

TRACING INVISIBLE JOURNEYS: INTERNAL DISPLACEMENT IN SOUTH & SOUTHEAST ASIA AND THE INTERNATIONAL LEGAL FRAMEWORK

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GLOBAL
HUMAN
RIGHTS
DEFENCE

INTRODUCTION

Internal displacement affects millions globally, stemming from diverse factors that present unique humanitarian challenges. According to the the Guiding Principles on Internal Displacement, Internally Displaced Persons (IDPs) 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 recognized border.*¹

Although refugees and internally displaced persons (IDPs) share common elements, particularly regarding causal factors, they differ fundamentally: IDPs have not crossed international borders and remain displaced within their country of origin. In line with the Guiding Principles on Internal Displacement, which is an international, non-legally binding instrument outlining the rights and protections for IDPs, several factors can be considered drivers of internal displacement. These factors may include armed conflict, generalised violence, gross violations of human rights, and natural or human-caused disasters.² Armed conflict and generalised violence are primary drivers, displacing civilians who flee their homes to escape violence, persecution, or threats to their lives. Natural disasters and climate change-induced events such as earthquakes, hurricanes, floods, and droughts, also contribute significantly to displacement, as environmental degradation and loss of livelihood forces people to relocate. Furthermore, large-scale development projects like dams, mining operations, and agricultural initiatives, often lead to the displacement of communities reliant on local resources, raising serious human rights concerns about adequate compensation and resettlement. These causes collectively highlight the multifaceted nature of internal displacement and the urgent need for comprehensive responses to protect the rights of affected populations worldwide.

As conflict persists, climate change intensifies, and development projects expand, the number of IDPs continues to rise. These individuals are often thrust into precarious conditions, lacking adequate shelter, access to healthcare, and livelihood opportunities. The absence of comprehensive legal frameworks tailored specifically to IDPs exacerbates their vulnerability, leaving them reliant on piecemeal protections offered through soft law instruments and human rights treaties. Addressing internal displacement is crucial not only for humanitarian reasons, but also for ensuring sustainable development and global stability. The impacts of

¹ OCHA, 'Guiding Principles on Internal Displacement' (UN, September 2004)
<<https://www.unhcr.org/media/guiding-principles-internal-displacement>> accessed 22 July 2024.

² UNHCR, 'IDP Definition' (UNHCR, 13 June 2024)
<<https://emergency.unhcr.org/protection/legal-framework/idp-definition>> accessed 4 July 2024.

displacement extend far beyond immediate humanitarian aid, influencing economic growth, social cohesion, and environmental sustainability.³

This report begins by contextualising internal displacement within the international legal framework, followed by an analysis of its impact on affected communities. Through case studies from Myanmar, Nepal, and India, the report illustrates the previously mentioned causes of internal displacement, emphasising human rights violations and socio-economic repercussions. Furthermore, the report discusses the roles of key stakeholders, including international organisations, governments, and humanitarian agencies, in responding to and mitigating the effects of displacement.

1. THE INTERNATIONAL LEGAL FRAMEWORK ON IDP RIGHTS

The legal frameworks governing refugees and IDPs are frequently conflated, although they are distinct. While the movement of both groups can overlap, refugees benefit from protection under the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, with the support of the United Nations High Commissioner for Refugees (UNHCR).⁴ Conversely, IDPs lack a similarly established legal framework and instead rely primarily on soft law instruments. The primary international guidelines for IDPs are the 30 Guiding Principles on Internal Displacement, drafted in 2004 without formal intergovernmental agreements. These principles have been incorporated into the national laws of over 17 countries, thereby offering some measure of protection to IDPs.⁵ These Guiding Principles provide a definition of IDPs and are organised into five sections: General Principles, Principles for Protection from Displacement, Principles for Protection During Displacement, Principles for Humanitarian Assistance, and Principles for Return, Resettlement, and Reintegration. Some of these are particularly innovative as they modify pre-existing rights to fit the context of displacement, and introduce novel concepts that were not widely recognised in law at the time of their drafting. At the same time, although not legally binding under public international law, most of these principles reflect already settled binding obligations for states.⁶

Although inconsistent and not explicitly designed for IDPs, some branches of public international law could provide limited protection to IDPs. For instance, IDPs can seek protection under International Human Rights Law, including instruments such as the 1948 Universal Declaration of Human Rights (UDHR), the 1976 International Covenant on Civil and Political Rights (ICCPR), and the 1976 International Covenant on Economic, Social and

³ 'Global Report on Internal Displacement' (*iDMC*, 2024)

<<https://api.internal-displacement.org/sites/default/files/publications/documents/IDMC-GRID-2024-Global-Report-on-Internal-Displacement.pdf>> accessed 4 July 2024.

⁴ Aakash Chandran 'India and Internally Displaced Persons (IDPs)' (*Live Law*, 6 November 2017)

<<https://www.livelaw.in/india-internally-displaced-persons-idps/>> accessed 4 July 2024.

