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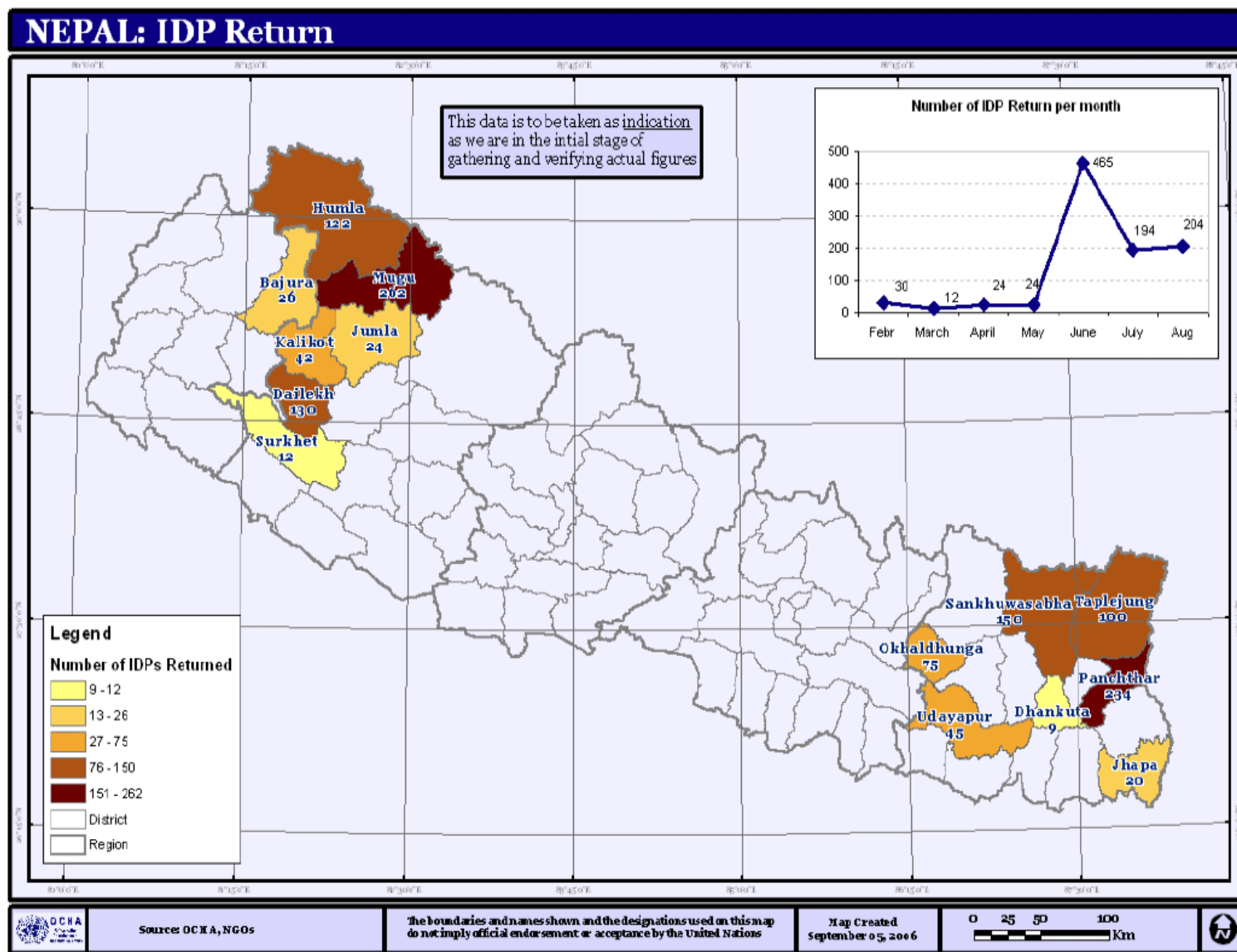
Nepal: IDP return still a trickle despite ceasefire

