

Impact of Displacement on Civil and Political Rights of the Internally Displaced Persons in Dolakha District of Nepal

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Abstract

The explanatory paper discusses the impact of displacement on the civil and political rights of the internally displaced persons (IDPs) in Dolakha District of Nepal with special reference to the displacement caused by the 2015 Nepal Earthquake. The discussion has focused on studying the answer for whether the disaster-induced IDPs enjoyed the civil and political rights particularly during the Federal, Provincial and Local elections in Nepal. The findings are based on the primary data collected from the respondents, IDPs and the people's representatives, who are the key aspect of the real time empirical familiarity, and of course supported by secondary data. The main issue in the paper is whether the IDPs could enjoy the civil and political rights during the tri-phases of election in 2017 in Dolakha District of Nepal, and the claim is that some of the civil and political rights of the IDPs were unconstructively impacted because of their status of being displaced.

Key Words: Civil and political rights, disaster, election, internal displacement, IDPs

Introduction

Internal armed conflict 1996-2006 remained the significant contributor to let the public know about internally displaced persons (IDPs) in Nepal, even though disaster has been prominent contributor. Nepal was defectively struck by the earthquake in April 2015 killing nearly nine thousand and leaving thousands homeless to become IDPs (International Organization for Migration, 2015). Disasters, especially earthquake and flooding, have been other terrible causes of internal displacement. Nepal Earthquake 2015 alone displaced above 2.6 million people in Nepal ("Nepal third in internal displacement by natural disasters," 2016). The displacements Nepal faces vary depending mainly upon occurrence of indents of natural disasters specially earthquake and flooding. Nepal did not face any earthquake shaking in the year 2017 but the number of IDPs was remarkable. The number of disaster-induced IDPs in Nepal was 384,000 in the year 2017 (IDMC, 2018).

Dolakha, a mountainous District, lies in Province No. 3 in the northern part of Nepal. The district is 133 kilometers far from the capital city Kathmandu and 141 kilometers from Janakpur, the nearest big city in Tarai. Dolakha, laid on the lap of Mount Gaurishankar, is worth mentioning district from touristic point of view due to the historical, religious, cultural and natural beauty (District Development Committee, Dolakha, 2015). Maximum land of the district is covered by high hills and mountains, and only ten percent of the land is flat (DDC, Dolakha, 2015). Seventy percent of the land in Dolakha is more than 30 degree slope. Around 92 percent of the population in the district depends on agriculture (DDC, Dolakha, 2015). Together with other districts, Dolakha was also badly hit by the Nepal Earthquake 2015. The report of DDC, Dolakha (2015) states that the number of people injured was 663 and death toll was 177. Total number of the people's houses destroyed was 58,388 which include 55,873 fully destroyed and 1,506 partially destroyed. These numbers of the destroyed houses include only the private ones. For describing current status, some of the IDPs have still complained in the local bodies of missing from the list of beneficiary, but most of them have already received second round of reconstruction payment from National Reconstruction Authority. The number of reconstruction beneficiary is 51,940 and retrofitting beneficiary is 637 from Dolakha ("Map of beneficiaries in Dolakha," 2018).

Nearly 90 percent of the houses were fully destroyed by the earthquake in Dolakha (DDC, Dolakha, 2015). The effected families were uprooted from their residents to become IDPs. The life condition of those displaced had been observed feeble in the pitiful shelters. The displaced were often in need of ensuring their access to basic requirements at least for their survival including basic services such as food, water, health and education. During this situation, Nepal has moved through the three tiers of election for federal, provincial and local governments but the question "have the IDPs enjoyed their civil and political rights?" remains unexplored. In this backdrop, the paper endeavors to discuss the issues:

effects of displacement on IDPs, impact of displacement on the civil and political rights of the IDPs and the causes of those effects in Dolakha District of Nepal.

