

# NEPAL NATIONAL LAW AND POLICY REPORT

**CONSULTATION DRAFT 2020**

---

**Displacement in the Context of Disasters and Climate Change**

**RAOUL  
WALLENBERG  
INSTITUTE**



This report was prepared by Matthew Scott (RWI) and Bala Raju Nikku  
(Thompson Rivers University)

2020

Funded by



# TABLE OF CONTENTS

<b>1</b>	<b>INTRODUCTION</b>	<b>1</b>
	1.1. A human rights-based approach	1
<b>2</b>	<b>Displacement in Numbers</b>	<b>3</b>
	2.1. Number of disasters and people affected in the last ten years (2009–2018)	3
<b>3</b>	<b>Recommendations from Human Rights Monitoring Bodies</b>	<b>6</b>
<b>4</b>	<b>Legal and Policy Framework</b>	<b>11</b>

# 1 INTRODUCTION

As reflected in the *Sendai Framework for Disaster Risk Reduction* (SFDRR)<sup>1</sup> and the *Paris Agreement*,<sup>2</sup> and recent statements and declarations at the Global Platform on Disaster Risk Reduction 2019 (GPDRR)<sup>3</sup> and the Asia Ministerial Conference on Disaster Risk Reduction (AMCDRR),<sup>4</sup> displacement in the context of disasters and climate change is increasingly being seen by actors concerned with disaster risk management at international, regional and national levels as a phenomenon requiring concerted attention. The series of country reports of which this document is a part address the policy objective of further integrating displacement considerations into wider disaster risk management and climate change adaptation measures at the sub-national level.<sup>5</sup> The reports present the results of a mapping exercise in which national law and policy was reviewed in order to identify existing references to different aspects of displacement, including prevention of and preparedness for displacement, protection during evacuation and throughout displacement, and facilitation of durable solutions. Setting out the extent to which sub-national law and policy presently addresses these different aspects of displacement provides a helpful starting point for future engagement with relevant actors on ways of further integrating displacement considerations.

Only documents that are expressly related to disasters, climate change and displacement are considered in this report. Due to the cross-cutting, whole-of-society impact of many disasters, a wide range of other legal and policy frameworks may well have relevance for specific kinds of engagements relating to disaster displacement or disaster risk management and climate change adaptation more generally. However, in order to retain the clear focus on addressing the extent to which displacement is already integrated into sub-national law and policy, a restrictive approach was taken in the review.

## 1.1. A human rights-based approach

In line with Paragraph 19(c) of the SFDRR,<sup>6</sup> Paragraph 28 of the *Co-Chairs' Summary* of the GPDRR, and Paragraph 11 of the *Ulaanbaatar Declaration* at the AMCDRR, the reports embrace a human rights-based approach to disaster displacement. In brief, this approach sees states as having the primary responsibility for protecting persons from harm associated with displacement in the context of disasters and climate change. It recognises the Universal Declaration on Human Rights, Guiding Principles on Internal Displacement 1998 (Guiding Principles on Internal Displacement), as well as the wider body of international human rights law underpinning those Principles, as foundational. Having a legal and policy framework in

1 *Sendai Framework for Disaster Risk Reduction* (SFDRR), see for example paras. 28(d), 30(l), 33(h, j, m).

2 *Paris Agreement*, see Article 8, which references the Warsaw International Mechanism, under which a Taskforce on Displacement was created, <[unfccc.int/wim-excom/sub-groups/TFD](http://unfccc.int/wim-excom/sub-groups/TFD)>, visited on 19 October 2019

3 *Global Platform on Disaster Risk Reduction 2019, Co-Chairs' Summary* (GPDRR), see paras. 6, 12 and 28, <[www.preventionweb.net/files/58809\\_chairsummary.pdf](http://www.preventionweb.net/files/58809_chairsummary.pdf)>, visited on 19 October 2019