Nearly six months after nationwide protests forced the king to end 14 months of absolute rule and the Maoists rebels called a ceasefire, only a few thousand people have reportedly returned to their homes, the majority of the internally displaced persons (IDPs) preferring to wait for better security guarantees and more assistance to make the journey home. Although no reliable figures exist, it is estimated that up to 200,000 people have been internally displaced in Nepal by ten years of war, which has claimed more than 13,000 lives and affected all districts of the country. Caught between two evils, abuses by the Maoists and repression by the security forces, most people have also fled the general deterioration of the socio-economic conditions in the countryside and sought refuge in district headquarters or in the main urban centres. The war has also thrown hundreds of thousands of people onto the road to India – a traditional migration route for Nepalese.

A 12-point agreement signed in November 2005 between the CPN-Maoist and the Seven Party Alliance had already encouraged some timid return movements of IDPs to their homes. The ending of the armed conflict and repeated commitments by the rebels to respect the rights of IDPs paved the way for more returns, in particular in the eastern and mid-western regions. However, continued human rights abuses by the Maoists, including killings, abductions and torture, have so far prevented larger-scale return movements. These are also hampered by the absence of government representatives at the village level, these having been displaced themselves, as well as by the lack of a government return plan.

The government issued a national IDP Policy in March 2006, but as with previous IDP plans, the latest failed to comply with international standards as it only recognised as IDPs those displaced by the actions of Maoists. Although initially slow to move from the development into the humanitarian gear, the response of the international community is now taking shape, spearheaded by UNHCR and OHCHR as lead agencies for IDP protection. While peace talks are now ongoing and many IDPs are on the verge of returning, both the government and the Maoists should do more to live up to their commitment to provide assistance to all categories of displaced and ensure that their return can take place in a safe and sustainable manner.

Nepal: IDP return



Source: OCHA, 6 September 2006
 [More maps are available on www.internal-displacement.org/maps]

Background and main causes of displacement

The “People’s War” was launched by the Maoists (CPN-M) in 1996 with the aim of overthrowing the constitutional monarchy and establishing a socialist republic. Despite the reinstatement of a multi-party democracy in 1990 and a new constitution, which followed three decades of *panchayat* (non-party) system of government, Nepal’s political order continued to be dominated by the same elite who demonstrated little inclination to improving the lives and livelihoods of the majority of the rural poor and largely failed to address the systemic inequality of Nepalese society.

The insurgency started in the districts of the mid-western region when Maoists began attacking the police, the main landowners, members of other political parties, teachers and local government officials. Forced to leave their land and property or threatened because of their association with the monarchist regime, many people targeted by the Maoists started moving to district headquarters where many chose to settle. Using guerilla tactics and virtually unchallenged by the government during the first five years, the Maoists gradually gained ground in other districts of the country.

It was not until the deployment of the army and the declaration of a state of emergency in late 2001 that the conflict escalated. By then, displacement had also started to affect other poorer strata of the population who fled fighting between the rebels and the army, forced recruitment into Maoist ranks and also the more general effects of war. In many areas, the conflict led to the breakdown of education, closure of businesses,

weakening of local economies and interruption of public services. Insecurity and blockades further reduced the availability of food and exacerbated a long-standing trend toward rural exodus (SAFHR, March 2005, p. 36). Particularly after November 2001, when security deteriorated markedly in rural areas, many people started fleeing to urban district centres, large cities like Kathmandu, Biratnagar and Nepalgunj, and across the border to India.

In 2001, Prince Gyanendra was crowned king after most of the royal family was killed in a bizarre shooting incident in the palace. A year later he suspended the elected Parliament, installed a prime minister of his choosing and indefinitely postponed elections, effectively assuming full executive powers with the support of the army. Although a seven-month ceasefire provided some respite in 2003, full-scale fighting soon resumed, even gaining in intensity, while the conflict rapidly spread to all 75 districts of the country. A pattern emerged, with the rebels more or less controlling the rural areas and the government’s presence mainly restricted to district headquarters and urban centres.