Defining Internally Displaced Person

IDPs are the people uprooted from their habitual residence but have not crossed the state border. These people are forced to flee their homes due to the situations like armed conflict, situations of generalized violence, violations of human rights, natural or human-made disasters (“Guiding principles on internal displacement,” 1998; “National policies on internally displaced persons,” 2007). The “Guiding principles on internal displacement” (1998) did officially define IDPs as

persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border (p. 1).

This definition by United Nations Guiding Principles is widely used one which paved the way for further minutely perceiving the causes and effects of the internal displacements. Slightly more elaborative definition comes from the “National policies on internally displaced persons” (2007), according which IDP is

a person who is living somewhere else in the country after having forced to flee or leave one's home or place of habitual residence due to armed conflict or situation of violence or gross violation of human rights or natural disaster or humanmade disaster and situation or with an intention of avoiding the effects of such situations (p. 3).

Following the Guiding Principles, international community realized the need of addressing the internal displacement issues. African Union was the first regional organization to adopt convention on internal displacement. This “Kampala Convention,” (2009) adds development projects and harmful practices as the causes of displacement. Refinement on the definition of internal displacement continued and “National policy on internally displaced persons (IDPs) in Nigeria” (2012) included extreme poverty, lack of equal access to socio-economic resources, imbalanced development, unemployment, environmental-induced displacements in the list of causes. In this paper, internal displaced caused by the earthquake is considered in discussion for the study purpose.

Standpoint on Civil and Political Rights

The civil rights ensure the liberty and freedom of the people. Civil rights include the right to life, dignity, protection, equality, non-discrimination, movement, expression, assembly, privacy. The political rights guarantee the participation of the people in the government. Political rights include right to fair trail, association, petition, elect and to be elected. The civil and political rights protect the freedom of the people against encroachment by the state, social organizations and private individuals (“Civil and political rights,” 2001). From the normative integrated perspective on rights, civil and political rights incorporates other rights such as economic, social and cultural (Elisabeth Koch, 2006).

The International Covenant on Civil and Political rights (ICCPR), 1966 protects the civil and political rights of the citizens in their respective states (“ICCPR,” 1966; Joseph & Castan, 2013). The Constitution of Nepal, 2015 has a more comprehensive list of fundamental rights relating to the civil and political rights of the citizens, which includes wider range of rights that are not incorporated in the ICCPR. The “Constitution of Nepal” (2015) and the “ICCPR” (1966) have conferred the civil and political rights as shown in the following table 1. In this study, the basis of discussion on the civil and political rights is primarily based on the international instrument that is ICCPR.

Table 1: Civil and Political Rights as Conferred in the Constitution of Nepal, 2015 and ICCPR, 1966

Attributes of Civil and Political Rights	Conferred in the Constitution of Nepal, 2015	Conferred in the ICCPR, 1966
Right to life and live with dignity	Article 16	Articles 6, 10
Freedom of opinion and expression	Article 17	Article 19
Freedom to assemble peaceably	Article 17	Articles 21, 25
Freedom to form political parties	Article 17	Articles 22, 25

Freedom to form unions and associations	Article 17	Articles 22, 25
Freedom of movement	Article 17	Article 11
Equal protection of law	Article 18	Articles 3, 9, 14, 26
Right to communication	Article 19	-
Rights relating to justice	Article 20	Articles 9, 14
Right of victim of crime	Article 21	-
Right against torture	Article 22	Articles 7, 8
Right against preventive detention	Article 23	Article 9
Right against untouchability and discrimination	Article 24	Article 20
Right relating to property	Article 25	Article 17
Right to freedom of religion	Article 26	Article 18
Right to information	Article 27	Article 19
Right to privacy	Article 28	Article 17
Right against exploitation	Article 29	Article 8
Right to clean environment	Article 30	-
Right relating to education	Article 31	Article 24
Right to language and culture	Article 32	Article 27
Right to employment	Article 33	-
Right to labour	Article 34	Article 8
Right relating to health	Article 35	Article 18
Right relating to food	Article 36	-
Right to housing	Article 37	-
Rights of women	Article 38	Articles 3, 6, 23
Rights of the child	Article 39	Articles 10, 24
Rights of senior citizens	Article 41	-
Right to social justice	Article 42	Article 27
Right to social security	Article 43	Article 27
Rights of the consumer	Article 44	-
Right against exile	Article 45	-
Right to family	-	Article 23

