

Voting Rights for Internally Displaced Persons



A guide by

The Asian Network for Free Elections (ANFREL)

www.anfrel.org

Written by Sanjay Gathia

Illustrations by Nipat Kongpawapakorn

Foreword

Experiences learnt from various countries in Asia reveal that there are many disenfranchised peoples who cannot exercise their rights in an election for a variety of reasons. For example, they are unable to verify their living in a new residence, they have lost their identification and/or they cannot reach polling stations to vote because of war or natural disasters. In addition to often being unable to vote, Internally Displaced Persons (IDPs) are also more likely to become victims of electoral fraud after they have fled their homes for safer areas.

ANFREL observers in Afghanistan and Sri Lanka have seen first hand that IDPs are too often pressured by politicians and their supporters(whether local administrators or private citizens) to vote for specific candidates and/or ruling parties. This support is demanded in exchange for a promise of slightly better living conditions or benefits for the IDP’s survival.

Like the issue of prisoners’ right to vote, ANFREL sees the need to convince all governments and independent electoral bodies of the importance of facilitating voting for these populations and of the need to safeguard their travel to polling stations to exercise their rights freely.

The reasons to campaign on this issue are many but, foundationally, ANFREL promotes equal rights, basic democratic participation through voting, and supports human rights for all, regardless of whether they have been displaced.

By decreasing the number of disenfranchised IDPs, ANFREL hopes to see increases in voter turnout for each election. A free and fair election with more people participating can improve the lives of IDPs by electing representatives accountable to these once marginalized groups. IDPs are not and never should be considered an exception to the concept and requirement of universal suffrage.

We hope that the content of this book will raise the awareness of all authorities and societies across Asia to meet their obligations to IDPs by allowing them to exercise their political rights just as other voters can. Lastly, our thanks to Sanjay Gathia(text) and Nipat Kongpawapakorn (illustrations) for the content herein.

Ryan Whelan
ANFREL Campaign & Advocacy Coordinator

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What is an Internally Displaced Person(IDP)?

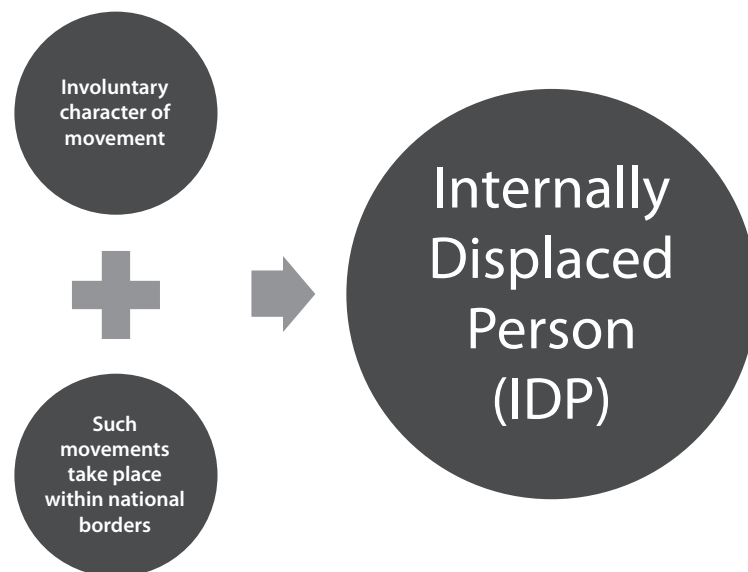
The most commonly used definition is:

Persons who have been forced to flee their homes suddenly or unexpectedly in large numbers, as a result of armed conflict, internal strife, systematic violations of human rights or natural or man-made disasters, and who are within the territory of their own country.

--Analytical Report of the Secretary General on Internally Displaced Persons, E/CN.4/1992/23, 14 February 1992, paragraph 17.

There are two key elements:

1. The person's movement is involuntary or coerced
2. The movement is within national borders



The effect of this forced movement is that the IDPs lose some of their most important protections - such as access to services, community networks, and livelihoods. This can leave them unsafe and vulnerable.

The fact that they remain within their state's borders means they are different than refugees, who have travelled to another state. IDPs are still under the protection of their own state, and they should have the same rights as the rest of the population.



