

**INTERNALLY DISPLACEMENT
INFORMATION BOOKLET**

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**National Human Rights Commission
Nepal**



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Few words

The main responsibility of National Human Rights Commission mandated as a constitutional body by the Interim Constitution of Nepal, 2063 is the protection and promotion of human rights. In the process of promotion of human rights, the commission has been publishing different information related materials and reports on the different human rights issues. Likewise, this Internally Displacement Information Booklet is publicized. It is believed that this publication might help to make known to the public on the subjects of what the internal displacement is, status of IDP's in Nepal, what are the rights of IDP's?, the effort made on the issue of IDP.

The number of IDP's is being increased in Nepal day to day due to armed conflict in past, natural disasters on different time and development projects. In CPA dated on 21 November 2006, 23 points Agreement dated on 23 December 2007 between SPA and CPN Maoists, there is the situation of ensured commitment for rehabilitation to the IDP's and return the occupied land and property. However this issue is addressed in every steps of Peace Accord at present in reference to Nepal here is the subject of severe problem of no proper management of internally displaced peoples who were displaced due to armed conflict. No remarkable success has been seen still to solve the problem of IDP's who were victimized by the human rights violations and abuses in the past.

Realizing to have the special policy to protect the class of people of vulnerability due to internal displacement, United Nations Guiding Principles on Internally Displacement, 1998 has been approved. In national level "National Policies on IDP's, 2007" is approved. However, its implementation has not come out yet. Therefore, in this context, it is very much essential the need of coordination among all of the governmental, non-governmental bodies working in this issue, civil society, victims themselves to ensure the rights of displaced people. This publication is publicized offering to go ahead taking own responsibility by all sector to fulfill the needs of solving problems of IDP's.

Last but not least, I want to give thanks to the officers Uma Joshi, Narayan Prasad Sedhain, Subodh Pokhrel, Administration Assistant Khima Nanda Bashyal and whole NHRC family who helped to bring out this publication in this form.
Date: 2065/08/15

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Background

Every year, a number of migrants from their habitual places of residence have been increasing across the globe. A few among these voluntary migrants, who are also known as economic migrants, flee elsewhere from their places of habitual residence in search of better opportunities whereas a few of these persons or groups of persons are forced to flee or obliged to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of internal conflict, armed conflict, communal violence, natural disaster or adverse environmental conditions.

If persons or groups of persons in similar circumstances are displaced without having to cross the internationally recognized border of his/her home country, it is known as the Internal Displacement. There were an estimated 60 million Internally Displaced Persons around the world till 1970 whereas this figure has increased to 250 million over the years. Basically, such an alarming increase is observed presumably due to the internal conflict. In Nepal, the number of IDPs appeared to have increased mainly due to the decade long CPN (Maoist) insurgency that hit the country since 2052 BS (1995 AD). Apparently, the IDPs are compelled or forced to undergo the critical circumstances due to the very condition of their displacement. They, at all time, feel insecure from various angles - be it an issue of the shelter or be it the shelter in a protected settlement or be it the temporary shelter built by self. Likewise, mostly, the incidents of excesses such as murder, torture, rape, sexual assault, kidnapping, forceful recruitment in the army are perpetrated against the IDPs. Among these, the plight of women, children and elderly people is found to be acutely critical. Similarly, owing to the adverse circumstances, the supporting agencies for the protection and promotion of the human rights of the IDPs appear to be seemingly incapable to launch any effective programs with regard to the reporting on excesses perpetrated against the IDPs and their control. Therefore, the state of affairs now is such that the issues for the protection of human rights of the IDPs and humanitarian laws have emerged to be the matter of major concern.

Definition of Internal Displacement

IDPs are those groups of persons who have fled their places of habitual residence but haven't crossed the internationally recognized border. According to the UN guiding principle with regard to the internal displacement, IDPs are "Persons or groups of persons who have been forced or obliged 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".