In a desperate effort to regain some control of the rural areas, the government started encouraging the creation of “village defence committees” in various districts of the country (ICG, 17 February 2004). Often created by local landlords with the tacit support of the army, these militias constituted an inflammatory development in the conflict. In February 2005, an anti-Maoist rampage in Kapilvastu district resulted in the displacement of between 20,000 and 30,000 people to the Indian border (Bell, Tho-

mas, 12 March 2005; BBC, 14 March 2005; Kathmandu Post, 19 March 2005).

On 1 February 2005, the king dismissed the government and declared a state of emergency giving him absolute power and effectively suspending all civil liberties (AI, 15 June 2005, p. 4). In the wake of the coup, fighting and subsequent human rights abuses increased significantly throughout the country. While the king gained less understanding for his coup from the international community than he had hoped for, he also miscalculated the repercussions at the domestic level. By the end of the year, the Maoists and the main political parties had reached a common understanding in the form of a 12-point agreement where they approved a common platform of action for ending the king's absolute rule and restoring sovereignty to the people through the reinstatement of Parliament, the formation of an all-party government and elections to a constituent assembly.

On 24 April, following weeks of nationwide protests, the king ended his direct rule and reinstated parliament (IRIN, 25 April 2006). At the end of May, a new interim government and the Maoist leadership agreed on a 25-point Code of Conduct to end the conflict and pave the way for the election of a constituent assembly, whose task would be to draw up a new Constitution and lay down the foundation of a new political system to govern the country. Both sides met for a second round of formal peace talks in early October and agreed to hold elections for a constituent assembly by June 2007. No agreement was reached on the main bones of contentions, which include the future of the monarchy and the disarmament of the rebels (IRIN, 10 October 2006).

Up to 200,000 displaced by the conflict

In the absence of any comprehensive registration of IDPs and of any systematic monitoring of population movements by national authorities or by international organisations, it is difficult to provide any accurate estimates on the total number of people displaced since the conflict started in 1996, or for that matter of people currently displaced. There have, however, been several studies attempting to capture the extent of displacement due to the conflict. Based on these studies and other available information, the IDMC believes that a range between 100,000 and 200,000 IDPs constitutes the most realistic estimate as of 2006. This figure does not include displacement to India where the majority of the displaced have sought refuge since 1996 and where a 1,500 km-long open border has made the monitoring of movements extremely difficult.

Major obstacles to assessing the scope of forced displacement have been the weakness of the government's IDP definition, which has only included people displaced by Maoist actions, as well as the very selective provision of assistance, which only reached the pockets of the well-connected among the displaced. Fear of ending up on an IDP list which would fall into the hands of the Maoists also convinced many that there was nothing to gain from registering as an IDP. As a consequence, the majority of those displaced by the Maoists remained either unaware of their status or preferred to remain unidentified. They moved quietly to safer destinations, relying on family networks or traditional migration routes to cope with their situa-

tion. While those displaced by Maoist actions had little incentive to register as IDPs, those who fled abuses by the security forces had absolutely none as they did not even qualify for assistance.

Since only the well-connected people displaced by Maoist actions managed to receive some assistance, the IDP concept itself became a negative one used in some areas of the country by the Maoists to refer to a limited group of displaced, seen as closely associated with the state. This not only creates difficulties in assessing the number of IDPs, but also has serious implications in the current return phase, with the Maoists reported to oppose the return of some categories of IDPs who they consider “bad or anti-revolutionary” people (OHCHR, 25 September 2006, p.7). UN missions conducted during 2006 revealed that in many areas of the country, groups of displaced persons that would clearly fall within the international IDP definition, such as youths fleeing forced recruitment or people fleeing extortion and abuses, were not considered as IDPs by the Maoists, the local authorities or by the IDPs themselves (UNHCR et al., 7 July 2006, pp.3-4).

Continued abuses by Maoists prevent large-scale returns

Sporadic return movements have been a constant feature of the displacement situation in Nepal, with most returns taking place spontaneously or with the help of local human rights organisations. More significant return movements started taking place in the wake of the 12-point agreement signed at the end of 2005 between the seven main political parties and the Maoists. The agreement

provided explicitly for the rights of IDPs to go back to their homes and recover their land and property.

