

**A STUDY ON INTERNALLY DISPLACED  
PERSONS OF INDIA  
MAPPING AND  
CITIZENSHIP RIGHTS**

**PARTICIPATING ORGANISATIONS**

ANHAD (KASHMIR) ACTION NORTH EAST TRUST (ANT ASSAM)  
AGRICULTURE AND SOCIAL DEVELOPMENT SOCIETY  
(ASDS) (ANDHRA PRADESH),  
JANAVIKAS (ORISSA) CENTER FOR SUSTAINABLE USE OF NATURAL  
AND SOCIAL RESOURCES (ORISSA), JANVIKAS (GUJARAT)

ANCHORED BY  
**CENTRE FOR SOCIAL JUSTICE**



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**DOCUMENTED BY**

**CENTRE FOR SOCIAL JUSTICE**

C-106 ROYAL CHINMAY APTS,  
OFF JUDGES BUNGLOW ROAD  
BODAKDEV

AHMEDABAD-380054

E-mail: [socjust@gmail.com](mailto:socjust@gmail.com)

Website: [www.centreforsocialjustice.net](http://www.centreforsocialjustice.net)

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COMMISSION GOVERNMENT OF INDIA)

## THE AREA COVERED UNDER THE SURVEY



- States where the survey was conducted

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# Foreword

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Many organizations in India are struggling with situations of internal displacement as it represents the underbelly of the Nation, Internal Displacement due to violent conflict is different from displacement due to large infrastructure projects, land alienation or setting up of industrial zones. The former is largely in the domain of Political and Civil Rights, the latter is in the domain of Socio- Economic Rights. It has left care workers from North East, Orissa, Gujarat , Chhattisgarh, Andhra Pradesh Kashmir etc nonplussed and shocked, listening to stories of displaced men women and children who have suffered extreme violence. Unfortunately both the Central and State Government's response to this has been extremely poor, almost denying the primary responsibility of protecting life and liberty. It is sad that tragedy of this scale are considered State subject, and are now left to the mercy of the same state, which has been unable to support/protect them or provide relief and succor. The affected families are fearful that the same authority who were absent to support them in the hour of need are involved in their rehabilitation, the element of mistrust and the need to get justice has left the victims in seething anger which keeps them away from the State authority.

Several attempts in the past have been made for a policy framework to deal with the situation, the Planning Commission of India and National Advisory Council (NAC) have consistently tried to look at the issue of internally displaced persons, yet several communities are still waiting to be identified as internally displaced persons. It is imperative that India being signatory to the United Nations accepts that this Nation in its growth and turmoil has the urgent necessity to accept, identify and build a policy framework which applies across all states.

The coming together of all Action Aid partners who have been involved in dealing with the situation at the ground level, have consistently worked to ensure that the IDPs get their entitlements and rehabilitations. The socio legal approach of the study gives a proof that there are 17,743 families in these five States who are still homeless. The survey has just taken a 20% of this population, but there are lakhs of other internally displaced person in other states remain unidentified as well whose responsibility does not lie with the civil society alone; the survey is an attempt to juxtapose the UN Guiding Principles on Internally Displaced persons and the ground level situation to identify the gaps in the entitlements received by the IDPs from the Government. The attempt of "Homeless in Homeland" is to make a case to frame a National Policy for the internally displaced persons.



Gagan Sethi  
Chairperson  
Centre for Social Justice  
Ahmedabad

# List of Abbreviations

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ACMA	-	Adivasi Cobra Militants of Assam
AFSPA	-	Armed Forces Special Powers Act
ANHAD	-	Act Now for Harmony and Democracy
ANM	-	Auxiliary Nurse Midwife and Anganwadi Worker
ANT	-	Action North-East Trust
ASDS	-	Agricultural & Social Development Society
ASDS	-	Agricultural and Social Development Society
ASHA	-	Accredited Social Health Activist
AVHS	-	Antarik Vistapit Hakrakshak Samiti
BPL	-	Below Poverty Line
CEDAW	-	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	-	Committee on Economic, Social and Cultural Rights
CSJ	-	Centre for Social Justice
CSNR	-	Center for Sustainable use of Natural and Social Resource
CSR	-	Crisis State Research Centre
CTV Bill	-	Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011
DRC	-	Democratic Republic of the Congo
FGD	-	Focus Group Discussions
ICCPR	-	International Covenant on Civil and Political Rights
ICDS	-	Integrated Child Development Scheme
ICESCR	-	International Covenant on Economic, Social and Cultural Rights IDMC - Internal Displacement Monitoring Cell
IDPs	-	Internally Displaced Persons
JKLF	-	Jammu & Kashmir Liberation Front
LAA	-	Land Acquisition Act, 1894
MGNREGS	-	Mahatma Gandhi National Rural Employment Guarantee Scheme
MoH	-	Ministry of Home Affairs
MUF	-	Muslim United Front
NAC	-	National Advisory Council

NALSA	- National Legal Services Authority
NC	- National Conference
NCM	- National Commission for Minorities
NCPCR	- National Commission for Protection of Child Rights
NDMA	- National Disaster Management Authority
NFSB	- National Food Security Bill, 2013
NHB	- National Health Bill, 2009
NHRC	- National Human Rights Commission
NREGS	- National Rural Employment Guarantee Scheme
NRHM	- National Rural Health Mission
NRRP	- National Rehabilitation and Resettlement Policy
PDS	- Public Distribution System
PHC	- Primary Health Centre
RPDB	- Rights of Persons with Disabilities Bill, 2012
RTE	- Right of Children to Free and Compulsory Education Act, 2009
RTI	- Right to Information
SPO	- Special Police Officers
ST	- Scheduled Tribe
UDHR	- Universal Declaration of the Human Rights
UID	- Unique Identity
ULFA	- United Liberation Front of Assam
UPA	- United Progressive Alliance

# Chapter 1: Introduction

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The concept of internal displacement takes us very close to understanding how vulnerable human species are or forced to be. Unlike refugees who crossover international boundaries, the internally-displaced persons (IDPs) (*herein after referred as IDPs*) are persons who are uprooted within their own "homeland"<sup>1</sup>. The UN Guiding Principles on Internally Displaced Persons describes internally displaced person as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.”<sup>2</sup>

More than 50 countries across the world have a huge population of IDPs. As of today, the Democratic Republic of Congo has perhaps the highest number of IDPs in the world. The UN High Commission for Refugees says, “Since the beginning of 2012, ethnic tensions and inequitable access to land have led to renewed violence in the east and north-east of the Democratic Republic of the Congo (DRC), resulting in the displacement of more than 2.2 million people inside the country.” All these persons have immediately come under the category of IDPs, a term which acquired recognition in the UN vocabulary in 1998 after it was found that the plight of the refugees within a particular country remained largely ignored both by National authorities and international organizations.

In 1992, the appointment of a Representative of the Secretary-General on Internally Displaced Persons, Francis Deng, marked the commencement of a sustained attention to developing solutions to the challenge of internal displacement. Among the many activities pursued by Deng and his successor, Walter Kälin<sup>3</sup>, has been the development of international standards for IDPs — the Guiding Principles on Internal Displacement — and their incorporation into domestic legal and policy frameworks. First introduced into the UN in 1998, the Guiding Principles have become the basis for laws and policies in at least 16 countries.

Indeed, the development of laws and policies on internal displacement is becoming a trend in all regions around the world. From Colombia to Sri Lanka, Uganda to Turkey, National authorities are developing legislations aimed at translating, sometimes, abstract provisions of the Guiding Principles into directives at the National level. This is a welcome development, reflecting the primary responsibility of National authorities for the protection of IDPs.

One of the key characteristics of IDPs is that they do not leave their homes out of choice but out of circumstances that force them to leave their place and shift to other safer areas within the country. The reasons of displacement are several. This can be due to development projects. Under the pretext of construction of

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<sup>1</sup> Here the word homeland refers to the socio-cultural emotional context attached to the place where a citizen resides and attaches a sense of ownership towards it.

<sup>2</sup> UN Guiding Principles on Internally displaced persons.

<sup>3</sup> The Commission on Human Rights, Resolution 2004/55, provided the framework for a new mandate, that of Representative of the Secretary-General on the Human Rights of Internally Displaced Persons (emphasis added). Giving a specific human rights focus to the mandate, it invited the Representative to engage in coordinated international advocacy and action for improving protection and respect for the human rights of persons who have become internally displaced. In September 2004, Walter Kälin, a Swiss jurist, was appointed Representative

better infrastructure, whole villages or towns are “relocated”, leading to internal displacement of people. Then, there are conflict-induced IDPs, who are forced to leave as their security and rights as citizen are jeopardized. There can be different types of conflicts, forcing people to flee. Some of these could be between tribes or between communities, as during communal riots. India has also seen cases of “Hijrat”<sup>4</sup> in the recent past. Then there are State-sponsored conflicts, forcing people to move for safety, with the official machinery remaining indifferent. While it is possible to anticipate development-induced displacement, and magnitude can be measured, conflict-induced displacement is sudden, often bloody, having larger social and cultural implications for a Nation or a region. It goes without saying that the worst affected in any kind of displacement are women and children. In any displacement, the IDPs find themselves at the mercy of the State, which alone “decides” on the type of assistance to be provided.

India, like several other countries, is confronting the issue of Internal Displacement. Conflict-induced displacement is common in States like Kashmir, Andhra Pradesh, Gujarat, Orissa, Chhattisgarh and the North-East. The Internal Displacement Monitoring Cell (IDMC)<sup>5</sup>, of the Norwegian Refugee Council, estimated that, as on December 31, 2012, there were “at least 540,000 people displaced by armed conflict and violence in India”. The following data has been drawn from the IDMC

**The IDMC provides following details of IDPs in India:**

- (1) 250,000 Kashmiri Pandits displaced from the Kashmir Valley since 1990.
- (2) Violence and conflict in north-east India, in which at least 115,000 people have been displaced. The details include: 36,000 Muslims internally displaced in Assam by inter-communal violence in July and August 2012 staying in official camps, with potentially hundreds of thousands remaining in displacement outside of official camps; more than 46,000 Adivasis, Bodos and Muslims displaced by inter-ethnic violence in Western Assam in the 1990s; more than 30,000 Brus displaced from Mizoram State to Tripura State in 1997 and 2009; More than 3,000 lake dwellers forcibly evicted by the authorities from floating islands on Loktak Lake, Manipur in November 2011, probably as part of a counterinsurgency measure;
- (3) Naxalite conflict in Central India, leading to at least 148,000 people. This includes: 40,000 Adivasis living in displacement at the end of 2009, of whom half were staying in camps in Chhattisgarh and half were scattered across Andhra Pradesh; 8,000 Adivasis living in displacement in West Bengal; more than 100,000 people displaced from Chhattisgarh since June 2009; and
- (4) Communal violence in Gujarat and Orissa States, leading to 26,000 people remaining displaced, including: 16,087 people who still remain displaced as a result of the 2002 Hindu-Muslim violence in Gujarat State, all of whom are living in 86 relief colonies in Gujarat State; and at least 10,000 people displaced in 2007 and 2008 by Hindu-Christian violence in Orissa State.

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<sup>4</sup> “Hijrat” Migration

<sup>5</sup> IDMC is a Geneva based organization which has been internationally monitoring the situation of IDPs across the country, it is part of the Norwegian Refugee Council

There are fundamental questions which need to be raised on providing basic human rights to India's around 5.4 lakh IDPs vis-à-vis those living in other parts of the world. The rights of IDPs in India continue to be violated over time without any recourse to a dignified living.

The Constitution of India has provided for Right to Equality (Article 14), Right against any Discrimination on the basis of caste, race, sex, religion, place of birth (Article 15), Right to Reside in any part of the country [Article 19(1)(e)], and the Right to Life and Liberty (Article 21). The scope of Article 21 has been expanded time and again to include the Right to live life with dignity, Right to Shelter, and Right to Food. It also integrates the rights guaranteed under Article 19, under which the citizen of India is guaranteed freedom of speech and expression; to assemble peacefully without arms; to form associations or unions; to move freely throughout the territory of India; to reside and settle in any part of the territory of India; to practice any profession, or to carry on any occupation, trade or business.

The binary of, conflict induced and development induced IDPs has also been further split, into Border related displacement, externally induced displacement, Potentially displaced persons<sup>6</sup>. This nuanced understanding of forms of displacement only helps to understand the deep rootedness of this problem in this country. The IDPs are homeless at 'home'. They cannot cross borders or seek 'outside' help. Rather, they are treated as outsiders, as if they do not belong to the nation. It is in this context a need has arisen for having a specific policy for IDPs, especially for people who are displaced due to conflicts. Despite the National Rehabilitation and Resettlement Policy, 2007 has looked into this aspect in some detail; it does not take into consideration conflict-induced displacement. The Indian State till now has dealt with conflict based displacement as a one off incident deserving ex-gratia and as an aberration, therefore announcing ex-gratia relief which differs from place, time and persons. Providing no entitlement space for legitimizing the Rights as per the UN standards as mentioned in the UN Guiding Principles on Internally Displaced Persons. India has not used the UN Guiding Principles in such circumstances and neither is she a signatory to it. E.g. of it are The Government of Gujarat has gone on record to claim that there are no IDPs in the State, and if they are there they have moved to different places for better livelihood opportunities. Hence, there is lack of clarity on the nodal agency which should look into the conflict-induced IDPs' overall rehabilitation, return, resettlement, and reintegration into society.

Civil society organizations have been intervening to protect the rights of the people displaced during these conflicts. Their interventions have found that vulnerable sections are particularly prone to be marginalized during such displacement. Situation of IDPs is particularly distressed in States whose ruling establishment seeks to support and encourage conflicts. Chhattisgarh and Gujarat are two classic examples where this has happened.

The study presented in this report, is a collective attempt of some of the civil society organization who have been engaged with addressing the tardy efforts of rehabilitating the IDPs in some States. Hence the report tries to bring to fore the and highlight the issue of conflict induced IDPs, this group of people have for a long time have lived a deprived life, the government has provided limited support, but has not acknowledged the existence of these people who have been forcefully evicted from their land. The growing intolerance among people and constant violent attacks is increasing the number of IDPs in the country. The last two decades saw

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<sup>6</sup>The 'Other' in the 'Self': The IDPs in India, Sivaji Pritam Basu

displacement of a significant number of people as a result of identity (the religious and caste identities of individuals have often been the underlying cause of conflict.) based conflict in India. The two decades in addition also have seen a rise of the fascist-capitalist State. The conflict under discussion are displacement of Kashmiri Pandits from Kashmir as a result of rise of militancy (1994); riots in Assam between the Santhals and Bodos (1997-98) and between Bodos and Muslims (1993) over land ownership and access; the recent 2012 Assam riots; Maoist conflict in Chhatisgarh (2006 onwards) pushing the tribals out of their land; communal violence in Kandhamal (2008) and the Gujarat Communal Riots (2002).

The document therefore comes out of a pressing need to visibilize legally the existence of the set of people who are disowned by their own State Government. The study follows a socio-legal approach, it uses and Affidavit as a means to establish a number of the camps which are visible, which is to authenticate their existence but is not an exhaustive list in itself. It approaches a socio-legal framework through the use of a scientific research tool, which was supervised by researchers of National repute; their feedback was incorporated to build a substantive tool. The tool was used to bring out a nuanced understanding of socio-economic conditions and project the vulnerability of this set of people and the consequences of ignoring their existence. We therefore sincerely hope that the collective action will bring to attention the issue and inform a policy initiative within two agencies where the responsibility lies- The Planning Commission of India and the Home Ministry- whose prime responsibility is to ensure the safety and security of every Indian Nation citizen. We hope that the judiciary will take cognizance of this document and rationalize entitlements through appropriate directions.