4 Para. 1 of the *Ulaanbaatar Declaration* at the Asian Ministerial Conference on Disaster Risk Reduction 2018 (AMCDRR) expresses "deep concern at the continuing impact of disasters in the region, resulting in recurrent loss of human lives and livelihoods, displacement of people, and environmental, economic, social and material damages", <[www.preventionweb.net/files/56219\\_ulaanbaatardeclarationfinal.pdf](http://www.preventionweb.net/files/56219_ulaanbaatardeclarationfinal.pdf)>, visited on 19 October 2019

5 GPDRR, *supra* note 3, para. 28: "Governments and the international community must do more to reduce the risk of disaster displacement before disasters strike. Disaster risk reduction strategies and policies should address the drivers and consequences of disaster displacement and contribute to durable solutions."

6 SFDRR, *supra* note 1, para. 19(c) reads: "[m]anaging the risk of disasters is aimed at protecting persons and their property, health, livelihoods and productive assets, as well as cultural and environmental assets, while promoting and protecting all human rights, including the right to development".

place that incorporates core principles and defines roles and responsibilities of responsible actors also contributes to transparency and accountability. Further, a human rights-based approach recognises that disasters do not affect all persons in the same way, and highlights the differential exposure and vulnerability that manifests along intersecting gender, ethnicity, age, disability and other lines. The gendered nature of displacement is emphasised, as is the need to tackle structural barriers to equality in order to strengthen resilience to disaster risk. It follows that consultation, participation and equal access to information are cornerstones of the approach. The approach can be condensed into four elements, namely:

- governance: transparency and accountability
- procedural: participation, consultation and access to information
- substantive: express focus on fundamental rights
- non-discrimination and equality: focus on the particular situation of traditionally marginalised groups .

More details on the international standards and guidelines that reflect this approach are contained in the Background Brief on Key International Standards and Guidelines Relating to Displacement in the Context of Disasters and Climate Change, which accompanies this series of country policy reports.<sup>7</sup>

The report has four substantive sections. First, a snapshot of the numerical scale of disaster displacement in the country is presented, drawing on data from the Internal Displacement Monitoring Centre (IDMC) and the EM-DAT database. Next, in the interests of connecting the analysis to the relevant wider human rights law context, disaster-specific observations from human rights monitoring bodies and mandate holders under the UN system are highlighted. Then, the domestic law and policy framework is presented and analysed against a set of core principles concerning prevention of and preparedness for displacement, protection during evacuation and throughout displacement, and the facilitation of durable solutions. Finally, reflecting on this material, a concluding section summarises strengths and areas inviting closer engagement by relevant actors.

The intended audience of this report series includes domestic actors with responsibility for disaster risk reduction (DRR) and management (DRRM), climate change adaptation (CCA), and protection of persons in situations of climate- and disaster-related displacement at the national and sub-national level. It is hoped that these actors will find value in a consolidated overview of the domestic legal and policy framework from a human rights-based approach, read alongside the Background Brief on international standards and guidelines, not least in light of the imperative under the SFDRR to address disaster risk through “promoting and protecting all human rights”.

It is also hoped that civil society, UN, and intergovernmental and academic actors at (sub) national, (sub)regional and international levels will find the series of country reports of interest and value. The compendium of which this report is a part provides a depth of insight into how different countries across the region are working to address the pressing challenge of displacement in the context of disasters and climate change. It is hoped that the compendium of reports will provide material that contributes to an enhanced appreciation of the relevance of human rights to addressing disaster displacement, the exchange of good practices, and

7

Available at: <[rwi.lu.se/disaster-displacement/](http://rwi.lu.se/disaster-displacement/)>.

the further integration of displacement into existing disaster risk reduction and management and climate change adaptation initiatives.