Likewise, according to National Policies on Internally Displaced Persons, 2007, the "Internally Displaced Person means a person who is living somewhere else in the country after having forced to flee or leave one's home or place of habitual residence due to armed conflict of 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 situation."

In this context, various national and international human rights laws as well as humanitarian laws have protected the right of voluntary displacement. The displacement, however, is not often voluntary in nature. That's the reason the guiding principle related to the displacement speaks off about its prohibition. Under certain circumstances, nonetheless, the decision of displacement rests upon the causes related to the armed conflict, violation of human rights, natural and human-made disaster. Thus, the UN guiding principles with regard to the internal displacement has prohibited the forced displacement under the conditions furnished below:

- Armed Conflict, General Violence, Violation of Human Rights: Displaced due to loot and arson, property destruction, brutal atrocities, fear of killing,

fear of killing or kidnapping of kin, forceful recruitment in army, communal riots, political uprising etc.

- Natural Disaster: Displaced due to the loss of properties due to the natural disaster such as landslide, flood, earthquake and fire.
- Developmental Activities: Displaced due to the loss of properties acquired by the state in the name of the developmental activities and due to the hardships the persons have to undergo with incommensurate compensation at that point of time.

International instruments with regard to the rights of the IDPs

A large number of people were displaced from various countries in the 1980s due to the fear of armed conflict, apprehension and the incidents of violation of human rights. Following this, they landed up in the situation where they were deprived of exercising their rights including human rights. Coming to the year 1990, therefore, the necessity was felt for the protection of the rights of IDPs in international level. Subsequently, the discussions on the issue of IDPs began to take their courses regarding their enjoyment, in full equality, of the same rights and freedoms under international and domestic law as do other persons in their country. In this regard, experiencing the need of the special policy for the protection of the groups under special circumstances due to internal displacement, the UN Guiding Principles with regard to IDPs has been developed by the team of the international legal experts headed by Mr.

Francis M. Deng at the directive of the UN Human Rights Commission. The guiding principles, which comprises of 30 principles altogether, was presented in the UN Human Rights Commission in the year 1998. Although, the state



hasn't developed, signed or ratified these guiding principles, they reflect and are consistent with international human rights and humanitarian law and analogous refugee law. In other words, human rights laws denote the documents within which the common or special human rights are



addressed. As of today, Nepal has ratified 18 international laws including Universal Declaration of Human Rights. Among these, following are the major ones:

- Universal Declaration of Human Rights, 1948
- International Covenant on Civil and Political Rights 1966
- International Covenant on Economic, Social and Cultural Rights, 1966
- Convention on the Elimination of all Forms of Discrimination against women 1979
- Convention on the Elimination of All Forms of Racial Discrimination, 1965
- Convention on the Rights of Child 1989
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984

International humanitarian law (IHL), often referred to as the laws of war or the law of armed conflict, is the legal corpus comprising of the four Geneva Conventions and two optional protocols. The Geneva Convention is intended principally to protect every individual or category of individuals who are not actively involved in the conflict from the effect of war. Regarding the IDPs,

there are a few provisions furnished in article 49 of the Geneva Convention and in the article 17 of its second optional protocol.

Causes of Internal Displacement in Nepal

Initially, internal displacement was caused due to the numerous developmental activities and the unprecedented natural disasters though the number of IDPs has increased alarmingly due to the effect of armed conflict that hit the country since 2052 BS (1995 AD).

Over the years, hundreds of citizens have been abducted and disappeared whereas



the National Human Rights Commission (NHRC) has received about 2500 complaints related to the cases of abduction and disappearance. Hundreds of people have been physically assaulted during the course of the conflict. Similarly, so many citizens have lost the

member of their families and they have been displaced owing to the fear and beating. Likewise, on the one hand, following the loss of their sources of food and the places of habitual residence, the IDPs undergo severe trauma and hardships due to the cause of their house padlock, forced donation, forceful recruitment in the armed forces. On the other hand, in the context of Nepal, their livelihood without the immediate relief and rehabilitation has been the major problem in new place, new society and new environment. As of today, the estimated figure of the IDPs is 200 to 250 thousands in accordance with the report produced by various organizations and agencies.