However, these movements remained limited in numbers and it was mainly after the end of the hostilities at the end of April 2006 and the signing of the Code of Conduct on 26 May that significant numbers of people, estimated at a few thousands, started returning to their homes. Both the government and the Maoists made clear references in the Code of Conduct about the needs of IDPs and their rights during the return phase and committed to provide assistance (OCHA, 6 September 2006, p.1).

While successful in some areas of the country, such as Mugu and Jumla districts in the mid-western region, where Maoist cadres welcomed back the displaced and handed over their land and houses, or in some districts of the east where the Maoists opened new offices to assist the displaced in going home, the return and restitution process has proven to be more difficult elsewhere (OCHA, 5 October 2006, p.1; OHCHR, OCHA, August 2006, p.1). This is mainly due to continued abuses committed by the Maoists and conditions imposed for the return of the displaced, but also because of the absence of the government in areas of return, leaving IDPs with no protection.

In a report published at the end of September 2006, OHCHR noted that since the ceasefire, human rights abuses by Maoists had continued in many areas of the country. These included killings, torture, abductions and extortion. Also, parallel judiciary structures, or “people’s courts”, run by Maoists in rural areas were seen as lacking independence and

therefore failing to guarantee people's right to security and physical integrity. OHCHR also expressed deep concern about an emerging pattern of selective "approval" of IDP return. In some regions of the east, the Maoists were reported to have established three categories of IDPs, which serve as the basis for the "approval" process. While IDPs belonging to the third group -those who quietly left in anticipation or in fear of the conflict- were welcome to return, those belonging to the second group, and who were accused of some "wrong-doing", had to accept conditions imposed by the Maoists before being allowed to return. These included paying a "donation" or appearing before a "people's court" to explain their displacement and apologise for actions committed before being displaced. IDPs belonging to the first group were seen as responsible for serious "crimes" and not welcome back (UNHCR et al., 7 July 2006, p. 4).

The selective "approval" practice stands in strong contradiction with the Maoists formal commitment to respect the safe, dignified and unconditional return of all IDPs (OHCHR, 25 September 2006, p.7). While OHCHR has declined engaging with Maoists in discussions at the local level, calling on parties to respect the agreements negotiated at the central level, UNHCR and the Norwegian Refugee Council (NRC) have conducted together a pilot project in the east with the aim to "localize" central-level agreements. Discussions between all local parties, including the displaced, led in Sankhuwasaba district to an agreement and a common statement that no categories of IDPs existed and all were equal. While not expected to work everywhere, as it relies on the willingness of all parties to negotiate, this model would be

applied to other districts (NRC, 9 October 2006).

The weakness of the IDP definition contained in the government's IDP policy and the absence of any comprehensive government plan to facilitate returns and support the re-integration of the displaced are also major obstacles to return. Years of conflict have brought the country on the brink of a humanitarian disaster and left people living in rural areas with little opportunities to make a living and very limited access to basic services. With no assistance available to re-establish themselves or to pay for transport, many IDPs cannot afford to return.

The lack of government representatives in rural areas to monitor return and re-integration conditions and guarantee the protection of the displaced is yet another obstacle to safe returns (UNHCR et al., 7 July 2006, p.13). In September, the UN reported that the Maoists continued to resist the re-establishment of government's police posts damaged or displaced during the conflict, thereby seriously limiting the government's reach in these areas (OCHA, 5 October 2006, p.1). An estimated 68 per cent of the Village Development Committee secretaries are currently displaced, mainly to district headquarters where they wait for the Maoists to approve their return (OCHA, UNDP, July 2006).

