

Voiceless Citizens: A case study of Internally Displaced Persons in Nepal

By

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Background

Conflict induced internal displacement is a relatively new phenomenon in the Nepalese, that drew serious attention only after the internal armed conflict in 1996. Very few studies that have been carried out in the past have been able to truly estimate the size of the displaced population and portray their overall situation. Some of these studies describe IDPS considering three main characteristics: 'development project induced IDPs, *Kamaiyas*, who were formerly bonded labours in landlords's house, and the conflict induced internally displaced persons' (Shreshta & Adhikari, 2005 p. 237).

The development projects, like dams for hydropower and construction activities, are minimal in number, as compared to the other two categories. The farmers were compensated by cash or substitution of land but the *Kamaiyas* are landless so far despite the Government's commitment to distribute lands.

The conflict induced internally displaced persons (IDPs) have been facing intimidation and physical threats from both the parties engaged in the conflicts; therefore they were forced to leave their beloved home. Moreover, a significant number of IDPs have also been residing in Nepal at district headquarters, regional headquarters and in the capital city of Kathmandu valley.

However, for the purpose of discussions, this paper mainly highlights the situation of a large number of internally displaced persons due to the armed conflict between the Government and the Nepal Communist Party of Maoists (CPN-M). Over ten years, about 13,190¹ people lost their lives during 1996 to 2005. This figure includes civilians, security forces and Maoists.

The Government of Nepal and Nepal Communist Party of Maoists have signed a 12-point accord to end the decade long conflict in November 2005. This agreement led the conflicting party to launch a mass movement

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in April 2006, which ended the direct rule of the king imposed from February 1, 2005. The Government and Maoists agreed to address the problem of the IDPs. There are a number of agreements between the Government and Maoists to facilitate the return of the IDPs.

In the Comprehensive Peace Accord, CPA, (2006) between the Government and Maoists, it was agreed that the Maoists will return the seized property of the IDPs. However, they failed to fulfil the promise in the CPA and Interim Constitution of Nepal 2006. Thus IDPs lost their livelihood and do not feel physically secure. On the other hand, there is no Government policy directive that compels the Government to return the seized property.

Defining IDPs

The UN Guiding Principles have given precise and internationally accepted definition of IDPs as:

'... 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.' (UN, 1998)

This definition gives us a broad framework to recognize the IDPs, thus helping to bring forth the diverse issues and problems they have been facing. The Government of Nepal has endorsed the National IDP Policy 2007 that defines IDPs as:

"A person who is living somewhere else in the country after having been forced to flee or leave one's home or place of habitual residence due to armed conflict or situation of violence or gross violation of human rights or natural disaster or human made disaster and situation or with an intention of avoiding the effects of such situations".

Thus it is clear that this definition is also adapted from the UN Guiding Principles on Internal Displacement. Furthermore, this definition recognizes the victims of development project induced and disaster induced displacement as IDPs.

Rai (2005 p.36) argues that a large number of young people, aged between 13 to 18, have been leaving the country by crossing open borders between India and Nepal. Thus, it is difficult to define the border crossing population. Generally, the population that crossed the international open border between the India and Nepal, is not considered as refugees. It is therefore difficult to define who IDPs are and estimate their exact number.

Anecdotal Numbers of Conflict Induced IDPs

The various agencies—Government, local non-Governmental organizations, and International non-Governmental organizations—have estimated various data regarding the numbers of the IDPs at different times.

According to the Ministry of Home Affairs in 2003, there were about 7,343 people displaced due to the threat and intimidation of Maoists. This figure does not include the people displaced from the threat and intimidation from security forces. In 2004, the Government has estimated less than 100,000 displacements. The figure from 2004 gives a completely different scenario, whereas in 2003 the figure was calculated at 7,343, which amounted to 1,00,000 IDPs in 2004.