Source: The “Constitution of Nepal” (2015) and the “ICCPR” (1966)

Review of Literature

The displaced persons are noticeably obliged to face hard moments due to fleeing from homegrown places in the search of sanctuary. There are generation of various and uncommon portions of life as well as some kind of emotion of insecurity to the IDPs and noticeable additional security challenges to the host community and the state authority as well. As per Cohen (2004), internal displacement has become one of the most stressing security concerns today. The shortage or scarce of the daily basic needs creates chaos in the location. Cohen (2004) argued that internal displacement poses threat to national solidity. IDPs face local unfriendliness while returning as well (Fagen, 2004). According to Lischer (2008), the displacement pessimistically affects the law and order of the society. Swain (2006) claimed that there is existence of conflicts between locals and migrants because of the lessened values and cultural maladjustments. The disinclination of resource sharing can be the reason of the hostile behaviour of the host community. García Amado (2016) sees residential security of the IDPs and host/return community as the immense concern.

Bearing the responsibility of managing internal displacement has been of less priority for most of the states (Cohen, 2004). States are mainly responsible for managing internal displacement but resource limitation may pose constrain. Sri Lankan effort on dealing with the IDPs during counter insurgency was fine. India's response to Kashmiri displacement is better but at the same time trifling in northeast (Cohen, 2004). The host society hardly welcome IDPs' persistent stay but government's effort to support can be extensively supported by the civil society when rationally called for (Rekhviashvili, 2015).

Mertus (2004) stated that displacement leads to theatrical changes in family construction and gender roles. The changing roles make vulnerable people like women and elders go out for their livelihood. Perpetrators can exploit this situation of helplessness. Mertus (2004) further elaborated that IDPs' life is influenced by the cultural values of the surrounding communities. The displaced persons are forced to

adapt in new location for long or time being. There is no choice to adopt the strange locality for the displaced persons. Eweka and Olusegun (2016) claims that the improper management of the IDPs may make the countries prone to violent conflicts (p. 207). States may not have capability to address the eventualities of displacement and they may call for national-international support. The tension of IDP's could be eased by the willingness of government that can provide a huge relief to the IDPs. Eweka and Olusegun (2016) opine that the only the way to manage the internal displacement is through working together by the stakeholders.

Most of the literatures indicate that there exist problems when displacements occur, but without linking them with the civil and political rights of the IDPs. This pertinent issue regarding IDPs has not been the subject of investigation in Nepal. At this point, this study has aimed to explain the displacement in Dolakha district and its impact on the civil and political rights of the IDPs.

Methodology of the Study

The study will be based on the displacement caused by the Nepal Earthquake 2015 with particular reference to the impact made on the civil and political rights of the IDPs. Civil and political rights are the concerns of the study mainly taking the local, and provincial and federal elections respectively held on 14 May and 26 November 2017 in Dolakha District of Nepal into consideration. Dolakha District was chosen for the study because of some specific incidents like killing of the person during the election ("Man dies in Dolakha police firing," 2017).

There were some villages in danger in the district which need to be transferred to the safe locations. The number of the effected persons in those villages was above hundred in five local bodies namely Bhimeshwor municipality, and Kalinchok, Baiteshwor, Shailungeshwor and Melung rural municipalities. Among these five, three local bodies namely Baiteshwor, Bhimeshwor and Kalinchok were selected for the questionnaire with IDPs through network sampling method, where the security officials posted in Company Headquarters of Armed Police Force, Nepal in Dolakha and permanently residing in those local bodies were used for the networking. Ten IDPs from each local body were sampled for the structured questionnaire through simple random sampling, as first ten were sampled via lottery from the list of the available persons in the village on the day of data collection. There are nine local bodies in Dolakha. Among eighteen Heads/Deputy Heads of the local bodies, six (three Heads and three Deputy Heads) were selected as the sample through systematic random sampling. Out of seventy-four Chairpersons of the Wards, nine were sampled through systematic random sampling. Among those respondents of the questionnaire, nine IDPs were again selected through the simple random sampling for the telephone interview. There was semi-structured telephone interview with these IDPs, Heads/Deputy Heads and Ward chairpersons. The explanatory telephone interview was aimed at finding out the causes of being able/unable to enjoy the civil and political rights by the IDPs. The interview was targeted to probe the causes of changed impact on the rights after being displaced due to the Nepal Earthquake 2015 based on empiricism. The data received from the questionnaire gave an idea to conduct telephone interview.