⁵ Walter Kälin 'Internal Displacement and the Law' (*Oxford University Press*, 2023).

⁶ Bríd Ní Ghráinne 'Legal and Institutional Protection of Internally Displaced Persons' In 'Internally Displaced Persons and International Refugee Law' *Oxford University Press* (2022).

Cultural Rights (ICESCR). Additionally, treaties like the 1981 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the 1990 United Nations Convention on the Rights of the Child (UNCRC) are relevant to their protection. There is no comprehensive global treaty explicitly prohibiting internal displacement, but many of these human rights treaties include provisions that are particularly applicable to IDPs. These provisions imply a prohibition of internal displacement through rights such as freedom of movement, personal liberty and security, respect for private and family life, property rights, and the prohibition of cruel, inhuman, and degrading treatment. International treaties also include various provisions that offer protection during displacement, such as the right to equality and non-discrimination, the right to an adequate standard of living, adequate housing, and health. These treaties continue to prohibit cruel, inhuman, and degrading treatment throughout displacement. In the post-displacement phase, human rights treaties ensure ongoing protection through provisions that prohibit discrimination and guarantee the right to an effective remedy, supporting IDPs even after displacement has ended.⁷

Moreover, International Humanitarian Law provides protections of varying degrees for IDPs. The 1950 Geneva Convention IV, as well as the 1979 Additional Protocol I and 1978 Additional Protocol II offer comprehensive safeguards during international conflicts. For instance, Article 49 of the Geneva Convention IV prohibits forcible transfers, which is widely accepted as customary international law. In non-international armed conflicts, protections under International Humanitarian Law are more limited. However, Common Article 3 of the Geneva Conventions applies universally as customary international law, ensuring fundamental protections even in conflicts where states are not party to the Geneva Conventions. Moreover, Additional Protocol II expands on these guarantees, including Article 17, which specifically forbids the forced displacement of civilians.⁸

Finally, under International Criminal Law, the International Criminal Court has jurisdiction over the most serious crimes of global concern. Three specific crimes—Genocide, Crimes Against Humanity, and War Crimes—are particularly relevant to IDPs. Article 6(e) of the 1967 Rome Statute identifies the forcible transfer of children as a potential act of genocide. Additionally, Article 7(1)(d) lists the forcible transfer of populations as a possible crime against humanity, defined as the forced displacement of individuals through expulsion or coercive measures from their lawful place of residence without legal justification.⁹ Moreover, war crimes under Article 8(2)(b)(viii) may also include the displacement of individuals within or across borders or the ordering of civilian displacement for reasons related to conflict.¹⁰

⁷ *ibid.*

⁸ *ibid.*

⁹ *ibid.*

¹⁰ Bríd Ní Ghráinne ‘Legal and Institutional Protection of Internally Displaced Persons’ In ‘Internally Displaced Persons and International Refugee Law’ *Oxford University Press* (2022).

2. IMPACT OF INTERNAL DISPLACEMENT

Internal displacement has a multitude of impacts, both from the point of view of the displaced individuals and communities, as well as the lives and future of the host communities and nations as a whole. They encompass dimensions such as the legal and political, socioeconomic, health, and psychological.¹¹ The consequences tend to be further exacerbated due to the often protracted nature of these situations. The following section will firstly dive into the impact of internal displacement for the affected individuals and then move on to the experiences of the host communities and nations as a whole.

The rights and well-being of internally displaced persons are severely impacted, where access to basic services, security, and housing is essentially non-existent,¹² thus placing persons affected by armed conflict in the most vulnerable of circumstances.¹³ IDPs tend to remain close to conflict zones which heightens the risk of being caught in crossfire, where they may be used as pawns, targets, or human shields by armed actors.¹⁴ They are further subjected to risk of physical attack, sexual assault, and abduction, and commonly lack access to adequate food, shelter, and health services.¹⁵ The following sections will elaborate upon some of these issues, which often occur concomitantly.¹⁶

01 Health

Both the physical and mental health of IDPs are at heightened risk in a situation of internal displacement, which includes both the lack of access to healthcare as well as insufficiency of financial means to benefit from health services. Reportedly, IDPs are at greater risk of death compared to the general population, mostly due to the presence of communicable diseases, as a result of overcrowding and insufficient sanitation within IDP camps. In addition, IDPs face more problems with reproductive health, such as the lack of access to contraception, and greater risk of sexually transmitted infections. The mental health of IDPs can deteriorate due to being separated from families and friends, leading to mental health conditions such as depression and anxiety. Persons who are already suffering from

¹¹ ‘Turning the Tide on Internal Displacement: A Development Approach to Solutions’ (UNDP, 2 November 2022) <<https://data.undp.org/insights/impact-displacement-idps>> accessed 13 June 2024.

¹² *ibid.*

¹³ ‘About internally displaced persons’ (UN OHCHR)

<<https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/about-internally-displaced-persons>> accessed 13 June 2024.

