



**National Human Rights Commission  
Nepal**

## **Rapid Assessment of Conflict Induced Internally Displaced Persons (IDPs) for their Return, Resettlement and Reintegration**

**National Human Rights Commission, Nepal**

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**A Research Report  
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Rapid Assessment of Conflict Induced Internally  
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Resettlement and Reintegration

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A Research Report  
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## *Executive Summary*

This study is designed to assess the situation of Internally Displaced Persons (IDPs) and recommend to the government to settle the IDP issues in the context of changing scenario of the conflicts in Nepal. This study is based on primary as well as secondary information. The primary information is collected through Focus Group Discussion (FGD) with Conflict Induced Internally Displacement Persons in three locations (i.e. the Kathmandu Valley, Nepalgunj and Dhangadhi), In-depth Interview with Governmental Offices and Non-Governmental Organizations working in the process of IDPs' return to their place of residence, and Mailed Questionnaire to International Non Governmental Organizations (INGOs) working with IDP Issues. The information about the complaints submitted to the NHRC, monitoring report of NHRC is also analyzed. The study employs qualitative approach to data collection. Qualitative information is collected through focus group discussions with IDPs, In-depth Interview with other stakeholders including government officials. The data is managed and analyzed using Statistical Package for Social Science (SPSS) software.

Displaced people are highly vulnerable. They suffer from discrimination, experience significant deprivation and are frequently impoverished. Furthermore, the IDPs are suffering from the inadequate living standards. Ad hoc support from some I/NGOs such as Nepal Red Cross Society (NCRS), International Committee of Red Cross (ICRC), Norwegian Refugee Council (NRC), UNOCHA etc were provided to the IDPs, however, those support were just limited to certain locations and groups and were not adequate.

Findings of the Focus Group Discussion (FGD) with IDPs and Monitoring Reports from seven districts show that the situations of the IDPs were still in problems. Most of them are willing to return, however, there is lack of conducive environment. Maoist Cadres at local level are still making threaten to the IDPs. The victims from the government side too had not got

compensation from the government. The seized lands of the IDPs were not returned. The returnees are suffering from the scarcity of the basic livelihood materials (shelter, food, and clothing) as well as of the security and social harmony; they are treated as 'social evil' and 'criminal'. Furthermore, problems of the IDPs such as security situation at the place of origin, conflict between IDP returnees and local Maoist cadres, return of seized lands and properties, second occupants of seized lands etc must be properly resolved. Special IDPs target programmes including livelihood, education and health package programmes and conducive environment to return with dignity and safety should be required to address the problems of IDPs.

The impact of displacement is unevenly distributed between men, women and children. Particularly, conditions of elderly, women and children are vulnerable. They are suffering from sickness, malnutrition and education deprivation. The government has recently promulgated IDP National Policy to address the problems of the IDPs, however, most of the provisions are still to be implemented. Therefore, it can be concluded that there are so many problems regarding IDPs, these problems must be solved as soon as possible.

## *Chapter One*

### *Introduction*

In Nepal, 12,865 people have lost their lives due to the internal conflict between the Maoist and the government ([www.insec.org.np](http://www.insec.org.np)). Reports from various organizations over the last few years have quoted displacement figures that could range from approximately 37,000 to 400,000 excluding those who may have crossed the border into India (SAFHR, 2005). The official estimate of the government is just 7000-8000. IDD Mission to Nepal Reported that the best reliable estimate of Nepalese internally displaced by the conflict should be up to 200,000 (cited in Aditya et. al, 2006).

Many recorded incidents have revealed that many children are forced to associate with armed forces and armed groups as militia, porters, kitchen helpers, messengers/postmen and spies. According to CWIN, around 40,000 children have been displaced in Nepal due to the armed conflict. During this period (1996-2006) 419 innocent children have lost their lives, 454 have been physically injured, total of 29,244 children along with teachers have been "abducted" while 230 children have been arrested by the state security forces, 150 children are reputed to have been exploited in the worst forms of child labour, and 224 children are facing health problems after being displaced due to armed conflict ([http://www.cwin.org.np/press\\_room/factsheet/fact\\_cic.htm](http://www.cwin.org.np/press_room/factsheet/fact_cic.htm)).

New paradigm has been emerged after Nepal's latest political change (Jana Andolan II). Top level negotiations between the government and the Maoists have been initiated and reached to an agreement to end the insurgency between them. The rebel party Nepal Communist Party (Maoist) is also going to be a part of the Government of Nepal. The Government of Nepal (GoN) has recently approved IDP National Policy. However, the fate of the IDPs is yet to be decided. The IDP Policy of the government is still to be implemented.

The subsequent sections of this chapter provide a context for the background of the study, statement of the problem, objectives, methodology and organization of the study.

### ***1. Problem Statement***

Displaced people are highly vulnerable. They suffer from discrimination, experience significant deprivation and are frequently impoverished. Furthermore, the IDPs are suffering from the inadequate living standards. The UN expert on IDPs mentioned in his mission report that human rights problems and violations faced by IDPs in Nepal are related to: poor security and protection; discrimination; inadequate food, shelter, health care or access to education for children; a lack of personal and property identification documents; and gender-based violence, sexual abuse and increased domestic violence ([www.un.org/News/Press/Docs/2005/hr4830.doc.htm](http://www.un.org/News/Press/Docs/2005/hr4830.doc.htm)).

The impact of displacement is unevenly distributed between men, women and children. After more than a decade of armed conflict in Nepal, an agreement has been between the government and the Maoists in which resettlement and reintegration of the IDPs is included and IDP National Policy has been approved. However, the working strategy to resettle and reintegrate is yet to be formulated and implemented. With the country embarking on peace process as its major target, there is a need to analyse the situation of conflict-induced IDPs and to give the recommendations to the government to settle the issue. No studies have been done so far to analyze the IDP situation in the changing context in Nepal. The present study aims to meet this lacuna.

### ***2. Research Objectives***

#### **a. General Objectives**

The general objective of the study is to analyse the situation of conflict induced internally displaced persons (IDPs) and to make

recommendations to the government for their return, reintegration and resettlement.

#### **b. Specific Objectives**

The specific objectives of the study are:

- To analyse IDPs' situation regarding their attitude to return, repatriation, reintegration and resettlement through FGD.
- To analyse the need and aspirations of the victims using information given in the complaint to the NHRC.
- To analyse the government and the Maoists' behaviour during the ceasefire period using monitoring report of NHRC.

### **3. Methodology**

#### **a. Study Site & Rationale**

Three sites i.e. the Kathmandu valley, Nepalgunj and Dhangadhi is selected to collect primary information on IDPs' return, reintegration and resettlement. It is considered that only the Kathmandu Valley is a home to more than half of the IDP population; Nepalgunj and Dhangadhi being considered as the major IDP receiving cities in western Nepal. Therefore, these sites were selected. The IDPs are selected from urban centers because the Maoist insurgency as well as the governmental responses to it is pushing a considerable number of citizens, who fear for their safety and/or lives, to move to the urban areas.

#### **b. Source of Data**

The study is based on primary data as well as secondary information. Primary information is collected from three sites mentioned above through Focus Group Discussion (FGD), In-depth Interview with Governmental and Non Governmental Organizations (NGOs) working in the process of IDPs' return and Mailed Questionnaire to International Non Governmental

Organizations (INGOs) working with IDP Issues. One interaction programme in Kathmandu is organized to discuss and share the fresh information regarding IDP issue. The complaints submitted to National Human Rights Commission (NHRC) and Monitoring Information of the NHRC is analyzed. Similarly, secondary information is obtained from the reports of the different NGOs and International Organizations regarding return, reintegration and resettlement of the IDPs of Nepal.

### **c. Data Collection Instruments and Techniques**

The primary information is collected through focus group discussions, in-depth interview, mailed questionnaire, complaints of victims recorded to NHRC, monitoring report of NHRC. Secondary information is collected from the studies of various organizations of Nepal.

## ***4. Organization of the Study***

This study is organized into seven chapters. Chapter one has presented the background to the study, problem statement, objectives and methodology. Chapter two presents the international regime for the protection of internally displaced persons (IDPs) including various international instruments that has been ratified and signed by the Government of Nepal (GoN), UN Guiding Principles on Internal Displacement and the Pinheiro Principles i.e. United Nations Principles on Housing and Property Restitution for Refugees and Displaced persons. Chapter three discusses the relevant studies on Internally Displaced Persons (IDPs) issues in Nepal including the review of international mission report to Nepal and survey report conducted in Nepal regarding IDPs Issue. Chapter Four presents the activities of Different International Organizations Regarding the IDPs Issues in Nepal. Similarly, chapter five examines the findings of Monitoring Report and Complaints of Victims Recorded to NHRC. Chapter six explores the findings of Focus Group Discussion with Internally Displaced Persons (IDPs) and In-depth Interview with different stakeholders. Finally, chapter seven consists of the conclusion and recommendation and future research prospects.

## *Chapter Two*

### ***International Regime for the Protection of IDPs regarding Return, Resettlement and Reintegration***

This chapter presents the international instruments that has been ratified and signed by the Government of Nepal (GoN). Furthermore, this chapter provides international response regarding the issue of Internally Displaced Persons (IDPs) including UN Guiding Principles on IDPs, IDPs definition and the differences of IDPs with the Refugees. The Section V (i. e. Principles relating to Return, Resettlement and Reintegration) is highlighted. The last section of this chapter provides brief introduction of the Pinheiro Principles i.e. United Nations Principles on Housing and Property Restitution for Refugees and Displaced persons.

#### ***1. International Human Rights Mechanism and Nepal's Commitment***

Universal Declaration of Human Rights (UDHR) is adopted and proclaimed by the United Nations General Assembly Resolution 217 A (III) of 10 December 1948. Article 13 (1) of UDHR clearly stated that everyone has the right to freedom of movement and residence within the borders of each state. Article 17 stated that everyone has the right to own property alone as well as in association with others and no one shall be arbitrarily deprived of his property. Furthermore, in Article 22 it has been stated that everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each state, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Similarly, International Covenant on Civil and Political Rights (ICCPR) is adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) of 16 December 1966. Nepal has



ratified this Covenant on 14 May 1991. Article 12 of ICCPR states that everyone lawfully within the territory of a state shall, within that territory, has the right to liberty of movement and freedom to choose his residence and this rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (order public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present covenant.

International Covenant on Economic, Social and Cultural Rights (ICESCR) is adopted and opened for signature, ratification and accession by General Assembly Resolution 2200A (XXI) of 16 December 1966. Nepal has ratified ICESCR on 14 May 1991. Article 9 of ICESCR stated that the States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Similarly, International Covenant on the Elimination of All Forms of Racial Discrimination (CERD) is adopted and opened for signature, ratification and accession by General Assembly Resolution 1904 (XVIII) of 20 November 1963. Nepal has ratified CERD on 30 January 1971. State parties under Article 5 of CERD guarantee the rights of everyone, without distinction as to race, colour, or national or ethnic origin. Particularly, Article 5 (d) (i) clearly states about the right to freedom of movement and residence within the border of the state, and Article 5 (e) (iv) states about the right to public health, medical care, social security and social services.

Convention on the Rights of the Child (CRC) is adopted and opened for signature, ratification and accession by General Assembly Resolution 44/25 of 20 November 1989 and is entered into force on 2 September 1990 in accordance with article 49. Nepal has ratified CRC on 14 September 1990. Article 26 (1) of CRC states that States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this rights in accordance with their national law. Furthermore, Article 27 (1) states that States Parties recognize the right of every child to

a standard of living adequate for the child's physical, mental and social development. Similarly, in Article 27 (3), it has been stated that States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

## ***2. The development of the international response on Internally Displaced Persons (IDPs)***

The developments of the international response on Internally Displaced Persons (IDPs) are given below in chronological order.

- Late 1980s: Internal displacement emerges as an issue on the international agenda
- 1991: End of the Gulf War and flight of Iraqi Kurds up to Turkish border prompts Operation Provide Comfort which creates a safe zone for IDPs in Iraq.
- 1992: On request from the UN Commission on Human Rights, the UN Secretary General appoints Francis Deng as Representative Secretary General (RSG) of Internally Displaced Persons. Interagency Standing Committee (IASC) is established. Sets up internal displacement task force and designates Emergency Relief Coordinator (ERC) as UN reference point for protection and assistance to IDPs. The UNHCR adopts a working definition of internal displacement enabling it to work directly with IDPs who fall within its original mandate.
- 1993: RSG issues first annual report and recommends the creation of a new UN agency or modification of the mandate of an existing one (such as the UNHCR) to cater more specifically for the needs of IDPs.

- 1996: Faced with resistance to the idea of a dedicated/lead UN agency for IDPs, the RSG alters his position and supports the IASCs collaborative approach among UN agencies. Global IDP project established in Geneva by the Norwegian Refugee Council.
- 1997: UN Secretary General appoints Emergency Relief Coordinator as focal point for IDPs in the UN system.
- 1998: Guiding Principles on Internal Displacement presented to the UN Commission on Human Rights.
- 1999: Global IDP project launches IDP database at the request of the UN.
- 2000: Interagency Standing Committee adopts IDP policy. ERC establishes Senior Inter-Agency Network on Internal Displacement.
- 2001: Global number of IDPs reaches 25 million and remains largely unchanged for the following years.
- 2002: Internal Displacement Unit (since 2004 division) created within OCHA.
- 2004: UN Secretary General appoints Walter Kälin as Representative on the Human Rights of Internally Displaced Persons. IASC adopts revised IDP Policy Package to strengthen the Collaborative Response

### ***3. Definition of Internally Displaced Persons (IDPs)***

For the purposes of the Guiding Principles on Internal Displacement the IDP is defined as:

*"Internally displaced persons are 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 generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border (UN, 1998).*

Defining IDPs has been the continuous attempt of many GOs and NGOs in Nepal. However, the common understanding on the IDP issue is often analyzed as the major lacking; interest based definitions are prevalent rather than the function based. As for example, the government has never recognized the persons, especially the Maoists, displaced due to the state run operations of the security forces. The Maoists, on the other hand, are also not ready to welcome the persons displaced due to their own activities.

In the changing context, the government has approved the National Policy on IDP Policy in which "IDPs were defined as those persons who are forced to flee or to leave their homes or their habitual places of residence as a result of armed conflict or, to avoid the violation situation or serious human rights violations, or natural or human-made disasters". This definition is similar to the definition given by UN Guiding Principles on Internal Displacement. Furthermore, this definition included IDPs those displaced as a result of development projects, natural disasters, as also those who are victims of human rights violations.

#### ***4. Difference between Refugees and Internally Displaced Persons (IDPs)***

Both Refugee and IDPs often leave their homes for similar reasons. Refugee by definition is a person who crosses an international border whereas an IDP remains inside the territory of the concerned state of which he or she is a national. From an international law perspective, primary responsibility for the protection of and assistance to internally displaced persons rests with the territorial state.