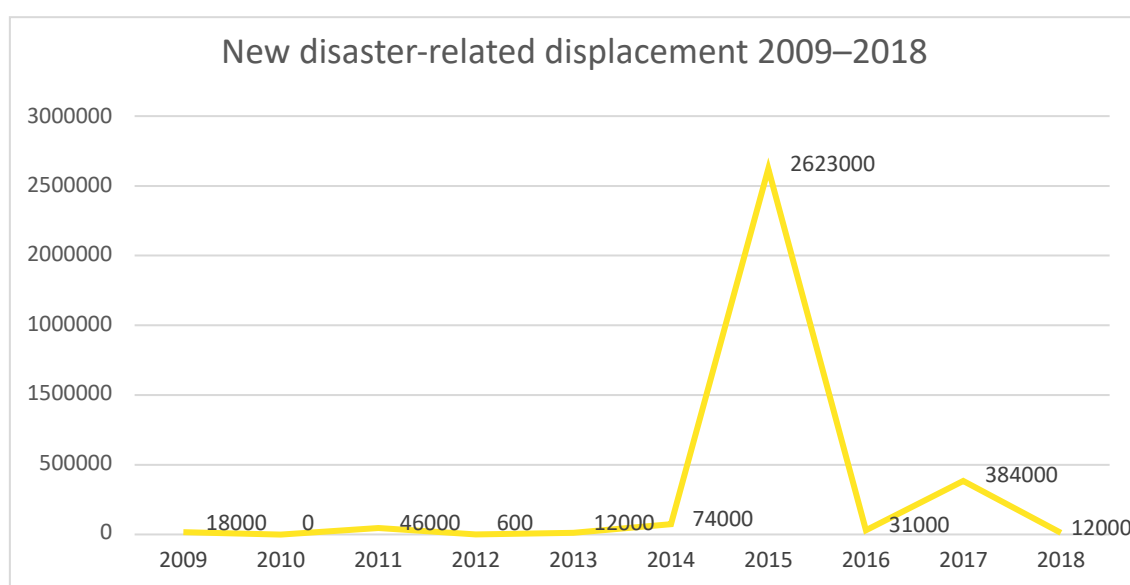
## 2 Displacement in Numbers

### 2.1. Number of disasters and people affected in the last ten years (2009–2018)

Hazard	Number	People affected <sup>8</sup>
Drought	1	303,000
Earthquake	3	5,810,099
Epidemic	3	64,246
Cold wave	5	25,000
Flood	17	2,199,880
Landslide	9	8,012
Storm	1	175
Forest fire	1	0
<b>TOTAL</b>	<b>40</b>	<b>8,082,740</b>
Source: < <a href="http://public.emdat.be">public.emdat.be</a> >.		

From the above table it is evident that flooding is the most prevalent hazard in Nepal, with 17 recorded floods in the ten-year period. Substantial numbers of people are affected by floods. Earthquakes, although far less frequent than floods, have a greater impact, with nearly six million people affected by only three earthquakes during the period.

The annual number of new displacements over the last ten years is reflected below.



Source: <[www.internal-displacement.org/database/displacement-data](http://www.internal-displacement.org/database/displacement-data)>.

<sup>8</sup> 'Affected' means "[p]eople requiring immediate assistance during a period of emergency, i.e. requiring basic survival needs such as food, water, shelter, sanitation and immediate medical assistance", source: *ibid*.





The reason why Médecins du Monde aimed for the village Katike was that it housed the only health post for miles around in a particularly remote area. But, as can be seen in this picture, the medical structure had entirely collapsed, leaving some 15 000 people residing in surrounding villages without any access to medical care.  
© European Union/ECHO/Pierre Prakash



Street in Gaighat. This was taken during the rainy season in Nepal. The flooding is not usually too severe in Gaighat, but it can ruin fields and destroy crops in the nearby villages.  
Photo Credit: Raka Banerjee

Displacement is a feature of disasters in Nepal, although statistics do not reveal substantial numbers of people displaced every year. Rather, the 2015 earthquakes far surpass any other hazard event over the last ten years, displacing 2.6 million people,<sup>9</sup> or nine per cent of the population.<sup>10</sup> Number of people displaced in the last ten years reach 3,438,000.<sup>11</sup>

As with other mega-disasters, the 2015 earthquakes prompted innovations in disaster risk management. The legal and policy framework is set out below.

