

FMR – GP10

TEN YEARS OF THE GUIDING PRINCIPLES

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Time to apply the Guiding Principles in Nepal

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While Nepal's new Maoist-led government drags its heels in implementing the country's national policy on IDPs, the needs of those displaced by conflict continue to go unmet.

Despite the fact that many Nepalis had been displaced by natural disasters and development projects, the issues of protection and promotion of IDP rights were not taken seriously until the advent of the Maoist insurgency in the late 1990s. As conflict intensified, the international community drew attention to the protection and assistance needs of victims of forced displacement. Under pressure from the international community, the government grudgingly

acknowledged the problem but defined IDPs solely as those victimised by the Maoist rebels. To the dismay of civil society, the government thus denied IDP status – and access to relief packages – to those displaced by state brutality.

There is no accurate data on the number of Nepali IDPs or those who have fled to India to escape conflict and poverty. At the height of the conflict there were up to 200,000 IDPs. While the signing of

peace accords in 2006 allowed some to return home, the UN estimated there were still 50-70,000 conflict-induced IDPs in December 2007.

However, the government has only registered 35,000 IDPs. Generalised fear and distrust that return is a safe option, limited livelihood options, lack of clear government strategies and insecurity of land tenure deter comprehensive return. The Comprehensive Peace Accord signed between the government and the Communist Party of Nepal (Maoist) in November 2006 incorporated an article ensuring the “right to return” of every individual displaced as a result of the armed conflict but the

IDP issue has, nevertheless, remained on the periphery of the peace process.

As a result of momentum following the visit in 2005 of Walter Kälin, the Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, the government committed themselves to developing an IDP policy. This policy – endorsed in April 2007 and known as the ‘National Policies on IDPs, 2007’ – defined an IDP as “a person who is living somewhere else in the country after having been forced to flee or leave one’s home or place of habitual residence due to armed conflict or situation of violence or gross violation of human rights or natural disaster or human-made disaster and situation or with an intention of avoiding the effects of such situations.” For the first time, the government thus incorporated the Principles into a local policy document. The new policy shifts responsibility for IDP issues to the Ministry of Peace and Reconstruction (MoPR) which has formulated Procedural Directives to actualise the new policy.

Unfortunately, the directives have still not been approved by the cabinet. The authorities are dragging their heels, oblivious to the potential threat which unresolved IDP problems pose to the peace process. The National Human Rights Commission has formulated a strategic plan which calls for “establishment of the truth about disappearance, IDPs and victims of conflict”.¹ However, the Commission has failed to realise the need to protect the rights of people displaced as a result of development projects and natural disasters. The size of this population may now exceed those of conflict-affected IDPs.

Government bureaucrats and the general public remain generally ignorant both about the Principles and the IDP policy. Local officials do not give serious attention to IDP issues. IRIN reports that displaced families feel increasingly neglected since the Maoist-led coalition government was formed in August 2008.²

UNHCR, the Norwegian Refugee Council and number of local NGOs organised events to celebrate the 10th Anniversary of the launch of the Principles. Civil society is lobbying at local level and in Kathmandu to

endorse the Directives, implement the IDP policy and build local-level government-civil society mechanisms to facilitate IDP return, reintegration and reconciliation.

It is unfortunate that government efforts are mostly focused on ‘return’ without any programmes for community-level reconciliation. In the absence of directives, no deregistration system is in place so the scale of IDP return cannot be determined. Government assistance has focused on return to places of origin.

The authorities need to:

- speedily approve the Procedural Directives
- provide relocation assistance to those who cannot, or choose not to, return to former places of residence
- adopt a holistic approach towards IDPs

- ensure cooperation between the Ministry of Home Affairs and the MoPR to establish district-level support mechanisms in rural areas where the MoPR has no functional capacity

- coordinate with civil society and international organisations to identify genuine IDPs, assist them and initiate community-level reconciliation mechanisms

- launch a nationwide advocacy campaign to ensure the effective return, rehabilitation and reintegration of IDPs in their place of choice.

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1. http://www.nhrnepal.org/publication/doc/books/SP_2008-10.pdf

2. <http://www.irinnews.org/Report.aspx?ReportId=81302>

Guiding Principle 24

All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.

The criteria for eligibility to receive emergency aid can be highly politicised. For example, IDPs in Colombia complain that to be considered eligible for aid as an IDP, it is easiest to claim to have been displaced by insurgent groups. If they say they have been displaced by government security forces, the authorities reply that “law enforcement does not cause displacement.”

Colombian IDPs also point to what they describe as incomplete aid (such as medical consultations without medications or clinical tests) and uncoordinated aid (for example, land without provision for housing, or education without providing food and nutrition at schools). The overall result is that many IDPs remain in extreme need.

Discrimination is given as another way in which access to emergency aid can be obstructed. Southern Sudanese IDPs in the north say that “Assistance was provided but for Muslims only and not for non-Muslims.” Others complain that because they are “black people” they are denied aid. “We were settled in a desert where there was no water or trees. As time passed, the government saw that we were suffering ... and decided to let the NGOs provide us with small services, like some water and food. But this was not enough to meet our needs.”

Elderly IDPs in particular feel discriminated against in access to aid. In Nepal, most elderly persons say they received no special attention. 84% of the IDPs interviewed in India and more than 68% in Bangladesh also say that no special support is given to the elderly.

*Interviews carried out by the Brookings-Bern Project on Internal Displacement. See Brookings-Bern Project report *Listening to the Voices of the Displaced: Lesson Learned* at http://www.brookings.edu/reports/2008/09_internal_displacement_cohen.aspx*