## Chapter 2:

# Need for the Study, Methodology and Objectives

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Centre for Social Justice (CSJ hereinafter) with its experience in 2002 Gujarat riots and then the displacement of more than 2 lakh Muslim families was constantly in a process to bring out the plight of these vulnerable communities to the government of India. The strife is not just to vizibilize these communities but push the government to pay heed to the plight of these this doubly marginalised communities. The Gujarat violence in 2002 laid the background for a long fight for justice, internally displaced person languishing in 86 colonies across 7 districts of the State are a living example of how the State easily excludes communities who fall in the vulnerable category. With a long standing history of communal conflict in the State the seeds of differences have only borne fruits of hatred that only gave rise to brutal results. .

The following chapter seeks to spell out in a linear manner the work learning's from CSJs work in Gujarat with the Internally Displaced Persons. It further outlines our collaboration with different civil society organizations from the different States in sharing experiences. The chapter is drawing out individual experiences and putting forth a need collectively felt for policy intervention.

### **GUJARAT: STARTING POINT**

An authoritative survey of the IDPs of Gujarat riots was carried out under the guidance of National Human Rights Committee's monitoring committee. CSJ was asked to carry out the task. It listed 4,387 internally displaced families that had so far failed to return to their original houses for fear of safety. The survey report said it had only collected a sample, estimating, the number of IDPs "would not be less than 10,000 families." The report, which was prepared by CSJ, said, in the first week of April 2002 itself 1,13,697 persons from the minority community, in need of security and shelter, were forced to live in 102 relief camps. Calling Gujarat violence an "organized campaign to eradicate Muslims" with the "State doing little to stop this", the report regretted the government had refused to recognize these as IDPs. Those who had not been able to return lived in "semi-permanent camps" funded by local NGOs, the report said, providing following figure of the IDPs: The highest number of displaced, 1939 families, was from Sabarkantha district, followed by Ahmedabad 960, Godhra 853, Mehsana 325, Dahod 134, Vadodara 98, Gandhinagar 40, Anand 25 and Kheda 13.

The result of the survey was compiled in a report titled, "The Uprooted: Caught Between Existence and Denial". The report threw light on the status of education, sanitation, health and employment condition of the IDPs. Even then, the Gujarat government refused to acknowledge the plight of the IDPs. Instead the then Gujarat chief secretary went on record to say that the IDPs were "not returned to their home because they had better employment opportunities"- The plight of the IDPs came to fore, when the then, Supreme Court Commissioner under the Right to Food, Dr N.C. Saxena, highlighted the apex irregularities in the right to food schemes in these 'resettlement colonies'. Upon which District collectors were instructed to pay heed to the situation and were asked to implement the schemes, which then, resulted in minimum facilities being provided in the colonies, like Antyodaya Cards, Anganwadi's etc.

While there are various estimates of the number of minorities, especially Muslims, who were displaced

because of the riots, ranging from one lakh to above two lakh, the Women's Parliamentary Committee noted in 2002 that, as a result of the Gujarat riots, 13,2532 persons were uprooted from their place of living. It also gave some other figures, including the number of houses totally destroyed 4,954, number of houses seriously damaged 18,924, shops burnt 10,429, shops ransacked 1,278, and so on.

In August 2006, two human rights defenders -- Farah Naqvi (writer, consultant and activist) and presently member of the National Advisory Council of the United Progressive Alliance (UPA) and Gagan Sethi (Chair person Centre for Social Justice)-- filed a complaint on the issue of continued internal displacement in Gujarat before the newly-constituted National Commission for Minorities (NCM). The NCM was the first quasi-judicial body to send a team to actually visit 17 colonies in Gujarat spread across four districts. From October 13 to 17, 2006 an NCM team consisting of vice chairman Michael Pinto, and two members, Zoya Hasan and Dilip Padgaonkar, accompanied by joint secretary, Government of India, A . Bannerji, visited the colonies, accompanied by official machinery in each district. The team spoke to scores of internally displaced survivors and also met State government officials and the Gujarat Chief Minister. On October 23, 2006 the NCM issued a statement which said, "The State government has provided no amenities or facilities in the camps, nor has it made any attempt to facilitate the return of these families, in a safe environment, to their original homes."

A need was felt to voice the concerns and demand from the community. Therefore, in 2006-07 every colony organized and formed a committee in each of the relief colonies under the umbrella of Antarik Vistapit Hakrakshak Samiti (AVHS), or Relief Committee for the Internally Displaced. The colony committees formed a district and a State co-ordination committee. The idea was to tackle the issues of basic amenities at the IDP colonies. This committee, along with the survivors of the violence, made representations at various forums, including the Planning Commission and their individual members, NCM, NHRC, and the Supreme Court Commissioner under the Right to Food. Based on the representations, various committees and individuals visited the IDPs and their colonies. The NCM made specific recommendation to the State and the central governments to improve the lot of the residents of the make-shift camps, provide them with basic amenities and address their livelihood issues, even as asking the Government of India to provide an economic package. It simultaneously asked the Government of India to work out a National policy on rehabilitation of the IDPs as a result of violence.

Meanwhile, the struggle for implementing what the Supreme Court had granted, and the struggle for the IDPs' survival, continued. Looking at the Gujarat government's complete noncompliance on the issue, it became necessary to highlight the IDPs' concerns and push for a policy that is humane and is able to deal with the people who are already traumatized. The Planning Commission in 2010-11 invited Approach Papers from the general public to make the 12th Five Year Plan comprehensive and people-centric. CSJ submitted an approach paper highlighting the need for a National policy for conflict-induced IDPs, and even as throwing light on the plight of the persons who were displaced.

## **SHARED EXPERIENCES**

By now it was increasingly being felt that there was a need to understand the situation of IDPs at a National level; and at the same time, understanding and analyzing the different ways in which each of the States responded to the situation. To achieve this end, activists, organizations and individuals who have been working on the issue were contacted to form National Level Collective on IDPs. To achieve the same, the representatives group felt a need to share their various experiences. This resulted in, several organizations,

including CSJ, Act Now for Harmony and Democracy (ANHAD), Agricultural and Social Development Society (ASDS), Human Rights Forum, Action Aid, Janvikas, Action North-East Trust (ANT) and Red Cross sharing their individual experiences from the region. Representatives from Andhra Pradesh, Chattisgarh, Gujarat, Orissa, Assam and Jammu & Kashmir based on this put together a presentation for the Planning Commission lobbying for a policy for IDPs and ensuring their access to entitlement. As a result of which, the term IDP found mention in the draft approach paper to the 12th Five Year Plan for the first time. It suggested that the Government of India had taken note of these people, who form a new vulnerable community.

The mere mention of the word was just a beginning of the huge battle ahead, with facts and figures in hand. All the groups and individuals who came forward to form National Level Collective on IDPs felt that more work was needed to be done to ensure IDP have access to entitlements and rights. The IDMC estimated that in all the-conflict prone areas of India, there are about 5.4 lakh people who have been displaced. The figure is an approximation even today in places like Orissa, Assam and Chattisgarh there is continuous chaos. People are being displaced almost every day. The 2012 riots in Assam resulted in displacement of four lakh people, some temporarily. In Chhattisgarh, tribals cross over to Andhra on a daily basis as a result of violence in the region. The group of individuals and organizations met in February 2012 to decide the way forward to deal with the issue, under the support of Dr Syeda Hameed, Member, Planning Commission of India and Human Rights Lawyer Vrinda Grover, the initial thought and concept was conceptualized. The lens adopted at that point of time

Conflict situations result in gross human violation of the groups of people. Their rights and survival is often in jeopardy. In the light of the same, it was increasingly felt that there was an eminent need for advocacy around the situations of the IDPs. Around this time, the Supreme Court order, in the case of Nandini Sundar & Ors vs State of Chhattisgarh, writ petition No 119 and 250/2007, giving directions to the petitioners to draft a comprehensive rehabilitation plan for thousands who were languishing in 23 Salwa Judum camps in Chhattisgarh. The comprehensive rehabilitation plan that was submitted to the Apex Court, took into account the UN Guiding Principles, International Humanitarian law read along with the Constitutional provisions pertaining to life and dignity and ensuring equality and safety, and return to their original place of residence.

## **THE STUDY**

From the discussions it emerged that the different groups were grappling with different problems. However there was a common understanding that the fundamental rights of the IDP should be provided with strategic attention. It was also felt that in the absence of a nodal agency that looks into the plight of the IDPs, ad-hoc services that are provided to the victims of violence create long-term damage. While immediate needs of the IDPs may be addressed, uncertainty keeps looming over their head. To achieve the same it was felt that there was a need to conduct a study across five States—Andhra Pradesh, Assam, Orissa, Gujarat, Kashmir - to understand the specific nature of situations in each of them and to use it to means of advocating with the government for a comprehensive policy on the same. The study was to focus on:

1. Estimate the number of IDPs in the region,
2. Current situation in the regions,
3. Government effort made with respect to IDPs.

4. To examine whether as citizens IDPs were granted or denied entitlements, and
5. Status of their legal intervention in connection with their displacement.

## OBJECTIVE

Objective of the study was clearly laid down:

- To estimate the number of conflict induced IDPs in the selected States;
- To study the extent to which the UN Guiding Principles on IDPs are being implemented with respect to the selected IDP population;
- To gather data regarding socio economic conditions of the IDPs in order to strengthen advocacy efforts for a holistic relief and rehabilitation policy;
- With the study in hand, it would be possible to engage with State governments concerned to high light the good practices and also what is not being done adequately;
- To push for an overarching la, a definition, a National policy on IDPs, followed by State laws and a complaints-and-redressal mechanism at the ground level;
- Setting a benchmark at the National level and parity with the States; and
- To carry out State advocacy, important for peace and reconciliation.
- **AREA OF THE STUDY**

No	State	Implementing Agency	Year of Violence covered
1	Assam	Action North East Trust with the support of Assam Santhal Association	1993, 1996-98 Violence between the Santhal's and the Bodo's and Bodo's and Muslim's
2	Andhra Pradesh	Agriculture and Social Development Society	2005-2006 infiltration of tribals in AP following Naxal violence in Chattisgarh
3	Jammu & Kashmir	ANHAD	94 onwards militant conflict displacing thousands of Pandits
4	Gujarat	Janvikas	2002 The Gujarat violence
5	Orissa	Janavikasa and Center for Sustainable use of Natural and Social Resource (CSNR)	2008 Kandhamal violence and recent clashes on religious basis.

## METHODOLOGY OF SURVEY

Based on the concerns pertaining to security and citizenship rights of the IDPs, the survey was designed to find out the present condition of the IDPs still languishing in rehabilitation camps/colonies/settlements which exclusively comprised of the IDP population. A detailed questionnaire was designed so as to get a sense of the situation, and care was taken to consider the situation of all five States.

The questionnaire (Annex1) was designed into sections that would look both at the present situation and the situation at the time of violence, which resulted in displacement. Each State has a sizeable IDP population. Some of the IDPs have settled down at a new place, making it their home. The time span which has gone by needed to be captured. An effort was made to get a sense of how things have changed after people were forcibly displaced, and what happens once they are resettled at a new place over a period of time. The Questionnaire was vetted and critiqued by experts, State level consultations were held to appropriate the questionnaire to the situation of the different States

The methodology includes both quantitative and qualitative information. The quantitative information was collected through two methods: one, through the questionnaire, and the other through a format that recorded the total number of households that have been displaced. The study did not cover or attempt to enumerate the 1000s of people who fled their home land themselves, never to return and self rehabilitate themselves in the same State or other States. A random sampling was used to fill up the questionnaire. It was ensured that selected sample was representative of those who had been IDPs for a long time now and those who were recently displaced.

**Total Number of person from whom the data was collected and the total number of colonies/settlements and villages covered in the survey**

States	Size of the Sample	Area of collection
A.P	862	Khammam District, Bhadrachalam Block 52 settlements
Assam	884	Kokrajhar/ Chirang (66 camps)
Gujarat	464	84 Colonies 7 districts Ahemdabad, Anand, Sabarkantha, Panchmahal, Baroda, Bharuch, Mehsana
Jammu and Kashmir	1070	5 colonies in Jammu
Orissa	386	Kandhamal/Bhubneshwar/Koraput
Total	3666	

*There are two sites in Andhra Pradesh, Warangal and Khammam, Khammam was chosen as part of the survey*

### Location Profiles from Each State:

In each State a profiling of these sites was done, to assess the availabilities of the basic amenities, information was collected from locals. There were 2-3 respondents who were IDP from the same settlement/colony/village in some cases.

### Profiles of locations

States	Size of the Sample
A.P	52
Assam	7
Gujarat	167 (2-3 of the same locations)
Jammu and Kashmir	23
Orissa	18
Total	268

The survey formats were designed to collect information of the total number of families and what were the entitlements that they had received. Some of this information was collected by filing applications under the right to information (RTI) Act. Some organizations already had this information, while others collected them in cases where the names of the persons were not available. The information included names of the heads of households and total number of families. This data collected proved enough to estimate total number of IDPs who are living in different parts of these States.

Focus group discussions (FGD) were conducted in all the States, with specific guidelines. The FGDs were bifurcated into three categories, women, children and the youth. The FGDs largely captured the current status of the camps and locations, where people were living. Livelihood, entitlements like ration card, voter ID card, lost documents, cultural shift, education, security etc., were some of the issues that were covered during FGDs. There was a FGD checklist(AnnexIII) which was prepared to cover all the points.

### Total number of FGDs conducted.

No	State	FGDs Conducted
1	Assam	7
2	Gujarat	5
3	Kashmir	8
4	AP	14
5	Orissa	4
	<b>Total</b>	<b>38</b>

In all these sites, several researches have been conducted by different groups and individuals of civil society,

media, academia, and in some cases even by the government. Based on these reports, victims are made to relive their experiences for information that could stir some actions based on their condition. Hopes are raised that there will be a change for the better. It is a matter of concern, though, that there has so far been little focus on the need for a policy shift towards recognizing the IDPs' status in accordance with UN guidelines. The question arises: Does it suffice to involve the person who is the survivor? This was one of the thoughts behind having a participatory community intervention to authenticate into a process which would ultimately snowball into an advocacy campaign.

#### Number of Families and total number of population verified on Affidavits

States	No of families	Males	Females	Total Settlements	Total number of Affidavits
AP	5224	9574	8942	235	50
Assam	3351	7508	7094	66	82
Gujarat	3964	9825	9611	86	72
Jammu & Kashmir	4224			4	11
Orissa	980	1117	1187	46	19
<b>Grand Total</b>	<b>17743</b>	<b>28024</b>	<b>26834</b>	<b>437</b>	<b>236</b>

*The above data is a family wise data collected during the study. The information received through RTI information received on 20/3/2013 there are totally 38911 families who were displaced in Kashmir and the total displaced population is 142424*

*Total number of Kashmiri Migrants Families living in other parts of the country= 21,333*

Affidavits (AnnexII) were collected from people who were part of the survey and those in leadership positions who can help and support the IDPs in the long run. The purpose of the affidavits was to authenticate (1) the resettlement colony or the place from where data was collected and of people who have been displaced due to a particular incident of violence (2) that the information that has been given is correct.

This should take care of the continuous denial of their existence by many State governments sometimes even on affidavits.

RTI applications were filed to gather information regarding what the State governments had been doing for the IDPs who continue to live on the margins. The RTI route was adopted in Assam, Jammu & Kashmir, Orissa and Andhra Pradesh. While RTI helped gather some responses in Jammu & Kashmir, as for other States, the matter has been transferred to other government departments and the applicants have been told that the "information is awaited".

