

# A Cold Wave on Right to Shelter: "While One Man's Beard was Burning, Another was Lighting a Cigarette"

By BIPIN ADHIKARI

Nepal is grappling with conflict. The conflict exists because of the unmet basic needs of hundreds of thousands of its citizens. The incidents of conflict is high among people who suffer from lack of food, clothes or poor quality housing with inadequate provision of water and sanitation.

According to a rough calculation, near-freezing temperatures and cold waves have already killed more than four dozens of people in Nepal during this winter alone. There must be many other incidents in remote areas, which are yet to be reported. Most of the deaths have been in the *Madhesh* areas of Nepal along the southern international border, where most people are poor and cannot afford warm clothes. The population in this region is increasing fast, both

due to internal migration from the hills and the economic refugees coming from India, with no intention to return. Those who died of the chill were mostly elderly people and children. Otherwise a warm or temperate region, the *Madhesh* is going through fast climatic change. Intense cold wave conditions are new to the region. Meanwhile, snowfall and drizzle on the high hills around the country has further led to a drop in the temperature in the countryside disrupting normal life. Reports have also been received of animals dying in the mountainous areas of the country. They all explain the loss of life, human suffering and homelessness. Yet nobody talk about the need of night shelters and distribution of blankets and other essentials to the poor.

There is no data in Nepal on how many homeless people this country has. But one does not need a proof to prove that their number is increasing in the urban slums, squatter settlements, pavements, streets and roadside embankments, cardboard boxes, and so on, which seem to be contemporary forms of distressed housing around the country. These people don't talk about housing as their right. The basic issue for them is a sort of livable shelter. These people are dying because they do not have a shelter against cold wave or freezing temperature. There is dearth of public services such as potable drinking water, sewage disposal, drainage, electricity, lighting, public spaces and emergency services. The people of this country never wanted the state to build housing for the entire population. They never said that housing should be provided free of charge, or the state must necessarily assume all duties to do so. They also never claimed that this housing facility should manifest itself

precisely in the same manner in all circumstances. But they definitely expected that the state endeavor by all appropriate means to make provision of or access to shelter should a person be homeless, inadequately housed or generally incapable of acquiring the entitlements to live.

The right to adequate housing finds explicit recognition within an array of international instruments, including in Article 25(1) of the Universal Declaration of Human Rights. The human right of everyone to adequate housing as a component of the right to an adequate standard of living is enshrined in Article 11(1) of the International Covenant of Economic, Social and Cultural Rights. General Comment No. 4 on the right to adequate housing of the

Committee on Economic, Social and Cultural Rights defines 'habitability' as one necessary element of this human right. According to the General Comment, "housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health and structural hazards. The physical safety of occupants must be guaranteed as well. The right to adequate housing is also recognised internationally in several other instruments that have focused on the need to protect rights of particular groups, such as CEDAW (Committee on the Elimination of Discrimination against Women), CRC (Committee on rights of the child) and CERD (Committee on the Elimination of Racial Discrimination), and there are even a few General Comments specifically on housing as a fundamental human right.

Therefore, not only is it crucial that relevant international law must provide guidance to domestic courts, but that as a signatory to the Covenants and other treaties, Nepal is bound to uphold the principles therein. Moreover, several additional standards recognise the housing rights of certain social groups such as migrant workers, disabled persons, the elderly and indigenous people.

Not only is the right to adequate housing an important component of the right to live with dignity, but also therefore an obvious component of the right to equality. The right to equality is symbiotically linked with our social and economic rights - the one set of rights providing some of the context within which the other set of rights can be understood. ■

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