¹⁴ *ibid.*

¹⁵ *ibid.*

¹⁶ Christelle Cazabat, ‘Thematic Series, The Ripple effect: Multidimensional impacts of internal displacement’ (*IDMC*, October 2018), 7-12.

mental disorders may be forced into isolation, which in turn worsens their mental well-being.

02 **Livelihoods**

When internally displaced individuals are separated from their land, property, assets, workplaces, social networks, service providers, and customers, they will need to find new employment. However, finding a new place of work might be difficult for IDPs as they are competing with the local workforce in the host communities. Commonly, IDPs are forced to accept lower-wage jobs and insecure employment, which can affect their ability to pay for basic services, housing, and education.

03 **Housing**

One of the first matters families must address after being displaced is finding adequate shelter for protection, where they have access to sanitation, water, food, and energy. However, due to a lack of suitable infrastructure within host communities or within IDP camps, the housing conditions can be regarded as inadequate. Such inadequacy of shelters subjects IDPs to risks of extreme weather and natural hazards. Furthermore, the security of individuals is affected as poor housing conditions can create risks of discrimination, exploitation, abuse, violence, and violations of their rights as tenants. Usual living places in a situation of internal displacement consist of makeshift shelters near homes of origin, hotel rooms in a close city, government-funded camps, friends' or relatives' homes, or a rented apartment.

04 **Security**

Internal displacement places a heavy burden on the security of an individual, exposing them to greater risks of abuse, exploitation, discrimination, and violence due to loss of livelihoods, identity documents, social support networks, and tensions within host communities. Women, children, older people, and persons with disabilities are most vulnerable to security issues. According to evidence, women face an increased amount of violence in situations of internal displacement because, like many IDPs in general, they might have to take on dangerous work to cover their financial costs for housing, education, and survival.

05

Social life

The social lives of IDPs are directly affected as internal displacement breaks up communities and families, and puts a strain on relationships. Such relationships are crucial for stability, business, and well-being, and the interruption or damage thereof can have grave effects on their mental health, livelihood, and security. As a result of the housing solutions in internal displacement, IDPs, host families, and communities must adapt to new social structures, sharing of resources, and managing tensions which may arise from the new living circumstances.

2.1. IMPACT ON CHILDREN'S RIGHTS

Children are especially vulnerable to the impacts of internal displacement, as their development can be interrupted due to lack of access to education and the necessity of having to work to aid their families financially, thereby limiting their ability to have leisure time.

01

Lack of access to education¹⁷

Internal displacement interrupts children's ability to take part in education, mainly due to the financial instability of their families. Additionally, children are deprived of a familiar school environment, which can create a feeling of insecurity within a child. Due to interruptions in education, the children have to juggle lost time within education as well as the stress and trauma brought on by the displacement. According to data gathered by the Internal Displacement Monitoring Centre (iDMC), internally displaced children are more likely to drop out of school and have lower achievement rates than those not affected by displacement.

02

Mental health problems¹⁸

Internal displacement places a heavy burden on the mind of a young child, having faced traumatic experiences prior to or during the displacement. The lack of access to education can further deteriorate the mental health of a child and create psychological instability. Additionally, studies have shown that girls are more likely to develop

¹⁷ Christelle Cazabat (n 16), 8.

¹⁸ *ibid*; Nasir Ahmad, Sajjad Hussain and Nasir Shaheen, 'Internal Displacement: Relationship of mental health and education of children in Swat, Pakistan' (2020) 36 Pak J Med Sci. 909.

mental disorders, such as PTSD, depression, or anxiety compared to boys.

03

Developmental issues¹⁹

The interruption to a child's education can have long-lasting effects on their future lives as they are not able to reach their fullest potential and develop the necessary social, emotional, and psychological skills to fully cope with life in the future. Moreover, in a situation of internal displacement, children are highly vulnerable to abuse, violence, and exploitation, which all negatively affect the full development of a child and their well-being. Internally displaced children are commonly exposed to forced labour, which can be hazardous and harmful, affecting their physical and mental health, and consequently their development as well.

2.2. IMPACT ON NATION AND ENVIRONMENT

On the other hand, the host communities and the country as a whole, also face negative impacts of internal displacement. As IDPs' and the host communities' lives are disrupted concerning housing conditions, health, security, and livelihoods, the economic consequences faced by local communities are profound.²⁰ Due to lack of access to basic needs and livelihood options, IDPs are not able to contribute to the local economy, earn an income, pay rent or taxes, or buy goods, amounting to short-term costs of internal displacement.²¹ An annual global economic loss of internal displacement amounts to an estimated 21 billion dollars, including costs of providing housing, education, health, and security. This figure also accounts for loss of income for the IDPs.²² Moreover, the wages within the host community can decrease due to a sudden influx of labour and the rents can increase because of a great demand for housing.²³ In addition, long-term costs are present, such as handling and addressing the deteriorating physical and psychological health of IDPs, and deepening faultlines with respect to social cohesion and cultural identities owing to an altered demography, which usually needs significant efforts from the local and national governments.²⁴ As an overarching result, societies as a whole are burdened by internal displacement, bearing both short-term and long term costs, which must be incurred by

¹⁹ Claus Hansen, Laura Healy and Naomi Lindt et al., 'Lost at home: The risks and challenges for internally displaced children and the urgent action needed to protect them' (*UNICEF*, 18 May 2020);

Nasir Ahmad, Sajjad Hussain and Nasir Shaheen (n 18).