**Table: 2.1 Predominant Religious groups from whom the data was collected.**

	AP		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Hindu	40	4.64	406	45.93			936	87.48	121	31.35
Muslim	1	0.11	98	11.09	464	100	124	11.59	0	0
Sikh							9	0.84	0	0
Christian			362	40.95			1	0.09	257	66.58
Buddhist									1	0.25
Not applicable	821	95.23	18	3.03					7	1.58
<b>Total</b>	<b>862</b>	<b>100</b>	<b>884</b>	<b>100</b>			<b>1070</b>	<b>100</b>	<b>386</b>	<b>100</b>



**Table: 2.2 Caste Profile: Of the respondents**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
SC			2	0.226			11	1.028	126	32.64
ST	858	99.54	2	0.226			97	9.06	25	6.47
OBC	1	0.12	778	88.01	201	43.31	20	1.87	205	53.11
General			98	11.09	263	56.68	921	86.07	4	1.04
Dalit Christian									20	5.18
Others	3	0.35	4	0.44			21	1.96	6	1.56
<b>Total</b>	<b>862</b>	<b>100</b>	<b>884</b>	<b>100</b>	<b>464</b>	<b>100</b>	<b>1070</b>	<b>100</b>	<b>386</b>	<b>100</b>

It was found during the survey that large number of the IDPs had stayed put at the new site, in camps or temporary shelters, for several years. In Andhra Pradesh about 70% IDPs lived at the new site for between five and 10 years, as did Assam's 46% of IDPs. Gujarat's 64 % IDPs had lived for over a decade at the new site. About 42% IDPs from Kashmir lived at the new site for two to five years, and so did 84% IDPs from Orissa. This continuous and long duration of displacement contributes to heightened insecurity increasing the sense of vulnerability and loss of faith in the government.

**Table: 2.3 Duration of the Stay in temporary Settlement**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Less than 6 months	3	0.35	3	0.34	1	0.22	20	1.87	1	0.26
6 months to 1 year	4	0.46	21	2.38	9	1.94	65	6.06	41	10.62
1 to 2 years	22	2.55	40	4.53	2	0.43	302	28.22	6	1.55
2 to 5 years	177	20.53	64	7.24	13	2.8	449	41.96	326	84.46
5 to 10 years	603	69.95	406	45.93	140	30.17	27	2.52	3	0.78
More than 10 years	48	5.57	349	39.48	299	64.44	207	19.35		
Not responded	5	0.59	1	0.1					9	2.33
<b>Total</b>	<b>862</b>		<b>884</b>		<b>464</b>		<b>1070</b>		<b>386</b>	

In majority of cases, the IDPs lived quite far away, sometimes more than 100 km from the place of their original habitat. Thus, Andhra Pradesh's 86% of the IDPs' new site was than 100 km away, and so was Kashmir's 99% IDPs and Orissa's 62% IDPs. While Gujarat's IDPs "settled" in a distance of 10 and 50 km from their original place of living, Assam's 56 per cent of IDPs lived in less than 10 km away. The following table has the details:

**Table: 2.4 Distance between the original place of residence and the current place of residence.**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Less than 10 km	1	0.12	497	56.22	110	23.71	6	0.56	45	11.66
10 to 50 km	4	0.46	285	32.24	269	57.97	1	0.09	71	18.39
50 to 100 km	105	12.18	96	10.86	68	14.66	5	0.47	21	5.44
More than 100 km	744	86.31	3	0.34	17	3.66	1058	98.88	241	62.44
Not mentioned	8	0.93	4	0.34					8	2.07
<b>Total</b>	<b>862</b>		<b>884</b>		<b>464</b>		<b>1070</b>		<b>386</b>	



As mentioned earlier as well the attempt of the survey is to identify persons who continue to live in relief camps/settlements/colonies that still exist in these States, these settlements are either built by the government or by private organizations or by the individuals themselves. In Kashmir the government started taking steps to rebuild the houses only very recently. But in Gujarat, Assam, Andhra Pradesh and Odisha, there has been no such effort from the State government and the central government does not consider it part of its mandate. The problem is further complicated in Assam and in Andhra Pradesh, most of the people who have fled their homes, have settled on private forest land and private land, which certainly does not belong to them. This leaves a constant threat of being evicted from that land. Therefore this report 'Homeless in Homeland' in the subsequent chapters share the ground realities of living on these sites.

## Chapter 3:

# Background of State Specific Conflicts

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The five States which are a part of this study, each has a unique history to the building of the IDP population in their respective States. This report specifically deals with conflict induced IDPs, the reasons for conflict and also the repercussions of the conflicts are very distinct in each of these States. The current chapter gives a very brief peek into the situation of each State. This information has been culled out from State reports that were separately prepared by the respective State partners.

### **Andhra Pradesh**

Thousands of Adivasis from the neighboring State of Chhattisgarh (there is no official figure, but they are estimated to be around 20,000), migrated to Andhra Pradesh's Khammam district between 2005 and 2011, fearing for their lives and seeking shelter and protection. The district authorities have not been able to provide either shelter or protection. In fact, for the first four years, the officials neither recognized their existence nor acknowledged their responsibility towards them. The Police and the forest department officials have played their role in threatening and driving the Tribals away assuming them to be Maoist or Maoist supporters. The Adivasi community has suffered the brunt of police violence and atrocities in the name of protecting the forests and animals from the Adivasis. Rumors and stories collaborating the police assumption often does the rounds. For example, stories went afloat that the Muria tribals, who were migrating, were savages and ate human flesh. The Koyas, which is the dominant tribe in Khammam district, became scared of Murias. As a result, the Koyas began attacking the Murias, burning down their houses and crops. No investigation has been carried out to determine the reasons for their migration. The forest officials have taken advantage of the animosity between the two communities by making them compete for limited resources. Pushing in the Muria tribe into the interior forest area.

In the meanwhile, the forest officials took advantage of the hostility between the two groups and provoked them to compete for limited resources. Finally, the Murias were forced to move right into the interior forest areas. The situation has changed somewhat with the effort of human rights organizations and a few NGOs working in the region. Even then, the Muria tribals in most cases, and Dorla tribal in some cases, continue to live in fear and insecurity as result of being uprooted and having no sense of belonging or ownership. They have lost their roots and have become foot-loose not out of their own volition but because of circumstances beyond their control. They have no sense of belonging or ownership. While the Chhattisgarh government has disowned them, the Andhra Pradesh government does not welcome them. Yet, the fact is, they are citizens of India and must be declared IDPs. They have constitutional guarantees. As Adivasis they are entitled to special protection under the constitution and laws.-

The Adivasis were displaced as a result of cross- fire between Chhattisgarh and Andhra Pradesh, their agencies and the Maoists in the Bastar, Dantewada region of Madhya Pradesh and Chhattisgarh.-The Naxalite movement, which started in late 1960s in West Bengal, has spread to several parts of the country over a period of time. What initially began as an agrarian movement fighting against the rich landlords has become

movement to seize power through armed agrarian revolutionary war. The CPI (Maoist) has its base among Dalit, Adivasis peasantry and laboring classes, in some very backward regions, particularly in the forest regions of Central India, which is also rich in mineral resources. It has been described by scholars like Tilak D Gupta as having succeeded in becoming “a political force” to free people “from the influence of the affluent land owning classes”.

Violence and counter-violence has devastated the lives of adivasis on a large scale in Dantewada district of Chhattisgarh. It is taking its toll in what is called “Maoist liberated area”. It was relatively easy for the Maoists to occupy the region of Dantewada, as here the government was doing little to improve the lives of the poor and the marginalized sections, creating a social base for the Maoists. The area was outside the developmental fold before the Maoists declared it as “liberated”. The interest in the region was reignited when the corporate sector became interested in vast mineral wealth discovered here. There was an urgent need to clear the place from the clutches of the Maoists. This could have been achieved in the absence of political involvement and pressure, done through a political process. The State resorted to the alternative solution, i.e., violence. The State responded to the same with violence through its operation Salwa Judum. This resulted in the birth of Salwa Judum.

Salwa Judum is the ultimate shape that the so-called Jan Jagaran Abhiyan took. Salwa Judum means “purification hunt” in local language. It is part of a series of structured efforts to influence the adivasis in the region against Maoists. The program was headed by Mahendra Karma who was the only adivasi leader. In its initial stages the efforts were not as violent. Over a period of time, however it went on to become one of the most violent State sponsored actions. Adivasi youth were forced to become frontline soldiers in what can be called a 'war on Maoists', in some cases the youth joined voluntarily.

The Adivasi have in the past been looked after by the Maoists in a way seen as the responsibility of the State. The Maoists protected the adivasi community when they cultivated in the reserve forests. They helped in enhancing the rate for picking tendu leaf from the forests which was the most important source of cash income for them, putting an end to the oppression they suffered in the hands of feudal land lords and pattedars. One of the reasons for Adivasi disenchantment with the Maoists has been because of the way in which Maoists have asserted himself. However, as time passed by, Maoists started taking their social base for granted. Their Sanghams usurped the privileges of the traditional community structures of the adivasis, did not allow democratically-elected adivasis sarpanches to run gram panchyats, and banned construction of roads and bridges in the “liberated zones”. Many of the Maoist efforts were no longer in the interest of the local people and the tribal community did not find it acceptable. They even forced the adivasis to boycott picking of tendu leaves in a season.

Initial efforts were not as violent. Salwa Judum was headed by Mahendra Karma, who himself is an adivasi. Most other leaders were non-tribals. Over a period of time, thousands of adivasis, particularly the youth, were forced into becoming frontline foot soldiers of Salwa Judum. Some of them joined in voluntarily, too. The way Maoists asserted themselves is one of the major reasons for the adivasis to become disenchanted with them. Maoists did protect the adivasis when they cultivated land in the reserve forests. They helped in enhancing the rate for picking tendu leaf from the forests which was the most important source of cash income for them, putting an end to the oppression they suffered in the hands of feudal land lords and pattedars.

Once Salwa Judum was set up, they along with the paramilitary forces started cleansing the adivasis habitations in the jungle, driving them to the camps located closer to the highways, which were later intended to be converted into colonies. Salwa Judum went on to burn houses, school buildings, destroy possible shelters for the Maoists and also compelled people to join the camps in order to deprive Maoists of their social base and support. The chief minister of Chhattisgarh went on record saying, “Those in the camps are with the government and those in the forest with the Maoists”. This became the premise on which the Salwa Judum was operating.

By June 2006, officially, 54,768 people were in 17 camps located on black top roads spread over Konta, Geedam, Biramgarh, Bijapur, and Usoor blocks. Several thousand adivasis were first displaced from their traditional habitats in the forest and forced into the camps. Mobs of Salwa Judum went on rampage with paramilitary forces in tow. Those who refused were beaten up. Grain, clothes, goats, poultry, huts and cattle, in other words, all their belongings were burnt. Those who were suspected to be supporters of Maoists were killed. No cases were filed, inquest done. Majority of those who were killed were Adivasis. Reports of several fact-finding teams confirm this. The estimated figure was 400 by June 2006, less than one year after Salwa Judum started functioning officially. The most tragic part of the violence was the killing of Adivasi by Adivasi footsoldiers. The situation can be summed up in the words of Balagopal, a Hyderabad based lawyer with experience in Human Rights: “This is particularly tragic in a State that was created in the name of Adivasis, and in a ‘liberated area’ which was constituted by Maoists primarily in support of the Adivasis”. The Adivasis ran the risk of being targeted either by the State or the Maoists. Those who did not want to live in camps first escaped to the nearest forest outside of Chhattisgarh, i.e. Khammam district of Andhra Pradesh. With this began the second phase of displacement for them. They have thus become refugees twice, within their own State and their own country.

Majority of those displaced from three districts of Chhattisgarh, namely, Dantewada, Bijapur and Sukma, have come to Khammam district, while some have also gone to Warangal and East Godavari districts of Andhra Pradesh. As per a joint survey conducted by the government and an NGO in 2009, there were 16,361 IDPs in Khammam district and around 5,000 in Warangal district. There were 203 settlements spread in 20 blocks (called mandals in Andhra Pradesh), which are reduced to 196 presently. Around 110 of the settlements are in reserve forests. In Warangal district IDPs live in 32 settlements in six blocks.

Even before the need to migrate arose, Adivasis from some parts of Chhattisgarh had been frequenting Khammam and Warangal districts, particularly during the chilly harvesting season. They would come as migrant workers and go back at the end of the season. The influx accelerated between 2005 and 2007, a period coinciding with increase in the intensity of the activities of Salwa Judum/ SPOs in Chhattisgarh. Initially, there was strong resistance from the forest department, the police as well as the local Adivasi communities. The Adivasi resistance is partly justified because they were worried about sharing the meager resources and livelihood opportunities. The forest department objected due to the occupation of reserve forests by the IDPs and the clearing of forest for cultivation and housing. The police suspected them to be involved with Maoists and wanted to get rid of them. For the first couple of years or so, the district authorities did not acknowledge their existence, let alone protect their interests or provide humanitarian assistance that they desperately needed. Taking cognizance of their existence became inevitable after human rights organizations and a few NGOs came into picture.

## **Assam**

Ethnic conflicts became endemic in postcolonial North East India. Here, ethnic conflict includes the conflict between the State and ethnic groups/ insurgent groups, inter ethnic and intra ethnic conflicts. One particular situation of ethnic conflict may reflect one, two or all these three kinds of conflicts simultaneously.

Among the North Eastern States, internal displacement has been quite high in Assam. Conflict has been the main cause of major displacement of population in Assam. Although it is very difficult to give an exact data of IDPs caused by conflict in this region, we can give some estimates of government and some other agencies here. Tens of thousands of Bengalis, Hindus and Muslims, were displaced all over Assam in violence unleashed during the 1960s, 1970s and 1980s, particularly during six years of anti foreigner's agitation led by students and the dominant Asamiyas . During the worst phase of violence in July-September 1960, almost 50,000 Bengalis, mostly Hindus crossed over to West Bengal seeking shelter there. Again, in 1972-73, 14000 Bengalis fled to West Bengal and elsewhere after the breakout of riots over language issue. However, the real figure of displacement is far more than mentioned here because government account includes only those people who took refuge in the camps of West Bengal. Thousands died in the riots during the agitation between 1979 and 1985 - almost 2,000 in the village of Nellie alone.<sup>7</sup>

### **Bodo Santhal Clashes of 1996 & 1998**

In 1996 ethnic violence broke out between the Bodos (a tribal group living mostly in areas in the North bank of Assam) and the Santhals (a group who migrated to Assam some generations before from Jharkhand or the then Bihar State). The Bodos and the Adivasis had been living peacefully together for generations. But in October of 1996, violence broke out between them. No one can still fathom why it happened and who exactly was responsible. Some blame it as resentment of the Bodos against the Santhals for occupying and destroying the forest, others say that Santhal leaders from outside Assam were instigating the local Santhals for violence and the Bodos reacted in self-defense, yet others say that armed Bodo militants wanted ethnic cleansing of their area to stake a claim to form a separate homeland. Whatever be the reason, in the mayhem that followed, people were killed and village after village was torched. Over two hundred thousand people fled their homes to escape the violence. In official records, the violence left 468 dead and displaced some 2,20,000 people, among whom were

### **Bodotribals and Santhals.**

Some went back immediately after the violence subsided. Subsequently over the years, more than half the displaced people went back to their homes. But till date over a hundred thousand people have still not got any rehabilitation. According to the Asian Centre for Human Rights Report of February 2007, "there are over 6,00,000 conflict induced IDPs in India. Majority of them are indigenous/tribal people including 33,362 displaced persons in Kokrajhar district and 74,123 in Gosaigaon district of Assam". It has been 16 years now since they lost their land, livestock, livelihoods, homes and most of all, their security. Most IDPs from the Bodo community have gone back to their villages though 6 Bodo camps which remain to be rehabilitated. 26 Adivasi camps are waiting rehabilitation. Some of the Santhal IDPs could return to their original villages or have settled elsewhere. But lands have now been occupied by the Bodos and they fear their lives. Of those who returned to their homes following the 1996 violence was again driven away in a second wave of violence in

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<sup>7</sup>(Bhaumik, 2005, Hussain, 2000).

1998. Most of these families have not been listed as displaced and hence never got any relief or compensation.

### **Displacement due Ethnic Clases in Kokrajhar&Bongaigaon**

The inter-ethnic clashes in the Bodo heartland of Kokrajhar and Bongaigaon has displaced a large number of people. At one stage, the number of IDPs reached more than 3 lakhs. It should also be mentioned here that the Bodo-Muslim ethnic violence that occurred in October 1993 has displaced about 3568 families consisting of 18000 persons. Again, a series of major incidents took place throughout the district in May 1996 when a section of Bodos attacked ethnic Santhals. This conflict has resulted in the displacement of a huge population. Almost 42,214 families consisting of about 2, 62682 persons were displaced by this conflict “at the peak of the Bodo Armed Movement, Assam accounted for nearly more than half of India’s population of Internally Displaced Persons”<sup>8</sup>,

These victims were sheltered in 78-relief camps around Kokrajhar and its adjoining areas. After staying as inmates in the camps many of them return to their villages in 1997 with a small amount of returnees grant provided by government of India. However, in 1998 again conflict started between the two groups resulting in the displacement of 48,556 families consisting of 3, 14,342 villagers. Till April 2005, in Kokrajhar 1, 26,263 inmates were living in 38 State sponsored relief camps in the district.