Table 1: IDP Statistics Available from Various Sources until October 2006

| Date | Source | No of IDPs | Remarks |
|-----------|------------------|------------------|---|
| Aug 2006 | Caritas | 212,985-272,600 | Only covers IDPs living in the district headquarters |
| May 2006 | UNHCR | 200,000 | |
| Feb 2006 | Caritas | 350,000 | |
| Jan 2006 | CHR | At least 100,000 | Between 100,000 and a few hundred thousands |
| Nov 2005 | UNFPA | 400,000 | |
| July 2005 | MOHA | 18,666 | Only includes those displaced by Maoists |
| Jun 2005 | ILO/CWIN | 40,000 | Children displaced since 1996 |
| May 2005 | MOF | 300,000-600,000 | |
| Apr 2005 | INSEC | 50,000 | Only covers period 2001-2004 |
| Sep 2004 | ADB | 2.4 million | Cumulative figure since 1996, including displacement to India |
| Aug 2004 | Government | > 100,000 | |
| Aug 2004 | NMVA | > 50,000 | Maoist victim IDPs in Kathmandu valley |
| Jan 2004 | CSWC | 350,000-400,000 | Based on the identification of 160,000 IDPs in five districts |
| Mar 2003 | GTZ/INF/S NV/cie | 100,000-150,000 | - |
| Apr 2003 | EC/RRN | 500,000 | Includes forced migration to India |
| Jan 2003 | UNDP/RUPP | 80,000 | Only cover 2001-2003 extra migration to urban areas. |
| Jan 2003 | MOHA | 7,343 | Only includes those displaced by Maoists |

Source: Internal Displacement Monitoring Centre of Norwegian Refugee Council 2006. IDP Return Still a Trickle Despite Ceasefire. 16 October 2006 .p 65.

The above table gives an overview of the estimated numbers of the internally displaced persons in Nepal due to internal armed conflict. The national and international non-Governmental organizations estimate the number of displaced people at 200,000 to 600,000. However, there is no census that gives reliable data of IDPs as they are based on the estimation of one or two district sample surveys. It is difficult to get an accurate data on IDPs.

Causes of Displacement

The causes of displacement are related to internal armed conflict. A survey conducted by Nepal Institute of Peace (NIP) in collaboration with Calcutta Research Group in 2005 showed that 76.5 per cent of the people were displaced due to internal armed conflict (MCRG, 2006: 64). There are about 24 per cent of the people who are leaving home due to poverty and looking for alternative livelihood options. The study conducted by Rai and Global IDPs report (2005: 13; 2004:22) shows the reason of displacement as affiliation to political parties, Government services, family members in the security forces, kidnapping, abductions, beating up or killing, pressure to join Maoists forces or sending at least one member of the family to join the people's army, donations, murder of family members, threats from security forces (for providing food and shelter to Maoists and as informants), extortion spree, charges of spying from both the conflicting parties (Government and Maoists), use of phone and vehicles and other accessories by the rebel and action by the security forces for letting the other party use them, locking up the home and destroying them, camping and exchange of fire at schools, announcement of state of emergency increasing fear among the people and looking for jobs. Numerous other studies carried out by the organizations and individuals on IDPs show similar causes of internal displacement during the internal armed conflict period.

Consequences of the Displacement

The IDPs have been facing various problems after the displacement. A survey conducted by Nepal Institute of Peace (NIP) in collaboration with Calcutta Research Group (2005 p. 60) revealed that the IDPs have been facing problems for lack of food, adequate shelter, clothing and deteriorating health conditions. In addition, the IDPs do not have an appropriate education level as required by the job market. Various studies have indicated the following problems faced by IDPs:

- landlessness;
- unemployment;
- lack of family life;
- lack of aspiration;
- lack of food security;
- deprived of access to education;
- psychological trauma;
- malnutrition and stunting;
- high mortality and maternal mortality rate;
- lack of access to sanitation and safe drinking water;
- discrimination, suspicion and prejudice in society;
- abuse and exploitation of women and children;

- impact on host community and basic facilities in host area³

Kernot (2003 p. 14) noted that the most vulnerable among IDPs are women, children and elderly persons. She further argued that the women and girls are especially exposed to the potential risk of rape and abduction and trafficking. Similarly, the children are also vulnerable during times of conflict. They are victims of forced recruitment into the Maoists armed forces. In addition, a large number of children are abducted from their schools to be indoctrinated to the so-called progressive education of Maoists. Moreover, the security forces also target children as spies working for the Maoists.