²⁰ 'Socioeconomic impacts of internal displacement' (*IDMC*)

<<https://www.internal-displacement.org/focus-areas/socioeconomic-impacts-of-internal-displacement/>> accessed 24 June 2024.

²¹ Christelle Cazabat (n 16) 8.

²² 'Socioeconomic impacts of internal displacement' (n 20).

²³ Christelle Cazabat and Bina Desai, 'Thematic Series, The Ripple Effect: Assessing the Economic Impacts of Internal Displacement: Conceptual Framework' (*IDMC*, June 2018).

²⁴ *ibid* 2.

different stakeholders. Planning and managing such a crisis effectively is of crucial importance to cut down on these costs.²⁵

Moreover, links between harm caused to the environment and internal displacement have now been identified. The presence of poor housing conditions for the IDPs and the degradation of nearby natural resources is a potential threat to the environment.²⁶ Additionally, the environment can be harmed through unsustainable activities, such as the overexploitation of natural resources, to generate income by the IDPs, due to a shortage of secure and beneficial employment.²⁷ The unplanned and mismanaged abrupt increase of population can increase soil erosion, forest degradation, loss of biodiversity, overexploitation of water resources, as well as increased amounts of waste and pollution in the environment.²⁸ The necessity of IDPs to create income and to improve livelihoods, possibly leading to overexploitation of natural resources, such as wood, wildlife, minerals, and agricultural land, can reduce livelihood options for the IDPs and their host communities in the long run and ultimately lead to food insecurity and heightened risk of disasters.²⁹ Such harm to the environment creates additional management issues for the nations to protect the environment and ensure sustainable practices, which can be difficult in situations where large communities are being displaced at once.

3. CASE STUDIES

3.1. MYANMAR: ARMED CONFLICT AS DRIVER OF INTERNAL DISPLACEMENT

**Over 2.3 million
internally
displaced since
the coup in 2021.**

While Myanmar has ratified several international human rights treaties and is a party to the Geneva Conventions, the implementation and enforcement of protections for IDPs remain inadequate. Moreover, Myanmar is not a state party to the Rome Statute of the ICC. Consequently, the ICC does not have jurisdiction over crimes committed within Myanmar unless referred by the United Nations Security Council. Despite this, international bodies and human rights organisations have documented evidence of acts that could constitute crimes against humanity and war crimes, such as forcible displacement.³⁰ Furthermore, the absence of specific national legislation for IDPs, coupled with ongoing conflicts and political instability, poses significant

²⁵ *ibid* 3.

²⁶ Christelle Cazabat (n 16) 11.

²⁷ *ibid*.

²⁸ *ibid*.

²⁹ *ibid* 12.

³⁰ U.N. Report: Myanmar Junta ‘Committing Systematic Crimes against Humanity’ (*Crux*, 11 August 11 2022) <<https://cruxnow.com/church-in-asia/2022/08/u-n-report-myanmar-junta-committing-systematic-crimes-against-humanity>> accessed 4 July 2024.

challenges to improving the situation for IDPs in the country.

*Textbox.*³¹

Myanmar, formerly known as Burma, has experienced prolonged armed conflict and violence, making it one of the countries with the highest number of IDPs. Myanmar's history is marked by numerous ethnic conflicts. The country is home to over 135 ethnic groups, with the Burman majority traditionally holding power. Ethnic minorities, such as the Karen, Kachin, Shan, and Rohingya, have long sought greater autonomy and recognition, leading to persistent conflict with the central government and military, known as the *Tatmadaw*.³² One of the most significant and widely reported instances of internal displacement in Myanmar involves the Rohingya, a Muslim minority group residing primarily in the Rakhine State. Since the late 1970s, the Rohingya have faced systematic persecution and violence, which escalated dramatically in 2017 when the military launched a brutal crackdown.³³ This campaign, which has been referred to as ethnic cleansing, forced over 700,000 Rohingya to flee to neighbouring Bangladesh,³⁴ while hundreds of thousands remained internally displaced within Myanmar, often confined to camps with severe restrictions on movement and access to basic services.³⁵

In the northern regions of Kachin and Shan states, armed conflict between the Tatmadaw and ethnic armed organisations has resulted in significant internal displacement. The Kachin Independence Army (KIA) and Shan State Army have been in conflict with the central government for decades. Renewed fighting since 2011 has displaced over 100,000 people in Kachin State alone. Displaced populations often live in camps or informal settlements, with limited access to humanitarian aid, healthcare, and education.³⁶ The military coup in February 2021, notable for genocidal crimes against Rohingya Muslims, further exacerbated the situation. The coup toppled the democratically elected government, leading to widespread protests and a violent crackdown by the military. This political turmoil has intensified armed conflicts in various regions, contributing to new waves of internal displacement. The Tatmadaw's use of airstrikes, artillery, and ground operations against civilian populations and ethnic armed groups has forced thousands to flee their homes.³⁷

³¹ 'Myanmar's Human Rights Crisis: In Freefall with Insufficient International Attention' (*USCRI*, 29 February 2024). <<https://refugees.org/myanmars-human-rights-crisis-in-freefall-with-insufficient-international-attention/>> accessed 4 July 2024.