Following are the major causes of the Internal Displacement:

- Armed conflict started in 2052 BS (1995 AD) and the fear of cross fire, terror, intimidation by the parties involved in the conflict, murder and torture.
- The emancipation of the bonded laborers (Mukta Kamaiya) on 2nd Shrawan 2057 BS (17th July, 2000 AD) that has led them to be displaced following the lack of proper arrangement of food, shelter and clothing for them.
- The land acquirement for the purpose of hydro project, road construction, irrigation, airport construction, establishment of the national parks, watershed management etc.
- The establishment of the barracks for the security forces in the villages
- The loss of the places of habitual residence, land properties due to the natural disaster such as flood, landslide, earthquake and wildfire that occur from time to time leaving the local inhabitants high and dry.

National Instruments with regard to the rights of the IDPs:

In spite of the fact that there hasn't been any separate Act drawn up regarding the rights of IDPs, all citizens shall be equal before law and no person shall be denied the equal protection of the laws pursuant to the Article 13 of Part 3 of fundamental rights enshrined in the Interim Constitution of Nepal 2063 BS (2007 AD). The provision has been laid in the proviso of the same Article with regard to the right to special protection in different conditions.

The clause 3 (e) of Article 12 has ensured that all citizens shall have the freedom to move throughout the country and reside in any part thereof; and whereas Article 19 has provisioned the right to property.

The aforementioned rights have been enshrined under the fundamental rights in the Interim Constitution of Nepal, 2063 (2007) framed after the People's

Movement. Likewise, the Article 33 (r) of Section 4 of the State responsibilities, Directive Principles and Policies has the provisions to conduct special programs to rehabilitate the displaced, to provide relief for damaged private and public property and to reconstruct the infrastructures destroyed during the course of the conflict.

Likewise covenants and treaties ratified by Nepal International Covenant on Economic, Social and Cultural Rights, 1966 shall prevail in which all peoples may, for their own ends, freely dispose of their natural wealth and resources. Likewise, in no case may a people be deprived of its own means of subsistence. Also, every person, lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence pursuant to Article 12 (1) of International Covenant on Civil and Political Rights, 1966, and Article 13 (1) of the Universal Declaration of Human Rights respectively.

National Policies on Internally Displaced Persons, 2063 (2007) is drawn up by the then government amidst the voice being raised from the various fields with regard to the inclining rate of IDPs in Nepal due to armed conflict and for the rights of IDPs.

After the success of peoples movement - II, there is the situation of assertion for the commitment to rehabilitate to IDPs and to return the occupied land and properties by signing in 25 Point Code of Conduct , as furnished in the Comprehensive Peace Agreement (CPA) as well as 23 points Agreement) between the Government of Nepal and CPN (Maoist)

The rights to be ensured for the IDPs:

Protection from Displacement

The concerned authorities and the government shall adopt the following acts of protection provided the circumstances of displacement inevitably arise due to developmental activities:

- Based on the situation, special attention should be paid to the arrangements for the availability of alternative shelter, security, nutritious food and health

facility for displaced persons or families from the side of the government and other bodies concerned. Similarly, the protection against alienation should be provided to the members of the family.

- With regard to the issues related to the causes and the process of the displacement, the IDPs should be provided



with the guarantee of full information, reasonable compensation and implementation of the measures adequately for the necessary rehabilitation if the displacement is required to be done.

- Those indigenous people, minorities, peasants, villagers and other groups, whose livelihood is related to the land of their habitual cultivation, should not be displaced.