Government Initiatives to Address the Issues

The Government did not recognize people who are displaced from the conflict as IDPs until 2005. They were considered as the '*victims of conflict*'. The recognition of victims of the conflict did not take into account the people displaced due to the threat and intimidation from security forces. The Government has recently introduced a policy on IDPs in congruence to the UN Guiding Principle on IDPs.

The Government adopted the following initiatives to address the problems of the IDPs in 2002:

- In 2002, the Government took an initiative to provide some support to the conflict affected people. The Government channelled support through the Ministry of Women and Social Welfare Council. The support included loans of Rs. 5,000 for 200 women from 18 affected districts. The Government also provided educational support for about 1000 orphans from 18 districts. In addition, the Government planned to provide Rs. 1,000 per child for the support of education, food and shelter. Moreover, the Ministry of Labour provided skills training for 25 women from conflict affected areas (Kernot, 2003 p. 17).
- In 2003, under the Ganeshman Singh Peace Campaign, the Government provided relief and rehabilitation support to the IDPs. Later, some IDPs received financial support of NRs 100 per day⁴.
- In 2004, the Government formed a commission headed by vice-chairman of the National Planning Commission to provide recommendations to the Government to address IDPs issues⁵.
- In the same year, the Government announced a special package to address problems of those affected by the conflict.
- Another programme initiated by the Government was to support IDPs who were interested in foreign employment. To facilitate the process, IDPs were to acquire a recommendation letter from the security forces or district administration from the place of their displacement.

The Government initiatives until 2004 did not meet the need of the IDPs. The Government tried to provide humanitarian assistance to the IDPs who were displaced due to the threat of the Maoists. However, the policy and programs did not address the IDPs who are displaced from the harassment by security forces. Moreover, the policy did not address the real needs of the IDPs (e.g. the Government intended to send the conflict affected youth for foreign employment). Then, the Government asked the youth to get proof of recommendation from district headquarters; but it was hard for the majority of youth to acquire recommendations from security forces or the local administration due to intimidation.

The Seven Party Alliance (SPA) and Maoists signed a 12-point agreement on 22 November 2005. SPA and the CPN-Maoist expressed their willingness to unconditionally and safely return displaced Democratic Party leaders, activists and common people. However, the understanding between the seven party alliance and Maoists still does not allow the cadre of Rastriya Prajatantra Party which was formed after 1990, consisting of the old regime of Panchayat⁶. The agreement allows for the returning of people who are from the seven party alliance and Maoists. Point 5 of the understanding clearly states that:

The CPN (Maoists) has expressed its commitment to create an environment to allow the people and the leaders and workers of the political parties, who are displaced during the course of armed conflict, to return and stay with dignity in their respective places, to return their homes, land and property that was seized in an unjust manner and to allow them to carry out their political activities without any hindrance (Twelve Point Understanding between the Government and Maoists, 22 November 2005).

In addition to this commitment, the Ceasefire Code of Conduct (COC) signed between the Seven Party Alliance Government and Maoists on 26 May 2006 explicitly clarifies the issues of internal displacement regarding the restitution of land and property to returnees. The following articles on COC agreement are related to the IDP issues:

Article 16: to withdraw the accusation, prosecution and cases induced against various individuals by both the parties and release the detainees gradually” (COC, 2006).

Article 18: to assist to the displaced persons to return to their respective houses and on the act of peaceful, comfortable and dignifiedly rehabilitation thereof. (COC, 2006).

Article 19: to return the properties that are seized, locked up or prohibited to use during the conflict, of the leaders and the workers of political parties and public -in- general, to the concerned persons or families and to allow them to consume. To resolve the problems through the mutual agreement, this may arise while returning the properties (COC, 2006).