The Muslims of Bengali origin chased out by the Bodo rebels in 1994 are living in pathetic conditions in some places of Assam. Near Bijni on the National Highway, nearly 8,000 such Muslims live in huts on both sides of the National Highway 37. Another tribesmen KartickHembrom, in nearby Matiajuri said, “We are uncertain about our future. We may not get back our cultivale lands from the Bodos

who occupied it after we fled the violence in 1996”<sup>9</sup>.

"We cannot go and work in the fields because the Bodos threaten us, we cannot buy lands anywhere under the new autonomy arrangements, we cannot get back our lands," says SabeburRehman (Bhaumik, 2005). The life of the IDPs living in the camps in Assam has been very difficult. Most of them do not get adequate food, nutrition and proper medical care. Children of these camps are deprived of formal education and health care services. Though, some receive food aid, but itoften arrives sporadically and insufficient in quantity and nutrition. Thus these losing their possessions like land, home and livelihood live in a dehumanized condition.

In October 2009, there were still no proper sanitation facilities in camps in Kokrajhar and Bongaigaon districts. In Salabila camp, for example, more than 6,500 people had to share 40 latrines. By Sphere standards, there should be one toilet available for every 20 people (The Sphere Project, 2004, p.71). While there were 56 tube wells, only 22 were functional. There was a lack of water, and the bad hygiene and sanitation conditions led to diseases such as chicken pox, malaria, diarrhea and jaundice. In Salabila camp, most children were sick with chicken pox during the summer (WFS, 30 October 2009). In November 2007 already, a delegation of the National Human Rights Commission (NHRC) of India visited IDP camps in Kokrajhar district and Stated that conditions there, including access to health care, were unsatisfactory. At the time, medical teams visited the camps only irregularly, and the few doctors in the area did not have the capacity to address the health needs of the camp population in addition to those of the local population. There was also a lack of medicine in the camps (Zee News, 15 November 2007).

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<sup>8</sup> SanjibBaruah of the Centre for Policy Research in Delhi (Bhaumik, 2005).

<sup>9</sup> (Bhaumik, 2005)



## **Jammu and Kashmir**

The Assembly Elections of 1987 are considered the main cause of the Kashmir armed conflict. It was the first time in the political history of Kashmir when small political parties decided to fight elections jointly against the ruling National Conference (NC). They formulated a joint faction called Muslim United Front (MUF). The MUF accused the ruling party and its alliance partners, Congress, of rigging the assembly elections. The NC-Congress combine contested all the 76 seats and the MUF fought 43 seats. The NC-Congress alliance got 66 seats and the MUF could secure only four seats in the Valley, even though it polled 31 per cent votes. This led to widespread allegations of rigging and misuse of power.

This election in a way was a watershed in the politics of the State. Accompanied by rampant corruption, maladministration and strains within the coalition, the government failed to administer the State effectively. In this environment, secessionist and subversive elements started claiming that they had been denied democratic rights, and began justifying recourse to unconstitutional and other methods. Gradually small protests started in main towns and cities of Kashmir Valley, and people started to openly disown the government administration and the democratic setup.

In 1988, protests began in the Valley along with anti-India demonstrations, followed by police firing and curfew. In 1989, with the end of Soviet occupation of Afghanistan, militants and weapons began to flow towards Kashmir Valley, too. Pakistan provided arms and training to both indigenous and foreign militants in Kashmir, thus adding fuel to the smoldering fire of discontent in the valley. In 1990, in January, Jagmohan was appointed as the Governor, and Farooq Abdullah resigned. On January 20 that year, an estimated 100 people were killed when a large group of unarmed protesters were fired upon by the Indian troops. With this incident the entire population began being seen as insurgents. On February 13, 1990, Lassa Kaul, a Kashmiri Pandit, director of Srinagar Doordarshan, was killed by the militants for “implementing” pro-Indian media policy. This was followed by even more attacks on the Kashmiri Pandits.

Though the Jammu & Kashmir Liberation Front (JKLF) tried to explain that the attacks on Kashmiri Pandits are not communal, these have caused a shock and fright among the minority Hindu community. The rise of new militant groups, warnings through anonymous posters, and unexplained killings of innocent members of the Pandit community, created an atmosphere of insecurity for the Kashmiri Pandits. Joint reconciliation efforts by members from both Muslim and Pandit communities were actively discouraged by Jagmohan. He officially announced migration. Thereafter, within months, an estimated 162,500 people quit the Valley, including the entire Kashmiri Pandit community. The migration began in March 1990 and continued till the end of 1990.

Almost the entire Kashmiri Pandit community has migrated to the Jammu province with the onset of militancy in Kashmir Valley and political disturbances. For the last 23 years, they have been temporarily settled at different places in the province as also in the country. Initially, they installed temporary shelters, especially tents at Jammu, Udhampur, Nagrota and Kathua. At that time very few voluntary organizations and NGOs supported them. Immediate relief was provided by the government – both State and centre-initiated relief packages were provided to all the migrants on a monthly basis. Unemployment remuneration was also provided to the families of IDPs.

## **Gujarat**

An estimated 2,000 people were killed and more than 100,000 Muslims were displaced from their homes in a major outbreak of communal violence in Gujarat, which began on February 28, 2002. The State's Muslim population was targeted in retaliation of an attack by a Muslim mob on a train carrying Hindu militants returning from the destruction of a celebrated mosque at Ayodhya. As many as 58 persons travelling in the train were burnt alive. In the violence that followed, women and girls were particularly targeted in reprisal attacks. Hundreds were raped, maimed and killed during the riots. The Gujarat government organized relief camps, where the internally displaced reportedly lacked the most basic necessities such as food, medical supplies and sanitation. The Human Rights Watch noted this in its study, brought out in April 2002. Despite strong international concern, the Indian government refused to solicit or accept international assistance. By October 2002, virtually all the camps were officially closed down, forcing many to return to their neighbourhoods, where their security was continually threatened. In rural areas, incidents of killing and looting continued till as late as April 2003. Many were forced to flee to relief camps again, where they remained generally unassisted. This was noted by Amnesty International in its report of January 2005.

The State authorities and members of the ruling party, BJP, have been accused of planning and instigating violence against Muslims. The failure of the police to intervene and stop the violence has decreed severally. Reports by Human Rights Watch and Amnesty International conclude that both the Indian government and the State government of Gujarat failed to provide sufficient protection, assistance and compensation to the displaced. Since the riots, there have been several clashes between Hindus and Muslims, but rarely lasting more than two days. The State government is still being accused of complicity in the on-going violence against the Muslim community in Gujarat (Amnesty International, March 2007).

More than 5,000 families remain displaced in relief camps, which are mainly located in Ahmedabad and Sabarkantha districts of Gujarat. However, the total figure is thought to be much higher. Many displaced are not counted because they have blended into the slums surrounding the major towns. The National Commission for Minorities recommended after a visit to the Gujarat camps that those displaced by the riots should receive compensation and rehabilitation. The government has now officially agreed to provide a relief package to the victims, which has been acknowledged by several organizations as an important step in the right direction, but the package regrettably does not include relief, rehabilitation and reparation for the internally displaced.

## **Odisha**

Odisha has a long list of conflicts and conflicts induced displacements. Conflicts involving caste groups, religious groups, tribals have been taking place from time to time in Odisha and it resulting in forcible displacements. Recent cases displacements caused due to conflicts in Odisha are anti-Christian violence in Kandhamal in 2007 and 2008, anti Dalit violence in Lathor village of Bolangir district in January, 2012 and conflict in between adivasis and others in Narayanpatna in 2009-2010 that uprooted thousands of people from their houses, lands, properties, livelihoods and common property resources and forced them to live in another location. Till date thousands of people living in such new locations since years together did not have any official recognition as IDPs (Internally Displaced Persons). As per reports of media, human rights activists - about twenty thousand people due to Kandhamal violence, five thousand people due to violence in



Narayanpatna and five hundred people due to violence in Lathor are struggling for their life for years under miserable conditions.

**Brief account of some conflicts in Odisha after independence**

- Riots in Rourkela in 1964,
- Bhadrak in 1986 and 1991
- Dalit and other caste conflict – Jari, Jajpur in 1982;
- Attack on Church at Katingia, Kandhamal in 1988
- Mob attack on Christian institutions Ramgiri-Udaygiri villages in Gajapati district in 1998
- Dalit-Adivasi Conflict in Kandhamal in 1994 and 2001
- District-wide Violence in Kandhamal December 2007
- Widespread Violence in Kandhamal and several other places in August – December 2008
- Attack on Dalits in Lathor in 2012
- Attack and social boycotting against Dalits and Barbers in Puri district in 2005 and other subsequent years
- Conflict among tribals and others in Narayanpatna and Bandhugaon in 2009

Odisha faced two major communal incidents – one between December 2007 and January 2008, and the other between August 2008 and November 2008. The second one started after the killing of Laxmanananda Saraswati and his three disciples on August 23, 2008. These two communal flare-ups proved to be the wildest and longest violence ever in Odisha. Another horrific riot still alive in collective memory is the one that took place in Rourkela against Muslims in 1964, which was controlled within three days. In the 2007-08 communal riots, 14 out of 30 districts in Odisha got affected. In Kandhamal alone, more than 300 villages were ransacked, 4,400 houses were burnt, 50,000 people became homeless, 59 persons were killed, including women, disable persons and children, adivasis and Dalits. Nearly 18,000 people suffered from injuries. Some were burnt alive, including a disable person and young lady, and two women were gang-raped, 151 churches were destroyed, and 13 schools and colleges and offices of five NGOs were damaged. About 25,000 people had to live in about 10 relief camps for almost two years.

While no one lives in relief camps and many IDPs have returned to their villages, several members of the minority communities are still unable to live a normal life. They continue to face harassment and live in fear. Most IDPs have not been able to rebuild their homes as their housing materials have been repeatedly destroyed or looted. The violence made 15,000 people jobless and a large number of children became orphans. Particularly, the indigenous communities are being thrown out of their own ancestral lands.

People belonging to the minority communities, who had been driven out of their native villages, feel completely terror-stricken and do not feel safe in villages, preferring to migrate to some other places than live in their own villages by accepting the conditions of fundamentalists. They have been warned not to return to their villages unless they agree to convert themselves to Hinduism and withdraw the cases lodged against the communal rioters. Many people have chosen the option to ‘convert’ themselves to save their lives. Some have preferred to migrate to other places leaving their ancestral lands. Considering the gravity of the situation, it

## Chapter 4:

# Discrimination in Entitlements

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The UN Guiding Principles on IDPs, so far, is the sole document that has etched out the duties of the State, and how peace can be restored in the time of conflict. The document covers nearly all arenas of entitlements, from security, education and food to women's rights. It says, "Internally displaced persons 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." However, in the five States, where voluntary organizations carried out surveys and group discussions to find out the ground realities about entitlements, it was found that the document's basic principles were being violated. The data collected through group discussions with those who were victims of displacement, particularly women, suggested that discrimination in different forms was rampant. In fact, it touched almost every aspect of life. This chapter aims to look at the various kinds of discrimination in entitlements that came to fore, the discriminations have been examined as per the UN Guiding Principle on Internally Displaced Persons.

In Gujarat, group discussions were held with grassroots organizations working with IDPs currently living in two different locations Siddiqabad Colony in Sarkhej area of Ahmedabad, and Husainabad Colony, which is in the outskirts Himmatnagar, a town in North Gujarat. Following the riots large number of people shifted to these colonies. The Siddiqabad Colony was constructed in 2003 by Muslim organizations. The land was donated by Afzal Memon, who is a businessman. He gave away his personal agriculture land to the Gujarat Sarvajank Relief Committee. The colony off Himmatnagar is now more than nine years old and is situated more than a kilometre from the main road.

At both the places, the IDPs said, ever since they were forced to shift to the new location, they were being "rampantly neglected". In fact, not a single government official had ever visited them in order to assess the State of the IDPs. They recalled how during a public hearing in 2010 by ANHAD and CSJ, several people said there was a constant threat to their life as police harassment continued and young boys would be often picked up. Significantly, these colonies are two of the 86 rehabilitation colonies which exist in different parts of Gujarat. These colonies were set up by individuals, civil society and religious organizations after the government ordered closure of rehabilitation camps six months after the riots erupted, on February 28, 2002.

As the government refused to run camps, individuals and civil society and religious organizations took up the responsibility of running them, with the State providing no other facilities except food grains. Until 2006-07, nobody seemed to care for the plight of the people living in these colonies. It was only after the active intervention of the NCM and the NHRC that the State began to take note of them. The way the State acted ran in sharp contrast to the UN Guiding Principles on IDPs: "National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to IDPs within their jurisdiction... without discrimination of any kind, such as race, color, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria."

Things were not found to be very different in other States. In Jammu region, the IDPs, who are mainly Kashmiri Pandits, complained that there is no rehabilitation policy in place for them. They said, this suggested the government's lack of interest in rehabilitating them. In fact, they felt that there was a constant threat that the houses that the government had given them would be taken away. The State authorities were responsible both for their displacement as also their inability to return. The scheduled tribe Kashmiri migrants residing around Mansar, Udhampur, said, the Integrated Child Development Scheme (ICDS) -- which is described in official documents as "India's response to the challenge of providing preschool education on one hand and breaking the vicious cycle of malnutrition, morbidity, reduced learning capacity and mortality, on the other" -- was "irregular". and Insufficient mid-day meals were provided to children.

In Assam, group discussions with IDPs revealed that in 1996, the camps were packed beyond capacity, with as many as 20,000 crowded in just one of them. Only in the initial few weeks the government provided essential items like, oil, clothes, lamps, water pump etc. Subsequently, the relief would boil down to rice and dal. Even during the latest Assam violence in 2012, the government provided rice and dal, and some nutrients to pregnant mothers and newborns. After the recent 2012 violence, despite severe cold in Assam, the IDPs at the Sakkipara camp were not provided with warm clothes. The situation was the same with the IDPs at West Gumurgaon and Rangjohra.

IDPs in the Muslim camps spoke how the Bodos had received better facilities compared to the Santhals. They complained that there was lack of proper medical facility, because of which the mothers who had given birth to children could not feed them. Both mothers and children were malnourished, as they got only dal and rice. Similarly, in camps that were set up after the 1996-98 violence, meager clothes were provided -- just a pair each -- in the initial days. Private organizations provided with some basic vessels. However, thereafter, such help stopped coming. An anganwadi had been opened near Udayagiri. Children of the IDPs were weighed and fed. They were also provided with preschool education. However, the IDPs residing in Shaktivihar were discriminated against in the anganwadi and were not provided with any essentials.

### **Arbitrary Displacement**

According to Principle 6 "Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence." It adds, "The prohibition of arbitrary displacement includes (a) when it is based on policies of apartheid, ethnic cleansing or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population; (b) in situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand; (c) in cases of large-scale development projects, which are not justified by compelling and overriding public interests; (d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and (e) When it is used as a collective punishment." The Guiding Principles specifically talk about not just protecting people from arbitrary displacement, but also maintaining their dignity and honour, even as taking special care of the vulnerable sections, especially indigenous people, minorities, peasants, pastoralists and others.

Group discussions revealed that ethnic cleansing was a major reason which stopped people from returning home. Those who returned faced social and economic boycott, hampering their everyday lives. In all the five States, it was found, the intention of the conflict was to target a particular community or a tribe. In Kashmir these were Pandits, in Chhattisgarh it was the tribals, in Assam tribals and Muslims, in Orissa Christians, and in

Gujarat Muslims. In all the States the core issue of the conflict was found to be two -- land and identity. While the UN Guiding Principles under Principle 6 (3) speaks of “displacement not lasting for more than required by the circumstances”, in each State, on an average, people have been living the camps between five and 10 years. The officialdom in most States like to believe that people are not returning due to better prospects. But this was denied by most IDPs during group discussions.