Protection During Displacement

The inherent right of every person is protected by law and thus the IDPs are entitled to enjoy their right of legal protection equivalent to that of other citizens of the country. It is the responsibility of the state to provide protection to the IDPs fled from their places of habitual residence due to the adverse circumstances created through the armed conflict, human rights violation, normal violence and natural disaster. They include:

- IDPs should be provided the protection from forced disappearance, abduction, arbitrary detention, threat, murder and suicide.
- IDPs should be provided the protection from inhuman condition or degrading treatment such as rape, physical assault, torture, atrocities, slavery, trafficking, sexual exploitation and child labor.
- IDPs should be provided the protection from discriminatory arrest and detention on the ground of their displacement and they should not be detained in any circumstances on the basis of discrimination.
- IDPs should not be involved in the military activities forcing them to perform cruel, inhuman and degrading activities. Provided that they express their desire

to be involved in the army at their own will, however, they shouldn't be discriminated on the ground of their displacement.

- IDPs have the right to choose their place of residence at their own will. Therefore, they shouldn't be confined to a certain camps only.
- Basic needs such as food and safe drinking water, proper shelter of residence, appropriate clothing, essential health services or sanitation should be ensured and made available for the IDPs.
- Medical health service should be provided to the injured, physically assaulted and disables and helpless IDPs without any delay.
- IDPs' right of legal protection should be protected with the issuance of all the necessary documents such as passport, documents of personal identity, birth certificate and marriage certificate for the use of legal battle and practice.
- The inevitably abandoned materials and properties belonging to the IDPs should be protected and nobody should be allowed to use them haphazardly and arbitrarily.
- No discrimination shall be made against any IDPs on grounds of deliberation, knowledge, religious conviction and in general application of law while enjoying freedom of opinion and expression, right to employment, freedom to form unions and associations, freedom to participate in community activities and voting right.
- Creating an appropriate and congenial circumstance, education and training facilities should be provided to the IDPs, especially to the youths and women whereas primary level education for the children should be made free and compulsory.

Right to Repatriation, Rehabilitation and Reintegration

The effective resolutions to the problem of IDPs are repatriation, rehabilitation and reintegration whereas there is a need of their voluntary participation in these processes along with special protection to them.

- The necessary arrangement for the repatriation, rehabilitation and reintegration of the IDPs should be made by the concerned authority whereas the special effort should be made to ensure their full participation in the process of plan and management.

- No discrimination shall be made against any IDPs who have returned to their place of habitual residence or rehabilitated in any part of the country. Instead, every possible effort should be made to help them regain their ownership over the lost or scattered properties at the time of displacement.



- Necessary environment should be built for the prompt and easy access of IDPs to the international humanitarian organizations and other stakeholders intended to support for the repatriation, rehabilitation and reintegration of the IDPs.

Responsibilities of various authorities for the protection and promotion of the rights of the IDPs:

Responsibilities of the State:

On the basis of international treaties on human rights principles and instruments to which Nepal is a party, the GoN has to work out on the following for the IDPs.

- The activities regarding to identify the genuine problems of the IDPs, to provide humanitarian support and emergency rescue are to be done as well as formulate policies, plans and programs to resolve their problems on long-term basis.
- Budget should be allocated and the effective programs should be designed systematically legal and policy level so that the problems of the IDPs are resolved on long term basis.
- Build up the strong mechanism for the effective monitoring and assessment on whether or not the budget allocation and the designed programs have reached to the targeted groups.

Responsibilities of the Non- Governmental Organizations:

While the government has the primary responsibility to provide the humanitarian support and protection to the IDPs, the NGOs and INGOs can play the effective role for the implementation of the stipulated responsibilities. Such organizations and agencies can even provide the following humanitarian supports and services:

- Provide humanitarian support with the proper identification of the need of emergency relief materials and make such humanitarian assistance available for the IDPs without any discrimination.
- Advocate strongly on the issue of displacement is an act against human rights.
- Create public awareness on the issue of IDPs and that IDPs are also entitled to receive equal rights as other citizens.
- Disseminate findings of the study that can be taken as baseline for their immediate shelters to the IDPs.