With substantial displacements triggered by a variety of hazards, how Nepal approaches the protection of persons from displacement, during evacuation, and throughout displacement and the facilitation of durable solutions has implications for the enjoyment of a range of human rights, including the rights to life, shelter, property, food, health, physical security, livelihoods and many more. Section 3 considers what human rights treaty monitoring bodies and mandate holders have recommended in terms of Nepal's approach to disaster risk reduction and management and climate change adaptation generally. Section 4 then considers in closer detail the legal and policy framework currently in force in the country, with a focus on measures that address all phases of the displacement cycle.

### 3 Recommendations from Human Rights Monitoring Bodies

A human rights and gender-equal approach to law, policy and practice on displacement in the context of disasters and climate change may benefit from a grounding in existing recommendations from human rights monitoring bodies. Based on a review of 'Concluding Observations' from the most recent periodic review before treaty monitoring bodies and other mechanisms within the UN system, a series of country-specific recommendations relating to climate change adaptation and disaster risk reduction and management has been consolidated.

Nepal is party<sup>12</sup> to the following international human rights treaties of relevance to displacement in the context of disasters and climate change:

- Convention on the Elimination of Racial Discrimination 1965 (CERD)
- International Covenant on Economic, Social and Cultural Rights 1966 (CESCR)
- International Covenant on Civil and Political Rights 1966 (CCPR)
- Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW)
- Convention on the Rights of the Child 1989 (CRC)
- Convention on the Rights of Persons with Disabilities 2006 (CRPD).

9 Source: IDMC, *Global Report on Internal Displacement 2016*, p. 17, <[www.internal-displacement.org/sites/default/files/inline-files/GRID-2016-Nepal-Spotlight.pdf](http://www.internal-displacement.org/sites/default/files/inline-files/GRID-2016-Nepal-Spotlight.pdf)>, visited on 19 October 2019.

10 Source: <[data.worldbank.org/indicator/sp.pop.totl](http://data.worldbank.org/indicator/sp.pop.totl)>, visited on 19 October 2019

11 Source: Internal Displacement Monitoring Centre (IDMC), <[www.internal-displacement.org/countries/](http://www.internal-displacement.org/countries/)>, visited on 19 October 2019.

12 Source: <[indicators.ohchr.org/](http://indicators.ohchr.org/)>, visited on 29 October 2019.



The CESCR<sup>13</sup> and CCPR<sup>14</sup> committees do not address disasters or climate change, or displacement in those contexts, in their Concluding Observations. The CERD, CRC and CRPD committees consider disasters and climate change somewhat briefly. The CEDAW highlight vulnerabilities of women post-disaster in its Concluding Observations<sup>15</sup>. These reports are addressed in turn below.

The CERD Committee, in its Concluding Observations,<sup>16</sup> notes its concern that “marginalized castes were disproportionately affected by the 2015 earthquake and are still less likely to receive related aid”. The Committee enjoins the government of Nepal to:

“[u]rgently take measures to ensure the non-discriminatory provision of disaster recovery assistance to all those in need, including members of marginalized castes in remote areas”.<sup>17</sup>

No reference is made to displacement in the context of disasters and climate change.

The CRC Committee, in its Concluding Observations,<sup>18</sup> puts the adverse human rights impacts of the 2015 earthquakes clearly in focus, with multiple dimensions of children’s differential exposure and vulnerability to disaster-related harm examined.