The difficulties faced by IDPs are numerous but distinct. Since they are not far from conflict areas, their physical security remains in jeopardy. Their quality of life and potential for physical and emotional growth is

dormant; family and community life is almost totally destroyed; the opportunity for cultural activity hardly exists and the right of movement is highly restricted. Those living in camps, especially women, have to endure outrageous invasions of their privacy. Basic health care for all and education of children are virtually non-existent. Their right to participate and contest in the political processes is difficult. Above all, they hardly get any assistance from the state, as it is one of the actors responsible for their displacement. In short, they are caught between the state and anti-state forces.

Unlike refugees, IDPs are not covered by any kind of international conventions or protocols. What is available is the "Guiding Principles on Internal Displacement" which identify the "specific needs of internally displaced persons worldwide and their rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration." As the name suggests, these Principles are only for guidance and are not binding. Undeniably, IDPs fall within the ambit of international humanitarian law and the national law of the state concerned. However, these legal provisions cannot be properly enforced due to the lack of any legal instrument for IDPs. The negligence at the international level is mainly due to lack of adequate pressure for addressing this issue. As long as the displaced are not crossing the borders of a state no one is bothered. The principles of 'sovereignty' and 'non-interference' are usually cited as excuses, and it is argued that it is the duty of the state to protect the IDPs. Whatever little (re)action from the international community has focused on providing some kind of material assistance to the affected. The root causes of displacement and the protection of IDPs are not given any emphasis.

According to Chimni, there are three reasons for the requirement that only persons outside their state be eligible for refugee status. First, due to limited resources it is not easy to relieve the suffering of all involuntary migrants, therefore, its goal was to assist a subset of involuntary migrants

composed of persons who were ‘outside their own countries (and) who lacked the protection of a government. Second, the inclusion of internal refugees in the international protection regime might prompt states to attempt to shift responsibility for the well-being of large parts of their own population to the world community. The obligations of states under the Convention would thereby be increased, as a result of which fewer states would be likely to participate in the Refugee Convention regime. Third, any attempt to respond to the needs of internal refugees would constitute an infringement of the national sovereignty and the principle of non-intervention (Chimni, 2000).

### ***5. The Guiding Principles on Return, Resettlement and Reintegration***

The Guiding Principles on Internally Displaced Persons (IDPs) has included 30 principles to address the problems of IDPs and they have been divided into introduction and other five sections: General Principles, Principles Relating to Protection from Displacement, Principles Relating to Protection during Displacement, Principles Relating to Humanitarian Assistance and Principles Relating to Return, Resettlement and Reintegration. These 30 principles, which are based on international humanitarian law, human rights law and refugee law by analogy, set forth the rights of the internally displaced and the obligations of governments and non-stat actors toward these populations.

The Guiding Principles on Internal Displacement is not binding on states, according to Cohen, “the Guiding Principles consolidate into one document all the international norms relevant to IDPs, otherwise dispersed in many different instruments. Although not a legally binding document, the principles reflect and are consistent with existing international human rights and humanitarian law. In re-stating existing norms, they also seek to address grey areas and gaps. An earlier study had found 17 areas of insufficient protection for IDPs and eight areas of clear gaps in the law. No norm, for example, could be found explicitly prohibiting the forcible return

of internally displaced persons to places of danger. Nor was there a right to restitution of Property lost as a consequence of displacement during armed conflict or to compensation for its loss. The law, moreover, was silent about internment of IDPs in camps. Special guarantees for women and children were needed” (cited in Chimni, 2000, pp395-396).

Section five (Principles 28-30) provides that competent authorities have the primary duty and responsibility to provide the means, which allow IDPs to return voluntarily in safety and with dignity to their habitual place of residence.

Principle 28 emphasizes the right of internally displaced persons to return voluntarily and in safety and dignity to their homes or to resettle voluntarily in another part of the country. In other words, internally displaced persons have options – they can choose to return to their home areas or resettle in another part of the country. The Principles emphasize that it is the responsibility of the national authorities to establish conditions enabling this, in particular to ensure secure environment in the areas of return or resettlement. Also, authorities must facilitate the reintegration of the displaced, and ensure that return or resettlement processes include their full participation.

Principle 29 (1) reiterates the notion of non-discrimination that is found throughout the Principles. Returned or resettled internally displaced persons should not be discriminated against and they have the right to participate in public affairs and to access public services. Emphasis is also given to the full participation of the internally displaced in the planning and management of their returns or resettlement. This is quite important because the involvement of the displaced will help make their returns or resettlement more sustainable.

Principle 29 (2) states that: “Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement.

When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.” Lastly, Principle 30 provides a role for international organizations and others in the return or resettlement phase of displacement and specifies that the authorities shall grant and facilitate access by these organizations.

It should be noted that throughout the Principles special attention is paid to the protection and assistance needs of vulnerable groups such as women, children, the elderly and disabled. For example, the Principles call for the participation of women in the planning and distribution of relief supplies, prohibit sexual violence and the recruitment of minors into hostilities, and stress the need for family reunification.

## ***6. The Pinheiro Principles***

United Nations principles on Housing and Property Restitution for Refugees and Displaced Persons (i. e. The Pinheiro Principles) is formally endorsed on 11 August 2005. The Pinheiro Principles are designed to provide practical guidance to States, UN agencies and the broader international community on how best to address the complex legal and technical issues surrounding housing, land and property restitution. For the first time, the Principles provide a consolidated and universal approach to dealing effectively with outstanding housing and property restitution claims. They augment the international normative framework in the area of housing and property restitution rights, and are grounded firmly within existing international human rights and humanitarian law.

Some of the most serious problems facing displaced people around the globe are the loss of land, housing and property rights during their displacement and the consequent inability to return to their original homes and lands once they choose to voluntarily repatriate. For virtually all of the worlds displaced, their main wish is to return to their original homes in safety and dignity. Furthermore, housing, land and property disputes between the displaced and those currently living without their consent in



their homes (the process of secondary occupation), inadequate legal protection and remedies for returnees and a range of other problems often act as strong impediments to the exercise of the rights to return and related rights to housing and property restitution. Consequently, millions of refugees displaced persons who desperately want to return to their original homes are unable to do so because restitution rights are not treated with due seriousness by the relevant authorities and international actors in the countries concerned. The Pinheiro Principles are the culmination of more than a decade of international and local activities in support of the emerging right to housing and property restitution as a core remedy to displacement.

The Pinheiro Principles consist of preamble followed by six sections (i.e., section I - scope and application, section II - the right to housing and property restitution, section III - overarching principles, section IV - the right to voluntary return in safety and dignity, section V - legal, policy, procedural and institutional implementation mechanisms and section VI – the role of the international community, including international organizations). Principle 2 provides the principles related to the right to housing and property restitution in which principle 2.1 states “All refugees and displaced persons have the right to have restored to them any housing, land and / or property of which they were arbitrarily or unlawfully deprived, or to be compensated for any housing, land and /or property that is factually impossible to restore as determined by an independent, impartial tribunal. Furthermore, principle 2.2 states, “States shall demonstrably prioritize the right to restitution as the preferred remedy for displacement and as a key element of restorative justice. The right to restitution exists as a distinct right, and is prejudiced neither by the actual return nor non-return of refugees and displaced persons entitled to housing, land and property restitution”. Similarly, principle 10 addresses the rights to voluntary return in safety and dignity, as stated in principle 10.1: ‘All refugees and displaced persons have the right to return voluntarily to their former homes, lands or places of habitual residence, in safety and dignity. Voluntary return in safety and dignity must be based on a free, informed,

individual choice. Refugees and displaced persons should be provided with complete, objective, up to date, and accurate information, including on physical, material and legal safety issues in countries or places of origin'. Particularly, principle 10.3 states "Refugees and displaced persons shall not be forced, or otherwise coerced, either directly or indirectly, to return to their former homes, lands or places of habitual residence. Refugees and displaced persons should be able to effectively pursue durable solutions to displacement other than return, if they so wish, without prejudicing their right to the restitution of their housing, land and property".

It was stated in Principle 12 .4 "States should establish guidelines that ensure the effectiveness of all relevant housing, land and property restitution procedures, institutions and mechanism, including guidelines pertaining to institutional organization, rights or possession, as well as decision-making, enforcement and appeals mechanisms. States may integrate alternative or informal dispute resolution mechanisms into these processes, insofar as all such mechanisms act in accordance with international human rights, refugee and humanitarian law and related standards, including the right to be protected from discrimination". Principle 13.1 upheld the accessibility of restitution claims procedures, "Everyone who has been arbitrarily or unlawfully deprived of housing, land and / or property should be able to submit a claim for restitution and / or compensation to an independent and impartial body, to have a determination made on their claim and to receive notice of such determination. States should not establish any preconditions for filing a restitution claim".

Principle 17 stated about the secondary occupants. Principle 17.1 stated that "States should ensure that secondary occupants are protected against arbitrary or unlawful forced eviction. States shall ensure, in cases where evictions of such occupants are deemed justifiable and unavoidable for the purposes of housing, land and property restitution, that evictions are carried out in a manner that is compatible with international human rights law and standards, such that secondary occupants are afforded safeguards of due process, including an opportunity for genuine consultation,

adequate and reasonable notice, and the provision of legal remedies, including opportunities for legal redress”. Similarly, principle 19 prohibits the arbitrary and discriminatory laws. In principle 19.1 states “States should neither adopt nor apply laws that prejudice the restitution process, in particular through arbitrary, discriminatory, or otherwise unjust abandonment laws or statutes of limitations”.

Principle 21 gave special attention to compensation. For example, principle 21.1 states “All refugees and displaced persons have the right to full and effective compensation as an integral component of the restitution process. Compensation may be monetary or in kind. States shall, in order to comply with the principle of restorative justice, ensure that the remedy of compensation is only used when the remedy of restitution is only used when the remedy of restitution is not factually possible, or when the injured party knowingly and voluntarily accepts compensation in lieu of restitution, or when the terms of a negotiated peace settlement provide for a combination of restitution and compensation”.

In summary, Sections II-IV of the Pinheiro principles (Principles 2-10) re-affirm existing human rights and apply them to the specific question of housing and property restitution. National policy-makers, UN and NGO officials and others involved in the practical transformation of restitution rights from paper to deed, will find sections V-VI (Principles 11-22) of particular relevance. In these sections, the principles elaborate what states should do in terms of developing national housing and property restitution procedures and institutions, and ensuring access to these by all displaced persons. They stress the importance of consultation and participation in decision-making by displaced persons, and then outline approaches to technical issues of housing, land and property records, the rights of tenants and other non-owners and the question of secondary occupants. Legislative measures, the prohibition of arbitrary and discriminatory laws, the enforcement of restitution decisions and judgments and the issue of compensation are then explored. Finally, principle 22 discusses the responsibility of the international community to protect housing and property restitution rights.

## *Chapter Three*

### *Studies on Internally Displaced Persons (IDPs) in Nepal*

The purpose of this chapter is to review the relevant studies on Internally Displaced Persons (IDPs) issues in Nepal. The subsequent sections of this chapter provide the review of international mission report to Nepal followed by survey report conducted in Nepal regarding IDPs Issue, commitment and policy development on IDP issues after April movement including II Janandolan of Nepal and activities of NHRC regarding IDPs issue.

#### *1. International Mission to Nepal*

Some international missions to Nepal observed the situation of IDPs. For example, in order to conduct an initial assessment of potential humanitarian consequences and the need for humanitarian action, OCHA and the IDP unit undertook a joint mission to Nepal during 31 May-12 June 2004. The mission consisted of Guillermo Bettocchi and Carmen van Heese of the IDP Unit, Merete Johansson of the Response Coordination Branch of OCHA, and Steven Gleason of the Humanitarian Emergency Branch of OCHA. This mission particularly focused its revision on humanitarian situation, access and security, IDPs and vulnerable groups, monitoring and information flow, protection, assistance and natural disaster aspects. In reviewing the situation, they gave special attention to ongoing internal displacement and its consequences. The mission paid particular attention to the situation of the internally displaced. The report stated that the typical pattern of displacement was from poor, conflict-affected rural areas to larger towns or across the border to India. Many of those displaced by Maoist violence appear to be individually targeted landowners, government officials and others who have reserves to live from for a period of time. The poorer IDPs fleeing generalised violence or human rights abuses moved to district headquarters or, if they can afford

the journey, to India where economic opportunities are slightly better than in Nepal. Furthermore, while recognising the special needs of the internally displaced and based on existing information and advice received, the mission did not believe that they should be the target of special programmes of assistance – at least at this stage. Lifting one vulnerable group out of the overall population would destabilise the situation, create pull factors and possibly contribute to the breakdown of fragile coping mechanisms. Rather, an approach based on the protection of civilians in armed conflict is recommended, with a focus on reducing the threats and abuses that give rise to displacement while maintaining basic social services in the communities of origin. The mission report further provided particular attention on vulnerable subgroups (i.e. women and children) of internally displaced. For example, women were at the risk of getting involved in trafficking and prostitution and many children were abandoned by their parents and end up living in the street from petty crime. Other children were sent off to become factory workers or domestic servants. Special note should also be made of the spread of HIV/AIDS, especially among those returning from India.

At the end of November and beginning of December 2004, a two-member team of Human Rights without Frontiers Int. conducted a 10-day fact-finding mission in Nepal with the objective of taking stock of events in the country with regard to its deteriorating security situation, increasing governmental crisis, and escalating human rights violations on the side of both the Government and the Maoist insurgents. In co-operation with Human Rights without Frontiers Nepal, the mission travelled across the country into a number of districts located in the Western Hill region, the Central Mountain region, the Central Tarai and Eastern Tarai regions, as well as in Kathmandu and the Kathmandu valley. A series of interviews were conducted with government officials (Chief District Officers, army officers), politicians, local human rights NGOs, Dalits, internally displaced people (IDPs), victims of human rights violations, Bhutanese and Tibetan refugees, as well as members of the diplomatic community. Regarding IDPs the mission concluded that the growing insecurity and lack of

protection of the internally displaced persons (IDPs) had been unfolding in the first half of 2005 against the background of the country's political crisis and unabating conflict. Caught in between the Maoist rebels and the government security forces, many civilians were forced to flee their home places in search of some security and protection. The King and the Government are reluctant to acknowledge the soaring numbers of IDPs across the country creating a situation, whereby IDPs numbers have remained largely unaccounted for and the IDPs humanitarian needs and human rights concerns have escaped proper attention and action strategies. The mission recommended to the government to recognize the IDPs, take all measures necessary to ensure the rights of IDPs complying with the UN Guiding Principles on Internal Displacement.