The UN Guiding Principles on Internal Displacement
<http://www.idpguidingprinciples.org/>

Reasons for Displacement

The most common reasons for displacement are:

Conflict-Induced Displacement

Where the state authorities are unable or unwilling to protect people, and they are forced to flee because of:

- armed conflict including civil war
- generalized violence
- persecution on the grounds of nationality, race, religion, political opinion or social group



International Association for the Study of Forced Migration (IASFM)
<http://www.forcedmigration.org/whatisfm.htm>

Development-Induced Displacement

Where people are forced to move because of policies and projects done in the name of development, including:

- large-scale infrastructure projects such as dams, roads, ports, airports
- urban clearance projects
- mining and deforestation
- the introduction of conservation parks / reserves and biosphere projects



Disaster-Induced Displacement

Includes people displaced because of:

- natural disasters, such as floods, volcanoes, landslides, earthquakes
- environmental change, such as deforestation, desertification, land degradation, global warming
- human-made disasters, such as industrial accidents and radioactivity.



There is clearly a lot of overlap between these different types of disaster-induced displacement. For example, floods and landslides can be made much worse by deforestation.

The Right of IDPs to Vote

IDPs have exactly the same rights as any other citizen of their country.

International law is clear about the voting rights of IDPs.



Universal Declaration of Human Rights - Article 21
(applies to all states)

"...everyone has the right to take part in the government of his country, directly or through freely chosen representatives" and through "periodic and genuine elections which shall be by universal suffrage".

International Convention on Civil and Political Rights - Article 25
(applies if the state has ratified it)

"...every citizen shall have the right and the opportunity...to vote and be elected at genuine periodic elections which shall be by universal and equal suffrage"



The Guiding Principles on Internal Displacement

were agreed to by the United Nations in 1998. They are drawn from and reiterate human rights guarantees that already exist in international human rights and humanitarian law that is legally binding on states. The Guiding Principles specify how these rights should apply in situations of displacement.

The principles underline the responsibility of national authorities to provide protection to IDPs within their jurisdiction. They are very clear about the right of IDPs to vote.



Principle 22(1)(d) of the Guiding Principles

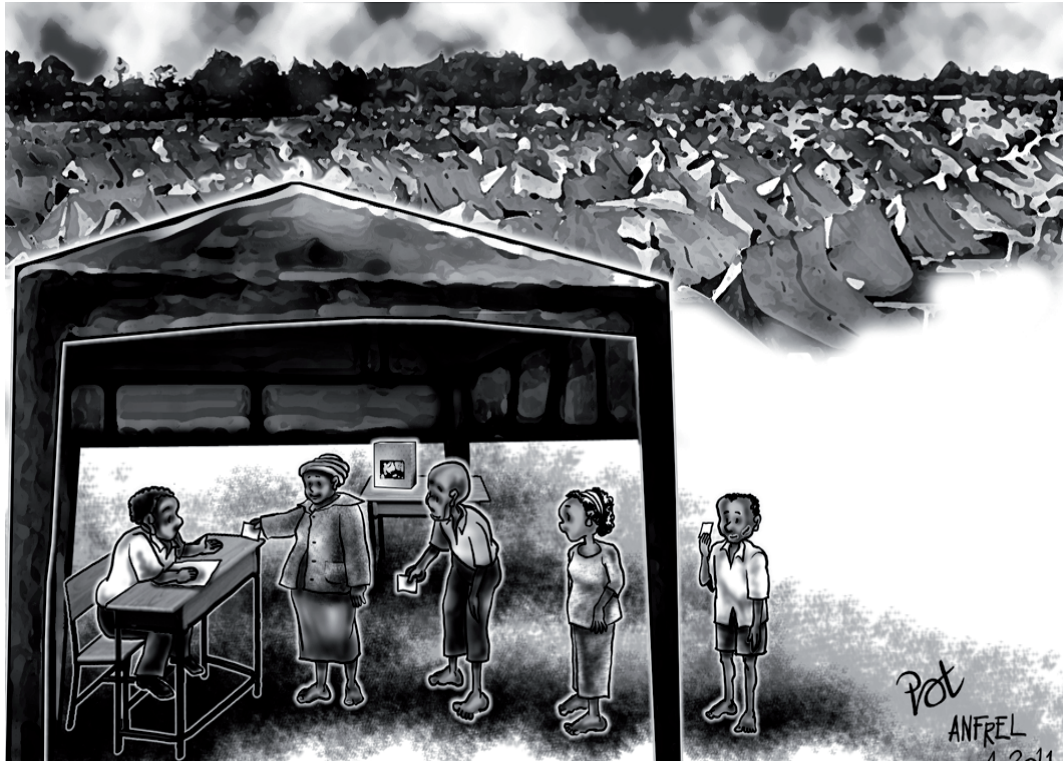
"Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of...[t]he right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right."