Responsibilities of the Victims themselves:

- Provide information to the concerned organizations and local agencies about their displacement and liaise with them to receive the humanitarian support.

Efforts made by the GoN

Ganeshman Singh Peace Campaign:

- The GoN had launched the program focused on the IDPs under Ganeshman Singh Peace Campaign on Asoj 3rd, 2056 BS (September 20th, 1990). It was announced through this program to provide RS 100/- per day as livelihood allowance and necessary travel cost to the IDPs to reach the location of their temporary shelter. The campaign was aimed at building congenial environment for the returnees, providing financial and health facility, education, employment and availing the earning activities for the IDPs. Similarly, it was provisioned to form a committee in coordination with the

Chief District Officer of the concerned district to provide necessary services to the IDPs



- Ganeshman Singh Peace Campaign was again launched in the year 2058 BS (2001 AD) with regard to providing the financial support to the IDPs. The support was said to be provided to the IDPs through the district administration office of the concerned district after determining whether or not they were displaced due to the threat by the CPN (Maoist)

Formation of the working groups

- A working group was formed in coordination with the vice chairperson of the National Planning Commission in 2061 BS (2004 AD) in order to resolve the problems of the IDPs.

Special programs for the conflict victims

- GoN had announced a relief program instead of Ganeshman Singh Peace Campaign in Asoj, 2061 BS (Sep. 2004 AD) focused on the conflict victims. It is mentioned in the program that Rs. 100 as allowance to the IDPs would be curtailed and instead, the skill oriented training would be facilitated to them in their own district head quarters. The training was intended to enhance their skills enabling them to withdraw the loan to run the errands for their livelihood upon the completion of their training.

Establishment of Ministry of Peace and Reconstruction

- As per the decision of April 1st 2007 of the Government of Nepal the existing Peace secretariat has been dissolved and the Ministry of Peace and Reconstruction has been established with the mandate to accomplish all the functions assigned to the Peace Secretariat and other additional functions relating to reconstruction of physical infrastructure damaged during the conflict, relief and rehabilitation of the conflict victims, Truth and

Reconciliation Commission, High Level Monitoring Committee and Management of the Maoist combatants cantonments.

Formation of Working group for data collection of Conflict Affected People, Family and Structure

This working group is formed in June 9, 2007 with mandate to collect the data of conflict affected people, family and physical structure and recommend to peace minister for the compensation.

Tenth Plan (2059 -064 BS/ 2002 -07 AD)

- It has been mentioned in the Chapter 27 of the Tenth Plan under targeted programs that rehabilitation and income generating programs shall be expanded for the normal life of the affected and displaced families from the prolonged violence and troubled environment in the country.
- Likewise, as per the area-wise targeted programs, the same will be conducted specially in those areas which are considered to be inconvenient with the perspective of possible natural disasters, specially flood and landslide.

- Since the targeted groups are affected from the natural disaster from time to time resulting in the increase in their debt burden under the topic of geographical area wise targeted program, the act of improving these areas has been encompassed within the targeted programs. The



programs shall be launched for the control of flood and landslide giving priority to the land properties belonging to the poor people which are normally affected from the natural disasters.

- A monitoring unit has been established in the National Planning Commission for the regular monitoring of the programs targeted for the poverty stricken people. At the same time, the poverty alleviation fund, as mentioned in the

program, shall be monitored appropriately which provide the financial support through multi centered cooperatives for the targeted programs within the plan period.