The Representative of the United Nations Secretary-General on the Human Rights of Internally Displaced Persons (IDPs), Professor Walter Kälin visited in Nepal from 13 to 22 April 2005 to assess the human rights situation with regard to IDPs in the country. Based on the information collected during his visit, the Representative has found that there is a widespread pattern of conflict-induced displacement in Nepal. As indicated to him by State authorities and non-governmental actors, the numbers of IDPs in the country are far greater than the roughly 8,000 IDPs quoted by the Government as the official nationwide figure. A large majority of IDPs have not been registered by the authorities because of several factors, including a restrictive registration process, a general fear of IDPs to declare themselves and the movement of many conflict-induced displaced persons across the border into India. Professor Kälin gathered information indicating that the main causes of this population displacement were acts of violence or threats against the population, practices of forced recruitment and extortion by the Maoist armed group, fear of reprisals by the Royal Nepal Army for allegedly providing food or shelter to Maoists (even when this was provided under duress), and a generalized climate of insecurity. Furthermore, he expressed that Human rights problems and violations faced by IDPs in Nepal were related to: poor security and protection; discrimination; inadequate food, shelter, health

care or access to education for children; a lack of personal and property identification documents; and gender based violence, sexual abuse and increased domestic violence. Their vulnerable situation places IDPs at risk of increased female prostitution, bonded labour resulting from high debts, increasing child labour, and loss of voting and electoral rights. He recommended to the government to complete, adopt and implement a comprehensive national IDP policy as soon as possible that will provide for the rights and needs of all conflict-induced displaced persons in the country and which is in accordance with Nepal's international human rights obligations, as expressed in the Guiding Principles on Internal Displacement.

Similarly, The Internal Displacement Division (IDD) undertook a mission to Nepal during 11-22 April 2005. The mission was led by Dennis McNamara, accompanied by Carmen van Heese (IDD) and Romano Lasker (CRD). The visit coincided with that of the Representative of the Secretary-General on the Human Rights of IDPs, Walter Kälin. The mission met with senior Government officials, donors, the UN Country Team, ICRC, international and national NGOs and IDP representatives. Field trips were undertaken to Kapilvastu, Banke and Kailali Districts. The mission reported that many IDPs' income was near zero. This problem had also resulted in an increase of child labour and trafficking and UNDP, ILO and others should head efforts in this area. The mission found that there is an acute lack of new and reliable information from across the country on protection and humanitarian concerns, including on the needs of IDPs. Further assessment is essential, but it should not be pre-requisite for interventions in areas such as enhanced basic services (including health and education), establishing appropriate information centers, providing rapid relief assistance, including food, to those that are unable to look after themselves etc. The mission concluded that it would be inappropriate to attempt to formally count or register all IDPs in Nepal. However, further multi-sectoral needs assessment is urgently required. The challenges in completing such an assessment are immense, and include: problems in gaining access to vulnerable groups, especially those in CPN/M areas; the

mountainous terrain of Nepal, which will impact on the cost and duration of such a study; the protection concerns of those to be surveyed for agreeing to be questioned.

After popular people's movement of April 2006, the inter-agency mission conducted a 12 day (18 – 29 May 2006) to the eastern region. The mission visited a total of eight districts in the east: Taplejung, Udayapur, Tehrathum, Panchthar, Ilam, Saptari, Jhapa and Morang. The mission consisted of IDP advisors, protection, health, and programme staff from the following organizations: the High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), the High Commissioner for Human Rights (OHCHR), the World Health Organization (WHO), the United Nation Development Programme (UNDP), the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), SNV Netherlands Development Organization, and Informal Sector Service Centre (INSEC). The mission's aim was to understand the displacement and overall protection dynamics of the districts in question, the living conditions and needs of displaced in the district HQs and other areas accessible during the mission, the triggers for potential future displacement, and the conditions in areas of potential return. The mission met with members of local communities including persons affected by the conflict, vulnerable persons, IDPs, and returnees; Government of Nepal authorities and civil servants including teachers, education officers and health workers at the local and district level, Chief District Officer, Nepalese Army<sup>1</sup> and Police officers, immigration officials and District Development Committee members; staff of local and international NGOs; and political party members. The mission also met with VDC and district representatives of the CPN/M. The mission concluded that in the visited areas the IDP-term is used for a very limited and specific group of displaced persons who are often in opposition to CPN/M and in order to prevent displacement as a result of lawlessness in the transition period, the international community needs to strongly advocate with the parties and support the establishment of democratic and legitimate law enforcement and judicial structures. To further prevent



forced displacement, there is a need for accountability for past violations that caused people to leave their homes. The international community should therefore provide technical and financial support to possible accountability mechanisms and reparations programmes established by the government. Furthermore, the mission stated that housing and livelihood situation of “secondary occupants” should be resolved before people are encouraged to return. Returnees should not be expected to have to confront and “evict” those occupying their houses and land. Local CPN/M cadres must show full respect for and actively implement the “ceasefire code of conduct”, particularly in regards to property restitution and an end to extortions. Concrete and effective steps need to be taken by central level CPN/M leaders to order, monitor and enforce respect for the IDP-related provisions in the code of conduct.

OCHA and OHCHR conducted an IDP-return assessment mission to Jumla and Mugu districts during 2-10 August. The mission stayed with returned IDPs and met with CPN-M Area-in Charge, several Chiefs of CPN-M Village People’s Governments, the PLA as well as members of the SPA. The mission also held meetings with CDOs, SPA, CPN-M, Security Forces and NGOs in Jumla and Mugu district headquarters.

The main objectives of the mission were to assess the protection and assistance situation of returned IDPs and look into conditions for future returns to western Jumla. The mission found that over 3,700 people were displaced from Jumla, during the course of armed conflict. The majority of IDPs were initially located in Jumla DHQ but later families and individuals fled to Surkhet or Nepalgunj. Furthermore, according to the mission report, Human right organizations have facilitated in the return of 437 IDPs in Mugu and 161 IDPs in Jumla. Over 900 individuals have received assistance returning to their homes in Mid Western Development Region. Currently 273 IDPs from Mugu and over 38 IDPs from Jumla (displaced to Banke and Surkhet) have requested human right organizations to facilitate their return. The mission met with several of IDPs from different parts of Jumla district. Some had struggled to re-

establish themselves while others moved back to houses and land looked after and maintained by relatives. None of the returnees reported any serious protection problems with the CPN-M since the ceasefire and they all felt fairly secure. They have however moved back to communities effectively controlled by the CPN-M's People Village Governments and as former political leaders some of them expressed a sense of limited political freedom. For that reason, six politically affiliated returnees reportedly returned to Jumla district headquarters. The mission concluded that CPN-M is so far respecting their commitment to allow voluntary, safe and dignified return, including for politically affiliated IDPs, and the mission recorded no threat to their physical integrity, Land and houses have been returned, but not movable property. Additional return processes should engage district authorities and donors in provision of return assistance packages and possibly transport support for elderly and children. UN visits to areas of return keeps pressure on CPN-M to respect returnees, allow for data and complaints collection and helps to involve district authorities in IDP assistance and protection monitoring processes. Surrendered CPN-M/PLA may require additional protection assistance – particularly former female combatants. Surrendered currently face the significant difficulty returning to their place of origin.

## ***2. Studies on Internally Displaced Persons (IDPs) in Nepal***

Few studies have been conducted regarding internal displacement in Nepal. Global IDP Project (2003) gathered information regarding conflict induced displacement i. e. nature of displacement, coping strategies of IDPs, perceptions of host communities towards IDPs, possibilities of self-settlement of IDPs in local communities using various sources of information i. e., government data, INSEC estimates, UNDP's RUPP program's information etc., The report has placed some ground for further research and actions in the support of IDPs. The Project concluded that people displaced by Nepal's conflict may be between 100,000 and 150,000 and the the impact of conflict on displacement as both direct, i.e. people flee because of fear of physical harm, and indirect as they leave in

response to deteriorating services and livelihood opportunities caused by the conflict. Official assistance to IDPs is very limited. The main organisation that has provided some support so far is the Nepal Red Cross Society. IDPs came from many areas and backgrounds. Most castes and ethnic groups were represented. Some were rich and some were poor. The main factors that attracted IDPs to their destination locations were employment opportunities and the presence of friends and relatives. A number of settlements, often illegal, had sprung up along the east-west highway, close to locations with work opportunities. Interviews with IDPs suggested that not all will return home, even if the security situation improves. The findings of the project provided enough understanding of the issue to allow the development community to move from discussion to action.

Similarly, Informal Sector Service Centre (INSEC) has been monitoring the events and providing information on numbers of killing, physical and psychological torture, abduction, disappearance and displacement.

HimRights, Population Watch in collaboration with Plan Nepal conducted a rapid assessment of IDPs in Kathmandu valley in June 2005 to provide the situational analysis of IDPs. The objectives of this Rapid Assessment were to: a) determine the impact of internal displacement on the acceleration of urbanization process in the Kathmandu Valley specific to five-thematic areas: health and sanitation; transportation and communication; education and employment; habitat and commodities and intolerance and crime; and b) identify the root causes and consequences of dislodgement, uprooting and displacement with a special focus on women, children and marginalized groups (ethnic, indigenous and so called lower caste groups), including auditing of laws, policies and programmes etc of governmental, non-governmental, inter-governmental and international agencies. The Rapid Assessment largely substantiated that internal displacement was already influencing daily life in the Kathmandu Valley. Because of the nature of the conflict, the majority of IDPs were more vulnerable than those who customarily migrate to urban areas. The

Maoists target party members, police officers, teachers, local merchants, social mobilisers, etc., and individuals from these groups were most likely to fear for their safety in conflict-ridden areas. Similarly, those individuals and groups that are targeted or affected by security forces were likely to fear for their safety in conflict zones. The Rapid Assessment vividly illustrated the facts that the Valley is experiencing unsustainable load pressure on almost all traditional social services as outlined in the rapid assessment as major components, including urban road congestion and the breakdown of infrastructure, escalating real estate and rental prices, the development of shanty-towns, environmental degradation and increased unsustainable use, shifts in both local and national politics, increased telecommunication use, increased unemployment and underemployment, development of large black markets and shadow systems, and not only increased criminal activity, but shifts in the patterns and types of crimes committed. The Rapid Assessment further demystified the characteristics of the IDPs, their unique problems and risks associated to unsafe migratory movement in the Kathmandu Valley. Regarding IDP children the report stated that they had no access to basic health facilities, lack of adequate food to the growing children and immunization of young children. It further stated that IDP children suffered from various psychological problems such as depression, frustration, irritation, homesickness and solitary stress.

Similarly, South Asia Forum for Human Rights (SAFHR) conducted a pilot survey on IDPs in Kathmandu and Birendranagar and collected information regarding causes of displacement and their situation in terms of housing, source of income, health facilities, personal security etc. The primary objectives of this pilot survey were to develop a better understanding of the conditions; situation and circumstances of the conflict induced IDPs vis-a-vis the impact on their lives and livelihoods and make a quick assessment of the impact, if any, of the influx of IDPS on the communities and resources of areas where they had taken shelter. The survey took place from July to September 2004. The findings of the survey

clearly show that the government needs to focus to IDPs through specific support and targeted programmes.

The National Human Rights Commission of Nepal in 2005 conducted research on the situation of internally displaced persons in the Dhanusha District. The objectives of the research were to assess the human rights status of internally displaced persons (IDPs); to identify areas of cooperation with relevant stakeholders; and to assess the relief aid services provided to displaced persons. In the final report, NHRC researchers, Ms Uma Joshi, Protection Officer and IDP project Coordinator and Mr Roshani Paudyal, Promotion Officer, recommended to strengthen the NHRC's coordination between local NGOs, government organisations and relevant stakeholders to exchange information on displaced persons; to conduct consultations with political parties including the Communist Party of Nepal (Maoists) to discuss the NHRC's research findings; to review and update the progress of the NHRC's IDP policy; to conduct consultations with government officials to encourage the investigation of IDPs issues and to hold accountable any displaced persons involved in criminal activities; to encourage the government to investigate the use of displaced persons by the security forces as spies against Maoists and to take immediate measures to prevent such activities; and to encourage the government to implement and uphold national and international human rights standards.

CARITAS (Nepal) carried out a study that provides the overview of the mobility pattern of displacement, push and pull factors and general situation of IDPs. Furthermore, the study tried to examine the impact of IDPs' presence on various social sectors, such as health and nutrition, trauma and recovery, education and employment, habitat and commodities, prejudice and intolerance. The survey took place between the periods of June – November 2005. The study revealed that the government had to a large extent ignored its obligation to protect the IDPs, particularly those uprooted by its own security forces. At that time, no tangible solution was in sight for immediate repatriation and resettlement of the IDPs since there

were no signs of early return of the conflicting parties to the negotiating table. Furthermore, the study shows that the counter-insurgency operation spearheaded by the security forces had further caused tension, insecurity and threat to the civilian life provoking dislodgement and fleeing the place of origin. Although certainly underreported, many villagers had been displaced by food blockades, torture and killings by security forces. Civilians had been killed on suspicion of providing food, shelter or financial assistance to the Maoists, and often tortured by the army and police. More civilians had been fleeing their villages for fear of being caught in the crossfire between the Maoists and Government forces in districts such as Rolpa, Panchthar, Ilam or Lamjung or the indirect consequences of fighting, including lack of employment or education opportunities for young people. The conflict had led to the breakdown of education, closure of businesses, weakening of local economies and interruption of public services. Young men in particular had moved to India. Regarding the impact of conflict, the study mentioned that due to the long-term nature of the Conflict in Nepal and the recurrent nature of displacement, and the diminishing opportunities for return to villages of origin had created a new set of problems and challenges. These new problems were largely the result of a lack of options for durable solutions in the form of return home (resettlement) or relocation in new communities for long-term residents of camps/settlements/urban centres. Whether it was in Rajhaina camp where displaced persons had remained for more than three years or Lamahi settlement where some displaced persons had been for more than four years, the consequences of long term stays in the confinement are serious and grow worse the longer people remain in such places. The study demonstrated that many problems stem from long-term stays in IDP camps or elsewhere as destitute. They included the creation of attitudes of dependence, learned helplessness and loss of self-esteem among the population as well as fostering of social problems including breakdown of the family, alcoholism and drug abuse, depression, suicide and crime. Life in camps/settlements had a particularly negative impact on children and women, some of whom had been subject

to physical abuse and sexual harassment. Typically, attendance rates at school for children in camps/settlements are well below average. Similarly, as a result of security concerns, freedom of movement, particularly to the political opponents, was restricted. Many displaced persons including children were without proper identification and birth certificates. There was also a lack of awareness among the displaced of their basic rights as citizens.