The leaders of the seven party alliances (SPA) and Maoist entered into eight point understanding on 16 May 2006. This agreement further

committed to implement effectively and honestly the 12-points understanding, the ceasefire Code of Conduct reached between the Seven Political Parties and the CPN (Maoists) on November 23, 2005. Moreover, the top leaders of SPA and Maoists also highlighted the issues of IDPs. The section one of the decisions of the meeting stated under the section one article 3:

The process of returning the houses, land and properties occupied in past shall be accelerated. An enabling environment so that displaced persons would be able to return to their homes shall be ensured. For this purpose, district committees comprised of representatives from both the sides shall be formed. All these works shall be completed within one month (High Level Meeting Decision on November 8, 2006).

Furthermore, decisions stated under section one, article 4:

Withdrawal of all accusations and allegations charged by the State and CPN (Maoist) against the political leaders and the cadres and to release all political prisoners from both the sides shall be publicly declared (High Level Meeting Decision on November 8, 2006).

Similarly in section IV - On management of the victims of conflict under sub article 3 states:

Special programs to rehabilitate the people who had been displaced in course of the conflict, to provide relief in case of destruction of private and public properties, and to reconstruct the destroyed infrastructures should be carried out. (High Level Meeting Decision on November 8, 2006).

The Comprehensive Peace Agreement (CPA) was signed between the Government and Maoist on 21 November 2006 after long negotiation. Under article 5.2, 'Measures for Normalization of the situation of CPA' addresses the issues of IDPs. In the article 5.2, sub-article 4, it was agreed to maintain peace in the society by normalizing the adverse situation that had occurred because of the armed conflict and to carry out relief work for, and to rehabilitate people victimized and displaced by the war to constitute a National Peace and Rehabilitation Commission to perform the business related to it. Furthermore, article 5.2 sub-article 8 states the commitment of both parties:

Allow the displaced persons due to the armed conflict to return back voluntarily to their respective ancestral or previous places of residence without any political prejudice, to reconstruct the infrastructure destroyed as a result of the conflict and to rehabilitate and socialize the displaced persons with due respect (CPA, 2006).

There are numerous decisions that were formulated between the Government of Nepal and Maoists to allow the IDPs to return home with due respect. However, the Government is unable to implement the understanding agreed between both parties. The Government is not able to provide security to them to return home. On the other hand, the Maoists have not yet returned the seized properties.

Constitutional Rights

Nepal promulgated the Interim Constitution of Nepal (2006) after the popular people's movement led by political parties in 2006 with the support of Maoist. The preamble of Interim Constitution 2006 expressed the full commitment to democratic ideals and norms, including a Competitive Multi-Party Democratic System, Civil Liberty, Fundamental Rights, Human Rights, Adult Franchise, Periodical Elections, Full Press Freedom, Independent Judiciary and Principles of the Rule of Law.

The Interim Constitution has the provision of fundamental rights from Article 12 to 32. The articles are as follows:

| | |
|---|--|
| The Rights to Freedom (12) | Rights to Property (19) |
| Rights to Equality (13) | Right to Social Justice (20) |
| Right to Environment and Health (16) | Right to Religion (23) |
| Right to Education and Culture (17) | Rights regarding Justice (24) |
| Rights to Employment and Social Security (18) | Right against Torture (26) |
| Right against Exploitation (29) | Right to Information (27) |
| | Right to Property (28) and Right to Constitutional Remedy (32) |

These are the fundamental rights guaranteed to each and every citizen of the nation without any discrimination on the basis of colour, sex, language, ethnicity, race or religion. Thus, it applies that the discrimination to IDPs should be addressed with relevant policy and appropriate laws to some extent covered under the rights to equality.

Furthermore, Part Four of the Interim Constitution 2006 has adopted Duties, Directive Principles and policies of the state. Article 33 (18) declares to conduct special program to rehabilitate the displaced, provide relief for damaged private and public property, and rebuild infrastructure destroyed during the course of the conflict.

Moreover, article 33 (19) states to constitute high-level fact-finding and reconciliation commission to investigate the facts regarding the serious violation of human rights and crimes against humanity during the course of the conflict, and to create an atmosphere of reconciliation in the society.