The Committee begins by expressing concern about the insufficient “efficacy, efficiency and transparency in the use of the resources that have been made available through international cooperation in response to the earthquake in 2015” and calls for to the Government of Nepal to “ensure that resources are efficiently, effectively and transparently allocated within the framework of international cooperation, prioritizing the reconstruction of the infrastructure destined for child services”.<sup>19</sup> These measures should be informed by a rights-based approach.

The CRC Committee further expresses concern “about the possible impact of the 2015 earthquake on the risk of child marriage for girls<sup>20</sup>, and calls for the Government of Nepal to undertake an assessment of the impact of the 2015 earthquake on girls’ vulnerability to child marriage and apply those findings to guide the implementation of measures to address the increased risk of child marriage”.<sup>21</sup>

The Committee also identifies risk to the enjoyment of human rights by children in the context of adoptions, and calls upon the Government of Nepal to:

“develop and implement strict criteria for the adoption of Nepalese children, ensuring in particular that reasonable time is given for an effective tracing of the parents or close relatives of children separated from them as a result of the 2015 earthquake ...”<sup>22</sup>

13 CESCR, Concluding Observation, E/C.12/NPL/CO/3 (12 December 2014), [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/NPL/CO/3&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=E/C.12/NPL/CO/3&Lang=En), visited 29 October 2019

14 CCPR, Concluding Observation (A/HRC/16/49/Add.3) [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/NPL/CO/2&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/NPL/CO/2&Lang=En), visited 29 October 2019.

15 CEDAW, Concluding Observation, CEDAW/C/NPL/CO/6 (14 November 2020), [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/NPL/CO/6&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/NPL/CO/6&Lang=En), 1 November 2020.

16 CERD, Concluding Observations, CERD/C/NPL/CO/17–23 (29 May 2018), visited on 19 October 2019

17 *Ibid.*, para. 21.

18 CRC, Concluding Observations, CRC/C/NPL/CO/3–5 (7 July 2016), visited on 19 October 2019.

19 *Ibid.* para

20 *Ibid.* para 39.

21 *Ibid.* para 40 (d).

22 *Ibid.* para 45 (a)

Children with disabilities are also identified as having been adversely affected by the earthquake:

“Discrimination against and social stigmatization of children with disabilities, the number of whom has increased following the 2015 earthquake, is prevalent and manifests itself in multiple and intersecting forms, including with regard to girls with disabilities ...”<sup>23</sup>

Similarly, the Committee expresses concern about the lack of psychological support for children affected by the earthquake. A host of rights-based measures are recommended by the Committee to address this situation.

Food security is also an issue that has been impacted by the earthquake:

“The Committee is especially concerned about the districts of Dhading, Dolakha, Gorkha, Nuwakot, Rasuwa and Sindhupalchock, which have had their agricultural capacity further reduced by the earthquake amid pre-existing food shortages.”<sup>24</sup>

The Committee:

“urges the State party to expeditiously take measures to increase its budgetary allocations to its multisectoral nutrition plan and ensure equitable and non-discriminatory distribution of food pursuant to this plan, paying particular attention to children in vulnerable situations, including those of Dalit backgrounds, minorities and those living in rural areas. The Committee also recommends that the severely earthquake-affected districts of Dhading, Dolakha, Gorkha, Nuwakot, Rasuwa and Sindhupalchock be prioritized. The State party is also encouraged to seek international assistance in that regard”.<sup>25</sup>

As this report focuses specifically on the issue of internal displacement, the following observations of the Committee warrant quoting in full:

“62. The Committee welcomes the adoption of the national policy on internally displaced persons (2007) and the efforts of the State party to find lasting solutions for children displaced by the 2015 earthquake. However, it is deeply concerned about the impact of the earthquake on children’s rights and about the high number of displaced children living in IDP camps or informal settlements without adequate access to food, safe drinking water, sanitation, health care and education.