Findings and Result Discussion

Effects of Displacement on IDPs in Dolakha

The Nepal Earthquake 2015 caused huge loss of life and property, and left deepening unpleasant impact on the life style of the people (DDC, Dolakha, 2015). The effects of displacement on IDPs' life are assorted and vary from place to place depending upon the situation. Some affected places were easily accessible for relief distribution and some were not. To find out the common effects of the displacement on displaced persons, questionnaire was carried out that found the effects as shown in the table 2.

Table 2: Effects of Displacement on IDPs' Life

S.N.	Effects of Displacement	Responses (in percentages) from IDPs (N=30)	
		Yes	No
1.	Death of Relatives	13.3	86.7
2.	Self Injury	36.7	63.3
3.	Injury to Relatives	43.3	56.7
4.	Emotional and Mental Trauma	53.3	46.7
5.	Lack of Food	93.3	6.7

1.	Personal and Family Security	90.0	10.0	91.6	8.4	75.0	25.0	91.6	8.4
2.	Community Security	93.3	6.7	93.3	6.7	75.0	25.0	83.3	16.7
3.	Freedom of Movement	76.7	23.3	80.0	20.0	62.5	37.5	91.6	8.4
4.	Human Dignity and Respect	96.7	3.3	73.3	26.7	83.3	16.7	75.0	25.0
5.	Respect and Security of Children and Elderly People	50.0	50.0	30.0	70.0	83.3	16.7	62.5	37.5
6.	Exploitation and Violation against Women	16.7	83.3	30.0	70.0	62.5	37.5	41.6	58.4
7.	Fair Listening and Addressing the Problems by Government Authority	40.0	60.0	53.3	46.7	25.0	75.0	83.3	16.7
8.	Freedom of Association	50.0	50.0	73.3	26.7	50.0	50.0	83.3	16.7
9.	Freedom of Joining Interested Political Party	66.7	33.3	93.3	6.7	50.0	50.0	79.1	20.9
10.	Freedom of Participating in Political Activities	60.0	40.0	46.7	53.3	25.0	75.0	83.3	16.7
11.	Freedom of Expression	73.3	26.7	90.0	10.0	50.0	50.0	91.6	8.4
12.	Freedom of Political Campaign	76.7	23.3	30.0	70.0	62.5	37.5	79.1	20.9
13.	Luring Voters	46.7	53.3	70.0	30.0	62.5	37.5	62.5	37.5
14.	Security of Movement for Election	50.0	50.0	60.0	40.0	25.0	75.0	91.6	8.4
15.	Fearless Voting	50.0	50.0	60.0	40.0	25.0	75.0	91.6	8.4

The IDPs were asked whether these attributes of civil and political rights were affected negatively or positively before/after the displacement. The similar question of negative/positive status of civil and political rights on IDPs before and after their displacement was asked to the respondents (table 3, column 4). Mixed responses were received through both data collection tools. The interviewees were asked an open-ended question “what were the causes of changes on the status of civil and political rights before and after displacement?”. The discussion hereunder includes those empirical causes received from the respondents to explain the changes on the condition of the civil and political rights.