Difficult living conditions for IDPs in urban areas

While conditions appear not yet conducive to large-scale return movements to rural areas, the displaced continue to face difficult living conditions in urban areas where a large majority of the dis-

placed have sought refuge in the past few years. While those displaced in the initial phase of the conflict, such as landowners, party workers or civil servants, have generally managed to settle in their new place of residence and re-establish ways to earn a livelihood, most of those displaced in recent years and belonging to more disadvantaged groups of society have had to struggle to make ends meet. Often belonging to the farming community and unprepared for making a living in urban areas, most IDPs who find employment engage in low-paid labour-intensive jobs. Placing a strain on the municipalities' capacity to deliver basic services such as water supplies, sanitation and waste management, the arrival of large numbers of IDPs in urban areas has also increased real estate and rental prices, making it very difficult for the poorest to find proper accommodation in cities such as Kathmandu (HimRights, Population Watch & Plan Nepal, 26 October 2005, p.9).

Displaced children often face particularly difficult conditions in urban areas. Although the majority manage to attend school in their new location, others are denied an education because they lack the proper documentation to enrol or because they need to contribute financially to the survival of their family (UNICEF, 31 December 2005, p.20). On the streets of the main cities, the children are exposed to a variety of threats, including child trafficking, sexual exploitation and forms of child labour (Watchlist, January 2005, p.30; OneWorld, 14 July 2003). A study conducted by Terre des Hommes in 2006 revealed an increasing trend of migration of young children from rural areas, fleeing CPN-M forced recruitment or the breakdown of the education system. Sent by their parents to safer condi-

tions in urban areas, many children end up working as child domestics, subject to severe exploitation and exposed to physical or psychological abuse (TDH & SCA, June 2006, pp.16-19).

In 2005, the International Labour Organisation (ILO) estimated that a total of 40,000 children had been displaced since 1996 and predicted that between 10,000 and 15,000 children would be forced from their homes during the year (Xinhua, 12 June 2005; AI, 26 July 2005). But the majority of the children displaced by the conflict appear not to end up in Nepalese cities, but rather in India where economic opportunities are slightly better. In a report published in July 2005, Save the Children showed that over 17,000 children had crossed the border to India in just three months, between July and October 2004, a quarter of them citing the conflict as the main reason for migrating (SCA & CCWB, July 2005, p. 10).

As is often the case in situations of internal displacement, many IDPs in Nepal have lost their documents during the course of their flight. The lack of documentation has been reported as a major obstacle for IDPs' integration in urban areas, where it has prevented many displaced people from accessing basic services or sending their children to school. Since many of the administrative structures no longer exist in their districts of origin, sometimes situated far away from their new place of residence, many displaced people have found it impossible to obtain replacement documents. The authorities were described as having not taken any concrete measures to facilitate the issuance of new documents to replace those left behind or lost (CHR, 7 January 2006, p.16).

In the context of Nepal's upcoming elections to the constituent assembly, there are reasons to believe that the lack of documents will prevent many IDPs from exercising their voting rights. A study conducted by IOM during 2006 concluded that while the IDP policy announced in March 2006 provided for the IDPs to be able to cast absentee ballots in their current place of residence for their original constituency, there were still many issues to resolve before such a process could successfully take place. These included, among others, the updating of the voting register through a nationwide re-registration campaign and also civic education campaigns for the displaced to inform them of their registration and voting rights (IOM, June 2006, p.37).

National and international response

Following the visit in April 2005 of the UN Secretary-General's Representative on the Human Rights of IDPs, Walter Kälin, who described the IDPs in Nepal as "largely overlooked and neglected", the government of Nepal promised to develop a new IDP policy which would address his main concerns (UN, 22 April 2005). The new IDP policy, issued by the government in March 2006, remained however far from comprehensive and despite explicit reference to the UN Guiding Principles on Internal Displacement, it ignored a number of basic principles and recommendations. While efforts were made to formalise the situation of IDPs, the policy remained incomplete and failed to address the main weakness of previous state policies on IDPs, i.e. the politicisation of the IDP definition excluding people displaced by

state forces. Other major weaknesses included the absence of an implementation plan, which should provide clear guidelines to district-level government representatives as well as the lack of financial resources from the state (IOM, June 2006, p.13). In July, the government announced that it had set aside funds for 'conflict victims' returning home as well as for the reconstruction and rehabilitation of infrastructure in district headquarters and areas of return (OCHA, 11 August 2006, p.1). At the district level, government representatives appeared, however, not to be fully aware of the financial assistance available for IDPs returning home (OCHA & UNHCR, August 2006)

