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Gaps and Findings in Major Policies of Nepal Greening the Shelter Response

[...]

Executive Summary

Aligning with the agenda of the Global Shelter Cluster's Environmentally Sustainable Shelter Response, "Greening the Shelter," the National Housing and Settlements Resilience Platform (NHSRP) launched a research project to study the incorporation of environmentally friendly shelter solutions in the policies and laws of Nepal and to identify gaps in addressing issues of greening the shelter response. This research was conducted with support from Catholic Relief Services (CRS) and European Civil Protection and Humanitarian Aid Operations (ECHO) through the United Nations High Commissioner for Refugees (UNHCR).

[...]

Policies and acts concerning shelter and environment have established the division of roles at the local, provincial and federal levels. The Land Use Policy (LUP) facilitates the identification of zones related to extraction. The Environment Protection Act (EPA) has provisions that relate to planning and reducing negative effects on the environment. The Solid Waste Management Act has provisions that connect construction waste to safer disposal and establish the duties and implications for the private sector and individuals. The EPA has some minor provisions relating to the control of pollution and the management of hazardous waste. The Local Government Operation Act indicates a municipal role in sanitation and the collection of waste, but indications of the link between these processes and reducing, reusing and recycling are limited.

To learn from the experience of the 2015 Gorkha earthquake and apply the lessons learned to greener response, the team also reviewed the Post-Disaster Needs Assessment (PDNA), Rapid Environmental Assessment (REA) and Post-Disaster Recovery Framework (PDRF). Major findings from this review included the following recommendations:

[...]

The report concludes by recommending the following provisions and way forward that actors including local, provincial and federal government; development agencies; and private organizations working in housing settlements and the reconstruction sector can implement to address the gaps identified through the research.

- Actors should develop policies relating to green recovery and shelter response to address the gaps in a comprehensive manner.
- Actors should develop practical guidelines for the sourcing of sustainable building materials. Following the 2015 earthquake, the Government of Nepal (GoN) identified that promoting the use of safe and green building materials and the reuse of disaster debris is

a key principle for environmentally sound reconstruction, but there are not yet practical guidelines for the sourcing of sustainable building materials.

- Provincial and local-level actors should produce guidelines and procedures related to green reconstruction and recovery, such as an environmental checklist for shelter response that will allow provincial and local governments to more effectively implement the shelter program. Provincial and local-level actors can develop these DRRM-related acts and regulations under the provision of the Local Government Operation Act.

Introduction

Background

Nepal is a country that is especially vulnerable to disasters. It has a long history of earthquakes, and due to its severely dissected topography and significant elevation variation, Nepal is also vulnerable to floods and landslides. Periodic droughts are common in some areas of the nation, and increasingly intense weather events and global warming increase the risk of several hazards, such as avalanches, drought, landslides and floods. Many people in Nepal are highly dependent on locally available natural resources and ecosystem services for their livelihoods and security. Natural resources include firewood, building materials, forest foods, grazing and medicines. For Nepal to become more resilient to future disasters and reconstruct in a way that will not over-exploit natural resources or damage ecosystem services, it is essential to reflect on “build back safer and greener” solutions after disasters, ensuring environmentally responsible practices.

Greening the Shelter Response

“Greening the Shelter Response” (GTR), funded by ECHO through UNHCR, is an initiative by the Global Shelter Cluster to ensure environmentally responsible practices. The initiative promotes the adoption of environmentally sound construction practices that do not place additional pressure on the environment following a disaster. These transformative building practices mitigate effects on ecosystems and consequently safeguard livelihoods and reduce disaster risks. GTR supports the environmental elements of the “do no harm” principle, the Sphere Handbook, the Code of Conduct for Disaster Relief, the Sendai Framework, the Environment Community of Practice initiated by Global Shelter Cluster and the Sustainable Development Goals.

[...]

1. Review of Acts, Policies & Regulations in Nepal

According to the predetermined criteria listed in Table 1, the team examined 10 significant policies, as shown in the below sections.