Budget for the Fiscal Year 2063 / 064 (2006 / 07)

- In accordance with the budget speech delivered for the Fiscal Year 2063 – 064 (2006 -07), it has been mentioned that in order to rehabilitate the small borrowers affected by the conflicts, those who have taken loans up to Rs.50,000 from commercial and development banks will be granted waiver from remainder of the interest if they pay the principal amount and 50 percent of the interest. Likewise, if the borrowers getting loan of Rs 50,000 to Rs. 500,000 deposit interest equivalent to the outstanding loan, the remaining interest on their loan will be waived. This scheme will benefit about 432,000 borrowers of commercial and development banks.
- Likewise, it has been mentioned that it is now time to capitalize the present peaceful moment to make arrangements for displaced people to return to their original places of habitual residence and reconstruct the destroyed infrastructures. As it may require huge resources, arrangement will be made to mobilize internal resources as well as foreign assistance.
- Furthermore, the budget unveils that a grant of Rs 5,000 will be provided to the conflict victims as an immediate relief package and income generating activity enabling them to return to their normal lives. In addition, agricultural credits up to Rs. 10,000 will be made available in the coming fiscal year to every such family with four percentage point of interest subsidy.

Budget for the Fiscal Year 2065 / 066 (2008 / 09)

- Under the heading of relief and compensation for the conflict affected people Rs.12 million for the development of living together (SAHAJIVAN) settlements to the families of internally displaced due to the armed conflict.

Functions of National Human Rights Commission with regard to the IDPs:

National Human Rights Commission (NHRC) is an independent and autonomous national institution, established under the Commission Act, 2057. It has become a constitutional body by the Interim Constitution of Nepal, 2007. The Commission has the



mandate to protect and promote the human rights. Since the Commission has significant responsibility to work for the guarantee of the rights of IDPs, the issues of the IDPs are taken with the highest priority since its establishment.

Internal displacement's issue had got the space even in the strategic plan 2004-08 of the Commission as an strategic objective in which it has been mentioned that the continuation of documentation and the action on the complaints has been furnished with the highest priority regarding the internal displacement, violation of human rights, study of the incidents of disappearance, investigation and so on so forth. Likewise, the strategic plan objective -III includes the activities to advocate the right to food, health, shelter, education and work as the fundamental rights of the people with the special attention to improving the human rights situation in the most underdeveloped regions of Nepal.

Likewise, Strategic Plan 2008-2010 of the Commission has the strategic objectives to

- Establishment of the truth about Disappearance, Internally Displaced Person(IDPs) and victims of conflict and give justice to the survivors and their families,
- Establishment of economic, social and cultural (ESC) rights as the fundamental human rights of the people

- Monitor and follow-up level of fulfillment of minimum state obligation of ESC rights by developing necessary indicators and benchmark

Since the plight and the problem of the IDPs have been acutely deteriorating for the last three years due to the armed conflict in the country, the Commission has specified the focal point person under Protection and Monitoring Division with the objective to pay attention towards the protection and promotion of human rights of IDPs.

Monitoring activities under the coordination of Hon. Member of NHRC have been further continued as assigned to National Human Rights Commission as per the clause no. 8 and 9 of 23 points agreement held between seven parties alliance and NCP (Maoist).

NHRC has been doing following activities regarding Internal Displacement:

- Conducted a number of investigations, monitoring and visits among the IDPs in order to bring about public awareness towards human rights, visited the IDP camps and forwarded the recommendations to the concerned authorities.
- Collected data with regard to the internal displacement upon having interaction and discussion among the concerned organizations, agencies and stakeholders.
- Informations disseminated through press release, press conference, e-bulletin and web site.
- Received complaints of gross violations of human rights through Suo Moto and conducted investigation and study. Thereafter, created pressure through the press release among the parties involved in the incidents of human rights violations.
- Coordinated and collaborated with the various NGOs and INGOs working in the field of human rights and inculcated encouragement to work on the rights of IDPs.
- Conducted monitoring on the activities of the government authorities working in the field of IDPs, prepared reports and forwarded the recommendations along with the suggestions to the GoN for the necessary action.
- Communicated on wide spread that the components on the rights of IDPs and UN guiding principles with regard to the IDPs.