The survey report on recording voice of IDPs conducted during December 2006 to January 2007 by Nepal Institute of Peace (NIP) provides information about the situation of shelter, food and other humanitarian assistance for IDPs of Banke and Bardiya districts. Besides this, the report also presents the conditions of women, children, and elderly people. UN Guiding Principles for IDPs are the bottom lines to assess the situation of IDPs for this survey. The study focused on identifying the needs and aspirations of the IDPs, their access to humanitarian assistance, education, health, shelter, freedom of movement and other fundamental rights. The research also looks towards the government efforts in facilitating relief, rehabilitation, resettlement, reintegration and protection. In this study, 119 respondents have been selected for interview in which 57 were from the Rajana Camp (IDP Settlement Area) whereas 62 were selected from outside of the camp who were residing in different locations of Banke and Bardiya districts. Of the 119 respondents, 91 (76.5%) were displaced due to armed conflict, 6 due to natural disaster, 2 due to army occupation, and 20 due to other reasons (poverty, development project etc.). Of the 119 individuals interviewed, 105 (88.2%) were household head in which 35 (33.33%) were females. More than three fourth (76.5 %) were displaced for less than 5 years and near about one third (31.1%) had to undergo multiple displacements. More than two third (69.7%) had less than Rs. 1000 monthly income, whereas 22.7 percent of the respondents have monthly income between Rs. 1000-2000 and 37 percent engaged in domestic / agriculture labour, whereas 19.3 percent engaged in self trade. One third 41 (34.5%) received some support and two remaining two-third received none. Government provided support to only 16 percent of the

respondents and NGOs and INGOs to 20.2 percent. Of the 41, 34 received multiple forms of support. Only 11.8 percent of the respondents received educational support for their children and 4 (3.4 %) IDP children were found to working as industrial labourers. Similarly, one fourth (24.4%) of the respondents stated that they were forced to get their children recruited in the armed forces. Near about two third (66.4%) of the respondents' health condition was poor at the time of survey. Most of the respondents (62.2%) visited government hospitals in times of need. Also, 79 percent of the women received no support during pregnancy. Knowledge of the UN Guiding Principles on internally displaced persons was found in among 24 percent of the respondents. Most of the respondents got the information about UN Guiding Principles through the media (newspaper reports, radio, TV etc.). About 59 percent reported that there were no possibilities of return. The respondents who saw no chance of going back to their homes were further asked the reasons behind their assertion. The majority of them expressed that it was due to the lack of security. Besides, one third of the respondents (33.6%) faced restrictions in movement and 35 percent faced economic problems, 11 percent faced social discrimination and 19 percent faced security problem. In addition, five focus-group discussions were held in the study area. The groups comprised men, women, children as well as the elderly. Each group had 10 to 14 participants with the same characteristics. The discussions were focused particularly on reason of leaving their home, problems they were facing, support mechanisms and types of support, travel documents, major problems faced by vulnerable groups (women, children, disabled and elderly people), family disintegration, food (nutrition), security, education, health, water and sanitation, aspiration of the IDPs (return to home and look for normal life), use of property and possessions left behind in habitual place of residence, discrimination among the IDPs in terms of gender, caste/ethnicity, religion or belief, political or other affiliation, age, disability etc., incitement (State party, Non-state party and others), repatriation, etc. Findings of these discussions clearly indicate the vulnerable condition of each sub-group. Some common feelings emerged in each of the FGDs. There was lack of



adequate food, clothing and shelter, health and education facilities. They also charged that various government and non-government organizations were not serious in deals with the IDPs' problems. One positive development of insurgency that has been found in the discussions was that it had contributed to eliminate the caste-based discrimination in substantial extent. Five thematic cases were also collected.

Most of the studies mentioned above either covered anecdotal evidences on the basis of media reports and observations or included few numbers of cases that cannot be generalized to entire IDPs of Nepal. Therefore, in-depth study selecting nationally representative sample is needed for the analysis of IDPs.

### ***3. Commitment and Policy Development after April Movement***

With the signing of the 12-point agreement in 22 November 2005, the Seven Party Alliance (SPA) and the CPN-Maoist have already expressed their willingness to unconditionally allow the safe return of “displaced democratic party leaders, activists and common people”. 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 the political activities without any hindrance”.

Similarly, the ceasefire Code of Conduct (COC) signed on 26 May 2006 takes it a step further with specific references to the needs of IDPs and the issue of restitution of land and property to returnees. In the section of Release and Rehabilitation, the Code of Conduct deals with the Internally Displaced Persons (IDPs) issue. Code 16 states “to withdraw the accusation, prosecution and cases induced against various individuals by both the parties and release the detainees gradually”. Code 17 states about

the missing persons “to disclose, as soon as possible, the whereabouts of the citizens who have been disappeared thereof”. Similarly, Code 18 and 19 deals with the return and restitution of land and other properties seized during the period of conflict. Code 18 states “to assist to the displaced persons to return to their respective houses and on the act of peaceful, comfortable and dignifiedly rehabilitation thereof” and Code 19 states “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”. Furthermore, the leaders of the seven party alliance (SPA) and NCP (Maoist) through the eight point understanding on 16 May 2006 further committed to implement effectively and honestly the 12-points understanding reached between the Seven Political Parties and the CPN (Maoists) on November 23, 2005 and the 25-points Code of Conduct on Ceasefire reached in agreement between the Government of Nepal and CPN (Maoists) and made public by the Government -Maoist Negotiating team on 26 May 2006.

Decisions of the Meeting of the High Level Leaders of the Seven Political Parties and Communist Party of Nepal (Maoist) held on November 8, 2006 further assured and encouraged to the Internally Displaced Persons (IDPs). Regarding IDP issue, the decisions in the section of I – On Implementation of the Previous Agreements clearly states “the process of returning the houses, land and properties occupied in past shall be accelerated. An environment so that displaced persons would be able to return to their homes shall be ensured. For this purpose, committees in districts wise comprising representatives from both the sides shall be formed. All these works shall be completed within one month”. Furthermore, decisions states “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”. Similarly in the section of IV - On management of the victims of conflict, further committed that provisions would be made for providing

proper relief, honor and rehabilitation of the family members of the people who were killed during the conflict and for those who have been disabled by injury in this course and provision for relief to the victimized family members of those who had been disappeared on the basis of the report presented by the investigation commission shall be made. Similarly, 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. Furthermore, a high level Truth and Reconciliation Commission should be formed to conduct investigation about those who have committed serious violation of human rights at the time of the conflict and about those who were involved in crime against humanity during the conflict and to create an environment for social reconciliation.

The Comprehensive Peace Agreement (CPA) between Nepal's government and Maoist rebels offers, which offers the best chance of a stable end to the conflict since it began in February 1996, was signed on the evening of 21 November 2006 after months of difficult negotiations following the April 2006 mass movement that brought an end to King Gyanendra's direct rule. In 5.2 Measures for Normalization of the Situation of the CPA included the settlement statement regarding Internally Displaced Persons (IDPs). In 5.2.3 of the CPA, it was stated that both sides agreed to make public the information about the real name, surname and address of the people who were disappeared by both sides and who were killed during the war and to inform also the family about it within 60 days from the date on which this Accord has been signed. Similarly, in 5.2.4, it was agreed to maintain the peace in the society normalizing adverse situation occurred by the reason 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, in 5.2.5 both sides agree to constitute a High-level Truth and Reconciliation Commission through the mutual agreement in order to investigate truth about those who have seriously violated human rights and those who were

involved in crimes against humanity in course of the war and to create an environment for reconciliations in the society and in 5.2.8. Both sides expressed their commitment to allow the persons displaced 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. In 5.2.9 of the CPA, both sides agreed to resolve the problems occurred in the conflict context on the basis of mutual agreement and to take responsibility at the individual and collective manner for the task to create favourable environment for normalization of mutual relations and reconciliation and to implement it with the help of all political parties, civil society and also local organizations.

Nepal has promulgated the interim constitution of Nepal (2006) after the popular people's movement led by political parties in 2006 with the support of the then rebel party i.e. NCP (Maoist). The preamble of interim constitution 2006 expressed the full commitment to democratic ideals and norms, including 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 the Article 12 to 32. The articles are as follows- the Rights to Freedom (12), Rights to Equality (13), Rights against Untouchability and Racial Discrimination (14) Press, Publication and Broadcasting Rights (15), Right to Environment and Health (16), Right to Education and Culture (17), Rights to Employment and Social Security (18), Rights to Property (19), Right to Women (19), Right to Social Justice (20), Right to the Child (22), Right to Religion (23), Rights regarding Justice (24), Right against Preventive Detention (25), Right against Torture (26), Right to Information (27), Right to Property (28), Right against Exploitation (29), Right to Labour (30), Right against Exile (31) 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 and religion.

Furthermore, the part four of the interim constitution 2006 has adopted duties, directive principles and policies of the state. The 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. Furthermore, article 33 (19) states to constitute high-level fact-finding and reconciliation commission to investigate the facts regarding serious violation of human rights and crimes against humanity during the course of conflict, and create an atmosphere of reconciliation in the society.

The Government of Nepal (GoN) has approved “National Policy on Internally Displaced Persons (IDPs)” on 22 February 2007. This Policy defined Internally Displaced Persons (IDPs) and provides the provision to relief to the victims (including shelter, food, security, health service, training and appropriate compensation etc.) and special care to vulnerable groups such as orphan children, widow women, women with young children, disables, 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 mechanism such as Central Directory Committee, Central Programme Coordination Committee, District Programme Coordination Committee, IDP Identification Committee to settle the problem of IDPs. However, the guidelines to implement this national policy are yet to be formulated.

The Government of Nepal (GoN) on 26 February 2007 decided to respectfully resettle people displaced by the Maoist insurgency. The cabinet meeting decided to provide transportation fare and certain economic assistance to construct or repair their houses and manage their day to day life back in the village. The meeting decided to provide Rs. 300 to Rs. 1,000 for each person as transport fare, 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 to each family for cultivation and animal husbandry once all the displaced people return home and the displaced persons would have to pay back the money in five years.

Moreover, for the fiscal year 2006-07, the government committed to mobilizing resources to support the process of return and announced an immediate cash relief package for conflict victims.

The National Planning Commission (NPC) of Nepal is presently preparing a special three-year interim plan which shall pave the road for the transformation from war to peace after ten years of conflict. The three-year interim plan should state an overall vision, such as “a peaceful, modern, democratic, prosperous, just society based on equity”, and develop a clear objective with indicators. Transformations of the political system towards better and more stable governance and services to the citizens, as well as of the social system towards more inclusion are the main challenges ahead. Due to this, there is an immediate need to deal with issues of social integration with a particular focus on the people most affected by the conflict such as IDP’s, refugees, direct victims of violence, but also ex-combatants. In line with its core focus on social integration it should state its commitment to the core values of social inclusion, peaceful transformation of the state and conflict sensitivity. It should be structured, on the four major elements of peace building, i.e. the political framework, (human) security, socio-economic foundations as well as justice and reconciliation.

#### ***4. Activities of National Human Rights Commission (NHRC), Nepal Regarding IDPs***

Internal displacement has been identified as a key priority in the NHRC Strategic Plan (2004-08). The NHRC’s Strategic Objective regarding internal displacement is to contribute to the peace building process by studying, investigating, documenting and following up on disappearances, human rights violations & internal displacement. NHRC received 298

complaints regarding internal displacement. Out of 298 complaints, the highest number of complaints 110 (36.91%) were recorded to Mid-Western Regional Office, Nepalgunj, followed by Central Office, Pulchok, Lalitpur 91 (30.54%) and Western Regional Office, Pokhara 38 (12.75%). Similarly, the lowest number of complaints 28 (9.40%) is recorded to Eastern Regional Office, Biratnagar, followed by Far Western Regional Office, Dhangadhi 31 (10.40%).

NHRC has been monitoring the conflict induced IDP situation for three years. For instance, some of the key monitoring events are as follows:

- IDP Temporary Shelters, Khula Manch, Kathmandu, May 10-11, 2005
- Demonstration & Protest by IDPs, Ratna Park, Kathmandu, May 13, 2005
- Monitor & interact with detained IDPs, Kharipati, Bhaktpur June 2, 2005
- Gopal Dharmasala & Mandal Kuti, Janakpur, May4-13, 2006
- IDP Temporary Shelters in Tinkune, Koteshore, February 2007
- Demonstration Monitoring in front of Singhadarbar, March 1, 4 &6, 2007
- Demonstrations at Nepal Food Corporation, OHCHR, NHRC Office of the Political Parties, February & March 2007

After April movement, NHRC had monitored the situations of IDPs in seven districts (Sankhuwasabha, Saptari, Ramechhap, Dhading, Baglung, Surkhet and Doti) of Nepal. Similarly, NHRC had monitored flood induced IDPs in Chitwan district, Killing of IDPs by CPN (M) in Bardiya and Dhanusha district. Furthermore, NHRC has started to investigate IDPs backlog cases in Ramechhap, Dolakha, Sindhuli and Chitwan districts. A number of times NHRC recommended to the Government of Nepal (GoN)

to formulate policy regarding IDPs. For this response, the government had sent draft policy on IDPs for comments. NHRC reviewed the policy and sent it with some suggestions to amendment.

NHRC had conducted a pilot research on IDPs in Dhanusha district. Similarly, NHRC had established an IDP unit in Headquarters and all Regional Offices and this unit has been regularly monitoring the situation of IDPs by reviewing available data, news analysis and field visits.





## *Chapter Four*

### *Activities of Different International Organizations Regarding the IDPs Issues in Nepal*

This chapter presents the activities of International Organizations regarding IDP issues according to their responses to the mailed questionnaire and discussion with the concerning officials. Furthermore, possible collaboration with National Human Rights Commission (NHRC), Nepal is also included in the questionnaire. The research team had mailed questionnaires to UNOCHA, UNHCR, UNOHCHR, UNICEF, UNESCO, UNFPA, WFP, UNDP – RUPP (Rural Urban Partnership Programme), Action AID, CARITAS, ICRC, International Rescue Committee (IRC), LWF, MSF FRANCE, Norwegian Refugee Council (NRC), Plan International Nepal, Save The Children Us, Save The Children Norway and TERRE DES HOMMES (TDH). However, the responses from UNHCR, UNOHCHR, UNDP – RUPP (Rural Urban Partnership Programme), ICRC, and Norwegian Refugee Council (NRC) had been got. The response of each organization is presented as follow:

#### **United Nations High Commissioner for Refugee (UNHCR)**

UNHCR has regularly engaged in situations of internal displacement in most countries where the international community provide support to IDPs. UNHCR has been engaged in working with IDPs in Nepal recently. Regarding IDPs in Nepal, UNHCR is not involved directly in promoting return of IDPs in Nepal/intervening on return movements which are already taking place either spontaneously or facilitated by NGOs. Instead, UNHCR focuses on strengthening the protection situation at the point of return. UNHCR's protection-driven intervention is supported by two UNHCR IDP offices established in Nepalgunj and Biratnagar. The protection activities/interventions geographically focus on the mid-western

and eastern regions in Nepal. The intervention aims at establishing an overall environment that would be conducive to sustainable return while providing displaced persons an opportunity to opt for their preferred durable solution through an informed choice. The intervention is carried out in the form of a series of workshops at selected districts in the east and west of Nepal. The workshops provide training and advocacy activities which aim to provide a better understanding of the human rights of IDPs and form a basis for promoting: dialogue, mediation and creating an environment conducive to sustainable returns/solutions. The workshops are carried out with support from the National Human Rights Commission (NHRC), Office for the Coordination of Humanitarian Affairs (OCHA) and the Office of the High Commissioner for Human Rights (OHCHR).