“63. The Committee recommends that the State party:

“(a) Expeditiously strengthen its efforts to provide adequate housing for internally displaced children and their families living in internally displaced person camps or informal settlements and ensure that they have access to sufficient food, clean drinking water, sanitation, health care and education;

---

23 *Ibid.* para 46 (b)

24 *Ibid.* para 55.

25 *Ibid.* para 56.

“(b) Take immediate measures to prevent all forms of violence against displaced children, including by ensuring that women and girls have access to separate lockable latrines and safe houses, as well as by increasing police controls and providing functioning illumination in internally displaced person camps and informal settlements”.<sup>26</sup>

Similarly, the Committee expresses concern about

“(a) Reports of discrimination against children and indigenous people, particularly with regard to access to water during rescue and relief efforts after the 2015 earthquake;

“(b) Denial of indigenous peoples’ free, prior and informed consent with regard to resettlement and reconstruction decisions affecting them and their children after the 2015 earthquake.

“65. The Committee recommends that the State party:

“(a) Remove barriers in accessing water supply, paying particular attention to traditionally excluded groups, such as the Madhesi, Dalit and Janajati;

“(b) Consult and cooperate in good faith with the indigenous peoples concerned, including indigenous children, in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them, and provide effective remedies in cases of violation of their rights, also in the context of rehabilitation efforts after the 2015 earthquake”.<sup>27</sup>

Access to “education, health and social services; and insufficient quality and cultural appropriateness of health care accessible to indigenous children and their mothers, including after the 2015 earthquake; and the resulting disproportionately high mortality rate of indigenous and Dalit children in comparison with other children in the State party” are also highlighted by the Committee, together with reports of the 2015 earthquake “exacerbating the vulnerability of orphans, children of indigenous groups, religious minorities, the Dalit community and migrant workers to human trafficking”.<sup>28</sup>

In addressing issues relating to rights to food, shelter, health, education, family unity and security in the context of child marriage, adoption and internal displacement, and highlighting the differential exposure and vulnerability of children in general, and children with disabilities, children from indigenous or minority ethnic communities, and girl children in particular, the Committee on the Rights of the Child, in its Concluding Observations, has provided a clear example of how a rights-based approach has relevance for the protection of people in the context of disasters.

---

26 *Ibid.* para 63.

27 *Ibid.* para 65.

28 *Ibid.* para 66.

The CRPD Committee, in its Concluding Observations,<sup>29</sup> also addresses the human rights implications of the 2015 earthquake:

“The Committee is concerned about the lack of protective measures and support specifically aimed at the vulnerable groups of persons with disabilities who were disproportionately affected by the 2015 earthquake, including women, persons with leprosy, children and indigenous peoples”.<sup>30</sup>

It recommends that the Government of Nepal:

“[a]dopt an effective mechanism, in accordance with the Sendai Framework on Disaster Risk Reduction 2015–2030, in order to have an accessible communication strategy (including hotlines, a text message warning application and general manuals in sign language and Braille and a comprehensive emergency strategy and protocols for situations of disaster and risk (CRPD) ... Provide for the safe evacuation of persons with disabilities, in consultation with them through their representative organizations ... Ensure that post-disaster recovery and rehabilitation efforts follow a human rights-based approach in order to protect all persons with disabilities effectively”.<sup>31</sup>

CEDAW Committee is concerned on,

“the increasing rates of violence against women, in particular against indigenous women and those who remain in temporary shelters following the earthquake in 2015”<sup>32</sup>

and recommends the state party to,

“(a) Develop targeted awareness-raising programmes for communities that are particularly affected by gender-based violence against women, including indigenous communities and communities living in temporary shelters, provide them with special opportunities for access to the gender-based violence elimination fund and promote the participation of indigenous women in the police service;

(b) Adopt the national strategy and action plan on gender empowerment and ending gender-based violence before the end of 2018, as indicated during the dialogue, and allocate adequate resources for its implementation, including for the gender-based violence elimination fund;

(c) Amend provisions of the Criminal Code so that sexual violence, including rape and forced abortion, is recognized as a form of torture and bring the definition of rape into line with the Rome Statute of the International Criminal Court, in line with commitments made in the context of the universal periodic review (A/HRC/31/9, paras. 121.8–9 and 122.13)”<sup>33</sup>

---

29 CRPD, Concluding Observations, CRPD/C/NPL/CO/1 (16 April 2018), visited on 29 October 2019.

30 *Ibid.* para 19.