Principle 29(1) reaffirms the right of IDPs

"to participate fully and equally in public affairs at all levels" upon return or resettlement

An overarching principle to all the rights and guarantees in the Guiding Principles is:

Principle 1(1), which states that IDPs "shall enjoy in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced."



Other important international legal principles also establish that IDPs, along with other citizens, have a right to political participation.

These include:

The right to freedom of opinion and expression. This includes the right to seek, give and receive information in your language of choice without threat of harassment, coercion or violence.

This implies the freedom to discuss, support and oppose ideas, candidates or political parties without risk of censorship or restraint. This includes communicating through the media.

However it does not mean that everything should be allowed. Propaganda for war and violence, or provoking national, racial or religious hatred should not be tolerated.

--Article 19 UDHR

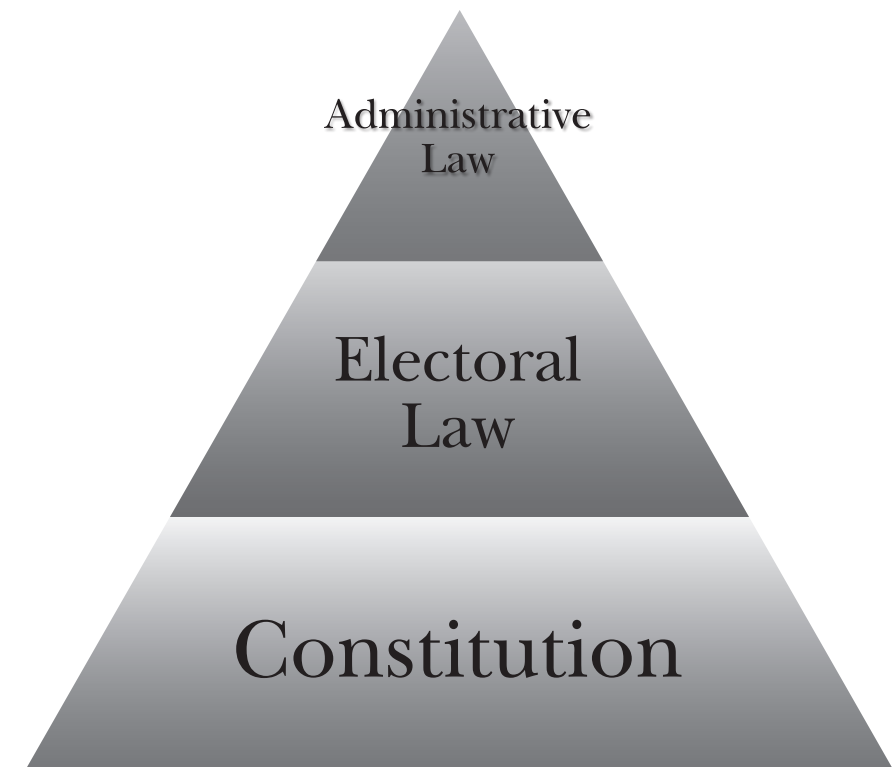
The right to peaceful association and assembly, which includes the right to form and join organisations and associations, including political parties, to debate political and public affairs, and to hold peaceful demonstrations and meetings.

--Article 20 UDHR

The right to freedom of movement, which includes the right to move freely, without fear or threat of harm, including for the purposes of campaigning, voting or assuming public office.