At the district level, UNHCR advocates and works towards the formation of an IDP task force comprising of local authorities, political parties initially; followed by the inclusion of NGOs and media in the task force. The purpose of such a taskforce is for facilitating adoption of commonly agreed IDP policy as well as to create favorable conditions for the IDPs to return to. The task forces are formulated after the workshops are conducted in the selected districts (out of which four have already been conducted in: Bardiya, Surkhet, Dailekh and Dang).

States have primary responsibility for the rights, protection and welfare of their citizens; UNHCR works closely with States and other authorities so that they exercise this responsibility in an effective and equitable manner in relation to protection of IDPs based on the UN Guiding principles on Internal Displacement.

UNHCR coordinates its IDP protection efforts with other UN agencies involved, particularly with OHCHR and OCHA under a collaborative approach adopted by the UN system in responding to internal displacement. UNHCR has also been designated as the lead UN agency on HIV/AIDS amongst displaced populations (refugees and IDPs).

UNHCR is still in the process of carrying out IDP workshops which have already been conducted in 4 districts in the mid-western region of Nepal. Forthcoming plans include similar workshops to be conducted in the eastern districts. Follow up actions on task forces that have already been formed (following the workshops) or soon-to-be formed task forces will also be carried out.

According to UNHCR, types of internally displaced persons in Nepal identified can be categorized into two groups. Firstly, those who have left their homes to avoid forced recruitment and extortion, or those not able to sustain themselves as a result of their livelihood and sustenance being affected due to the on-going conflict (not including economic migrants). These people, mostly the poor and lower castes, settled in the slums in Kathmandu and district headquarters, or moved on to India. Those who remained in Nepal had both legal and physical protection concerns, particularly separated minors and female-headed households. The second group consists of those targeted by the Maoists such as landowners, businessmen, teachers, and government officials. Many of these persons moved years ago and largely have resources to sustain themselves and their families. Although not in need of material assistance, these people do have serious protection concerns, including documentation and property restitution concerns to name a few. According to findings from several inter-agency reports, there are strong indications in satisfying percentages that spontaneously returns among the first group is taking place— though at times with difficulty. – while the second group remains mostly displaced and faces many more obstacles related to, in particular, property restitution and freedom of expression of political opinion. Generally, return has been taking place spontaneously or facilitated by local NGOs.

Strengths in the new IDP National Policy include the provision of acknowledging that IDPs are not only persons displaced by the Maoist per se. According to the UNHCR officials, no specific comments can be provided until the final version and an English translation is received from the Home Secretary.

UNHCR, OHCHR and OCHA together advocate for reconciliation and dialogue with the Government of Nepal and the CPN-M (at the central as well as at the local level). The advocacy efforts aim at having the parties design and adopt a concrete IDP policy in line with international law standards and create an environment conducive to voluntary return in safety and dignity.

NHRC is already working with UNHCR in facilitating the ongoing workshops by improving awareness of the National IDP policy adopted by the Government of Nepal in March 2006- and more recently in February 2007.

### **United Nations Office of the High Commissioner on Human Rights (UNOHCHR)**

UNOHCHR is continuing its monitoring, reporting and advocacy on Human Rights and International Humanitarian Law violations leading to displacement or preventing safe and sustainable return. Moreover, it is providing advocacy with CPN/M on IDP protection and right to return and participating in interagency assessment missions to monitor displacement dynamics and security conditions for return in particular (in close collaboration with human rights NGOs and other field based organizations);

Similarly, UNOHCHR is providing technical support and continuing dialogue with government on IDP policy development – together with UNHCR and OCHA and considering government requests for specific support in the implementation of its policy. The UNOHCHR is planning to continue their monitoring activities on human rights and international humanitarian law via its five regional offices. Furthermore, it is supporting the workshop conducted by UNHCR. According to UNOHCHR, the IDP National Policy is good and incorporated basic standards mentioned in the

UN Guiding Principles on Internal Displacement. However, the question of proper implementation is important. Particularly, priority should be given to safety and dignity of the returnee and voting rights of the IDPs should be protected in the policy.

### **UNDP – RUPP (Rural Urban Partnership Programme)**

Rural Urban Partnership Programme is jointly implemented by the Government of Nepal and UNDP. It has been working in the field of IDPs since 2003. In various communities UNDP – RUPP are carrying out the following activities;

- Advocacy on UN Guiding Principle,
- Situation Assessment of IDPs,
- Scaling up Urban service delivery catering to the needs of IDPs, and
- Assist IDPs in their livelihood.

RUPP is adopting UN Guiding Principle on Internal Displacement for its policy guidelines.

### **International Committee of Red Cross (ICRC)**

The ICRC launched operations in Nepal in 1998, and opened a delegation in 2001. In connection with the armed struggle between government forces and the Communist Party of Nepal-Maoist (CPN-M), it provided protection and assistance to those affected by fighting, maintaining a widespread presence in the field and contacts with all parties to the conflict. The ICRC does not have a specific approach to the IDPs in Nepal. ICRC deals with an IDP-case as any other case; after getting the information from a victim, they meet with the responsible group and the CDO to get in contact with the family. They provide limited assistance in the first phase of displacement if there is no other assistance provided; emergency kit, non-food items and income-generating project. Their main objective is to approach the government, but the field delegate will also contact the local

group. Outside of Kathmandu they cooperate with NRCS. ICRC's involvement is based on the view that displacement is a violation of international humanitarian law. One preoccupation of the displaced is whether they can go back and ask the ICRC to check on the situation on the area of origin. IDPs benefit from the programs existing for the victims of the conflict. In particular, the ICRC, jointly with the NRCS, launched in 2006 a Micro Economic Initiative, aiming at assisting 3000 households in 35 districts with grant in kind and IDPs benefit from this program.

According to ICRC official, re-integration of IDPs in communities may occasionally be problematic, especially if only returnees receive assistance. An approach targeting the most vulnerable in the communities appear to be preferable to avoid antagonism between the supported and the non supported

Responding the questions regarding to the IDP National Policy, the ICRC is surprised that the government policy considers as IDPs persons involved in official expropriations of land/property. As the ICRC does not as such discriminate between IDPs and other victims of the conflict in Nepal, ICRC does not directly collect data on IDPs nor does specific recommendations to the government on this issue, thus limiting their potential cooperation with the NHRC on the IDPs issue.

### **Lutheran World Federation (LWF)**

Lutheran World Federation (LWF) has been working in Nepal since 1984. Particularly its focus is on development and emergency management. LWF has been working on forced migration area (i. e. Bhutanese Refugee and Tibetan Refugee) from the starting of these issues in Nepal. Regarding to IDP issues, LWF conducted programme in 2005. However, according to LWF officials, IDPs were considered as disaster related victims. In 2005, LWF Nepal through Meet Nepal and Manushi, two partner NGOs, provided need-based humanitarian assistance to IDPs. Furthermore, pilot programme for IDPs were conducted in Surkhet, Banke, Kailali and Kathmandu.

Moreover, a Self-Employment Education Program (SEEP) and Non-Formal education for Internally Displaced Women (IDWs) who were mostly found engaged in the vulnerable entertainment sectors were conducted. LWF also provided vocational training on sewing and cutting, embroidery, mithila art and patchwork to those women and girls. LWF through its other partner NGO set up a unit office in Dhangadi and started implementing IDP activities in the western region. The only IDP camps are found in Banke so LWF partner NGO consulted several local Government and NGOs to identify IDPs and help them bring together. LWF Nepal also supported conflict-affected children of Children's Home, operated by Nepal Children's Organization in the form of bedding, clothing, books and sports materials as a continuation to its venture into the area of peace and reconciliation. Due to the limitation of the budget the programme is not continued in 2006. In 2006, LWF also supported 147 IDP members to return to their home place by providing transportation cost and livelihood materials.

According to LWF officials, during the course of the programme, they found most difficulty to identify and verify IDPs because they were scattered in city and did not want to explore themselves. LWF is interested in rehabilitation and reintegration of IDPs in Nepal after this changing political context. However, there is still to be planned and finalized about the forthcoming programme.

Regarding the comment on IDP National Policy, LWF officials expressed that they did not get a chance to see the policy approved by the government of Nepal (GoN). Similarly, LWF officials clearly stated that there is a possibility to work with National Human Rights Commission (NHRC), Nepal. However, the collaborating modality and programmes should be discussed in more details.

### **Norwegian Refugee Council (NRC)**

Norwegian Refugee Council (NRC) is an independent, humanitarian, non-governmental organization which provides assistance to internally



displaced persons worldwide. NRC was established in Oslo, Norway in the 1940s and now operates in over 20 countries throughout the world, assisting IDPs and refugees in emergency and post-conflict situations. NRC aims to strengthen the protection of IDPs in Nepal through its Information, Counseling and Legal Assistance (ICLA) project. This project will increase IDPs awareness of their rights and give them information on how to access and enforce those rights. NRC directly assists IDPs in 4 areas:

- **Civil documentation:** NRC's lawyers advise IDPs on civil documentation (such as birth certificates, migration certificates and citizenship). If necessary, NRC can assist IDPs request and obtain these documents from the relevant government authorities.
- **Legal advice:** NRC specialises in providing legal advice to IDPs on any legal problems they have and in assisting IDPs solve their legal problems through consultations and mediation. If necessary, NRC will also file legal actions in court on behalf of its clients.
- **Information:** NRC can provide IDPs with a wide range of information on social issues and will formally refer IDPs to partner organisations for any assistance that NRC is unable to provide.
- **Return assistance:** NRC collects information on problems which may be stopping IDPs from returning home and explores options for resolving these problems, including mediating with local authorities for the safe and dignified return of IDPs.

NRC is running this project from offices in Kathmandu, Nepalgunj, Biratnagar, which will cover several districts in the vicinity of those offices. Subject to available funds, the project also will be extended to the Mid West Hill region of Nepal.

Through providing the above services, NRC is also collecting comprehensive information on the locations, conditions and numbers of IDPs. This information will be periodically collated and shared with all interested stakeholders. NRC will also use this information to help develop its “Shelter” project.

Both the ICLA and Shelter projects have been approved by the Government of Nepal to run for a period of 5 years from September 2006. NRC activities are based on and carried out within the framework of the UN Guiding Principles on Internal Displacement and other applicable international law, including:

- International Human Rights Law
- International Humanitarian Law
- Applicable Regional legal instruments
- Domestic legislation and customary law and practice

NRC also operates in accordance with a number of NRC internal policies, including NRC’s Protection Policy and its Code of Conduct. The information gathered to date by NRC suggests that there are many IDPs scattered around the key urban areas of Nepal, which have not been registered as IDPs by the Government and are extremely vulnerable. It is NRC’s preliminary view that there are many IDPs ‘hidden’, that is, they do not have the information or means necessary to access any Government or other assistance. NRC welcomes the new Government policy on IDPs. The new policy is founded on relevant international law as well as the UN Guiding Principles on Internal Displacement. According to NRC, strength of the policy is that it recognizes multiple categories of IDPs (including conflict and disaster IDPs). The challenge for the Government is now to ensure the effective implementation of the policy throughout Nepal. NRC is currently working together with the Government to support the

implementation of this policy and the required directives. Furthermore, NRC officials suggest that all the organizations collecting information on IDPs should share the information collected to support each other's work, to verify information and to avoid duplication wherever possible.

NRC collects, compiles and analyses information regarding key protection issues affecting IDP's and formally represents these to the relevant local, regional and national authorities. There is definitely scope for NRC and NHRC to work together on relevant advocacy issues. According to NRC, NRC and NHRC can cooperate by referring clients/claimants to each other's organizations. For example, any IDP submitting a claim with NHRC may also be interested in the assistance provided by NRC.

## *Chapter Five*

### *Findings of Monitoring Report and Complaints of Victims Recorded to NHRC*

This chapter presents the information recorded to National Human Rights Commission (NHRC) through Monitoring Report Review and Complaints registered by the victims.

#### *1. Findings of Monitoring Report*

After April movement, there were seven districts where NHRC officials monitored the situation of IDPs and their return process. The districts were Sankhuwasabha, Saptari, Ramechhap, Dhading, Baglung, Surkhet and Doti. The objectives of the monitoring were as given below:

- To find out the types and reasons of displacement,
- To find out the collaborating sectors regarding the problems of Internally Displaced Persons (IDPs),
- To assist the IDPs in the protection and promotion of their rights,
- To observe and analyze the situation of IDPs, and
- To recommend the government of Nepal (GoN) based on the findings of the monitoring.

In each district, the monitoring team collected information regarding IDPs through interaction with different stakeholders such as IDPs themselves, local human rights activists, journalists, government officials, legal professionals, and local political party leaders (including Maoists). Particularly the data (number of IDPs) were collected from District Administration Office (DAO) and Nepal Redcross Society (NRCS). The district wise findings are presented below:

## **Sankhuwasabha**

National Human Rights Commission, Eastern Regional Office, Biratnagar monitored the situation of IDPs in Sankhuwasabha district during 28 – 30 March 2007. Major Findings of the team were as follows

- According to District Administration Office records, there were 138 complaints regarding internal displacement and these complaints were verified by discussing with the political parties, civil society, human rights activists.
- Some of the IDPs were concentrated to the district headquarters, some were gone to capital city i.e. Kathmandu, and some of them were gone to abroad.
- NCP (Maoist) claimed that there were no one displaced from their party's activities. According to them, most of the IDPs were displaced due to the fear and remaining others were displaced due to their involvement in criminal activities. However, during discussion, it was understood that the Maoists were not ready to make them (IDPs) return.
- District Administration Officials clearly stated that the political parties (including Maoist) and human rights activists were not serious to settle the IDP issue in the district.
- The monitoring team found that some of the IDPs were returned to their home place. However, their seized properties were still to be returned and most of the returnees were suffering from hand to mouth problem.