31 *Ibid.* para 20.

32 CEDAW, Concluding Observation, CEDAW/C/NPL/CO/6 (14 November 2020), para 20.

33 *Ibid.* para 21.

The Committee express,

“that the State party’s economic development and poverty indicators illustrate persistent inequalities in terms of poor outcomes for indigenous, Dalit, Madhesi and Tharu women, women of “oppressed classes”, widows in the Hindu community and rural women and that the earthquake in 2015 exacerbated food insecurity and the lack of access to natural resources, housing, safe water and credit facilities for women belonging to those groups.”<sup>34</sup>

The Committee recommends that the State party,

“Adopt temporary special measures with clear timelines, in line with the constitutional provisions on “special opportunities”, to enhance access for women facing intersecting and multiple forms of discrimination, including indigenous, Dalit women, rural women, women with disabilities and widows in the Hindu community, as well as women affected by conflict and natural disasters, to health services, education, safe water and sanitation services, food, fertile land, natural resources housing, credit and income-generating opportunities, including through the presidential programme to uplift women.”<sup>35</sup>

Clearly, a human rights-based approach to displacement in the context of disasters and climate change in Nepal should take into account relevant observations from treaty monitoring bodies. These observations are summarised as:

- In the context of the 2015 earthquakes, take steps – to the maximum of available resources, and in accordance with a human rights-based approach – to address the particular situation of indigenous and minority communities, persons with disabilities, women and children, giving regard to how these different elements of identity intersect.
- Adopt measures that prevent and eliminate gender-based violence.
- Adopt measures to enhance access for women, facing intersecting and multiple forms of discrimination, including women affected by conflict and disasters.
- Particular rights that are adversely affected in the context of the disaster include rights to food, water, sanitation, health, shelter, social security, security of the person, family unity, access to education, and the principle of free, prior and informed consent.

Some of these recommendations appear to find expression in the domestic legal and policy documents addressed below.

---

34 *Ibid.* para 40

35 *Ibid.* para 41.c.



## 4 Legal and Policy Framework

The 2015 Constitution of Nepal expressly recognises human rights and gender equality as ‘directive principles’, with the protection and promotion of human rights identified as being among the core ‘obligations of the state’. Hence, promotion and protection of human rights is a core principle governing Nepal. A National Human Rights Commission is established.

Article 51 of the Constitution declares that

“The State shall formulate and pursue a policy of designing a pre-warning system, disaster preparedness, rescue, relief works and rehabilitation in order to minimize the risks of natural disasters ...”

Disaster risk management is identified as a responsibility shared between national, provincial and local authorities,<sup>36</sup> where Schedule 7 establishes disaster preparedness, rescue, relief and rehabilitation activities as the concurrent responsibility of Federal and Provincial governments, and Schedule 8 establishes disaster management as the sole responsibility of local government.

The following legal and policy documents were considered as part of the review:

- National Policy on Internally-Displaced Persons 2007
- Climate Change Policy 2011
- National Adaptation Programme of Action 2011/2019
- National Disaster Response Framework 2013
- Post Disaster Recovery Framework 2016–2020
- *Disaster Risk Reduction and Management Act 2017*
- DRR National Strategic Plan of Action 2018
- National Policy for Disaster Risk Reduction 2018

These documents were systematically reviewed using the RWI’s human rights-based legal and policy analysis tool. The detailed results of this review are found at Annex 1 of this report, which is available at <[rwi.lu.se/disaster-displacement/](http://rwi.lu.se/disaster-displacement/)>. Key insights relating to each of the four elements of the human rights-based approach adopted for this study are set out briefly below.