IDPs Policy 2007

The Government of Nepal (GoN) approved a "National Policy on Internally Displaced Persons (IDPs)" on 22 February 2007. This Policy defined Internally Displaced Persons (IDPs) and agreed to provide relief support to the victims (shelter, food, security, health service, training and

appropriate compensation, etc.) and special care to vulnerable groups such as orphan children, widowed women, women with young children, disabled, elderly people, etc. Moreover, it includes the programme of rehabilitation of IDPs to recover their lives at their habitual place of residence. Furthermore, it provides institutional mechanisms such as a Central Directory Committee, Central Programme Coordination Committee, District Programme Coordination Committee, and IDP Identification Committee to settle the problem of IDPs (Government of Nepal, 2007). However, the policy directives to implement this national policy have yet to be formulated. The Peace Secretariat is engaged in this process.

The Cabinet meeting of 26 February 2007 decided to provide transportation fare and economic assistance to construct or repair IDPs' houses and start their day-to-day activities at home. The meeting decided to provide Rs. 300 - 1,000 to each person as transportation costs, Rs. 10,000 for each family to construct their houses destroyed by Maoists in the past, and Rs. 5,000 to repair damaged houses. Furthermore, the Cabinet decided to provide an interest-free loan of Rs. 25,000 with a five-year term for the cultivation of lands and animal husbandry once all the displaced people return home. Moreover, for the fiscal year 2006-07, the Government committed to mobilize resources to support the process of return and announced an immediate cash relief package for conflict affected victims.

NGO Communities and its Efforts

A large number of I/NGOs have been working on the issues of internal displacement. They have been focusing on advocacy and also provide humanitarian assistance to the IDPs. Those who strongly advocate the rights of the IDPs work on capacity building like training and dissemination of the Guiding Principle on Internal Displacement. The others, however, provided humanitarian assistance to the IDPs before November 2005. Nowadays, a large number of organizations have been engaged for repatriation of IDPs to their respective hometowns. For example, the Informal Service Sector Centre (INSEC) has been encouraging IDPs to return home by providing a reasonable amount of cash to the IDPs who want to return home. The donor agencies are also interested in supporting those organisations who initiate the return of the IDPs.

New Developments on IDPs Issues

The Government has formulated a policy on IDPs. In addition, the Maoists committed to follow the various agreement and Comprehensive Peace Accord (CPA). Despite this, there are numerous complications to defacilitate the durable solution of the IDPs. According to articles 28, 29 and 30 of the Guiding Principle on IDPs, the durable solution on IDPs lies on return, resettlement and integration.

The IDP policies have put much emphasis on the safe return of IDPs. However, the policy is silent about durable solutions pertaining to the IDPs problem. The Government and other agencies are at the forefront to provide transportation costs and a few days' incidental costs to stay at their home. It undermines the very notion of respect and voluntary return of the IDPs. The following are the common concerns of the volunteers and dignified return of the IDPs:

- **Security of the returnees:** The non-Governmental organizations are encouraging IDPs to return home. However, the IDPs are still reluctant to return home due to the insecure environment as the Maoists failed to follow the commitment made in agreements and in the Interim Constitution of 2006. OCHA (2006) noted that IDPs are not willing to return home due to rampant extortion by the CPN Maoists. This proves that the Government's presence at the grassroots level is almost negligible. Most of the IDPs do not feel safe and comfortable to return home.
- **Return and compensation of properties:** The Maoists are not following the agreements. The Maoists repeatedly announced that they will return the seized properties of the IDPs and even declared that they returned the seized properties to the IDPs. However, a large number of IDPs refrain from utilising their property as the Maoists in fact did not return the seized property. OCHA (2006) noted that land and property restitution are the major issues of the IDPs return. Moreover, the Government failed to compensate the IDPs for their lost properties while taking action during the conflict; for instance, the IDPs had left intangible properties like utensils and food while leaving home.

The return of the seized property seems impossible in practice because it seems that some of the properties that Maoists have seized were distributed to the landless people or poor people. In legal terms, Maoists represent an ally of the Government; therefore it is important that they also follow the constitution and legal mechanisms. In this vein, it is impossible that the Maoists distributed personal properties without an appropriate legal mechanism for land distribution. However, the Maoists and the Government may not seize the property from the poor people again; therefore, it is hard to expect that the above agreement between the Government and Maoists is practical.