## **Saptari**

During 1 – 11 September 2006, National Human Rights Commission, Eastern Regional Office, Biratnagar visited Saptari district and collected

information regarding IDPs. The findings of monitoring team were as follows:

- There were no official records on Internally Displaced Persons (IDPs) in any governmental and non-governmental organizations in Saptari district.
- The monitoring team found that the IDPs were living in Rajbiraj (district headquarter) and some of the IDPs were gone to Kathmandu.
- IDPs, political parties (except Maoist) raised the issues of IDPs regarding their resettlement and humanitarian assistance. However, the Maoist leaders clearly stated that not a person was displaced due to their activities, those (the so-called IDPs) were displaced due to their own reasons, particularly their greediness to receive allowances and other benefits from the government. Furthermore, they (the Maoists) articulated that all parties committee should be needed to decide whether they were IDPs or not.
- Similar to the Maoists claim, IDPs also expressed that most of the IDPs were displaced due to their own behavioural problems such as quarrel with neighbours (there was directly or indirectly involvement of Maoists), not giving donation to the Maoists etc.,.
- According to the District Administration Office (DAO), a 13 members committee was formed to resettle IDPs to their habitual place of residence. The committee comprises representatives from eight political parties, journalists and civil society.

### **Ramechhap**

NHRC Head Office, Pulchowk monitored the situation of IDPs in Ramechhap district during 4 – 22 December 2006. Major Findings of the monitoring were given as follows

- According to the District Administration Office records, there were 265 IDP families in the district.
- According to the complaints recorded to NHRC, there were 48 IDPs families in Ramechhap district. Out of them, 25 families were returned to their usual place of residence, 19 families were still displaced and 3 families were to be verified as an IDP.
- Most of the IDPs were displaced due to the different political opinion than that of the Maoists. Particularly, IDPs in Ramechhap were local leaders, relatively rich people of the villagers (the so-called Jamindars, Samant from the Maoist point of view) etc.
- There was no new displacement in the district after Comprehensive Peace Agreement. However, there were still some obstacles from the Maoist side towards the return of the IDPs who were already displaced.
- CPN (Maoist) had committed to return the land and properties they seized, open the door they locked and facilitate the return process at the national level via 12-points, 8-points understanding and CPA. However, these commitments were still to be transformed into the local level. They (Maoists) were still not ready to allow IDPs with safety and dignity in their home place.
- The Government of Nepal (GoN) in the budget speech of 063/064 fiscal year had proclaimed to provide Rs. 5,000 per family to the IDPs. Most of the IDPs responded this support as an inadequate and not sufficient even for transportation cost.
- Most of the IDPs expressed their concerns towards the security situation of their home place because they did still not believe that the Maoists' behaviours would be changed.

## **Dhading**

The monitoring team visited Dhading district during 1 – 7 August 2006. from NHRC Head Office, Pulchowk. The findings of the monitoring are presented below:

- Generally the reasons behind the displacement were found in the district as locking home, seizing land and other properties, murder of the family members, looting, physical torture, fear, threat etc.
- According to the records of the District Administration Office, there were 507 members from 107 households displaced due to the fear and threat from the Maoist. Out of them, 385 members from 77 households residing in the district headquarter i. e. Dhadingbesi and other parts of the district. Similarly, 149 members from 27 households were fled to the capital city (Kathmandu) and remaining 3 members were gone to abroad.
- According to the records of District Police Office, there were 185 members from 64 households displaced due to the fear and threat from the Maoists.
- According to the records of Bhagawati Prasad Gana (Major Bhim Prasad Lamichhane, there were still difficulties to unlock the home of some of the IDPs in Khari, Salyantar, Tripureswor and Phulkhark VDCs.
- According to the records of INSEC (a Non-Governmental Organization), there were 65 displaced persons from various VDCs of Dhading district.
- There were not any attempt to manage or resettle the IDPs and almost all of the IDPs were living in rented room in the district headquarter.



- Family members of politically affiliated persons and staffs of local agencies were particularly displaced during insurgency period.
- After the ceasefire of the Maoists from 26 April 2006, some of the IDPs were returned. However, some of the IDPs were still in the district headquarter due to the possible worsen situation if dialogue between the Maoist and the government were broke in the mid process.
- Some of the IDPs expressed that there were still insecurity in their home place and the seized properties were not returned to the IDPs.
- The IDPs who were returned to their home place were facing livelihood problem (i. e. food and shelter) because their houses were destroyed and agriculture products were still to be grazed.
- The local nominees of the then royal government were not returned to their habitual place of residence due to the fear and threat from the Maoists.
- Most of the family members of Army and Police were displaced due to the Seizing of their land and locking of their house by the Maoists.
- Some of the IDPs were displaced due to the unnecessary inquiries and threat form the security personnel.
- According to INSEC records, there were some IDPs form Benighat, Khahar, Bhumestan, Koirani Danda, and Arughat who were displaced due to the seizing of their land from the security agencies for establishing Army Camp. They had not received any compensation from the government.
- Some of the IDPs had got ad hoc support form the Ganesh Man Singh Peace Campaign but now there were no support program from the government.

- Local Maoist leaders were not abiding by their commitment at national level i. e. 12-points, 8 points and CPA. There are still existing the so-called people's government, people's court, donation, tax from the Maoists' side.
- There were no records of the disaster induced displaced persons in the district administration office. However, it was expressed that there was the provision of relief distribution according to the norms.
- Nepal Red Cross Society (NRCS) and International Committee of Red Cross were collecting information about the IDPs to distribute non-food items to the victims in the district.

### **Baglung**

During the period of 23 August – 8 September 2006, National Human Rights, Western Regional Office has monitored the situation of Internally Displaced Persons (IDPs) in Baglung district. Major findings of the monitoring were as follows:

- According to District Administration Office (DAO) record, there were 229 members from 87 households. Out of them, members of 28 households were returned to their home place.
- According to District Police Office (DPO) record, there were 155 members displaced due to threat, physical torture, destroyed home, fear of abduction from the Maoists.
- Laharepipal Rural Development Club (LRDC) provided some support to the IDPs resided in district headquarter via literacy programme, income generating programme (such as cutting and tailoring), AIDs awareness campaign etc. Furthermore, according to LRDC record, 58 households were displaced. Out of them, 96 members from 40 households were living in the district

headquarter and remaining 53 members from 18 households were fled to the capital city (Kathmandu).

- According to the records collected by IDPs themselves, there were 91 IDPs from 22 households in Baglung district.
- According to District Administration Office records, NRs. 67,500/- was distributed to the IDPs as allowances and NRs. 70,000/- were given to the IDPs as loans. Out of NRs. 70,000/-, NRs. 20,500 loans were returned to DAO office.
- Most of the IDPs were displaced due to the threat from the Maoists and security personnel, fear of abduction, seize of land and properties, physical and mental torture, destruction of house and other properties etc.
- IDPs were facing many problems in the district headquarter such as the shortage of basic needs (i.e. food, shelter, clothing, and health), family disintegration, psychological torture etc.
- Most of the IDP children's education was interrupted and their health condition was also deteriorated.
- Most of the IDPs were willing to return to their place of origin if there were safety, dignity and humanitarian assistance for certain period of time.
- According to the IDPs, local administration and political party leaders were not adequately and seriously addressing the IDPs' problems. They were using IDP issues for their own political interest.
- Social and Non-Governmental Organizations, Human Rights Activists and Journalists were facilitating the IDPs for their return to their home place; however, their attempts had not been successful till the date of monitoring.

## **Surkhet**

During the period of 7 – 14 August 2006, NHRC Mid Western Regional Office, Nepalgunj visited Surkhet to assess the situation of Internally Displaced Persons (IDPs). The major findings of the monitoring were as follows:

- According to District Administration Records, there were 54 members from 16 households displaced in Surkhet district due to the conflict. The main reasons for their displacement were found locking home, seizing land and properties, fear, torture, threat, looting etc.
- According to INSEC record, there were 31 members displaced due to the armed conflict.
- Some of the IDPs were returned to their home place (tentatively 90 percent of the IDPs were returned). The returnees were facing the hand to mouth problems because most of them were dependents of agriculture and agriculture took time to produce. Houses and other properties were almost destroyed; therefore, they were also facing shelter problems.
- The monitoring team found that some of the IDPs were not returning to their home place because they thought the problems further worsen if the negotiation between the Maoists and the government broke in the mid process with out any proper settlement
- The monitoring team found that most of the seized land and other properties were not returned to the concerned owners. However, according to the district representative of CPN (Maoist), they were gradually returning the seized lands to solve IDPs' problem permanently by developing understanding among political leaders, civil society members and IDPs.

- According to Nepal Red Cross Society (NRCS), they were coordinating the distribution of food and nonfood items to the conflict victims supported by various organizations.
- The local cadres of CPN (Maoist) were not properly implementing the 12 points and 8 points understandings and 25 points codes of conduct reached between the government and their central level leadership regarding the return of IDPs with safety and dignity.

## **Doti**

National Human Rights Commission, Far-Western Regional Office visited Doti district during the period of 7 – 17 August 2006 to assess the situation of Internally Displaced Persons (IDPs). The major findings of the monitoring were as follows:

- There were no exact (total) records of IDPs in any organization of Doti District.
- Most of the people were displaced due to conflict by either Maoist or security forces. Comparatively more people were displaced due to fear of threat, abduction, and extortion from Maoists' side than that of security forces.
- Some IDPs (who had the district and central level political approach particularly to the ruling party) had benefited from relief package provided by the District Administration Office (DAO).
- There were no proper distributions of compensation allocated in the name of IDPs. Furthermore, compensation was to the IDPs who had approach to the ruling party and the evaluation for the compensation was not technically sound and not based on scientific method.
- After April movement, despite the cease fire and other agreements between the Maoist and the government sides, the IDPs were not

returning to their place of origin because of not properly returning their seized land and other properties.

- There was need to work the government, political parties and the Maoist together to resolve the problems of IDPs making them return to their home place.
- The commitment of the Maoist of the central level was still to be transformed to the local level. The behaviour of local Maoist Cadre had not been changed till the date of monitoring.

Apart from these monitoring, NHRC had monitored the protesting events in different location of Kathmandu organized by ASMAN (One of the IDPs Association) to pressure the government at different time. Particularly, during the protestation, NHRC found that the IDPs were suffering from livelihood necessities and the situation of elderly people and children were found vulnerable. Some supports to IDPs were provided by some organizations i.e Maiti Nepal, Nepal Red Cross Society, CARITAS Nepal, Marbadi Sewa Samiti etc. However, these supports were not adequate to meet the basic necessities of the IDPs. NHRC had recommended to the government at various times to provide basic facilities (food, cloth, education, health treatment and appropriate employment) to the IDPs and make a national policy to address the problems of the IDPs in Nepal.

## ***2. Findings of Complaints***

There were 91 complaints of Internally Displaced Persons (IDPs) recorded to NHRC, Central Office, Hariharbhaban, Pulchok, Lalitpur. Similarly, 110 complaints were recorded to NHRC Regional Office, Nepalgunj, Banke and 31 complaints were recorded to NHRC Regional Office, Dhangadhi, Kailali. This section provides descriptive summary of the complaints. Particularly, causes of displacement, problems, their status of return, their needs etc, are presented.

Table 1 presents the distribution of complaints according to their recording office of the NHRC. There were 232 complaints recorded to three offices of NHRC. Out of them near about half (47.4%) were from Nepalgunj Regional Office, 39.2 percent and 13.4 percent from Kathmandu Head Office and Dhangadi Regional Office respectively.

**Table 1: Distribution of the IDPs According to Complaints Recording Office of NHRC**

NHRC Office	Frequency	Percent
Nepalgunj Regional Office	110	47.4
Kathmandu Head Office	91	39.2
Dhangadhi Regional Office	31	13.4
<b>Total</b>	<b>232</b>	<b>100.0</b>

Source: Complaints Recorded to NHRC, 2007

As shown in table 2, according to the complaints records, Ramechhap was found as most IDPs generating district in which 32 (13.8%) IDP families were displaced, followed by Bardiya 28 (12.1%), Banke 16 (6.9), Bajura (6.5%) etc. and the 4 complaints did not specify the districts from where they were displaced (Table 2).

**Table 2: Distribution of IDPs by District from where they were displaced**

District	Frequency	Percent
Ramechhap	32	13.8
Bardiya	28	12.1
Banke	16	6.9
Bajura	15	6.5
Rautahat	11	4.7
Rukum	11	4.7
Dadeldhura	10	4.3
Kailali	9	3.9
Pyuthan	8	3.4
Sindhulpanchock	7	3.0
Dang	7	3.0

Dolakha	6	2.6
Baitadi	6	2.6
Darchula	6	2.6
Kavrepalanchok	4	1.7
Bara	4	1.7
Nawalparasi	4	1.7
Mugu	4	1.7
Sindhuli	3	1.3
Kathmandu	3	1.3
Nuwakot	3	1.3
Chitwan	3	1.3
Dailekha	3	1.3
Doti	3	1.3
Lalitpur	2	.9
Makawanpur	2	.9
Salyan	2	.9
Surkhet	2	.9
Jajarkot	2	.9
Jumla	2	.9
Kanchanpur	2	.9
Bhojpur	1	.4
Dhanusha	1	.4
Mahottari	1	.4
Bhaktpur	1	.4
Dhading	1	.4
Kalikot	1	.4
Humla	1	.4
Achham	1	.4
District not Specified	4	1.7
<b>Total</b>	<b>232</b>	<b>100.0</b>

Source: Complaints Recorded to NHRC, 2007

Similarly, table 3 presents the distribution of complaints according to their accusation parties. Out of 232 complaints, the vast majority 213 (91.2%) accused that the act of Nepal Communist Party (Maoist) was the main reason as their displacement, whereas 9 (3.9%) mentioned the act of the Government of Nepal (GoN) as their reason of displacement, 9 (3.9%)



mentioned other reasons for their displacement and 1 (0.4%) accused unknown group for displacement.

**Table 3: Distribution of the IDPs by their Allegation Parties**

Accusation Party	Frequency	Percent
CPN (Maoist)	213	91.8
Government / Security Forces	9	3.9
Others	9	3.9
Unknown Group	1	0.4
<b>Total</b>	<b>232</b>	<b>100.0</b>

Source: Complaints Recorded to NHRC, 2007

Table 4 presents the distribution of IDPs by their reasons of displacement. Out of 232, 106 (45.7) mentioned seized of land and properties their reason of displacement, this reason was also found most significant in Focus Group Discussion (FGD) with IDPs. The next more significant reason for displacement was found physical / mental torture 28(12.1%), followed by death threat 26 (11.2%), spyness blame 20 (8.6%), security occupation of the family members 13 (5.6%), rejection of donation demanded by Maoists 9 (3.9%). The other reasons such as different political opinion, murder of family member and threat to leave, social reason were found as least significant reasons among the complaints recorded to the NHRC. Out of 232, 5 (2.2%) complaints mentioned other type of displacement (development, disaster etc,) and 18 (7.8) complaints did not mention any reason of their displacement.