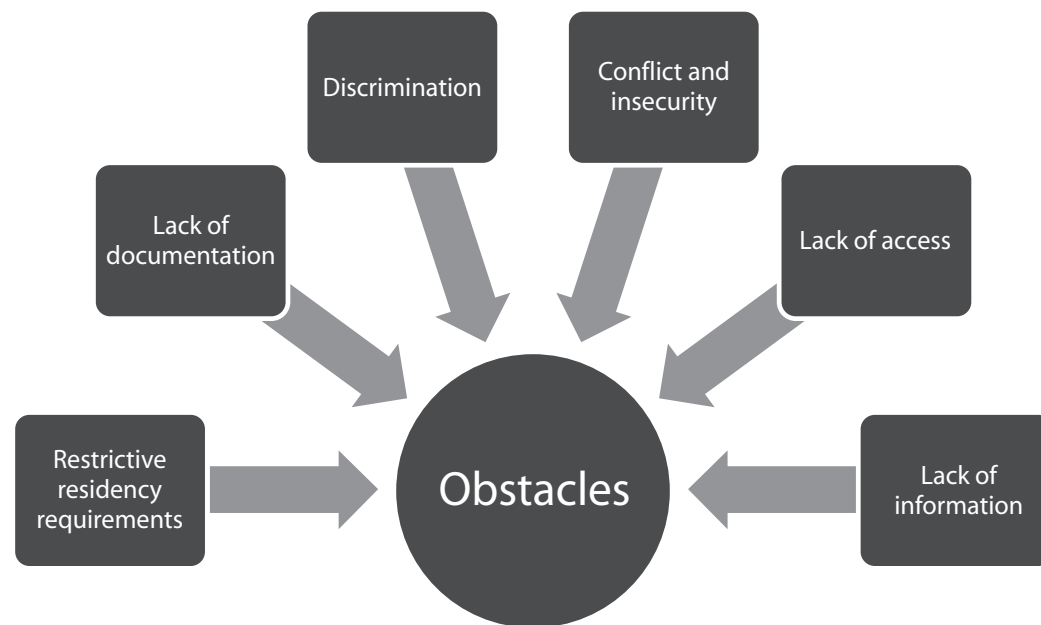
--Article 13 UDHR

International law is important for setting out the rights of IDPs. It is important to also look at the domestic laws that apply within a state. The basic law for each country is the Constitution, which allows the Parliament to make laws, including those that concern elections. More detailed matters are dealt with in regulations and administrative laws. But all laws have to be consistent with the Constitution.



Obstacles that prevent IDPs from voting

Although IDPs should have the same right to vote as other people within the state, in practice there are several obstacles that prevent them from exercising their right to vote. Many of these can come from laws and regulations made by the state.



Obstacle 1 - Restrictive residency requirements

National election regulations generally link the right to vote to a person's place of residence. When an IDP has to move, this makes it difficult for them to register and vote. Particular problems are:

- IDPs may be required to return to their area of origin, which is often still unsafe
- Registering to vote in the new area is often difficult. For example, it can result in loss of humanitarian assistance, or automatic de-registration in the IDP's area of origin. This makes it difficult for the IDP to return in the future.



Obstacle 2 - Lack of Documentation

Identity documents are often needed to register and vote, but they are frequently lost, destroyed or confiscated during displacement. Particular problems are:

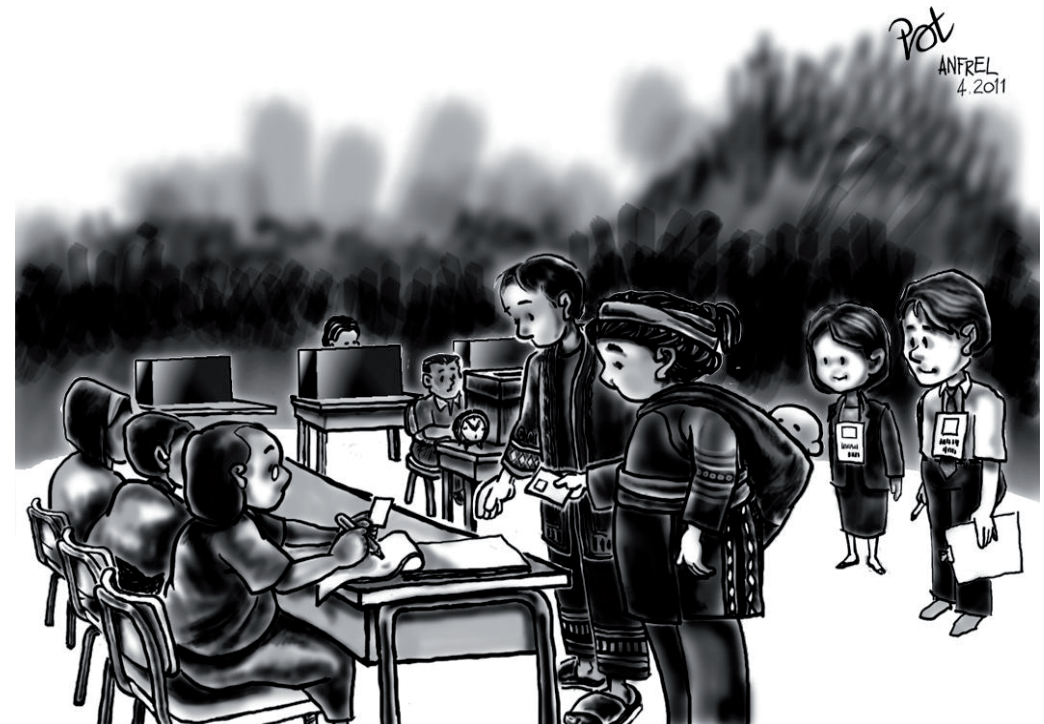
- It can be difficult to get replacement documents, and it may mean IDPs are required to return to their area of origin
- Certain groups and individuals may have lacked documentation prior to displacement, or be denied documentation because of discriminatory laws and practices. For example, women and girls are often unable to get documentation in their own names. They must register as dependants of their husbands or male relatives. This leaves them without the means to prove their identity, especially in case of family separation or death of these relatives.