Those who were displaced more recently face a similar prospect. Following the recent Assam violence in 2012, the government has refused to allow the IDPs at West Gumurgaon to return to their original land. This has forced them to stay back at rehabilitation camps, which will surely require them to remain displaced “longer than required”. It was not clear during group discussions whether the displaced persons required some official clearance to return. In fact, most of the Santhals who were displaced from their homes in 1996-98 have yet not returned to their home yet. Most of them live on forest lands, which they feared, could be taken away from them anytime. Some have bought land but do not have any legal document proving their ownership.

Group discussions with Andhra Pradesh IDPs from Rayannapeta village revealed the reason they had to shift - they were directly attacked in Chhattisgarh by Salwa Judum activists, their huts were burned. Some of them were even murdered. The IDPs in Erraborupadu said they were displaced when their village Usakavai was similarly attacked by Salwa Judum men. The village was burnt and their animals were taken away. While the UN Guiding Principles insist on “prior preparation if the displacement is planned” in case of development projects, clearly, when incidents such as these happen, and violent attacks take place, this provision has no meaning. In fact, people crossing over from Chhattisgarh had to depend completely on their means, or on relatives’ houses where they would come and stay put. There were no organized camps for them where they could settle down on being driven out of their native land. The government did provide some immediate relief. The IDPs who came from marginalized sections of IDPs suffered the most.

Things were found almost similar in other States. The IDPs of Gujarat riots of 2002 had resettled in the Siddiqabad Colony, Ahmedabad, but only a few of the families were found to have been compensated for their loss. The IDPs living in the outskirts of Himmatnagar town in North Gujarat were found to be living in deplorable conditions. There was lack of proper drainage facilities, which often caused quarrels between Hindu and Muslim neighbourhoods. The IDPs feared for safety of their children and women due to the presence of illicit liquor being sold in the area. Though police took some step when people complained, things returned to square one later. In Orissa, for the residents at the Jokalandi slum, where IDPs of Kandhamal riots live, health services were found to be mostly provided by missionaries. They complained, could access the government hospital, which was situated 10 km away. The IDPs at Udayagiri said, their prime access to health care was a primary health centre (PHC), which was located at a distance of seven km. The IDPs residing in the Ambedkar Colony said they were constantly under threatened, are intimidated and discriminated. The police had not effectively responded to their complaints. The cops did nothing, except for asking for “proof”.

In Jammu Province, in Muthi, IDPs complained, there was lack of privacy due to the size of the tenements. There were problems with the supply of water and electricity. The government recently started charging for electricity. Housing had been restricted to people who originally came in as migrants. In fact, there was no housing policy in place for the Kashmiri migrants residing around Mansar, Udhampur. They had built pucca or semi-pucca houses on the forest land and faced the risk of eviction. The Kashmiri migrants in Jagti said, they lived in two-room tenements. There was a situation of “imposed impotency”, as three generations share

such a small living space. Anger and depression prevailed. As Stated by one young man, “We are two brothers, mother and father, what will we do if one of us gets married, where will we go, how can we maintain privacy? We would have married my elder brother, but due to paucity of space we are unable to. We remain under constant fear that the government may snatch our flats from us one day, because the government owns the flats.”

During the survey, it was found that religion was identified as a the main reason for conflict leading to arbitrary displacement in three States -- Gujarat (100 per cent), Kashmir (79 per cent) and Orissa (65 per cent). Caste conflict was identified as the main reason leading to displacement of Assam’s 79 per cent of IDPs, while armed clash was the main reason for the conflict among 98 per cent of the Andhra Pradesh IDPs. The following table has the results:

**Table: 4.1 Main Reason for the Conflict**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Religious conflict			55	6.22	464	100	840	78.5	249	64.51
Caste conflict			696	78.73			3	0.28	89	23.06
Tribal conflict	23	2.67	115	13.01			5	0.47		
Armed clash	842	97.68					107	10	2	0.52
Not Mentioend			18	2.04			115	10.75	46	11.91
<b>Total</b>	<b>862</b>	<b>100</b>	<b>884</b>	<b>100</b>	<b>464</b>	<b>100</b>	<b>1070</b>	<b>100</b>	<b>386</b>	<b>100</b>

In many cases, the IDPs had to shift from one place to another. Thus, 62 per cent Gujarat’s IDPs and 28 per cent of Assam’s IDPs were forced to shift twice, while 43 per cent of Orissa’s IDPs had to shift thrice or more times. Gujarat’s 77 per cent IDPs said fear of attack was the main reason which forced them to shift for more than one time. A similar reason was given by Orissa’s 78 per cent of the IDPs. About 63 per cent of the IDPs identified lack of facilities at the earlier site as the main reason to shift to the new site from the old one. The following table has the results:

**Table: 4.2 Multiple Shifting post the violence.**

	AP		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Once	171	19.84	79	8.94	123	26.51	83	7.76	51	13.21
Twice	55	6.38	240	27.15	289	62.28	205	19.15	114	29.53
Thrice and above	42	4.87	175	19.8	52	11.21	739	69.07	167	43.26
Not mentioned	1	0.12	225	25.45			1	0.09	1	0.26
Not applicable	593	68.79	165	18.67			42	3.93	53	13.73
<b>Total</b>	<b>862</b>	<b>100</b>	<b>884</b>	<b>100</b>	<b>464</b>	<b>100</b>	<b>1070</b>	<b>100</b>	<b>386</b>	<b>100</b>

Principle 3 clearly mentions that “it is the primary duty and responsibility of the State to provide protection and humanitarian assistance to internally displaced person within their jurisdiction” The survey results further showed how miserably the IDPs were protected during the times of conflict. Nearly 78 per cent of IDPs of Assam, 67 per cent of IDPs of Gujarat, 97 per cent of IDPs of Kashmir and 79 per cent of IDPs of Orissa said they were left unprotected during the time of conflict.

**Table: 4.3 whether the IDPs received protection while in Transit.**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Yes	215	24.94	117	13.24	136	29.31	28	2.62	25	6.48
No	4	0.46	688	77.83	312	67.24	1037	96.92	303	78.5
Don't know	3	0.35	51	5.77	8	1.72	5	0.479	6	1.55
Not applicable	640	74.25	28	3.17	8	1.72			52	13.47
<b>Total</b>	<b>862</b>	<b>100</b>	<b>884</b>	<b>100</b>	<b>464</b>	<b>100</b>	<b>1070</b>	<b>100</b>	<b>386</b>	<b>100</b>

While being displaced, the IDPs were put into great hardships. Nearly 90 per cent of IDPs of Assam said, threats were issued out against them during their transit. The other important reason identified by Assam IDPs was abuse (30 per cent). Gujarat's 28 per cent of IDPs and Kashmir's 58 per cent IDPs, similarly, said they were being frequently threatened while in transit. This alarming figure points out the complete non-compliance of the State machinery to perform their duty, it speaks of a systemic failure where an agency meant for protection turns perpetrator. The protection was largely sought from police, army and para military forces.

People when reached safe places after fleeing from their original residence continued to remain threatened as fear loomed large, fear of being attacked again and the fear of being displaced again was constantly reiterated. All the Tribal's who fled from Chhattisgarh entered Khammam in Andhra Pradesh, they did not have any relief camps they build thatched roofs on forest land, which keeps them under constant fear of being evicted by the forest department.

In each State the losses suffered during the violence was huge, as the following table shows:

**Table: 4.4 Whether there was loss as a result of the violence.**

	AP		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Yes	626	72.62	875	98.98	436	93.97	965	90.2	324	83.93
No	231	26.8	8	0.9	28	6.03	105	9.8	6	1.55
Not applicable	5	0.58	1	0.11					56	14.51
<b>Total</b>	<b>862</b>	<b>100</b>	<b>884</b>	<b>100</b>	<b>464</b>	<b>100</b>	<b>1070</b>	<b>100</b>	<b>386</b>	<b>100</b>

In common parlance, the compensation for the loss that people suffer as a result of violence is blanketed in the form of fully and partially damaged house. In most cases loss of livelihood for a long period of time, livestock etc are not considered from compensation.

**Table 4.5 Kind of losses suffered as a result of violence**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
House burnt	608	70.53	875	98.98	331	71.33	830	77.6	320	82.9
House looted	437	50.7	817	92.42	365	78.67	536	50.1	262	67.87
shop looted and burnt	33	3.828	56	6.33	173	37.29	107	10	16	4.15
Shop looted	4	0.46	43	4.86	136	29.31	93	8.7	15	3.89
Any other premise des	127	14.73	165	18.67	21	4.526	341	3.9	65	16.84

*Note: The totals will not match as the people whose houses were burnt were also looted, and some people lost houses and shops both.*



Since it is the responsibility of the State to ensure due compensation the victims, it becomes necessary for the authorities to carry out due process. Despite such huge loss, most IDPs were not aware of whether any assessment of the losses by a government agency was ever carried out. Thus, Andhra Pradesh's 59 per cent and Assam's 59 per cent of the IDPs said that they were not aware of any such assessment, while another 36 per cent of IDPs of Andhra Pradesh and 38 per cent of IDPs of Assam said it was never carried out. About 80 per cent of the IDPs of Kashmir said the damage assessment of all that they had lost was not carried out. In Gujarat, 55 per cent of the IDPs said the damage assessment was carried out, but 26 per cent said it was not carried out and another 17 per cent said they were not aware of it. Similarly, 46 per cent Orissa IDPs said their damage assessment was carried out, while 19 per cent said it was not carried out and another 21 per cent were not aware of it.

Many IDPs lost their kin during the time of conflict. Several of the IDPs' relatives went missing, too, with no trace in site. About 58 per cent of Assam's IDPs said they could not reach the new site safe with their families, followed by Kashmir's 36 per cent of IDPs, Orissa's 27 per cent IDPs and Gujarat's 21 per cent IDPs. Despite such huge losses, majority of IDPs said police did not take enough action. In fact, on being asked whether FIR was registered, majority replied in the negative, as the following table suggests:

**Table: 4.6 Whether FIR's were lodged or not.**

	<b>A.P</b>		<b>Assam</b>		<b>Gujarat</b>		<b>Kashmir</b>		<b>Orissa</b>	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Yes	3	0.35	14	1.58	236	50.86	28	2.6	133	34.46
No	834	96.75	569	64.37	228	49.14	1034	96.6	184	47.67
Don't know									1	0.26
Not mentioned	18	2.09					2	0.2		
Not applicable	7	0.81	301	34.05			6	0.6	68	17.62
<b>Total</b>	<b>862</b>	<b>100</b>	<b>884</b>	<b>100</b>	<b>464</b>	<b>100</b>	<b>1070</b>	<b>100</b>	<b>386</b>	<b>100</b>

### **Right to Life Violated**

While the UN Guiding Principle No. 8 on IDPs say that "displacement shall not be carried out in a manner that violates the rights to life of those affected", things at most rehabilitation sites suggest this as not the case. In Andhra Pradesh in the Lenin Colony, the IDPs reported harassment by the police in the village, which forced them to go move to rehabilitation camp. The IDPs in Gulla Madugu reported that the Forest Department threatened to evict them and took away their hens. The local tribals (to whom they already paid Rs 10,000 to clear the land) were still harassing them and demanding more money. Communist Party of India (Marxist) members had collected Rs 150 from them and promised them title deeds for their lands. They had not heard from them after that. In Rayannapeta, the IDPs gave a detailed account of how they were directly attacked by Salwa Judum activists. They were accused of providing food and shelter to the Maoists. They lost their land worth 1.5-2 acres. They did manage to bring with them their cattle. They walked all the way to Andhra Pradesh. Initially they built huts next to the railway station, which were demolished or burnt. The IDPs in Erraborupadu initially cleared some forest land and started cultivating rice. The Forest Department objected to this and took away their implements. But later the implements were given back on the condition that they would not clear any more land.

The UN Guiding Principles No 9 say that the State is particularly obliged “to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.” Ground realities speak just the opposite. In Odissa, the IDPs who reside in Udayagiri said that they were still being openly threatened by the Hindu tribals. They were being told that, if they wished to return, they must convert to Hinduism. When the IDPs residing in the Ambedkar Colony went to reconstruct their homes, water was denied to them. This amounted to starvation as a method of perpetrating hostilities.

In Assam, the IDPs said, as a result of violence, herds of people were driven to live in the camps, and they did not know how to return. Lack of any means of livelihood, was driving men to migrate to big cities to work. There were middlemen who emerged in the bargain and would take young girls and boys to cities to work. Some children would be sold off and some would start working as servants in bungalows. The women who tried to flee from their homes during the attack were raped and thrown away. No one could move even 100 metres away from the camp.

One of the residents at a camp, Rukiya Hasda, said how her niece was seven months pregnant while coming to Dolgaon camp. The attacker slit her stomach and she died on the spot. The camps were also unsafe as the Bodos would be armed, enter the camps and start shooting. The security was ill-equipped to do anything.

In Odisha’s Udaigri settlement, women said that for them threats and intimidations were a regular affair. When they went out to collect firewood, drunken men would chase them and question as to who gave them the right to collect wood in the area. They would even make obscene gestures, or undress before them. Indeed, all this goes against the UN Guiding Principle No 11, which State that “every human being has the right to dignity and physical, mental and moral integrity”, adding, IDPs whether or not their liberty has been restricted, “shall be protected in particular against (a) rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault; (b) slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children; and (c) acts of violence intended to spread terror among internally displaced persons.”

In a large number of cases, the IDPs tried to return to their original place of living. To a question whether they made any effort to go back to their original habitat, the following answer was received:

**Table: 4.7 whether there was an attempt to return back to their original place of residence**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Yes	83	9.63	606	68.55	147	31.68	223	20.8	112	29.02
No			246	27.83	316	68.1	843	78.8	225	58.29
Not applicable	780	91.37	32	3.62	1	0.22	4	0.4	49	12.69
Total	863		884	100	464	100	1070	100	386	100

The only anxiety that an IDP carries with/her it to return to his home land, fear, social boycott and insecurity holds most people back. Some of those who tried to return met with unfortunate situations which held back their return. Attacks and threats were issued on those who wanted to return but failed, people did not have properties to return, economic and social boycott by the neighbours, in Andhra Pradesh, when some of the



people tried to return to Chhattisgarh, their own family members disowned them calling them betrayers. The UN Guiding Principles, state that the prime responsibility is that of the respective State to protect the rights of IDPs and ensure their safe return. There has been no such integrated effort seen anywhere except Kashmir, where some job opportunities are being created for youngsters to return to the valley. But this comes very late in the day when there has been a leap of one generation who has not lived in Kashmir Valley and relate themselves with Jammu.

### **Insecure Living**

The UN Guiding Principles on IDPs say that “every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.” It adds, “to give effect to this right for IDPs, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.” Further, “IDPs shall be protected from discriminatory arrest and detention as a result of their displacement. In no case shall IDPs persons be taken hostage.”

In Andhra Pradesh, the IDPs said, in Nemalipeta, the police suspected the villagers to be Maoists and filed cases against them. The villagers reported about this to the police station every week. If the head of the family was unable to report, the wife along with other members were mandated to do it. They were also made to do gardening at the police station. In Rayannapeta, the police would visit them every week, took their thumb prints, photos and names. They wanted the villagers to report to them if there were any visitors in the village. The police took names and finger prints from the villagers in Erraborupadu. However, now things had change. They did not visit the villages anymore.

In Assam, the camps that were set up in 1990s and 2000s were provided with some police security, but there were incidents where Bodos armed with guns started shooting randomly at the security forces, and the poor camp dwellers had to bear the bullets. In the recent violence in 2012, the security was minimalist and people lived in grave fear as there was no one to protect them.

The UN Guiding Principles say that “in no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.” They add, “IDPs shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances.”