**Table 4: Distribution of the IDPs by Their Reasons of Displacement**

Reasons	Frequency	Percent
Land and Properties Seized	106	45.7
Physical/Mental Torture	28	12.1
Death Threat	26	11.2
Spyness Blame	20	8.6
Security Occupation	13	5.6

Donation Reject	9	3.9
Other type of Displacement	5	2.2
Different Political Opinion	3	1.3
Murder of Family Member and Threat	2	0.9
Social Reason	1	0.4
Rape & Torture	1	0.4
Not Stated	18	7.8
<b>Total</b>	<b>232</b>	<b>100.0</b>

Source: Complaints Recorded to NHRC, 2007

Table 5 shows the distribution of complaints according to reasons of displacement and accusation party. Within CPN (Maoist) as an accusation party category, 47 percent mentioned seized land and other properties as the reason of displacement, followed by physical / mental torture (12.7%); death threat (11.3%) and spyness blame (8.9%). Similarly, victims of the government / security forces, the most significant reason was found seized land and other properties (44%), followed by death threat (22%). In others category, three fourth (67%) did not mention their reason of displacement.

**Table 5: Distribution of the IDPs by Their Reasons of Displacement and Accusation Party**

Reasons for Displacement	Accusation Party				Total
	CPN (Maoist)	Government / Security Forces	Unknown Group	Others	
Death Threat	24 (11.3%)	2 (22.2%)	0 (0.0%)	0 (0.0%)	26 (11.2%)
Security Occupation	13 (6.1%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	13 (5.6%)
Donation Reject	9 (4.2%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	9 (3.9%)
Spyness Blame	19 (8.9%)	0 (0.0%)	1 (100.0%)	0 (0.0%)	20 (8.6%)
Land and Properties Seized	100 (46.9%)	4 (44.4%)	0 (0.0%)	2 (22.2%)	106 (45.7%)
Physical/Mental Torture	27 (12.7%)	1 (11.1%)	0 (0.0%)	0 (0.0%)	28 (12.1%)

Different Political Opinion	2 (0.9%)	1 (11.1%)	0 (0.0%)	0 (0.0%)	3 (1.3%)
Murder of Family Member and Threat	2 (0.9%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	2 (0.9%)
Other type of Displacement	4 (1.9%)	1 (11.1%)	0 (0.0%)	0 (0.0%)	5 (2.2%)
Social Reason	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (11.1%)	1 (0.4%)
Rape & Torture	1 (0.5%)	0 (0.0%)	0 (0.0%)	0 (0.0%)	1 (0.4%)
Not Stated	12 (5.6%)	0 (0.0%)	0 (0.0%)	6 (66.7%)	18 (7.8%)
Total	213 (100.0%)	9 (100.0%)	1 (100.0%)	9 (100.0%)	232 (100%)

Source: Complaints Recorded to NHRC, 2007

Note: Figure in the parenthesis represents the percentage according to the accusation party.

## *Chapter Six*

### *Findings of Focus Group Discussion, In-depth Interview and Interaction*

#### *1. Findings of Focus Group Discussion (FGD)*

Focus Group Discussions (FGDs) were conducted among the Internally Displaced Persons (IDPs) in each location i.e., Kathmandu, Nepalgunj and Dhangadhi. Each group had 12 to 14 participants comprising men, women, children as well as the elderly. The discussions were focused particularly on Situation and Precondition (legal safety, physical security, material security, non-discrimination, equality of participation etc.) for voluntary return in Conditions of Safety and Dignity, Registration and Verification complexity, Role of Government and Other Stakeholders (NCP\_M, Other Political Parties etc.) in the process of Return, Role of IDPs themselves in the process of Return, Role of Human Rights Organizations, Humanitarian Organizations, Other I/NGOs in the process of Return, Recovery of property and distribution of compensation, Access to education and health services by all IDP children and youth \_ upon return and Mechanism of Human Rights Monitoring upon return. The findings of each FGD have been presented separately below:

#### **Dhangadhi**

The discussion was held among 12 displaced persons residing in Kailali district. The internally displaced persons belonged to different districts of Seti and Mahakali Zone. The underlying reason for displacement of all of them was, obviously, the conflict. Some of them fled because their properties were seized. Others were threatened by Maoists either to join their party or to leave the village. They, therefore, ultimately decided to flee their villages and homes due to the fear of being abducted. Some households could not cope with the Maoists' threats to recruit their children in the latter's revolution. Ideological differences, physical

harassment, burning and destroying properties and houses, padlocking houses and forceful displacement of their spouses led them to leave the village. Two of them left their village due to the fear of killing by security forces because they were blamed of feeding Maoists.

The displaced persons face a range of problems. The major problems, as they said, were lack of food and shelter and employment. They lived in rented rooms, but could hardly afford to pay the rent. On top of it, discrimination and harassment were the other problems. Both of the spouses are unemployed, the problems were further compounded as they could not afford schools fees for their children.

All of the IDPs registered their complaints in District Administration Office, Kailali. Some of them had got some compensation from the government. Most of them were eager to return to their homes and lead a normal peaceful life. Others, however, thought that since their ancestral properties were already seized by Maoists and there were nothing left to survive there and should face discrimination like 'criminal'. Furthermore, their lives were under security threat, it would be better not to return to homes but explored other options to make their ends meet staying at Dhangadhi. During discussion IDPs expressed that If their seized land and properties were returned without any conditions, livelihood support for at least six months were provided, security situation were normalized, compensation for their lost properties were provided, special educational and health facilities were provided and their loans (which they took from the bank for their survival after displacement) were made interest free, then the return process would be easier. Furthermore, they expressed concerned about registration and verification process. According to them, in the name of IDPs, so many opportunists were benefited and registered at District Administration Office by producing fake documents. By these activities, the problems of real IDPs were being in shadow. Therefore, the strict and fair verification process should be applied to identify the real IDPs. According to them, the verification team should comprise Prominent

Party leaders including Maoist, local administration officials (including police), human rights activists, civil society members and IDP themselves.

Two participants who were back to Dhanagadhi from their village after Maoist cadres did not return their land which was seized three years ago by accusing spy of the government. According to them, the Maoists' commitment at the national level and district level is not transformed to the local level. Maoist chairman Prachanda had made a deal with the government that his party would return seized land and houses to their owners, but the field cadres are adamant that they will not budge. The displaced persons said that they have got no relief from the Maoists' atrocities though peace prevails in the country. Their behaviour has yet to be changed. By this, most of the IDPs remain displaced in Dhangadhi. They had demanded the government make a conducive environment for their return to their respective homes.

Women folks were bound to tolerate psychological trauma due to displacement related complications, like killing of family members, abductions, and forceful eviction from their homes. Malnutrition among their children, lack of capacity to afford to health services, were the other problems. They did not get adequate support from government and non-government sectors. Male counterparts of most of the IDP women were killed or away from them. A large number of them went to India seeking jobs there. This further led to disharmony in the family and, at times, even the families were broken. They need livelihood support. During discussion, IDP women had expressed that the government should make special package programme such as income generating programme, skill oriented training etc, for conflict victim women.

Regarding the IDP children situation, the participants expressed that the major problems of the displaced children were lack of food, security and shelter. Some of them have been deprived of schooling. Even those, who joined schools anyway, had not enough money to afford to their textbooks. They were living in a congested cottage or rented room along with all the family members. So, they could not get proper environment to read. In

addition, most of the schools, where the displaced children read, did not have adequate infrastructure and other facilities. In addition to this, with influx of new students, the school administration failed to manage adequate facilities for additional students. Thus, the scarce resources are overly stretched. Some of the children were suffering from psychological problem because they witnessed their parents being murdered and houses being burnt. Most of them were suffering from ill health condition and illness due to the unhygienic food and contaminated water. They could not treat their sickness due to poor economic conditions of their parents. Due to the lack of sufficient and balanced diet, almost all of the children are suffering from malnutrition. Therefore, IDP children in the city area were passing through vulnerable condition. There was no special discrimination at school and villages. However, they were harassed by teachers as they were not able to afford for school fees and uniform. The IDP children should be provided adequate support and care including pscho-social treatment. According to the FGD participants, even after return to their return to their origin the special package programmes related to health and education were required for their proper development.

At last, the participants expressed that there must be the end of impunity the guilty persons (who were responsible for their displacement) must bring to book and punish according to the rule of law for their past atrocities.

### **Nepalgunj**

There were 14 participants of the Focus Group Discussion (FGD) in Nepalgunj. According to them, the reason behind their displacement was primarily due to armed conflict in their districts. Many of them were displaced after their houses were reduced to ashes by Maoists; and the reason: police rented their homes for office purpose. Some of them were made to displace as they were unable to pay levy to the Maoists. Others were displaced as their family members were kidnapped and killed, houses got locked, and property was seized. Many others also received life threats

by Maoists, or had their sons killed; some of them were also threatened by either side.

Displaced persons were facing different kinds of problems such as lack of food, shelter and clothing. Due to the illiteracy and skills required for the employment, they could not catch the employment opportunities available. In addition to this, due to ideological differences, locals were reluctant to offer jobs to some of the IDPs. Psychological problem due to loss of properties and trauma resulted due to security threat from Maoists was another major problem of displaced persons of Nepalgunj. Lack of schooling facilities to their children, poor health condition due to unhygienic food and water, unable to approach authorities to entertain IDPs' rights were some other problems faced by them.

The Maoists seized all the properties and compelled them to leave their homes. In course of time, they returned half of the properties, especially land, which was being tilled by some of the relatives on lease, but they hardly got return from such arrangement. Some of them were even unaware about their parental property because they were still afraid to go to their home due to the fear of Maoists. Others told the stories that their properties were being enjoyed by their enemies at villages. According to them, the Maoists were just making lip service about the return of land and properties; actually they were not willing to return their seized land and properties.

Concerned authority is expected to take initiative to safeguard IDPs rights and look for long lasting solutions. They were very much keen to return to their hometowns if proper rehabilitation process for the IDPs could be initiated and security was guaranteed. If concerned authorities fail to do so, they should manage proper rehabilitation at Nepalgunj. During the discussion, the IDPs expressed that both the parties engaged in conflict needed to consider IDPs rights and should allow them to lead a normal life in the changed context. The CBOs/NGOs need to provide educational assistance to their children and hence increase access to educational opportunities.



The major problems faced by elderly IDPs were lack of food, adequate shelter, clothing and their deteriorating health conditions. They could not find jobs because of their physical weaknesses, lack of skills required for the job compounded by prevailing illiteracy among them. In addition to these problems, poor eyesight, loss of hearing, other physical weaknesses, adjustment problems in the urban areas due to the differences in the life pattern they used to, were also the problems in the camps. Discrimination in the current settlement area by local habitants was also straining them. Some of them were suffering from depression problems as well. Many of them had stories to tell to others how they spent days and nights only with “lukewarm water and a pinch of salt” as food. They wanted to return to their home place security mechanism were established properly, the properties and land seized by Maoists were returned, political expressions were allowed with out any fear and humanitarian assistance (relief) for near about one year were provided.

Particularly, Internally Displaced Persons (IDPs) of the Rajana Camp (only one recognized IDP camp) expressed that there were 48 families were remaining in the camp. All of them were willing to return to their home. However, they were unable to manage to return because they had loans bowered from their relatives and friends which they could not return immediately. Those people from whom they borrowed money were prohibiting making them returned. If the government or other organization provides the support to make them get rid of that, they are always ready to return to their home place.

Regarding the verification process, they expressed that the process must be clarified in the place of origin in the presence of Maoists. The verification team must be comprised of Maoists, local civil society members, local administration (including police and VDC officials), local leaders of other parties and IDP themselves. Furthermore, they expressed that it was not possible to return all their lost properties except land; therefore, relief package should be provided for their livelihood and lost assets. Similarly, they expressed that the whole process of rehabilitation and reintegration of

IDPs should be properly monitored by journalists and human rights activists.

### **Kathmandu**

There were 14 IDPs (who were living in Tinkune temporary camp to pressure the government) participants of the FGD. Regarding the causes of their displacement, in most of the instances, Maoists destroyed the IDP's properties; either they burned houses to ash or demolished them, locked out or restricted them from using the properties. Before they left the village, most of the IDPs had a prospective life, however, as they said; they are now like street beggars whose future was still uncertain. Most of the IDPs, who were able to escape from Maoists' captivity, had awful stories to share with. Some of them had escaped at night due to the fear of being killed. Others had broken the Maoists ring forcibly. Majority of them were alone while being displaced, but those "most fortunate" had all the family members together.

Most of the IDPs know nothing about status of their property after they left their homes. Some of them informed that their property was under Maoists' control. Others said that their relatives at the native place have been taking care of their properties. Some of them said that they handed over their properties to the "enemies" and never received anything after they fled from the village. A significant number of them said that their property was seized by Maoists, therefore, there is nothing left behind.

The IDPs told that they were hard hit by food scarcity, lack of sufficient place to live in and lack of amenities for a basic living. The employment opportunities were almost non-existent. The IDPs expressed their concerns that most of them were illiterate and already old, therefore, it is beyond their capacity to earn for their livelihoods. One of the most astonishing aspects, as they opined, was lack of educational opportunities to their children due to their poor economic condition. The IDPs were undergoing frequent psychological problems as well. They opined that they often feel unwell and even fell sick due to psychological problems. According to

them, even after April movement there was no difference no progress at all to solve their problems. Furthermore, they expressed that sometimes they experienced threat from the Maoist cadres to stop their protest programmes and they had been injured by the government during their peaceful protest.

Mixed opinions were surfaced on whether the IDPs would return to their homes in case peace prevailed in the country. Some said that their parental property was already destroyed therefore they were not interested to be back. However, some others were so determined that they would be back to the home. A sizable number of FGD participants said that until the government takes initiative to improve the development infrastructures in the remote villages, it is no worth to be back to as the coming generations too will face similar fate that they have been undergoing at the moment. The IDPs said that they were neglected by both the government and the civil societies. For quite a long time, they did not have access even to basic humanitarian assistance, despite the fact that it is their right. However, with a development of IDP National Policy, the problems of IDPs were addressed to some extent. However, this is not adequate. They demanded that their seized lands and properties must be returned with out any condition, security situation of the place of origin must be managed, adequate compensation for their lost properties, food and other necessities for at least six months, seeds and agricultural support etc, must be provided to make them return with safety and dignity as mentioned in UN guiding principles on Internal Displacement.