While there was initially hope that the formation of a new government and the restoration of the Parliament at the end of April would lead to a revised IDP policy, which would take into account the comments formulated by the United Nations, this hope did not materialise and as of early October 2006 there were no reports of any formal revision being undertaken. The IDP policy is currently on hold while implementation plans are being devised and modifications considered (OCHA, 6 September 2006, p. 2).

Since 2005, the international community has geared up its assistance efforts to provide protection to the displaced population. A Common Humanitarian Action Plan (CHAP) was devised in mid-2005 among international agencies and served as the basis for the Consolidated Appeal Process (CAP) launched in October 2005 and which requested \$66 million. As of the end of September 2006, almost 75 per cent of the total sum had been forthcoming, with the protection sector particularly well-funded; but many projects

aimed at addressing the needs of IDPs and conflict-affected people in the sectors of agriculture, education, economic recovery and water and sanitation had not received any funding.

Within a collaborative approach framework, UNHCR and OHCHR are leading the UN response on IDP protection and co-chair the IDP Protection Sub-Group of the Human Rights and Protection Working Group (UNHCR, 8 June 2006, p.8). Several inter-agency IDP missions have been conducted since the end of 2005 with the aim of enhancing the understanding of IDP issues among humanitarian actors and promoting sustainable solutions for the return of the displaced. The missions as well as an increased field presence during 2006 have also been opportunities to better monitor return conditions and ensure that the Maoists fulfil their commitments to guarantee the return of the displaced in safety and dignity.

The UN agencies are supported by several local or international NGOs, who directly or indirectly address the needs of the displaced population. The local human rights NGO INSEC has assisted with the return of IDPs to their homes in several areas of the country since 2004, sometimes with the support of Action Aid. Caritas, Save the Children US, Plan International and Terre des Hommes are all involved in providing humanitarian assistance to IDPs, with a focus on edu-

cational support to displaced children. The Norwegian Refugee Council (NRC) is currently involved in assisting the protection needs of the displaced through an Information, Counselling and Legal Assistance (ICLA) programme to cover 24 districts. The programme aims at facilitating returns by providing legal assistance to ensure basic civil rights and address obstacles prior or during the return and reintegration phase.

The absence of a clear government return plan and the obvious shortcomings of the current IDP policy are causes of concern in view of the potential large return movement which could take place in the coming months. Clearly, pre-conditions for the safe and dignified return of the displaced are not yet in place. Putting an end to abuses and better enforcing their commitments to the protection of IDPs should be a priority for the Maoists if they are truly willing to encourage more returns. The Maoists should also allow the presence of government representatives in areas of return to facilitate returns and monitor reintegration.

Note: This is an overview of the IDMC's country profile of the situation of internal displacement in Nepal. The full country profile is available online [here](#).

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About the Internal Displacement Monitoring Centre

The Internal Displacement Monitoring Centre, established in 1998 by the Norwegian Refugee Council, is the leading international body monitoring conflict-induced internal displacement worldwide.

Through its work, the Centre contributes to improving national and international capacities to protect and assist the millions of people around the globe who have been displaced within their own country as a result of conflicts or human rights violations.

At the request of the United Nations, the Geneva-based Centre runs an online database providing comprehensive information and analysis on internal displacement in some 50 countries.

Based on its monitoring and data collection activities, the Centre advocates for durable solutions to the plight of the internally displaced in line with international standards.

The Internal Displacement Monitoring Centre also carries out training activities to enhance the capacity of local actors to respond to the needs of internally displaced people. In its work, the Centre cooperates with and provides support to local and national civil society initiatives.

For more information, visit the Internal Displacement Monitoring Centre website and the database at www.internal-displacement.org.

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