Much against this, in Assam in the post-1996-98 violence, this principle has been grossly violated. Young boys felt that they were wronged by forcing them to join extremist groups that were formed to protect the rights of the Santhals, especially a group called Adivasi Cobra Militants of Assam (ACMA). Lokhiram Soren said, he was just 15 when he joined ACMA, and he still continues to be a part of it, but the group members surrendered their arms in 2011 after Union Home Minister P. Chitambaram called for a cease fire. He said, “I joined the group to protect my community, my parents did not stop me, along with me there were totally 448 boys who joined in, we were trained in using arms, I completed my metric while I was part of ACMA”.

Similarly Dilip Murmur’s brother Ranjit Murmur joined the group when he was 19 but he has not returned till date. Most camp dwellers believed that it was due to the extremist groups that their security was ensured. Jetha Hasta said his brother brother Upna Hasta joined the United Liberation Front of Assam (ULFA), adding,

“After he left, I have not see him till date”. Jetha lost his father due to lack of medical facility. He was a well to do man. But when he fled he had no money.

The UN Guiding Principles specifically speak of the need to provide grave sites to the IDPs and protect them, yet at least at two places, in Kandhamal and Gujarat, things were found to be different. In Kandhamal, the grave sites belonging to the Church and the community were destroyed, graves were dug up and bodies were removed from there in. Religious conflict invariably comes to the place of worship or place of burial/ funeral, which marks the rupture of the sacred sanctorum, and hence it adds an insult to injury of the community in question.

In fact, the survey results suggest that in majority of cases, the government did next to nothing to help IDPs to resettle. This is a clear indication that neither the state government nor the central government have taken any step to ensure the wellbeing of this marginalized community. As the following table shows, to a question how the government had helped them to resettle, this is the answer that was received:

**Table: 4.8 Measures taken by the government to rehabilitate the internally displaced persons**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Built relief colonies	5	0.58	14	1.58			143	13.4	38	9.84
Given built houses/livelihood	1	0.12	10	1.13			15	1.4	2	0.52
Given land to build houses	3	0.35	10	1.13			1	0.1	34	8.81
Any other	12	1.39	108	12.22					3	0.78
None of the above	841	97.56	727	82.24	464	100	911	85.1	231	59.85
Not mentioned			15	1.7					78	20.2
Total	862	100	884	100	464	100	1070	100	386	100

Huge losses that were suffered as a result of the violence, the compensation awarded against the losses in no state have been uniform, the process of compensation distribution has also not been uniform in any of the States Andhra Pradesh people have not received any monetary assistance. In Assam the sates government provided compensation, a blanket amount of Rs 50,000 and Rs 10,000, the compensation does not match up to their losses at all. In Gujarat it was only after the intervention of the Central Government that the people received an ex-gratia amount, still the amount was distributed in a restrictive manner several affected people are still deprived of any kind of compensation.

**Table: 4.9 whether the State provided any compensation.**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Yes	2	0.23	828	93.67	308	66.38	185	17.3	163	42.23
No			35	3.96	141	30.39	834	77.9	158	40.93
not mentioned	861	99.77					15	1.4	4	1.04
not applicable			21	2.38	15	3.23	36	3.4	61	15.8
Total	862		884	100	464	100	1070	100	386	100

And to a question whether the compensation was adequate, definitely there is a great level of dissatisfaction amongst people, monetary assistance does not in any way give back people the same life that they had, a lot of people owned land, had cattle which added to their riches, in Kashmir people had orchards, in Chhattisgarh

the livelihood of the tribals rested on forest products and today they are daily wage labourers, it takes away from them their identity of forest dwellers. It is the responsibility of the State to ensure a dignified living, living like urchins in the most deplorable situations has become the plight of most of these people.

**Table: 4.10 Was the compensation of a satisfactory level.**

	<b>A.P</b>		<b>Assam</b>		<b>Gujarat</b>		<b>Kashmir</b>		<b>Orissa</b>	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Yes			2	0.23	22	4.74	13	1.2	1	0.26
No			863	97.6	347	74.78	254	23.7	156	40.42
Not mentioned							97	9.1	6	1.55
Not applicable	862	100	19	2.1	95	20.47	706	66	223	57.77
<b>Total</b>	862		884	100	464	100	1070	100	386	100

Right to Food, Shelter, Health, Adequate Standard of Living and Property The UN Guiding Principles say that “all internally displaced persons have the right to an adequate standard of living”, adding, “At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to: (a) essential food and potable water; (b) basic shelter and housing; (c) appropriate clothing; and (d) essential medical services and sanitation.” They also want the authorities to make “special efforts ... to ensure the full participation of women in the planning and distribution of these basic supplies.”

Based on the location profiles in all five States, situations were found to be just opposite. The IDPs of 2002 Gujarat riots, resettled in Ahmedabad’s Siddiqabad Colony, said they had not been given the ownership of the houses in which they were currently reside in. They complained, drainage was a big problem in the locality. In the colony off Himmatnagar town in North Gujarat, the IDPs also complained that drainage remained a major problem. They lived in pucca houses, owned by a religious trust. The ownership was in the name of the sons of one of the trustees. The colony had been given electricity connection and water was available. However, water pipelines were of poor quality and broke down every week. As for sanitation, there was no proper plan for it so far, and people had to go to open fields to defecate, which created health hazards.

**Table 4.11: Status of the ownership of the house (Information collected from location profiles)**

	<b>AP</b>		<b>Assam</b>		<b>Gujarat</b>		<b>J &amp; K</b>		<b>Orissa</b>	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
in the name of the resident					48	28.74	2	8.7		
name of the trust who has made the colony	4	7.69			63	37.72	12	52.2		
government ownership					8	4.79	2	8.7	2	11.1
own house/hut but government land	5	9.62	6	75	7	4.19	1	4.3	16	88.9
own hut/house but forest land	26	50					2	8.7		
own hut/house on private land	14	26.92	2	25	11	6.59	3	13		
rented	3	5.77			30	17.96				
not mentioned							1	4.3		
<b>Total</b>	<b>52</b>	<b>100</b>	<b>8</b>	<b>100</b>	<b>167</b>	<b>100</b>	<b>23</b>	<b>100</b>	<b>18</b>	

In Odisha, the government did not provide any food supplies to the IDPs of Jokalandi. Documents such as public distribution system (PDS) card and below poverty line (BPL) card were left behind at home, and they had no means to access them now. Hence they were forced to buy food at unaffordable market price. The

IDPs at Jokalandi lived in semi-pucca or thatched houses. The slum was not connected by proper roads. They had been provided with hand pumps and electricity. But they did have access to medical facilities. The IDPs at Ambedkar Colony said they had been provided with drinking water, but there was no electricity connection to the place of their stay.

In Jammu Province, the IDPs said, they received very little quantity of food from the PDS shops, as they were told they were already receiving “relief” from the government. A girl from Muttih camp said, “We get water came once in 10-15 days and one have to walk up to two kilometres for drinking water every day.” IDPs from Uddhampur, who live on forest land, opined that most of the scheduled tribe people depended on rearing sheep and goats. They depended on forests for their survival and livelihood, hence lived mostly in forest areas. Since government policy on housing was absent, they were compelled to build mud and semi-pucca houses there. These houses were erected on the land owned by the Forest Department, and hence they faced the threat of eviction. The ICDS scheme existed in the area. However, it was irregular and not enough midday meal was provided to children. Pregnant women did not get supplementary food. National Rural Health Mission (NRHM) facilities did not exist. They were unable to avail of employment opportunities under the Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS), either, because they did not have voter identity cards or ration cards of the place of their current stay.

Assam’s IDPs of Sakkipara said, the government had dug 11 tubewells due to the pressure exerted by the NGOs. Six out of the 11 were functional. The supply of oil is very little, just 175 ml per month. However, they complained, the government had not provided shelter or security to them. The person who donated his land for the camp had thought that the IDPs would move out after about three months. However, this did not happen, and now he was demanding rent. Warm clothes were not being provided for protection from severe cold during winter. To take care of the health problems, a doctor and a nurse visited the camp for an hour every day. In another camp in Assam, West Gumurgaon, IDPs reported that food supplies had stopped altogether. They had no access to clean drinking water. No warm clothes have been provided. The conditions are very unhygienic and waste water could be seen flowing all around. They frequently fell sick. Only at one site, in Rangjohra, good quality blankets were provided. They received supplies of rice and dal.

In the camps set up after the 1996-98 violence, there were no toilets, nor was it safe for IDPs to move away into the fields to defecate. “We had to bathe and defecate in front of everyone, as there is no separate provision for it. The security forces would be all around and we had to complete the chores”, the women IDPs complained. IDPs told a story on how, when they were on the move to Kuchugaon, at Kokrajhar, the well found to be poisoned. People who could smell it avoided a huge calamity and therefore the water became a huge problem for the people in the camps. Before the violence erupted, some adivasis, who lived on forest land, were later termed as encroachers. Some of the people living in the forest land paid penalty and continued to live there for years. Post-violence, they were not allowed to enter the land as they were “encroachers”. They had not received any compensation, they said, nor did they have any place to return.

Andhra Pradesh IDPs said, in Lingapuram, drinking water was a major problem. There was a PHC. But doctors were generally not available there. For serious illnesses and deliveries, they had go to the hospital in Charla. For the IDPs in Gulla Madugu, the Aswapuram PHC took care of their basic health needs. They suffered from common cough, allergies, body pain, stomach pain etc. They had access to drinking water. They had to visit the hospital at Bhadrachalam for major health problems. The IDPs in Rayannapeta said they had to

go to the PHC in Manguru, which was eight km away. Drinking water was not provided to them. They did not have a borewell, either. Their only source of water was the common well, which dries up in summer. The villagers in Erraborupadu collect small produce from the forest and make oil and alcohol for consumption. They bought broken rice for Rs 15 per kg. They did not have access to drinking water. They had a PHC at Boorgampadu and a hospital at Bhadrachalam. ICDS centres were made available at most places, but that did not in any way ensure that there was enough nutrition provided to lactating mothers and newborn children. Complaints that the ICDS centres remained closed were common at most places. While in transit, IDPs who fled from south Chhattisgarh (Maraigudam) to Andhra Pradesh (Karnapuram 80 km away from Maraigudam) walked for six days without security and had nothing on them to sustain themselves.

Group discussions with IDPs revealed that most people who were forced to leave their place of residence were in possession of land before they left. While it was difficult to establish whether conflict situations were created in order to take possession of the landed property, the fact remained that most IDPs lost their landownership, and were unable return to take possession back. At some places, people had to sell land at throw away prices, as they were forced out, and they could not find good buyers. In fact, at no place did the State government come forward to protect the landed property of the original owner. In Odissa, the IDPs living in Shaktivihar said they had left everything behind. Their properties had been encroached upon. When they tried to return, economic and social boycott did not allow them to sustain themselves.

Loss of property virtually turned the IDPs into wage workers. In Gujarat, the IDPs resettled in the Siddiqabad Colony said they did not have many opportunities of employment. Men worked as daily wage labourers and women tried to earn their living from activities such as sewing. The income was very limited, and the place of work was situated far away from the place of residence. Transport ate into their already meagre income. Some women worked as domestic help, too. In Orissa, the IDPs resettled in the Jokalandi slum earned their income by working as wage labourers. They got paid less than minimum wages and found it difficult to even pay the rent. The IDPs in Udayagiri depended on erratic wage labour. Women would go out to collect forest produce. In Shaktivihar, IDPs complained, the government did not provide enough of opportunities for jobs or other livelihood support mechanism. Men went to far off places like Kerala and Karnataka in search of job opportunities. Women worked as domestic help. Previously employed in tribal Hindu farms, they were being refused jobs now. Their livelihood depended on collecting firewood from the surrounding areas and selling it. The Hindus had stopped interacting with Christians altogether. This prevented them from freely associating and participating in community affairs.

In Jammu Province, the displaced Kashmiri Pandits were only guaranteed a limited number of jobs. They had to be happy with 3-4 streams of government jobs, mostly of teachers. People who got displaced in 1990-91 had “over-aged” and therefore had to apply for jobs with no guarantee that they would get them. Hence, many people were forced to remain unemployed or self-employed. Strict conditions of non-transferability further discouraged them. MGNREGS was not being implemented in their area. Some women made handicrafts and shawls, while others solely depended on cash doles. The IDPs belonging to the scheduled tribes among the Kashmiri migrants said they depended on their traditional occupation of rearing cattle and sheep for their livelihood. Some women had started selling wool and shawls on a small scale.

The Kashmiri IDPs said, the government had lately come up with a new job policy, known as migrant quota, for attracting the migrants to return to the Valley. The jobs package included housing, mainly quarters. Quotas

were being offered in jobs on the condition of that they would not be transferred out of the Valley. They were made to sign an affidavit in this regard. However, IDPs felt some provisions of the new policy were not acceptable. One participant said, “The package offers loan for self-employment. But we have been rendered without property, and there is nothing to mortgage for the loans. Hence, no one is able to avail the loans in order to start their own business”. Others suggested, the policy of the government to connect livelihood with return to the Valley was not a good precondition. The government should, instead, create conducive environment of safety as the launching pad, or a geographical space where all of them would live together. Already, it was reported, about 1500 people had taken jobs back in Kashmir Valley, but they were not interested in settling there permanently.

In Andhra Pradesh, an IDP from village Karnapuram, Bhadrachalam Mandal, said, “We never wanted to leave our home. We owned tamarind and mango trees. We had our cows, goats, hens, everything. Our agriculture fields were there. But Maoists attack us any time. Our houses were burnt. There was firing. There was lot of tension.” The IDPs at Rayannapeta complained that though they had been employed by the Forest Department in the Vansamrakshana Samiti plantation work, but they had not been paid wages. Only the villagers in Erraborupadu had the opportunity to work at chilly and rice fields. They also owned MGNREGS cards.

In Assam, the IDPs in Sakkipara said they did not have many opportunities to work. Women had altogether stopped going out for work due to safety reasons. The Santhals who were landowners and tilled their own land, had now been reduced to wage labourers.

In fact, the survey results suggest that pauperization became one of the key characteristics for many of the IDPs on being shifted. About 82 per cent of the IDPs cultivated their own land in Andhra Pradesh at the original place of living; this came down to 67 per cent at the new site. At present, 51 per cent of the Andhra Pradesh IDPs now worked agricultural workers, and 36 per cent worked under the National Rural Employment Guarantee Scheme (NREGS). Assam’s 95 per cent of IDPs at their original habitat were cultivators. At the new site, this came down to a mere seven per cent, with great majority (78 per cent) working as casual workers. Gujarat’s 61 per cent of IDPs said they were cultivators on their own land before being displaced. However, at the new site, this went down to a mere three per cent, with a great majority (63 per cent) working as casual workers. In their homeland, they owned land, they could even do small business based on their produce, the major dependency that is noticed is land, agriculture has been integral to the people in all the States, In the new place of residence they are landless, in rural communities ownership of land is attached with a social status, the Santhals were self sustained, every need was produced by them, they recall trading rice to get daily needs, their houses were full with grains. Their land gave them power, and it was their life line.



**Table: 4.12 Occupation before displacement took place.**

	<b>A.P</b>		<b>Assam</b>		<b>Gujarat</b>		<b>Kashmir</b>		<b>Orissa</b>	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Cultivated own land	704	81.67	840	95.02	24	5.17	654	61.1	115	29.79
Agricultural labourer	675	78.31	575	65.05	20	4.31	74	6.9	49	12.69
Earned out of selling forest produce	375	43.5	95	10.75	5	1.078	26	2.4	29	7.51
Small business	45	5.22	74	8.37	151	32.54	119	11.1	54	13.99
Casual labour	47	5.45	26	2.94	122	26.29	59	5.5	135	34.97
Service in semi govt bod	1	0.12	4	0.45	13	2.8	37	3.5	6	1.55
Service in govt			16	1.81	22	4.74	321	30	12	3.12
Service in private			7	0.79	45	9.7	137	12.8	43	11.14
Home based labour			227	25.68	25	5.39	44	4.1	10	2.59

On reaching the new site, the IDPs reported that their economic conditions had worsened, dependency on casual labour increased, in Assam 77.8 % people are involved in casual labour, in Gujarat 63.15 %. The Chhatisgarh tribals, 43.5 % of them made a living out of forest produce, it reduced to 5.22 % in the new place as there is hardly any forest area that they can enter.