- **Rights to housing:** Most of the IDPs do not possess a house in a condition where they can go back and live. Thus, the IDPs are entitled to receive a house. The Government and other agencies that are encouraging IDPs to go back home need to ensure rights to housing.
- **Reconstruction of destroyed properties:** In the community, public properties that worth millions of rupees, such as schools, health posts, village development committee buildings, religious

places, telephone towers, bridges, etc., were destroyed. The Government and the agencies working on repatriation of IDPs should ensure that this infrastructure be rebuilt in collaboration with the IDPs. Some of the physical infrastructure, like schools and health posts, is an immediate need of the IDPs.

- **Guarantee of livelihood:** The IDPs have been living out of their hometown for years. They do not have the support mechanism for a livelihood back home. For the majority of them, their livelihood depends on agriculture. The agriculture cycle runs from the months of May to November in the hill regions. If the IDPs will return between July and June, they may not be able to work in the field. The Government and agencies concerned should make sure that IDPs are supported for their livelihood at least for a year.
- **No concrete resettlement policy:** There is a lack of good policy on the resettlement of the IDPs. The study of NIP shows that about 58 per cent of people are not willing to return home due to security threat and loss of livelihood options. The others are not willing to return because of the traumatic situations (especially during armed conflicts) they experienced while in the community. A few of them have a bitter experience with their neighbours who killed family members or close relatives. It is therefore obvious that the IDPs cannot and do not want to return home. Thus, the Government has to resettle these IDPs with respect to suitable places.

Despite the various efforts of the Government and national and international non-Governmental organizations there are numerous complex issues on resolving the displacement problem.

Conclusion

The existing population of IDPs constitutes a sizeable proportion in Nepalese society. The current efforts being put forth by the Government and the NGO community has not been sufficient to facilitate a voluntary repatriation of displaced persons. The voluntary repatriation will only be effective once the Government commitment to resettlement is realized.

In the context of Nepal, the creation of conflict-induced IDPs began after the armed conflict launched by the Nepal Communist Party of Maoists (CPN-M). The anecdotal data shows that there are about 2,00,000 to 4,00,000 people who have been displaced during the armed conflict from 1996 to 2005. The major causes of the displacement are the threat and intimidation from the Maoists, as well as from security forces. As a result of the displacement, a large number of people have been facing various problems of livelihood, such as employment, education, health and free movement, etc. The Government and national and international non-Governmental organizations have been providing humanitarian support to the IDPs. In addition, these organizations focused towards to return of the

IDPs without building infrastructure and guaranteeing livelihoods. Considering the gap on the policy issues, the Government of Nepal has been formulating a policy on IDPs since 2003. However, these policies remain ad hoc. In 2007, the Government formulated a more concrete policy to address the issues. However, it still lacks a clear resettlement agenda. Moreover, the Government has not yet formulated the directives to implement the policy. There is no continuous support programme to the IDPs.

In principle, it is laudable that the Government has formulated policies for assistance to IDPs. However, given the complexities of the circumstances in which IDPs were created, much thought still needs to be given to longer term perspectives of rehabilitation, restitution and reconciliation. A greater focus is required on creating conditions conducive to return rather than a superficial attempt to send people back 'home'.

Notes

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² Nepal Institute of Peace (2007) 2nd edition. Internal Displacement: Advocacy Toolkit: Author: Kathmandu (i to xii)

³ Rai, Deep Ranjani (2005 p.17) A Pilot Survey on Internally Displaced Persons in Kathmandu and Birendra Nagar. SAFHR: Kathmandu

⁴ Nepal Institute of Peace (NIP). (2005) Internal Displacement: Advocacy Toolkit. Author [point 4 to 8]

⁵ Nepal Institute of Peace (NIP). (2005) Internal Displacement: Advocacy Toolkit. Author [point 4 to 8]

⁶ Panchayat is a one party system imposed by King Mahendra in BS 2017.

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