³² CS Kuppuswamy 'Myanmar's Ethnic Divide and Conflicts' (*ICPS*, June 2013) <<https://www.files.ethz.ch/isn/165111/IB221-Kuppusamy-Myanmar.pdf>> accessed 4 July 2024.

³³ Mahmudur Rahman Bhuiyan, Bulbul Siddiqi and Sk Tawfique M Haque, 'Introduction. Forceful Displacement and the Rohingya' *Routledge eBooks* (25 August 2023).

³⁴ 'Six Years on, Still No Justice for Myanmar's Rohingya' (*UN News*, 24 August 2023) <<https://news.un.org/en/story/2023/08/1140032>> accessed 4 July 2024.

³⁵ Malang Faye 'A Forced Migration from Myanmar to Bangladesh and beyond: Humanitarian Response to Rohingya Refugee Crisis' *Journal of International Humanitarian Action*, 6 (2021) <https://jhumanitarianaction.springeropen.com/articles/10.1186/s41018-021-00098-4> accessed 4 July 2024.

³⁶ Carine Jaquet 'The Kachin Conflict: Testing the Limits of the Political Transition in Myanmar' *Institut de recherche sur l'Asie du Sud-Est contemporaine* (2015).

³⁷ Lindsay Maizland 'Myanmar's Troubled History: Coups, Military Rule, and Ethnic Conflict' (*Council on Foreign Relations*, 31 January 2022) <<https://www.cfr.org/backgrounder/myanmar-history-coup-military-rule-ethnic-conflict-rohingya>> accessed 4 July 2024.

Moreover, the humanitarian situation for IDPs in Myanmar is dire. Many displaced individuals face inadequate shelter, food insecurity, limited access to clean water and sanitation, and restricted healthcare services. Humanitarian organisations often struggle to deliver aid due to ongoing conflict, access restrictions imposed by the military, and bureaucratic hurdles.³⁸ In response to these dire conditions, the international community has consistently condemned the violence and called for an end to hostilities. Various international organisations, including the United Nations, have been involved in providing humanitarian assistance and advocating for the rights of IDPs. For instance, on December 21st, 2022, the United Nations Security Council passed Resolution 2669 concerning the situation in Myanmar, with 12 votes in favour, none against, and 3 abstentions from China, India, and the Russian Federation. The resolution, not adopted as an enforcement action under Chapter VII of the Charter, calls for an immediate cessation of all forms of violence across the country.³⁹ However, despite these efforts, the scale of the crisis and the complexities of the conflict present substantial challenges to effectively addressing the needs of the internally displaced population.

3.2. NEPAL: NATURAL DISASTERS AND CLIMATE CHANGE AS DRIVERS OF INTERNAL DISPLACEMENT

**3.4 million
displacements
between
2011-2021.**

Nepal has faced major internal displacements, having thousands of individuals displaced every year, due to monsoon rains, which cause floods and landslides.⁴⁰ Flooding is a major risk for persons living around the river basins, as villages and croplands are damaged, which could become an even greater risk due to climate change.⁴¹ In addition, due to its geographical location, Nepal is at high risk of earthquakes.⁴² A noteworthy incident that pushed 2.6 million individuals to a situation of internal displacement, was the 2015 Gorkha earthquake of 7.6 magnitude.⁴³ It occurred about 76 kilometres northwest of

³⁸ UNSC, Res 2730 (2024) UN Doc S/RES/2730; 'Security council denounces attacks against aid workers, UN personnel' (UN, 24 May 2024)

<<https://documents.un.org/doc/undoc/gen/n24/145/64/pdf/n2414564.pdf?token=Tx2R2z1InEAFaBjzIC&fe=true>> accessed 4 July 2024; 'Myanmar: Open Briefing' (Security Council Report, 3 April 2024)

<<https://www.securitycouncilreport.org/whatsinblue/2024/04/myanmar-open-briefing.php>> accessed 4 July 2024.

³⁹ Abdul Ghafur Hamid 'Security Council Resolution 2669 (2022) on the Situation in Myanmar: Too Little, Too Late?' (EJIL: Talk!, 29 December 2022)

<<https://www.ejiltalk.org/security-council-resolution-2669-2022-on-the-situation-in-myanmar-too-little-too-late/>> accessed 4 July 2024.

⁴⁰ 'Assessing the Impact of Displacement on IDPs and Host Communities in Nepal' (UNDP, 2 November 2022)

<<https://data.undp.org/insights/impact-displacement-idps/NPL>> accessed 18 June 2024.