1.1. Nepal’s Constitution of 2015

Article 31 of Nepal’s constitution states that every citizen has the right to sufficient housing and that no one may be evicted from or encroached upon while residing in housing that they have purchased, unless required by law. Additionally, Article 51 includes provisions requiring

governments to develop and implement plans for disaster preparedness, rescue operations, relief efforts and rehabilitation to reduce the risk of natural disasters.

[...]

The act places a heavy emphasis on disaster management and response but seems to be deficient in terms of eco-friendly reconstruction and rehabilitation. However, the act has provided the provincial and local-level authorities with the ability to develop DRR-related acts and regulations. As a result of this provision, documents connected to green reconstruction and recovery can be produced.

1.3. Disaster Risk Reduction National Strategic Plan of Action (2018–2030)

The strategic action plan for DRR is a national document of GoN. This document outlines GoN's commitment to DRRM to support accomplishing Sustainable Development Goals by building disaster-resilient communities. The strategic plan was developed in line with the Sendai Framework and lists four prioritized pillars within 18 sectoral tasks, along with 271 specific activities showing the 32 indicators. The plan clearly mentions one dedicated sectoral provision of recovery, rehabilitation and reconstruction, along with the 18 prescribed activities that must be done by concerned ministries and agencies.

[...]

1.4. Right of Housing Act

In accordance with Nepal's constitution, the Right of Housing Act was created to offer homeless people suitable and secure housing options. According to the act, the GoN may offer housing assistance to citizens who meet these criteria: (1) Do not own a home or land in the State of Nepal or are unable to secure housing through their own or their family's income generation, resource, or effort; and (2) Have been displaced permanently due to a natural disaster and meet the criteria in clause (1).

[...].

Criteria 4

- The GoN, in consultation with the provincial government and concerned local level, and by a notification in the Nepal Gazette, maintains as an environment protection area any place containing a natural heritage, any aesthetic place that is considered extremely significant from the point of view of environmental protection, or any place of historical or cultural importance.
- In making any road, building, river management or other physical infrastructures, the GoN may, in coordination with the concerned body and by a notification in the Nepal Gazette, specify any specific area as an open or green area with a view to protecting the environment of that area.
- In cases where it appears that adverse effects on public health or the environment of any specific area or place have been caused or are likely to be caused as a result of excessive environmental pollution, soil erosion, excessive exploitation of natural heritages or occurrence of a natural calamity, the GoN may, in consultation with the concerned local-level actors, designate that area or place as an environmentally sensitive area and issue any appropriate order for the balance, management or restoration of the environment.

Criteria 5

- The EPA has provisioned to formulate a national environmental protection and climate change management council, chaired by the Prime Minister, to act on environmental protection and climate change at the national level. The council can set policy for the development of a national system for the control of pollution, management of wastes and protection of national heritage.
- The GoN may specify any place in which any injurious or hazardous substances or wastes are stored or disposed of, or where there is excessive pollution for other reasons, as a polluted area and prevent public movement there.

[...]

Criteria 7

- Geologically, geographically and ecologically safe human settlements shall be encouraged by identifying secure and appropriate fewer sloping places in every provincial or regional and local levels within a Specific Land Use Zone (SLUZ).
- Controlling the trend of unmanaged settlement, the policy encourages a hygienic, beautiful, well-facilitated and safe human settlement through planned infrastructure and a planned and sustainable urbanization of the country, in line with the prescribed Building Guides and Codes and Standards.

Criteria 8

- Does not apply.

The policy very clearly outlines the usage and management of property under normal circumstances. The strategy does not address the usage of land following a disaster, since it puts a huge amount of pressure on natural resources.

1.8. Solid Waste Management Act, 2068 (2011)

The Solid Waste Management Act has been formulated to manage solid waste in a systematic and effective way by reducing at its source, reusing and processing or discharging. The act helps maintain a clean and healthy environment and reduce adverse effects to public and environmental health by amending and consolidating laws relating to the management of solid waste, like most essential services laws.

Green and Environment-Related Findings

Criteria 1

- The local government is responsible for the management, segregation, discharge, collection and transportation of solid waste, as well as reducing, reusing and recycling solid waste.

Criteria 5

- Local bodies may take necessary steps to encourage the reduction, reuse and recycling of solid waste by issuing necessary directives for its effective implementation.
- Local bodies may coordinate with concerned industries in efforts to encourage the reduction of solid waste by reusing industrial product packaging materials.