Obstacle 3 - Discrimination

Discriminatory laws and practices may contribute to displacement, and they can also weaken all aspects of the electoral process. Certain groups of voters, such as displaced voters, can face discriminatory practices, such as:

- Being barred from voting.
- Being given access to fewer polling stations, or more remote polling stations
- Being allowed shorter voting hours in their polling stations
- Having to go through complicated registration procedures
- Not being given electoral information in a language they understand about the political process, parties and voting arrangements.



Obstacle 4 - Conflict and Insecurity

Elections sometimes take place in a climate of ongoing violence or communal tensions. Elections can only be free, fair and legitimate if voters can participate without fear of risk, intimidation or harm.

Voters and candidates can be threatened, harassed and assaulted at all stages of the electoral process:

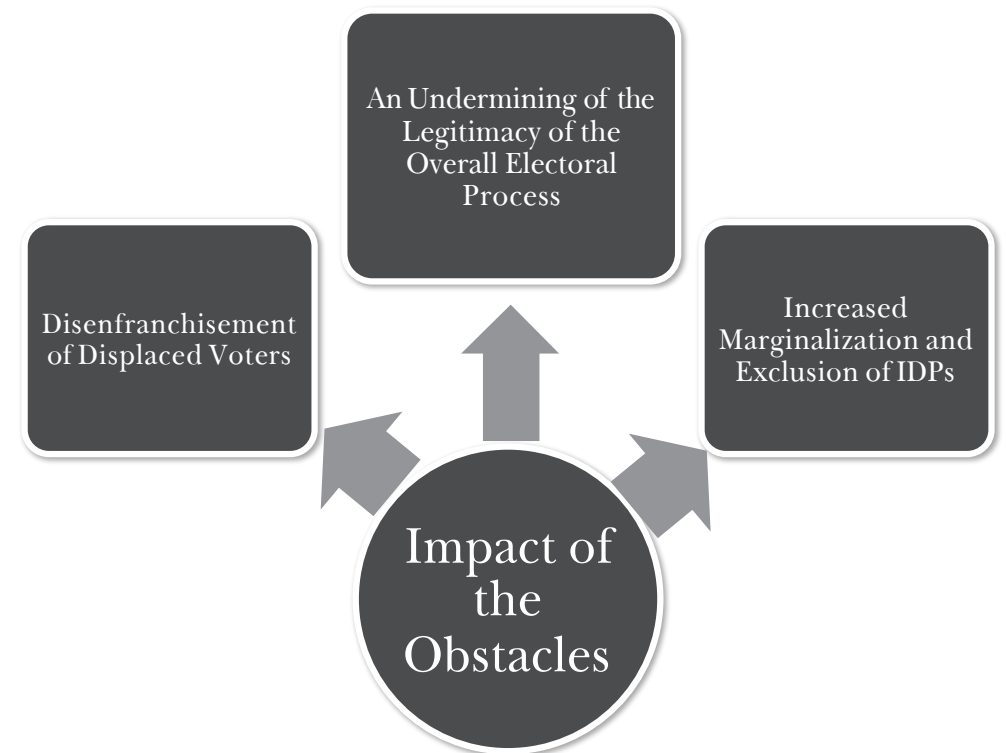


- during voter registration,
- when getting replacement documentation
- during the campaign
- travelling to or at polling stations
- when taking office

Obstacle 5 - Lack of Access

Access to polling stations is often limited in situations of displacement. There are often long distances to travel, and a lack of security and safe, affordable transport. Another problem is insufficient number of polling stations.

Often women, older persons and disabled persons have particular problems with these obstacles.



The Responsibilities of the State

The state needs to take steps to ensure IDPs can fully exercise their right to vote, and to participate in the electoral process. This includes:

- Reforming national laws and procedures to enable IDPs to register and vote in the area of displacement without facing any adverse consequences
- Establishing absentee registration and voting arrangements for IDPs, so that they can participate in elections in their area of origin while they are displaced
- Improving security for travelling to polling stations, and at polling stations, including adequate numbers of trained, male and female police officers
- Conducting targeted public information and outreach campaigns to inform IDPs about how to register and vote
- Ensuring that safe and affordable transport to and from polling stations is available for IDPs and other voters
- Where needed, requesting international assistance to supervise and monitor fair elections