Working at a new place and in new environment has its own dynamics, the initial struggle is to find work, which then translates to sustain work, the identity as an “outsider” always raises its head and which plays a major role in deciding whether a job will be given or no. It also keeps the fear of losing the job constant. The survey results suggest that were cases now when IDPs suffered from discrimination in daily wages – the survey results showed that 12 per cent of Andhra Pradesh IDPs, 45 per cent of Assam IDPs, 12 per cent of Kashmir IDPs and 18 per cent of Orissa IDPs said they faced such discrimination. The main discrimination was payment of less wages, other kinds of discrimination included, fewer days of work, discrimination on religious grounds etc.

**Table: 4.13 Discrimination experienced in receiving wages.**

	<b>A.P</b>		<b>Assam</b>		<b>Gujarat</b>		<b>Kashmir</b>		<b>Orissa</b>	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Yes	101	11.72	397	44.91	13	2.802	133	12.4	69	17.88
No			415	46.95	350	77.59	775	72.4	247	63.99
Not mentioned	761						61	5.7	3	0.78
Not applicable			72	8.14	91	19.62	101	9.4	67	17.36
<b>Total</b>	<b>862</b>		<b>884</b>	<b>100</b>	<b>464</b>	<b>100</b>	<b>1070</b>	<b>100</b>	<b>386</b>	<b>100</b>

Even NREGS job cards were not given a large number of cases to the IDPs who had settled down in rural areas. The survey results show that 48 per cent of IDPs from Andhra Pradesh, 32 per cent from Assam and 98 per cent from Orissa were not handed over NREGS job cards, to which they should be entitled to. The reason that IDPs in Andhra Pradesh received NREGS cards was the constant pressure by local civil society organization (ASDS) that pressurized the collector to issue job cards.

Despite their pauperization, in a large number of cases, no productive assets were provided by government agencies to take care of their livelihood. Thus, 53 per cent of IDPs from Gujarat, 43 per cent from Kashmir and 34 per cent from Andhra Pradesh said they did not receive any productive assets to continue their business. Those who received productive assets mainly included land, including forest land, cattle and other livestock. In a very few cases shops were also given to earn a livelihood.



## Psychological Wounds and Health Hazards

As the IDPs were forced to shift to a new place, they live in conditions which are not of their choice. They have left behind their memories along with their belongings. The idea of never being able to go back to their birthplace becomes emotionally very stressful. Change in weather, food habits, water and vegetation definitely add to this stressful condition. In most camps, food, water and hygiene are seriously compromised, but things get worse because people are emotionally stressed. A lady in Jagti village in Kashmir said, “Hum jante the ki bamari kya hoti hai. Agar koi bimar hota tha to hum us ka Ilaj ghar mai he karte the. Lekin yaha aane ke bad bohut kuch badal gaya. Ab hum aksar bimar hotay hai. Jo bhi kamatay ha, bamari par kharch hota hai” (We knew what was being ill before we reached this site. If anyone would get ill, we treat him or her at home. But here things have changed. Now, we often get sick. Whatever we earn is spent on curing ourselves). Providing medicines may be a very convenient philanthropically, but how to overcome psychological wounds remains a puzzling issue. In fact, there is culture of silence around the need for counseling under these circumstances.

The IDPs of Gujarat riots resettled in the Siddiqabad Colony were found continuing to be traumatized by the memories of the violence unleashed upon them. They have not received any form of psychological support or counseling from the government. Lack of any support from the government has worsened the situation of the IDPs at other places. Odisha’s pregnant women living in Jokalandi have not been contacted by Accredited Social health Activist (ASHA) or Auxiliary Nurse Midwife and Anganwadi Worker (ANM) workers. The pregnant women from Udayagiri do not receive any supplementary food. The pregnant women residing in Shaktivihar do not receive any supplementary food from the anganwadis on the ground that they are “resettlers”. In Jammu Province, supplementary food is not provided to the pregnant women at IDP colonies in Mansar and Udhampur. In Andhra Pradesh, In Gulla Madugu, a health worker visits the village just once a month.

In Assam, after the latest bout of violence of 2012, most women who were pregnant delivered their babies in the camps alone. A woman, sitting with her newborn in Gumurgaon camp, was found to be utterly malnourished. Severe cholera epidemic broke out in camps that were set up after the 1997-98 violence. Several children died. The inmates said they had maintained a register of the number of deaths that happened in the camps. Some of the Santhals were very well to do, they were unable to take the shock of the loss, and lost their mental balance, the number of women losing their mental balance was far higher. The medical facilities given at that time were minimalistic. It was also found that the medicines provided in the camps were of expired dates.

The health problems of the IDPs appear to have multiplied at the new place, with many of them suffering from one type of health problem or the other. The survey results showed that the diseases the IDPs suffered from include those related with skin (40 per cent of IDPs of Andhra Pradesh), abdominal issues (10 per cent of IDPs of Gujarat and 11 per cent of IDPs of Kashmir) and malaria and typhoid (12 per cent IDPs of Orissa). Worse, 11 per cent of IDPs of Assam said they suffered from starvation, while 14 per cent reported they were hungry.

To a question whether they faced more health issues than before, the following answer was received during the survey, adapting to a new environment and that to in a state of trauma is very difficult, in the absence of proper livelihood health is neglected by most people. Health is compromised in order to fend for the family. Physical

illness due to change of weather, water and air are still visible ailments that can be cured, in cases where the mental health is affected due to the shock of loss is completely ignored. (70 % in Andhra Pradesh, 44 % in Assam 28 % in Gujarat, 55 % in Kashmir and 29 % in Odisha have experienced health issues after coming to a new place.

**Table: 4.14 Health Issues experienced after coming to the new place of residence.**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Yes	606	70.3	384	43.44	127	27.37	596	55.7	113	29.3
No			426	48.19	337	72.63	466	43.6	207	53.63
Not mentioned	256	29.69					1	0.1	10	2.59
Not applicable			74	8.37			7	0.7	56	14.51
Total	862		884	100	464	100	1070	100	386	100

The surveyors noticed the deplorable conditions of the settlements and colonies, which were not at all well equipped with basic necessity. Due to unhygienic conditions, infections and diseases become very common. Private medical facility is difficult to avail, and hence the only recourse is government health facilities. The survey suggested IDPs have to travel long distances, in all the States it was reported that people had to travel more than five kilometers, for any treatment to reach Primary Health Centre (PHC). The following table has the details:

**Table: 4.15 the distance to be travelled to reach a PHC in the current location**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
1 km	29	3.36	59	6.67	166	35.78	350	32.7	10	2.59
2-3 km	134	15.55	132	14.93	129	27.81	257	24	105	27.2
more than 5 km	691	80.16	666	75.34	162	34.92	426	39.8	156	40.41
Not mentioned	8	0.93			1	0.22	2	0.2	16	4.15
Not applicable			27	3.05	6	1.29	35	3.3	99	25.65
Total	862	100	884	100	464	100	1070		386	100

That psychological factors add to the health hazards is clear from the survey results. In a completely alien place the food habits bound to be different, sometimes unavailability of specific food grains also changes the food pattern. In the Valley, the Kashmiri's preferred rice whereas in Jammu they had to settle for roti's. Thus, to a question if they experienced any change in their food habits at the new site, the following answers were received:

**Table: 4.16 Whether there was a change in food habits after coming to the new place.**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Yes	225	26.1	814	92.08	212	45.69	747	69.8	269	69.69
No			70	7.92	252	54.31	321	30	117	30
Not mentioned	607	73.9					2	0.2		
Total	862	100	884	100	464	100	1070	100	386	100

In fact, in a great majority of cases, IDPs said, they were not accustomed to the food grains they were able to access. Those who complained of unaccustomed food grains was Assam 67 per cent, Gujarat 22 per cent, Kashmir 26 per cent, Orissa 56 per cent and Andhra Pradesh 11 per cent. The next important problem

reported was poor water quality (18 per cent of IDPs of Andhra Pradesh, 15 per cent Gujarat IDPs and 33 per cent Kashmir IDPs).

Majority of the IDPs said they were unable to adjust to the new cultural environment, and the reasons they advanced for this included neighbourhood was not friendly, could not like the new social environment, unfamiliar customs, food habits, language and dress.

On being asked whether they suffered from cultural alienation, majority of the IDPs responded that they suffered from a major cultural shift, for IDPs from Chattisgarh, the shift was a big leap as they were not recognized as tribals in AP, whereas they had relatives and members of their tribes in AP. Not just that, the customs food habits etc was very different from theirs. In the case of Kashmir coming to Jammu meant a completely new world. One the person's from the camp had said that "in the Valley Shivratri was the only major festival we celebrated, here we have began celebrating Diwali, Karwa Chauth, some of the vrat's(Fast) we kept there have now faded from our memory". Preservation of culture is a major concern as it is linked to adaptability, the UN principles are suppose to ensure that an environment conducive to live has to be created, apart from basic amenities provisions to create familiar environment to the original place of living should be attempted. A vehement yes to whether there has been a cultural shift only goes to say that the IDPs are affected by it.

**Table:4.17 Whether the IDPs experienced cultural alienation.**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Yes	551	63.92	488	55.2	146	31.47	835	78	160	41.45
No			286	32.35	318	68.53	225	21	226	58.54
Not mentioned	331	36.08					4	0.4		
Not applicable			110	12.44			6	0.6		
<b>Total</b>	<b>862</b>	<b>100</b>	<b>884</b>	<b>100</b>	<b>464</b>	<b>100</b>	<b>1070</b>	<b>100</b>	<b>386</b>	<b>100</b>

**Table: 4.18 Some of the major cultural shifts experienced**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Neighbourhood is not friendly	10	1.16	130	14.7	23	4.96	112	10.5	21	5.44
Can't adjust to the social environment	4	0.46	102	11.54	57	12.28	156	14.6	34	8.81
Customs	112	12.99	239	27.04	1	0.22	327	30.6	84	21.76
Festivals	94	10.9	145	16.4	52	11.21	219	20.5	2	0.52
Food habits	431	50	155	17.5	3	0.65	128	120	8	2.07
Language	36	4.176	180	20.36	2	0.43	478	44.7	2	0.52
Dress	143	16.59	176	19.91	2	0.43	103	9.6		
Climate							6	0.6		
Business	143	16.59	3	0.34	2	0.431				

The above table very clearly shows that food habits and change of customs affect adaptability the most.

## **Right to Recover Documents**

The UN Guiding Principles on IDPs say, “Every human being has the right to recognition everywhere as a person before the law... To give effect to this right for IDPs, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one’s area of habitual residence in order to obtain these or other required documents.” It insists, “Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.” This right was being violated at several places in the five States which were surveyed.

In Gujarat, the IDPs in at the Himmatnagar Colony said they been denied BPL cards on the ground that they lived in pucca houses. However, they were not staying in these houses out of their own free will, and the actual owner of the houses was a religious trust. In Odissa, among the IDPs in Shaktivihar, only four families had voter ID card, and all except one family had access to Unique Identity (UID) or Aadhar cards. The rest of them had a written document from the landlord stating that they were his tenants. In Jammu, voter ID cards and PDS cards were not provided to the IDPs living next to Mansar, Udhampur. This made it difficult for them to get MGNREGS job cards. The names of the Kashmiri Pandits also did not figure in the voting list of the Valley. They alleged that it was because they did not constitute a significant vote bank.

In Assam, for the IDPs in the Sakkipara camp, no cards were issued by the State government even though data had been compiled and sent to the government by an NGO. In West Gumurgaon, the IDPs were not being given land clearance. This prevented them from returning. In Rangjohra, the Bodos hampered their efforts to get tribal certificates. Instead, they were provided with OBC cards. The Santhals who left their lands and settled on forest or private land did not own any ration card, despite the fact that their names were there in the voting list.

In Andhra Pradesh, in Rayannapeta, the IDPs complained that a person from Mumbai took Rs 20,000 from them promising voter ID and ration cards. They have not heard from this person.

The survey results showed that in majority of cases the IDPs had lost their documents which they could have otherwise produce as identity proof. Even then, the government in most States refused to do anything to reissue them new documents. On being asked whether the government issued new documents, in all the 5 States there was no strategic efforts made to renew any documents that were lost, from the RTI response received from Kandhamal district, the collector there has said that there is a provision made for the issuance of ration card, the road transport department in response to the same RTI said that driving license will be issued on production of the copy of the FIR and other relevant document. During the not such indication was received from the respondent. As per the National Legal Services Authority scheme on action during the time of a disaster, it is the duty of the State Legal Services Authority to ensure that there are applications made for lost documents. None of the State Legal Services Authority has taken any such step. Only the Collectors in AP have issued NREGS job card to the displaced population. After a long sustained battle with the Government of Gujarat and with the help of the Supreme Court Commissioner under the Right to Food Campaign Dr. N.C Saxena the IDPs of Gujarat received Antyodaya ration cards. No where it was found that the IDPs were

issued UID cards whereas India has been campaigning heavily for it.

**Table: 4.19 Whether lost documents were issued or not to the IDPs in the new settlement**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Yes	15	1.74	27	3.05	281	60.56	281	26.3	63	16.32
No	811	94.08	823	93.1	37	7.97	776	72.5	240	62.18
Don't know	1	0.12			26	5.6			2	0.52
Not mentioned	8	0.93	1	0.11			9	0.8	9	2.33
Not applicable	27	3.13	33	3.73	120	25.86	4	0.4	72	18.65
<b>Total</b>	<b>862</b>	<b>100</b>	<b>884</b>	<b>100</b>	<b>464</b>	<b>100</b>	<b>1070</b>	<b>100</b>	<b>386</b>	<b>100</b>

The other major document that is crucial to avail benefits from the government is the ration card the following table shows how many people have ration cards of the current location.

**Table 4.20 Availability of Ration Card of the current location**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Yes	391	45.36	133	15.05	432	93.1	965	90.2	83	21.5
No			723	81.79	32	6.9	105	9.8	255	66.1
Not Mentioned	471		28	3.17					48	12.4
<b>Total</b>	<b>862</b>		<b>884</b>	<b>100</b>	<b>464</b>	<b>100</b>	<b>1070</b>	<b>100</b>	<b>386</b>	<b>100</b>

Even if the rations cards were available, whether the ration shops are there or not in these location still remains debatable, facilities are provided as structures but whether they are functional also needs to be checked

**Table:4.21Whether the Ration shop exists in the locations or not (information as per the location profile)**

	AP		Assam		Gujarat		J & K		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Yes	3	5.77	3	42.86	145	86.83	16	69.6	17	5.6
No	49	94.23	4	57.14	22	13.17	7	30.4	1	94.4
<b>Total</b>	<b>52</b>	<b>100</b>	<b>7</b>	<b>100</b>	<b>167</b>	<b>100</b>	<b>23</b>	<b>100</b>	<b>18</b>	<b>100</b>

Right to Education The UN Guiding Principles on IDPs State that “every human being has the right to education”, insisting, “To give effect to this right for IDPs, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.” They add, “Special efforts should be made to ensure the full and equal participation of women and girls in educational programmes. Education and training facilities shall be made available to IDPs, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.”

**Table: 4.22 Availability of School in new location**

	A.P		Assam		Gujarat		Kashmir		Orissa	
	Frequency	%	Frequency	%	Frequency	%	Frequency	%	Frequency	%
Yes	791	91.76	831	94	327	70.47	894	83.6	158	40.93
No			17	1.92	115	24.78	155	14.5	2	0.52
Don't know									2	0.52
Not mentioned	71	8.24					9	0.8	1	0.26
Not applicable			36	4.07	22	4.74	12	1.1	223	57.77
<b>Total</b>	<b>862</b>		<b>884</b>	<b>100</b>	<b>464</b>	<b>100</b>	<b>1070</b>	<b>100</b>	<b>386</b>	<b>100</b>

In Gujarat, this principle was found to be grossly violated. While the Right to Education (RTE) law is in operation in the entire State, it was being neglected at the Siddiqabad Colony. Even though many students had joined the Sarkhej School nearby, they were forced to drop out, as IDP families needed more hands to pitch in for family income. In fact, livelihood support seemed to be a major problem among the IDPs in Gujarat. At the Himmatnagar Colony, children did attend school in a nearby locality till class eighth. But parents were generally hesitant to send girls to school because of wide-scale prevalence of illicit liquor in the area.