⁴¹ Christelle Cazabat, Vicente Anzellini and Vincent Fung et al., 'Disaster Displacement: Nepal country briefing' (iDMC, 2022).

⁴² *ibid.*

⁴³ 'Nepal: Gorkha Earthquake 2015' (UNDRR) <<https://www.preventionweb.net/collections/nepal-gorkha-earthquake-2015>> accessed 18 June 2024.

Kathmandu, followed by over 300 aftershocks, severely damaging and destroying over half a million houses, and gravely affecting the livelihood of Nepalese residents.⁴⁴

*Textbox.*⁴⁵

As mentioned before, climate change can induce the effects of the monsoon season and exacerbate flooding. In addition, climate change can force people to migrate to urban areas or safer zones, due to loss of biodiversity, food insecurity, desertification, and dead zones.⁴⁶ This is especially problematic for individuals who hold farmlands within the areas affected by climate change, as they can lose their full income due to forced migration and inability to find new sources of agricultural land, water, and food.⁴⁷ Additionally, government efforts to curb climate change, such as through hydropower projects and the building of dams, can have diverse effects on the environment when conducted without prior strategic planning. This includes desertification, which in turn forces individuals to move to other areas due to loss of livelihoods.⁴⁸

Commonly, such instances of displacement are preemptive evacuations and short-term in nature, whereby individuals seek temporary shelter at their friends' and relatives' homes. However, some individuals are not able to return home for weeks, months, or even years, especially when the driving cause is climate change.⁴⁹ The impact on internally displaced Nepalese can be severe, affecting their welfare and well-being, such as consequences for labour rights, the right to adequate standard of living, and the right to health and education as ensured under the International Covenant on Economic, Social and Cultural Rights.⁵⁰ An example of a practical consequence of internal displacement on children's rights is the lack of access to education. Following the 2015 earthquake, 85 percent of the displaced children faced interruptions to their education. Two-thirds of them had a one to six-month interruption, while 17 percent experienced interruptions of over one year.⁵¹ The limited financial means of displaced families greatly affect the access to education for their children, as only about half of the displaced families are able to pay for the school fee. However, the government of Nepal and NGOs have tried to financially assist the affected families by providing free snacks to children and covering school fees, such as books and clothes.⁵²

⁴⁴ *ibid.*

⁴⁵ Christelle Cazabat, Vicente Anzellini and Vincent Fung et al. (n 41).

⁴⁶ Kalpana Magar, 'Climate Change and Internal Displacement in Nepal' (*Governance Monitoring Centre Nepal*, 11 August 2021) <<https://gmcnepal.org/blogs/climate-change-and-internal-displacement-in-nepal/>> accessed 19 June 2024.

⁴⁷ *ibid.*

⁴⁸ *ibid.*

⁴⁹ Christelle Cazabat, Vicente Anzellini and Vincent Fung et al. (n 41).

⁵⁰ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1967) 993 UNTS 3 (ICESCR), articles 6, 11, 12 and 13; *ibid.*

⁵¹ Christelle Cazabat, Vicente Anzellini and Vincent Fung et al. (n 41).

⁵² *ibid.*

3.3. INDIA: DEVELOPMENT PROJECTS AS DRIVERS OF INTERNAL DISPLACEMENT

**On average
44 000 people
are displaced by
the construction
of a large dam.**

Developmental projects, such as the construction of dams, roads, mines, power plants, and new cities have been major factors in the internal displacement of individuals. Controversies have circled around the construction of dams in India and have sparked displacement related conflicts, especially amongst indigenous people.⁵³ The development projects have been made possible by massive acquisition of land, which has been detrimental to the communities living in these areas.⁵⁴ Considering the vast amount of developmental projects which have taken place to speed up economic growth in India, the results are mirrored in internal displacement, forcing 21.3 million individuals to relocate to other areas in India within the past six decades.⁵⁵

*Textbox.*⁵⁶

The development projects deprive the indigenous communities of their livelihoods, habitats, and assets. They disrupt their social life and strip them away from an ecosystem which they rely on for survival, thereby forcing them to relocate to other areas.⁵⁷ The Adivasis, who consist on average of 104.3 million people, and collectively refer to the indigenous peoples of India, are a prime example of individuals and communities affected by developmental projects.⁵⁸ Since the 1970s, the Adivasis have been systematically affected by the construction of heavy industrial plants in the vicinity of sources of raw materials, leading to multiple internal displacements.⁵⁹ Furthermore the state has shown lack of interest to support the indigenous peoples with land ownership and re-distribution rights and over the last century the Adivasis have been denied their land ownership rights leading to gradual displacement from their customary lands and fighting to retain their economic and social identities.⁶⁰ The compensation provided to the Adivasi people as a consequence of displacement is extremely small as well as the number of Adivasis receiving compensation is regarded as negligible.⁶¹

⁵³ Mahendra P Lama, 'Internal displacement in India: causes, protection and dilemmas' (*Forced Migration Review*) <<https://www.fmreview.org/lama/>> accessed 24 June 2024.