The IDPs stated that there was no change on the personal and family security aspect in the previous election and the elections held after their displacement i.e. local, provincial and federal elections. On the same issue, interviewees found improvements and the cause was change on the circumstances that the constitutional assembly election was held aftermath of the armed conflict. The interviewees claimed that the rights to freedom of movement, association, expression, joining political parties, participating in the political activities and security of movements of the voters during election were better later. The rationale put forward was the improved situation from conflict to peace through political peace process. IDPs contrarily stated that freedom of participating in political activities and political campaign decreased by respectively by 14 and 46 percentages. Oppositely, around 80 percent interviewees claimed the political participation is improved due to the resolution of armed conflict. Here, IDPs’ claim seems logical as most of the displaced people were out of their villages concentrating in the less vulnerable geographic locations or some are even relocated and settled in the safer places by the government order. Let us take the case of relocated Boch Village. It is obvious that twenty families of Boch-4 (now Bhimeshwor Municipality- 3) in Dolakha District, living in the Setidevi Community Forest in Boch-3 (now Bhimeshwor Municipality-8), are unable to become the usual element of the village where their documents belong to. Feasibility of their involvement in the political activities cannot remain conclusive. It is not compatible with the spirit of the Civil Rights Act (1955) that all citizens have right to freedom of expression, peaceful assembly and associations, and not even with the provisions of ICCPR.

Displacement displaces rights of the displaced persons (Franke, 2008). We could find negative impact on the rights of the disaster induced IDPs as shown in the table 1 and 2. Protection is the central anxiety in the post-disaster situation (Rubin, 2009). Protection of the individuals, community, children, women and elderly people are the main issues. As the signatory to the ICCPR, the burden of protection lies on the states and it should be an observable impact on the state party's actual behavior (Keith, 1999). Interviewees found that the condition of individual, family and community security has been getting better due to the increasing political stability. Financial problem and lack of basic needs have caused implications to women. Women are obliged to be more dynamic in social and economical activities to maintain their home. Few of those women became empowered and more vulnerable to domestic violence, exploitation and abuse. Some 16 percent IDPs agreed that there was violence and exploitation before

displacement but 30 percentages of them agree on after displacement. On the contrary, 62.5 percent interviewees agreed that there was such violence against women before but the situation is getting better after displacement. Not the displacement but advancement on the information communication technology and access of women to the authorities through women right activists has contributed to ameliorating women condition.

Around 90 percent IDPs lost their houses due to the earthquake. In such situations, we find menace against right to adequate housing (García Amado, 2016). It took time to reach the relief items including shelter to the affected areas due to the damages on the infrastructure. Some interviewees stated that the geographic and political biasness on the distribution of the relief items was detrimental to the right to basic needs including shelter. There is need of field-based agencies to support the IDPs for addressing the daily problems (Guego, 2017). Governmental and non-governmental initiatives to ensure easy access of the affect population will minimize such tribulations. Insufficient budget to support the displaced persons has been common issue elsewhere (Guego, 2017). Government's proper response to the citizens' voice through answerable mechanism can decrease grievances. About 50 percent respondents of the questionnaire found that government authority's response to the problems is unsatisfactory. Opposingly, 75 percent of the interviewees said that response was negative before but 83.3 percent claimed the government response is good now. The reason for improved government response, as claimed by the interviewees, is the establishment of the local government through the election. To guarantee the civil and political rights, a good political system is able to respond to the preference of its people (Hobolt & Klemmensen, 2005). Here, the main role to support the people of the affected country comes to the court of international community. Capacity-building initiatives of international agencies in favour of IDPs will strengthen the government's response (Guego, 2017).

We see the agenda of human dignity of huge priority in the social/political movements but in practice is thinning (McCrudden, 2008). IDPs who found human dignity and respect in decreasing trend after their displacement are more by 20 percent than before displacement and equal interviewees agree on the lessening values due to the effect of modernity. Similarly, preventing social detachment among older individuals is the emerging concern of today's community (Sander et al., 2015). Fifty percent of the respondents of the questionnaire found the respect and security of the children and senior citizens was good before but only 30 percent agree for the respect after displacement. At the same time, 37.5 percent interviewees gave negative response for the status of protection of the children and elderly people after the displacement which was 16.7 percent for before displacement. Protection of the children and elderly people has been vulnerable due to the displacement.

