of small business and livelihood.

Another Project titled "Monitoring the Current Situation of IDPs in Eastern and Mid-western Development Regions of Nepal" was also implemented by INSEC with the support from UNHCR from 1 November 2007 to 31 December 2007. The overall objective of the project was to monitor the then situation of IDPs, both in the area of their current residence and for IDP returnees, in the places of their origin.

With the initiation of Norwegian Refugee Council and other organizations like, INSEC, IRC, Save the Children, IRD, CARITAS Nepal and Inhured International, a Book named "Internal Displacement In Nepal: Distant From Solutions " was published in 2009. The book incorporated the assessment of various aspects of IDPs as their housing, livelihood, security conditions and social integration in their area of displacement, along with the condition of returnees in their places of origin. Furthermore, this book also did draw insights as to the lacunas in the implementation aspect of the National IDP policy at district and central levels.