⁵⁴ *ibid.*

⁵⁵ *ibid.*

⁵⁶ *ibid.*

⁵⁷ *ibid.*

⁵⁸ 'Adivasis in India' (*Minority Rights Group*)

<<https://minorityrights.org/communities/adivasis-2/#:~:text=Adivasis%20have%20been%20denied%20land,their%20economic%20and%20social%20identity>> accessed 23 July 2024.

⁵⁹ *ibid.*

⁶⁰ *ibid.*

⁶¹ *ibid.*

As shown, India is not taking responsibility for the rehabilitation of the IDPS, which would include aiding in the reconstruction of their livelihoods. According to the government's point of view, the 1894 Land Acquisition Act, which is the basis for the development projects conducted, does not require rehabilitation and instead it only provides for cash compensations for the loss of assets and livelihoods of the individuals affected.⁶² The government has gone as far as aiming to remove the right of appeal of those whose land is acquired for public purposes and development projects. This leaves the IDPs in a vulnerable situation, while simultaneously the government neglects its responsibility to fully assist and protect them. As an example, during the construction of the Pong Dam over 25 years ago, over 21,000 families were internally displaced. To date, the displaced families have not received any form of rehabilitation measures to aid them in rebuilding and constructing their lives.⁶³

4. PROTECTION OF IDPS

The primary responsibility to protect and assist IDPs falls on the country where they reside. Therefore, the international community only holds a complementary role in IDPs' protection.⁶⁴ According to the United Nations Development Programme (UNDP), states should be implementing key development solutions to internal displacement. These include ensuring equal access to rights and essential and basic services, bettering socio-economic integration, restoring security for IDPs, and shifting focus from humanitarian aid response of internal displacement to developmental and solution-based approaches. This shift could lead to longer lasting positive outcomes for the IDPs.⁶⁵ However, in some instances, the states do not hold up their responsibility in providing protection and assistance to the IDPs, making assistance from outside the state or from non-state actors, such as NGOs, vital. The following section will outline various actors involved in monitoring, assisting, and protecting the rights and status of IDPs across different levels and avenues.

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- **The UN Refugee Agency (UNHCR)** works towards the protection and assistance of individuals who have been affected by forced displacement. In 2019, UNHCR released an updated version of its Policy on UNHCR's Engagement in Situations of Internal Displacement in combination with a Guidance Package, which both ensure UNHCR's commitment to crucial and predictable engagement in situations of internal displacement worldwide.⁶⁶ The UNHCR works towards a strong operational delivery of aid, being prepared for emergency situations, coordination of leadership and coming up with solutions for IDPs.⁶⁷ Furthermore, the UNHCR supports states and

⁶² Mahendra P Lama (n 53).

⁶³ *ibid.*

⁶⁴ 'About internally displaced persons' (n 13).

⁶⁵ 'Humanitarian aid alone cannot overcome record levels of internal displacement' (*UNDP*, 29 November 2022) <<https://www.undp.org/press-releases/humanitarian-aid-alone-cannot-overcome-record-levels-internal-displacement>> accessed 20 June 2024.

⁶⁶ 'Internal Displacement' (*The UN Refugee Agency*) <<https://reporting.unhcr.org/spotlight/internal-displacement>> accessed 20 June 2024.

⁶⁷ *ibid.*

works towards strengthening partnerships with local authorities in delivering shelters and other essential relief items, financial aid, and protection for the displaced population. The organisation also complements efforts of the international community and local governments to better the lives of the IDPs.⁶⁸

- **The Special Rapporteur on the rights of internally displaced persons** is an independent human rights expert, appointed by the Human Rights Council. Its mandate includes addressing the complex problems of internal displacement and issues faced by IDPs regarding their human rights.⁶⁹ The Special Rapporteur works to strengthen the international response to internal displacements caused by various factors, such as armed conflict and disasters. They also aim to improve the coordinated international advocacy for the protection of and respect for the IDPs' human rights, conducting inclusive discussions with various pertinent actors, such as governments and NGOs.⁷⁰
- **Humanitarian aid organisations** assist IDPs when asked for their contribution, which includes providing shelter, food, water, and medical care.⁷¹ The International Committee of the Red Cross (ICRC) is an example of a prominent humanitarian organisation which takes a flexible and broad approach to aiding IDPs. They protect their rights and provide assistance by promoting the self-reliance of vulnerable communities to prevent displacement or the capability of host communities to tend to the needs of IDPs.⁷² In addition, it provides emergency aid within IDP camps and coordinates with other organisations to ensure an effective and optimised response to a crisis of internal displacement.⁷³
- **The Internal Displacement Monitoring Centre** holds the leading sources of data and analysis on internal displacement worldwide. Their mission includes showcasing high-quality and reliable data, analysis, and expertise on the issue of internal displacement. This information informs policy and operational decisions nationally, regionally, and internationally, which can be used to reduce the risk of future displacement while working towards bettering the lives of IDPs.⁷⁴ The data consists of verified estimates of the number of people in a situation of internal displacement and research on the causes, patterns, and impacts of internal displacement. Based on this data, they provide tailor-made advice to the policymakers.⁷⁵

⁶⁸ 'UNHCR's Initiative on Internal Displacement 2021-2021' (*The Un Refugee Agency*).

