

**ENFORCED DISAPPEARANCE IN NEPAL AND
THE RESPONSIBILITY TO PROTECT IN THE CONTEXT OF
INTERNATIONAL LAW**



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M.A. (HUMAN RIGHTS)

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YUKIKO NISHIKAWA, Ph.D.,**ABSTRACT**

This study intends to assess the evolving concept of Responsibility to Protect (R2P) in regards to the protection of its people from enforced disappearances. The study also attempts to assess the perception of Nepalese stakeholders vis-à-vis R2P and the level of implementation of international human rights and humanitarian laws in relation to enforced disappearances in Nepal. It further analyses the correlation between Nepal's democratic political regime and the protection of people from enforced disappearances. International and national laws, various reports, interpretations and explanations, books and articles written by prominent scholars were used as tools of secondary sources in this research. An open ended questionnaire was also administered in order to develop an understanding of stakeholders' perceptions concerning R2P.

The evolving concept of "the Responsibility to Protect" suggests that responsibility lies first and foremost on the state, where the government has the primary duties to prevent and protect people from severe human rights violations. However, non-state actors play more and more important roles in R2P and cannot deny responsibilities of their own acts. Democratic governments expected to be more sensitive to the issues of enforced disappearances equally fail to address the problem. The act of enforced disappearances infringes upon the basic norms of rule of law, which is the backbone of democracy: keeping a person within legal recognition and protection. Nevertheless, the number of enforced disappearances kept on rising throughout the ruling periods of democratic governments in Nepal after 1990. However, this research finds that Nepalese stakeholders have a common understanding that the state has an obligation to protect people but no governments act to protect them from being forced to disappear. Moreover, Nepalese laws have no provisions to criminalize enforced disappearances and the act of torture. The study further found that weak legal framework and weak enforcement results in rarity of investigation and therefore, no reparation to the victims of enforced disappearances. Thus, there is still a major problem in implementation of international human rights laws in Nepal. Therefore, this research concludes that the Nepalese governments fail to fulfill their duty to protect their citizens.

With a new political landscape in Nepal and clear written and verbal commitments among political parties to investigate human rights violations and abuses, including enforced disappearances, there is now some hope, but the fact that many people committed crimes with impunity in the past has not been addressed raises serious concerns. If the past crimes are not uncovered and enforced disappearances continue the government will definitely lose its *raison d'être* in terms of its responsibility to protect its citizens.

KEY WORDS: ENFORCED DISAPPEARANCE/RESPONSIBILITY TO PROTECT /
INTERNATIONAL LAW/ GOVERNMENT OF NEPAL/
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