There were several underlying factors that contributed to increase the problems of IDPs. Access to food is the one among major ones. Most of the IDPs were getting very little or no food assistance from government or other organizations. The IDPs have been facing malnutrition-induced diseases frequently. The access to drinking water and sanitary facilities was very poor.

IDPs who were back from their home place after returning there expressed that there were no possible to sustain there because Maoist were still making threat to them, there was no house to live and foods to eat, others

neighbours behaved them as ‘returned criminals’, the seized properties and lands were not returned. Therefore, they demanded that the government should properly address the problems and make a conducive environment to them.

Regarding the problems of conflict created widow women, the IDPs expressed that they need special care and support from the government because most of them were suffered from psychological trauma, livelihood problems, burden of children etc. So, the government should provide psycho-social treatment and employment to them. Similarly, for their children, educational scholarships should be provided. Furthermore, in the case of elderly IDPs, they demanded that special allowances for conflict induced IDPs should be provided by the government.

## ***2. Findings of In-depth Interview***

In Dhangadhi and Nepalgunj, in-depth interview with Chief District Officer (CDO), Local Development Officer (LDO) were held. Particularly, the activities of District Administration Office and District Development Office regarding IDP support and their forthcoming programmes, problems of IDPs in the district, records of the IDPs, policy guidelines to support the IDPs and security situation of the returnees in their home place were discussed. The district wise summary of the interview is given below:

### **Dhangadhi**

According to CDO, IDPs were registered till 30 December 2006 according to the direction of ministry of home and both Maoists’ victim and Victims of the security operation were come to register to the District Administration Office. However, there were some difficulties regarding IDP registration due to the provision of the prohibition to record incidences before two years. According to him, in the present post conflict scenario that provision should be changed. If any problem emerged regarding IDPs, all parties meeting would be called by DAO to resolve the problems. Tentatively NRs. 7 lakhs budget allocation for the distribution

Rs. 5000 per IDP family has been provided to Dhangadhi district. Furthermore, one million budgets had come to provide scholarship for the family members of the conflict induced victims. However, these budgets were still to be distributed. According to him, there were many problems regarding IDPs such as livelihood materials (food, settlement and clothing), their seized properties were not returned and there were no proper estimation of IDPs, out of them most had gone to India. In Dhangadhi, the Maoists announced that they were returning those lands and properties (who had less than 10 bigaha) they seized; however, there were still some problems to make them return. Moreover, returnees were not feeling comfortable due to the behaviour of the Maoists cadre, they were still making confrontation.

Similarly, according to LDO, there were no direction and policy guidelines to work to the IDPs and there were no budget come to the DDC office to work with IDPs in the District. Regarding IDPs' return process, all political parties should work together and seriously and try to make durable solutions.

### **Nepalgunj**

According to CDO, 139 families from 14 districts were registered as IDPs. Some IDPs were still coming to register even after announced deadline of 30 December 2006 had been passed. Their applications were also collected. Among the applicants there was not a single person from the victim of the government operation. Budget allocation to distribute NRs. 5000 per family had already come in Nepalgunj, however, this budget was still to be distributed to the IDPs. First registered IDPs should be verified with the help of eight political party leaders. He expressed that there was not a conducive environment to all displaced persons to return to their home place but displaced political cadres of seven parties' alliance were more or less returned. Others are still rushing in the town, local Maoist cadres were still threatening them or demanding donation or other conditions to return them. If any confrontation happened, the local administration was solving the problems with mutual understanding between eight political parties.

There were problems of secondary occupants of the lands of the IDPs but in the present context local administration alone could not solve that problem. Particularly, the Maoists should change their behaviours towards the IDPs and managed to return their lands to the IDPs, if that happened, the IDPs problems would be solved. According to him, NGOs were playing positive roles regarding the return process of the IDPs. NGOs like Bee Group, INSEC were facilitating to make return to the IDPs in Rajana Camp. Furthermore, there was no total figure of the seized lands and properties during the conflict in the district.

According to LDO, the District Development Committee Office in the past had conducted various skills generating training to the IDPs but in the current fiscal year there was no budget allocation for that type of training. He further stated that most of the IDPs in the district were returned to their home place; however, there was no record of how many were returned. The returnee were facing a lot of problems regarding their livelihood because their houses almost destroyed, their agricultural products were still to be produced, therefore, the government should provide them support for certain period of time. Programmes particularly targeted to rehabilitation and reintegration of the IDPs should be run to recover their confidence and provide inclusion in the society.

### ***3. Findings of Interaction***

This section provides the findings of interaction with political parties, NGO activists, human rights defenders, civil society members, journalists etc. conducted in three locations i.e. Dhangadhi, Nepalgunj and Kathmandu. In the interaction programmes, political parties and NGO/human rights activists, journalists were asked about their policies and activities regarding the IDP issues and IDPs' problems and their responses to the IDPs' problems. Particularly, in Kathmandu, the IDPs were also included in the interaction programme. Furthermore, NCP (Maoist) and other political parties' representatives responded the questions and queries of the IDPs and other I/NGO activists presented

their work review on IDP issues. The findings of the interaction programmes are presented district wise below:

### **Dhangadhi**

In Dhangadhi, representatives from eight parties' alliances, Nepal Red Cross Society, INSEC, civil society members and local journalists were participated in the programme. Most of the NGOs activists expressed that they had been working in the field of displacement for 10 years. Particularly, they had been facilitating IDPs to return to their home places. Furthermore, Nepal Red Cross had provided food and non-food items support to the IDPs displaced from Achham, Kalikot, Jumla etc. residing in Kailali district and educational support to their children. Furthermore, NCRS was also supporting to IDPs who wanted to their home places. According to NGOs activists and journalists, most of the IDPs were facing livelihood problems and they were hardly collecting materials for their hand to mouth problems. Most of the IDPs residing in Kailali were willing to return to their home places; however, due to the problems of transportation cost and livelihood materials at their home places they were not getting success on this matter. IDPs those who were returned to their home places were also facing livelihood problems because their lands were not returned completely and there was nothing left in their home to survive. Therefore, the government should provide support to the returnees at least six months. Moreover, according to them, they were still getting discrimination and threat in the society from Maoists' side and those types of activities should be stopped.

Representatives from political parties also expressed their concern to the IDP issues. According to seven political parties' representatives, to resolve this problem, first and foremost all threats and fears must be abolished, second, their seized land must be returned without any terms and conditions, third, compensation of their lost properties and livelihood support to them to certain period of time should be provided. Furthermore, they blamed that the Maoists were not abiding by their commitment given in 12 points, 8 points and comprehensive peace agreement. In response,

representative from the Maoist charged that most of the so-called IDPs were the opportunists they were not displaced from the conflict and they were come to the city to grab the benefits provided by the governments and different I/NGOs in the name of IDPs. Similarly, he expressed that most of the lands seized by the Maoists were returned to the concerned IDPs and the Maoists were not disturbing to the returnees, however, some of the IDPs who were engaged in the criminal activities in the course of conflict were afraid to return to their home places by their own reasons and fear to tackle with the society. In conclusion, all parties' representatives expressed that the IDPs' problems should be solved by building mutual understanding among the stakeholders and make conducive environment to the IDPs to return reintegrate in the society.

### **Nepalgunj**

In Nepalgunj, human rights and NGOs activists, journalists and representatives of the major political parties including CPN (Maoist) were participated in the interaction programme. According to the journalists, there were three types of IDPs. First, political leaders and elite groups, who were aware about their rights, grabbed the opportunities and benefits provided by the governments. Second, those IDPs who were poor and displaced due to the well founded fear and they had no knowledge about their rights and suffered a lot from the displacement. Last, those who were young and little bit educated and displaced due to the fear of Maoists' recruitment and were seeking opportunities in the city. IDPs of the first category were making the issues more sensitive and were waiting for conducive environment to return to their home places. Similarly, most of the IDPs of the second category were returned and were facing livelihood problems in their home places and IDPs those falling in the third category were not willing to return to their home places. According to them, the Maoist cadres at the local level were not obeying their top level commitments and threatening IDP returnees. Security situations of the village areas from where they were displaced were not conducive to return. In some places, there were still exist conflicts between IDPs returnees and



local Maoists cadres. To resolve the IDP problems permanently, mentality of the Maoists' cadres should be changed towards positive attitude about the return and reconciliation with the IDPs and all decisions of the so-called people's government and people's court of the Maoists should be dissolved permanently.

NGOs activists from Bee Group, CARITAS, Dalit NGO Federation, Nepal Bar Human Rights Programme, INSEC, Forfort, Human Rights Organization, SAC Nepal and Advocacy Forum were the participants representing their organization's activities and ways to resolve the problems of the IDPs. According to them, NGOs in Nepalgunj were more actively participating and facilitating the process of IDP return. They were co-coordinating local administration, Maoists and IDPs and providing emotional and logistic support to the IDPs who were willing to return to their home places. They were also collecting name lists of the IDPs who were returned from India. Furthermore, one of the NGOs i. e. SAC Nepal was conducting income generating programmes in four VDCs of Banke district for conflict created widows. Total 35 widow women were benefited from this programme. From the Rajana Camp (only one recognized camp of the IDPs), 121 households were returned to their home places with support of NGOs in Banke district. According to the NGOs working in the field of IDPs, the Maoists and the government were positive to make them return, however, some of the misunderstanding among local cadres and IDPs returnees still existed in some places. To resolve the IDPs problems, the conducive environment to return in safety and with dignity must be created and livelihood support must be provided them to a certain extent.

According to the representatives of eight political parties, the issues of IDPs were discussed many times in the meetings of eight political parties' alliances, however, some of the problems such as return of seized lands and properties, livelihood materials for IDPs still existed and should be solved with in-depth discussion and building mutual understanding from top levels to the grass-root levels. Particularly, the Maoists should be

obedient to their commitments made at the national level. According to Maoist representative, the Maoist was positive to make IDPs to return and they were not making hindrances to any IDPs who were returning to their home places. In summary, according to the eight political parties' representatives, if any problems regarding IDPs were emerged at any step of the return and reintegration process, that should be solved by discussing and making conclusion based on mutual understanding among them.

### **Kathmandu**

In Kathmandu, IDPs, political party leaders including CPN (Maoist), I/NGOs and human rights activists and civil society members were participated in the programme. Particularly, IDPs raised their problems such as security situation at the place of origin, conflict between IDP returnees and local Maoist cadres, return of seized lands and properties, second occupants of seized lands etc. Similarly, they demanded special IDPs target programmes including livelihood, education and health package programmes and conducive environment to return with dignity and safety to address the problems of IDPs. Furthermore, they stressed to train the local Maoists' cadres to improve their behaviours and change their attitudes towards IDPs.

In response, political parties' representatives clearly stated that the problems of IDPs must be addressed to the durable solutions in the changing context of the state. The commitments expressed in the 12 points, 8 points, 25 points code of conduct and Comprehensive Peace Agreement (CPA) between the government and the Maoist must be transformed for their behavioral stage at local level. The environment of reconciliation and reconstruction must be created forgetting the past bitter experiences by both sides to construct a new Nepal. Similarly, officials of Peace Secretariat, Nepal government highlighted the provisions of IDP National Policy recently approved by the government. The representative from CPN (Maoist) stressed to the reconciliation process and stated that the state should address the issue of the IDPs in more comprehensive way.

Participants from I/NGOs such as UNHCR, RUPP, Save the Children Norway, and Nepal Red Cross Society (NRCS) presented their activities regarding IDP issues. They stressed the problems of IDPs mapping process, resettlement for those who don't want to return their habitual places of residence, mining dissolve process, reconciliation process etc. Furthermore, they expressed that they were facilitating the return process of IDPs and providing emotional and materials support to them. Particularly, NCRS was planning to conduct specific programmes targeted to the IDPs. UNHCR was conducting workshops in collaboration with UNOHCHR and NHRC in different districts to aware the issues of IDPs and their resettlement and reintegration of the IDPs. Save the Children Norway was conducting a programme in collaboration with Nepal Army to dissolve the land mining planted during the course of conflict by NCP (Maoist) and security forces. In conclusion, all participants of the interaction stressed to the reconciliation process to address the IDP issues more sensitively towards durable solutions.

## *Chapter Seven*

### *Conclusion and Recommendation*

This study gives an overview of the situation of IDPs in Nepal. Most of the IDPs were evicted from their beloved homes after the initiation of internal armed conflict by Nepal communist Party of Maoists (CPN-M). This small scale study has tried to focus on the situation of the IDPs in the present changing scenario of the conflict. The study found that the situation of the IDPs were still in problems. Most of them are willing to return, however, there is lack of conducive environment. Maoist Cadres at local level are still making threaten to the IDPs. The victims from the government side too had not got compensation from the government. The returnees are suffering from the scarcity of the basic livelihood materials (shelter, food, and clothing) as well as of the security and social harmony; they are treated as 'social evil' and 'criminal'. The government has recently promulgated IDP National Policy to address the problems of the IDPs, however, most of the provisions are still to be implemented. Therefore, it can be concluded that there are so many problems regarding IDPs, these problems must be solved as soon as possible. Taking in account the situation of IDPs during the study, we strongly recommend that the following measures should be taken to improve livelihood of the IDPs. Noting the importance of consultation with different actors involved, in terms of support, return, reintegration, rehabilitation, situation and suggestion of the internally displaced persons and in the context of Maoists' involvement in the government; we have finally come up with the following recommendations:

#### **To the Nepal Government**

- Create a conducive environment to return to the IDPs. Eliminate all types of threaten, extortion and fear from the Maoists' side;
- Verify the registered IDPs properly by mobilizing NGOs, Human Rights Organization, Civil Society Members and Make some arrangement to make them return;

- Ensure the sense of security and proper security mechanism at the place of origin;
- Return the seized lands to the IDPs without any condition and arrange compensation for their lost other movable properties;
- Make necessary arrangements of essential requirements and commodities including food, education, clothing and medicine for the returnee for at least six months and scholarships for their children to protect right to education;
- Pay special attention to female-headed IDP households and their children;
- Provide employment to the conflict created widows according to their qualifications and skills;
- Implement IDP National Policy as soon as possible by making clear guidelines for implementation;
- Respect the fundamental rights of IDPs (freedom of expression, freedom of movement, freedom of peaceful assembly etc.);
- Organize more popular-level campaigns in order to make people (particularly to local Maoist Cadre) aware of the rights of the IDPs;
- Pay special attention to the IDP children, particularly for their education and health condition;
- Pay special attention to the IDP elderly people, particularly for their health condition;
- Provide pscho-social services to the mentally disturbed IDPs; and
- Consider resettlement (for those IDPs who do not want to return to their place of origin) as equally important as the displaced persons' right to return;
- To make arrangement and formation of peace committees in grass root level;

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