Only Criteria 1 and 5 are covered under the act. Other criteria-related provisions are not mentioned in the act. The act defines how solid waste should be managed under typical conditions, but makes no mention of waste management following a disaster. In recent disasters, managing solid waste has been a major challenge.

1.9. Province Disaster Management Act, 2075, Bagmati Province

By effectively coordinating and managing all activities on DRRM, the Province Disaster Management Act has been created to protect human lives and properties owned by the public, private and individual citizens; to preserve natural and cultural heritage; and to keep physical infrastructures safe from natural and non-natural disasters in the province.

Green and Environment-Related Findings

The lead ministry for disaster preparedness and management initiatives at the provincial level is the Ministry of Internal Affairs and Law. This statute has given the Provincial Disaster Management Executive Committee the authority to regulate the provision of non-food items (NFI) and shelter following a disaster. The act is not specific regarding GTR checklists.

1.10. Environment Protection Act, 2077, Bagmati province

This act has been formulated to protect the fundamental right of each citizen to live in a clean and healthy environment, to provide people who have suffered any damage resulting from environmental pollution or degradation with compensation from the polluter, to maintain a proper balance between environment and development, to mitigate adverse effects on the environment and biodiversity, and to face the challenges posed by climate change at a provincial level.

Green and Environment-Related Findings

Criteria 2

- For the extraction of stone, sand, aggregate and soil, the act stipulates that a brief environmental study report must be prepared.
- The provincial government may compensate businesses for recycling plastic garbage.

Criteria 4

- In cases where it appears that adverse effects on public health or the environment of any specific area or place have been caused or are likely to be caused as a result of excessive environmental pollution, soil erosion, excessive exploitation of natural heritages or the occurrence of a natural calamity in that area or place, the GoN may, in consultation with the concerned local level, designate that place as an environmentally sensitive area and issue any appropriate order for the balance, management or restoration of the environment.

Criteria 5

- The act states that the local government is fully responsible for safe waste management and sanitation.

Only Criteria 2, 4 and 5 are covered under this act. Other criteria-related provisions are not mentioned.

There are provisions for many environmental issues. After the 2015 earthquake, the act's management of environmental issues was notably deficient. The act does not address adequate management of the environment following a disaster.

[...]3.5. Current Housing Programs of Nepal Government

Safe Citizens Housing Program

This program is executed in line with the Safe Citizen Housing Implementation Procedure to ensure arrangement of appropriate, safe and environment-friendly housing for people living below the poverty line and whose houses have thatched roofs. This requires the government to identify and select beneficiaries based on the recommendation letter of the concerned local-level authority and DDMC. Only families living in a hut or house with a thatched roof, which is vulnerable to fire, rain and storms, will benefit from this scheme. As per the Ministry of Urban Development (MoUD), the grant is used to replace the thatched roof or other vulnerable roofs with galvanized zinc sheets. Priority shall be attached to families with senior citizens, orphans, single women and people with disabilities.

People Housing Program

The “People Housing Program” (PHP), also known as *Janta Awas Karyakram*, was launched in 2009 by the Department of Urban Development and Building Construction (DUDBC) Ministry of Physical Planning and Works of Nepal Government. Article 33 of the Interim Constitution of Nepal, 2063 (2007) guarantees the establishment of the right to housing to all citizens. The PHP states that the state is responsible for guaranteeing the provision of social and economic security, including land for those groups who are socially and economically vulnerable. To fulfill this objective, the GoN implemented PHP starting in 2009 in three districts to construct low-cost modern housing for marginalized families. Government actors build cost-free modern housing for marginalized families in the country under this scheme.

Post-Disaster Housing Reconstruction

The National Disaster Risk Reduction and Management Authority (NDRRMA), under its response plan for disasters occurring in the country, such as earthquakes, floods and landslide, has been working for disaster-affected private housing reconstruction in all provinces. Under this plan, each province has their own preparedness and response plan and a contingency plan incorporating the promotion of the “Build Back Better” approach in recovery, rehabilitation and reconstruction.

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