⁶⁹ 'Special Rapporteur on the human rights of internally displaced persons' (*UN Human Rights Office of the High Commissioner*) <<https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons>> accessed 20 June 2024.

⁷⁰ *ibid.*

⁷¹ 'Internal Displacement' (*UN OCHA*) <<https://www.unocha.org/internal-displacement>> accessed 20 June 2024.

⁷² Jakob Kellneberg, 'The ICRC's response to internal displacement: strengths, challenges and constraints' (2009) 91 *International Review of the Red Cross* 475.

⁷³ *ibid.*

⁷⁴ 'About us' (*iDMC*) <<https://www.internal-displacement.org/about-us/>> accessed 20 June 2024.

⁷⁵ *ibid.*

CONCLUSION

01

IDPs, regulations, and their rights

IDPs are persons who have been forced to leave their homes and relocate internally due to reasons of armed conflict, natural disasters, climate change, or generalised violence, among others. In the absence of internationally binding obligations for the protection of IDPs, they rely on soft law instruments such as the Guiding Principles on Internal Displacement, which provide essential guidance but lack binding legal force. Despite this, IDPs can invoke protections and rights set under various branches of public international law, such as International Human Rights Law, International Humanitarian Law, and International Criminal Law.

02

Impacts of Internal Displacement

The impacts of internal displacement can be wide-ranging, both on the IDPs, the host communities, and nations as a whole. From the point of view of individuals, the impacts of internal displacement connect to issues of health, livelihoods, housing, security, and social life, and are closely intertwined. Children suffer from interruptions to their education, issues related to mental health, and development. Further, nations and host communities can face grave economic losses due to internal displacement and the environment can be negatively impacted as well, creating additional management issues for nations.

03

Case studies and practical examples

Myanmar: Armed Conflict - Myanmar's internal displacement crisis reflects a deeply entrenched pattern of systemic challenges exacerbated by political instability, armed conflicts, and inadequate legal protections. The plight of IDPs, particularly Rohingya and ethnic minorities in the Kachin and Shan states, illustrates the severe humanitarian toll, characterised by restricted access to essential services and persistent barriers to humanitarian aid. While international efforts aim to mitigate these crises, the complex political landscape and ongoing hostilities underscore the formidable obstacles in achieving meaningful change and safeguarding the rights and welfare of Myanmar's displaced populations.

Nepal: Natural Disasters and Climate Change - The heavy monsoon

rains in Nepal often lead to natural disasters such as major flooding and landslides, which are likely to worsen due to climate change. This forces individuals to leave their homes behind and relocate to new areas. Additionally, the geographical location of Nepal subjects the country to a high risk of earthquakes, which have been a major cause of internal displacement. In addition, the government's plans to curb climate change by construction of hydropower plants can have a negative effect on the environment, especially when improperly planned, which can also create a situation of internal displacement.

India: Development Projects - In order to create rapid economic growth, India has undertaken several developmental projects, such as the building of dams. These projects are highly controversial amongst indigenous communities because they are usually planned on their lands. As a result, they are stripped of their assets, farmlands, livelihoods, and way of life, which forces them to a situation of internal displacement. The government of India has failed in its obligation to provide assistance to affected families, thereby leaving them vulnerable to further risk of harm.

04

Actors present in the protection of IDPs

The state where IDPs reside is primarily responsible for their protection and assistance. However, at times, due to unwillingness or inability, states fail to provide the essential protections and aid to IDPs. Therefore, the role of the international community is crucial to improve the well-being of IDPs. Amongst others, these actors include the UN Refugee Agency, The Special Rapporteur on the human rights of internally displaced persons, humanitarian aid organisations, such as the ICRC and the Internal Displacement Monitoring Centre.

LEGISLATION

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Convention on the Rights of the Child (adopted 20 November 1989, entered into force 2 September 1990) 1577 UNTS 3 (UNCRC).

Convention relating to the Status of Refugees (adopted 28 July 1951, entered into force 22 April 1954) 189 UNTS 137.

Elimination of All Forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13 (CEDAW).

Geneva Convention Relative to the Protection of Civilian Persons in Time of War (adopted 12 August 1949, entered into force 21 October 1950) (Geneva Convention IV).

International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966, entered into force 3 January 1967) 993 UNTS 3 (ICESCR).

International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 993 UNTS 171 (ICCPR).

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Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (adopted 8 June 1977, entered into force 7 December 1978) (Protocol II).

Protocol relating to the Status of Refugees (adopted 31 January 1967, entered into force 4 October 1967) 606 UNTS 267.

Rome Statute of the International Criminal Court (adopted 17 July 1998, entered into force 1 July 2002) 2187 UNTS 3.

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