IASC guidelines (2011) also protects the rights of the IDPs to documentation, freedom of movement and participate in public affairs. The rights to peaceful association and assembly of the people are protected by United Nations ("UDHR," 1948). IDPs' rights to vote, participate in governmental and public affairs are protected by "Guiding principles on internal displacement," (1998) as well. Successful promulgation of the Constitution of Nepal 2015 through the elected Constituent Assembly and affirmative political development has contributed for the elevation of the civil and political right situation. Judiciously employed election has constructive repercussion on postconflict peace and reconstruction (Flores & Nooruddin, 2012). Fifty percent of both respondents stated that the freedom of association was positive, and 73.3 percent of the IDPs and 83.3 percent of the interviewees claimed that condition of associative right is better. Positive associative freedom is required to fulfill the social needs of the people (Brownlee, 2015). Both respondents said that freedom of joining political party of own interest has been good. This freedom is coincidentally aligned with after the displacement however the open-ended responses of the interviewees show that improvement on most of the rights incorporated in the table 3 is due to the socio-political development of the country from conflict to constitution to Nepal election 2017. About 90 percent of both respondents said that expressive right is better later. The right to freedom of expression is quite good after the constitution that positively affected the IDPs' response as well. Freedom of expression is vital for the development of an individual and for expansion of democratic civilization (Howie, 2018).

Parties spend huge resources for campaigns to win the elections (Gowda & Sridharan, 2012). Misusing the resources to attract the voters hinders the fair periodic election of any democratic culture. Nearly 50 percent of the IDPs agree that there were happenings of luring voters during election even before their displacement but 70 percent of them agreed on its augment after displacement. Similarly, 62.5 percent of the interviewees agreed that IDPs are attracted for voting through unethical means. We can connect this

statistics to the data of table 2, which shows IDPs were in terrible scarcity of essentials after displacement. Fulfilling basic requirements at the movement was choiceless option for the IDPs and this condition was exploited during election campaign. The pitiable circumstances forced the IDPs not to rebuff the funds and supplies offered by the election campaigners. Unethical enticing voters hinder the fundamental of any democracies that is free and fair periodic election. IDPs might have wrongly casted their voting rights influenced by those offerings during election campaign. Providing assistance to ensure basic needs and assured security system become supportive to minimize immoral election campaigns. Around 50 percent of the respondent IDPs stated that security of the movement was almost similar during previous and this elections. On the contrary, only 25 percent interviewees claimed there was good security of movement in previous election and 91.6 percent surprisingly claimed the local election was good. On the response to the question whether the voting was fearless or not, about 50 percent of the IDPs stated both elections – constituent assembly and local – were good. At the same time, interviewees conflictingly stated that previous election was fearful (75%) and later one went fearless (91.6%). The reason for this drastic improvement as per the interviewees was recovered political setting in the country after the promulgation of the constitution.

Conclusion

The paper concludes that displacement caused detrimental effect on some of the civil and political rights of the IDPs. Lessening human dignity and protection of children and elderly people has become common concern in the situations like displacement. The changes on the circumstances due to the displacement cause women to be more involved in socio-economic activities which resulted in ongoing violence and exploitation against women. It was found that government has been slightly responsive to address people's problems. Authority's responsiveness will obviously minimize the general grievances. Associative and expressive freedom is in good status and needs small progress. The study found freedom of participation in political activities and political campaigning need to be improved as ensured political participation is the backbone of democracy. Immoral activities of attracting voters can raise question on the free and fair election. Offering resources during constituent assembly and local election campaigns might have lured IDPs. Improvement on the position of the IDPs to fulfill their essentials can minimize unnecessary influences for voting. Further study to probe the ways to reduce bad effect on free and fair election in the situations of displacement can be an interesting topic for further study. The scholars can find the issue "what emotional and mental trauma the IDPs went through and how the health facilities to overcome the issues can be ensured" can also be an area of further study.

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