The *governance* aspect of Nepal’s legal and policy framework was robust, in particular because of the existence of the 2007 National Policy on Internal Displacement. The policy provides detailed guidelines, grounded in the Guiding Principles on Internal Displacement, for addressing displacement, including in the context of disasters. However, the research also found that none of the legal and policy documents relating to disaster risk reduction and climate change adaptation referred to this policy, despite the clear commitment to mainstreaming the policy across different sectors of government.

---

<sup>36</sup> The 2015 Constitution of Nepal, see Schedules 7 and 8.



Nepal Landslide in Rolpa 2011 District Photo Credit: Pakistan today

Other policy documents within the disaster risk reduction and management and climate change adaptation context also addressed different aspects of displacement, with particular guidance in the Post Disaster Recovery Framework on relocation. Although the guidance reflected a number of key elements of a rights-based approach, it did not expressly invoke key international standards and guidelines.

Provisions relating to accountability and transparency are also found in the legal and policy framework, and particularly in relation to the Post Disaster Recovery Framework, which includes a complaints and appeals procedure. As relocation is one of the activities undertaken within the context of the Post Disaster Recovery Framework, this accountability and transparency framework relates directly to displacement in the context of disasters and climate change.

As with the *governance* element, the *procedural* aspect of Nepal's legal and policy framework is significantly addressed by the existence of the National Policy on Internal Displacement. Key features of this element, including the principle of free, prior and informed consent, active and meaningful participation, and access to information are reflected in this Policy. Principles of participation and access to information are also extensively addressed in legal and policy documents relating specifically to disaster risk reduction and management and climate change adaptation.

The *substantive* element is addressed in detail in the legal and policy framework, including with a specific focus on displaced persons in the context of the National Policy on Internal Displacement. However, the legal and policy documents reviewed, apart from this one, do not ground measures to address substantive rights with reference to key international standards and guidelines. Additionally, although focus on substantive rights is strong in the context of emergency relief, less attention is paid to the measures required to reduce displacement risk through tackling root causes. In terms of durable solutions, the Post

Disaster Recovery Framework, the National Strategic Plan of Action and the National Policy on Internal Displacement contain important elements of a rights-based approach. Although the Inter-Agency Standing Committee's Durable Solutions Framework is not expressly invoked as inspiration for finding durable solutions, seven of the eight key criteria for a durable solution identified in that document are reflected in Nepal's legal and policy framework, with the exception of the family reunification provision. Of course, having to consolidate principles from multiple legal and policy documents is less efficient than having these principles more expressly adopted in one document.

Extensive references are made throughout the legal and policy framework to principles reflecting the *non-discrimination and equality* element.

Overall, the legal and policy framework relating to disaster risk reduction and management and climate change adaptation does, to a moderate extent, mainstream specific considerations relating to displacement, particularly in relation to relocation and durable solutions. Some material addresses standards relating to protection of persons during evacuation and throughout displacement, but this material is not extensive or detailed. Very limited provision is made for reducing the risk of being displaced in the first place. Significant scope remains for further integrating the provisions of the 2007 National Policy on Internal Displacement into the legal and policy framework relating to disaster risk reduction and management and climate change adaptation, as well as for integrating references to key international standards and guidelines relating to each phase of displacement.



As soon as the Médecins du Monde team set up the field clinic in Katike – four small tents on the hillside –, people started pouring in: the very first day, close to a 100 patients lined up for consultations, most with trauma cases directly linked to the earthquake.

© European Union/ECHO/Pierre Prakash





**[www.rwi.lu.se](http://www.rwi.lu.se)  
Jakarta Office: KMO Building  
6th Floor, Suite 610  
Jl. Kyai Maya No. 1, Jakarta Selatan  
Indonesia 12120**