In Odisha, in Jokalandi, education was being provided by missionaries at a reasonable rate. Fee concession was available for the children who could not afford. The IDPs settled in Udayagiri had easy access to education as there was a government school situated nearby. The children of the IDPs settled in Shaktivihar attended the St Xavier's School situated nearby. In the Ambedkar Colony there was an instance of a IDP child who was forced to discontinue his education due to lack of funds. IDPs complained, at most places, children did not attend anganwadis due to fear of assault.

In Jammu Province, in Muthi, the IDPs complained that education in government schools was of very low quality, and they were forced to send their children to expensive private schools. It was found that the literacy rate among the scheduled tribes amongst the Kashmiri migrants was very low. Most of them did not send their children to school, and instead involved them in their traditional occupation of rearing sheep. The government educational bodies failed to motivate them.

There was some improvement in education of the children who were born in the camps. The new place sometimes offered a better education system. In the Jagti township, children thought that their education was good, and it was such a contrast to their original place of stay in Kashmir valley, where the schools used to be closed most of the time. There were other sentiments like education would ruin traditional livelihood knowledge. Some of the displaced from rural Kashmir who settled on forest land in Uddhampur, Mansar, felt cattle rearing was their traditional business, which children should pick up right from the very beginning. Schools were secondary.

In Assam, there was a functional camp school in Sakkipara. However, books were yet to be distributed by the district collector. In West Gumurgaon, there was a functional school, but books and uniforms were yet to be distributed. At the Rangjohra IDP camp, children attended a nearby school. In Andhra Pradesh, in Lingapuram, there is an Upper Primary School where children studied till class seven. In Erraborupadu, there was a primary school which was a kilometre away and a mini-anganwadi. The provision of Ashram Shalas had helped children to go back and study. The widowed mothers aged 55-60 were also found to be staying in these Ashram Shalas with their children.



The survey results suggest that the IDPs – a large portion of are illiterate – found that their children, too, had little future, as they were not able to get quality education. In fact, 29 per cent of IDPs from Orissa, 47 per cent of IDPs from Gujarat and another 60 per cent from Kashmir found the quality of education had “changed”, though in most cases they were unable to spell out if it was for better or for worse.

### **Right to Return, Resettle and to Reintegrate**

The UN Guiding Principles for IDPs say, “Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow IDPs to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.” They add, “Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.”

Much against this principle, in Odisha, Jokalandi IDPs said they were unable to return to Kandhamal, as they continued to be traumatized. They also feared that they might face economic deprivation and deprivation in other forms of opportunity. They reported that the hostility was being perpetrated by the Hindus in an organized manner. Government had not provided secure conditions suitable for the IDPs in Shaktivihar to return. When the residents of the Ambedkar Colony tried to rebuild their houses at their native villages, the Hindus did not let them continue. They stole construction material and denied them water for drinking and construction.

In Jammu Province, the IDPs said, the government had not taken steps to collect data of the IDPs for their safe return. Further steps were rendered impossible due to this. The Kashmiri Pandits felt unsafe to return to the Valley. Even though some people had taken up jobs in the Valley, they did not wish to live there permanently. In Assam, the IDPs residing in West Gumurgaon felt that the conditions were not safe enough for them to return. Economic and social embargo had been imposed on them. Also, the compensation of Rs.22, 700 doled out by the government was quite inadequate for them to rebuild their houses. The IDPs at Rangjohra said they were unable to access their land documents.

All this is also in violation of the UN Guiding Principles on IDPs, which say, “IDPs who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.”

In Gujarat, the IDPs at the Siddiqabad Colony complained that the assessment of damaged property had been done in a very haphazard manner. Reportedly, in one incident, property worth at least Rs 1 lakh was valued at Rs 1,000. And a property worth Rs 4-5 lakh was valued at Rs 1 lakh. The compensation awarded should be in proportion with the market value of the property owned. The IDPs feared returning to their previous place of residence due to hostile conditions. There had been cases when the IDPs who went back were asked for money by those who had occupied their houses illegally.



In Odissa, the IDPs said, the meagre compensation that the IDPs in Jokalandi had received was spent in procuring a house in Bhubaneswar. They received a compensation of Rs 50,000 from the government and Rs 30,000 from the Church. This prevented them from returning. They were also unable to return, as they were being threatened with destruction of property. Also, they must reconvert to Hinduism in order to return, they were told. In Andhra Pradesh, in Gulla Madugu, Salwa Judum activists had taken away their animals and occupied their land. They were not being allowed to return

## Chapter 5: Need for a Law on IDPs

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The current legal system poses a number of inadequacies in terms of protection and relief needed by the vulnerable group of internally displaced people. As per the UN Guiding Principles on Internal Displacement, ‘internally displaced persons’ are "persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognised State border."<sup>10</sup> By applying the definition in the Indian context, it has been estimated that till August 2010 at least 650,000 people were facing displacement as a result of armed conflict, communal and ethnic violence and human rights violation.<sup>11</sup> The States affected are Gujarat, Chhattisgarh, Jammu & Kashmir, Andhra Pradesh, and the north-eastern States- Assam, Mizoram, Manipur and Tripura. The estimated number of IDPs and the corresponding lack of a dedicated law for this community clearly indicate a complete disengagement of the government from this issue.

The provisions of international law, and in particular, the UN Guiding Principles have served as a conceptual model based on which, around sixteen countries have framed their domestic laws and policies on internally displaced persons. The UN Guiding Principles provide for a comprehensive framework of stipulations that prescribe the appropriate interventions and guarantees to protect the interests of internally displaced persons. While these prescriptions serve as a model framework for a future comprehensive legislative framework in India, it might be worthwhile to first inquire into the accommodations made in the existing laws and policy documents in India. While these are sporadic and dispersed references to internally displaced persons in various laws, bills and policy documents, they can no doubt serve as the building blocks for a single and comprehensive law on internally displaced persons in India. A harmonious collaboration of the existing provisions with the UN Guiding Principles serving as a model template can effectively create inroads into a more just, equitable and compassionate policy vision for internally displaced persons in India. In this context, the following section discusses the treatment of internally displaced persons in the legislative and policy framework in India in terms of both its positive contributions and shortcomings.

The issue of displacement, rehabilitation and resettlement has seen scant regard in some legislations and policy documents issued by the government. For example, the Communal Violence Bill contains a reference to the group of people displaced by communal violence. However, this does not conform to the principles laid down in the UN guidelines (CSW, May 2010, p.18). The only other legislation in India, which recognizes displacement as an issue is the Land Acquisition Act, 1894, which guarantees some legal remedy in the form of “adequate compensation”<sup>12</sup> to the IDPs created as a result of development projects. Further, the ‘National Rehabilitation and Resettlement Policy in 2007’ issued by the Government which attempts to “to minimize displacement of people and to promote non-displacing or least-displacing alternatives” has been now severely criticised for its potential to cause more conflicts between the land acquisition process and protection of

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<sup>10</sup> Please provide citation. This has been mentioned before in the report and can be cited accordingly. (Guiding Principles on Internal Displacement, Introduction, para. 2)

<sup>11</sup> Report Internal Displacement Monitoring Center 2nd September 2010

<sup>12</sup> Section 6 Land Acquisition Act 1984

human rights<sup>13</sup>. The Recommendations on Relief and Rehabilitation of Displaced Persons, 2008 issued by National Human Rights Commission (“NHRC”) contain guidelines for the State to provide a basic structure of relief and rehabilitation mechanism<sup>14</sup>. Further, the ‘Protection of Children’s Rights in Areas of Civil Unrest’ is a policy document consisting of recommendations by the National Commission for Protection of Child Rights (“NCPCR”), which when implemented would serve to make children in these areas safer and less deprived<sup>15</sup>. Hence, in the light of severely fragmented and inadequate approach to the issue of IDPs, there is an immediate need of a single and overarching legislation which would address the issue of IDPs in a comprehensive manner. The absence of a National policy, legislation and other mechanisms has often led the State governments to contend that they are powerless to make any decisions for IDPs. It must be noted that while there is certainly a need for a National policy, its absence does not absolve State governments from their responsibilities towards IDPs<sup>16</sup>. This assumes special significance in States such as Gujarat, Chhattisgarh where State inaction and unconstitutional activities on part of the State machinery have resulted in large-scale displacement.

On 27th February 2002 around 58 Hindu pilgrims were killed in a fire on a train which was allegedly started by a group of Muslims in Godhra (Gujarat). The violence against Muslims that broke out subsequently as a result of this carnage, was allegedly orchestrated and carried out at the behest of the State Chief Minister, Mr. Narendra Modi.<sup>17</sup> Further, there were allegations against Mr. Modi that he ordered police officials not to combat the violence and destruction caused by the Hindus to the Muslims.<sup>18</sup> As of mid-2010, criminal investigations by the Supreme Court of India against the perpetrators had been ongoing since 2009 (CJP, 19 July 2010, p.2). In the case of Gujarat, time and again there has been a failure of State machinery to protect the rights of the people and the most glaring example of this is seen in the aftermath of the Gujarat riots.

In the case of the Salwa Judum<sup>19</sup> a large number of people especially tribal youth in Chhattisgarh were made pawns at the hands of the State machinery where they are expected to combat Naxalites with very basic education and orientation provided to them.<sup>20</sup> On July 5, 2011, the Supreme Court of India declared the militia to be illegal and unconstitutional, and ordered its disbanding. The Court directed the Chhattisgarh government to recover all firearms, ammunition and accessories. The use of Salwa Judum by the government for anti-Naxal operations was criticized for its violations of human rights, use of child soldiers and uneducated youth for counter-insurgency roles. It also ordered the government to investigate all instances of alleged criminal activities of Salwa Judum<sup>21</sup>. Similarly, in States where the Armed Forces Special Powers Act

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<sup>13</sup> India’s Failed Rehabilitation Policy, THE SOUTH ASIAN, December 22, 2007, available at [http://www.thesouthasian.org/archives/2007/indias\\_failed\\_national\\_rehabil\\_1.html](http://www.thesouthasian.org/archives/2007/indias_failed_national_rehabil_1.html)

<sup>14</sup> <http://nhrc.nic.in/dispatcharchive.asp?fno=1605>

<sup>15</sup> [http://www.ncpcr.gov.in/Reports/Policy\\_Document\\_on\\_Protection\\_of\\_children\\_rights\\_in\\_areas\\_of\\_civil\\_unrest.pdf](http://www.ncpcr.gov.in/Reports/Policy_Document_on_Protection_of_children_rights_in_areas_of_civil_unrest.pdf)

<sup>16</sup> Human Rights Watch, 14 July 2008, p.69

<sup>17</sup> Christopher Jaffrelot, “Communal Riots in Gujarat: The State at Risk?” Working Paper No. 17, July 2003 Heidelberg Papers in South Asian and Comparative Politics, University of Heidelberg

<sup>18</sup> Id

<sup>19</sup> Salwa Judum was a civilian militia mobilised and deployed as part of anti-insurgency operations in Chhattisgarh, India, aimed at countering Naxalite violence in the region. The militia consisting of local tribal youth received support and training from the Chhattisgarh State government

<sup>20</sup> Nandini Sundar and Ors. v. State of Chhattisgarh, (2011) 7 SCC 547

<sup>21</sup> <http://www.thehindu.com/news/national/article2161246.ece>

(“AFSPA”) is applicable, there have been continuous allegations of violation of human rights by the armed forces and demands for the removal of AFSPA have been made several times. This has been a known fact, from Sharmila is a living example who has been protesting endlessly for the past 11 years for the removal of AFSPA. Thus the above mentioned State inactions have exposed the lacunae in the criminal justice system and the complicity of the State in unconstitutional activities has resulted in a clear violation of the fundamental right to equality and right to life and personal liberty as provided in Article 14 and Article 21 of the Constitution. This has effectively contributed to the displacement of lakhs of people. This chapter is an effort to generate discussions for an effective law, and policies for IDPs. It examines the prevalent rights, source of these rights, their effects and lacunae. It also seeks to establish which nodal agency would be adequate for designing and implementing relief, rehabilitation and reintegration activities for the IDPs.

### **Application of International Laws**

Article 51(c) of the Constitution mandates the State to “foster respect for International Law and Treaty obligations in the dealings of organized people with one another”. The Supreme Court has in several decisions relied on principles of international law to interpret existing domestic law. Further, the Supreme Court has also relied on international treaties and agreements to fill the vacuum caused by absence of domestic laws in those matters. For example while laying down guidelines for prevention of sexual harassment of women in workplaces, in the absence of any domestic law, the Supreme Court in the case of *Vishaka v. Union of India*<sup>22</sup> relied on the Convention on Elimination of all Forms of Discrimination Against Women (which had been ratified by the Government of India on 25.06.1993 though with certain reservations) and other conventions. The Supreme Court observed that as long as any international convention was not violative of Article 14, 15, 19 (1) (g) and 21, the same must be read into these provisions to give effect to the Constitutional goals. In this landmark judgment, the Court held that:

*“Any International Convention not inconsistent with the fundamental rights and in harmony with its spirit must be read into these provisions to enlarge the meaning and content thereof, to promote the object of the constitutional guarantee. This is implicit from Article 51(c) and the enabling power of the Parliament to enact laws for implementing the International Conventions and norms by virtue of Article 253 read with Entry 14 of the Union List in Seventh Schedule of the Constitution. Article 73 also is relevant. It provides that the executive power of the Union shall extend to the matters with respect to which Parliament has power to make laws. The executive power of the Union is, therefore, available till the Parliament enacts legislation to expressly provide measures needed to curb the evil.”*

Therefore, International Law plays an important role in formulating laws on human rights issues in the absence of domestic laws. It sets a global standard for adjudication of justice and a guiding template for country specific domestic laws. There are various principles of international law, conventions, treaties and guidelines, which serve as a source for the rights of IDPs to be legislated in the framework of a domestic law for IDPs in India.

### **A. U.N. Guiding Principles on Internal Displacement**

The U.N. Guiding Principles on Internal Displacement (hereinafter Guiding Principles) was formulated in 1998 and defines IDPs as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed

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<sup>22</sup> AIR 1997 SC 3011

conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border”.<sup>23</sup> The Guiding Principles outlines the role of the State, State authorities and other government and non-government organisations in assisting IDPs. The Guiding Principles prescribes equal treatment in terms of rights and prohibits discrimination on the ground of being IDPs.<sup>24</sup> Further, the IDPs are sought to be protected from any other discrimination on the basis of race, caste, sex, religion, age, political opinion, legal or political status, property, disability or birth.<sup>25</sup> The Guiding Principles places responsibility of protection of IDPs with the national authorities and establishes the right of IDPs to seek protection and humanitarian relief.<sup>26</sup> It prohibits any direct or indirect attack.<sup>27</sup> Resettlement or settlement in any other part of the country has been listed as one of the primary duties of the State authorities.<sup>28</sup>

Further, the Guiding Principles recognizes that women and children are more vulnerable and susceptible to violence and exploitation. It directs States to specifically provide protection from rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault or forced labour of children.<sup>29</sup> The Guiding Principles recognizes the special needs of the children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons and entitles them to special benefits. The Guiding Principles emphasizes the role of State when IDPs are indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.<sup>30</sup>

Most importantly, as per the Guiding Principles, the right to life and other rights of IDPs should be protected and hence protection against genocide, murder, summary or arbitrary executions and enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death has been emboldened.<sup>31</sup> The State authorities are directed that essential food and potable water, basic shelter and housing, appropriate clothing and essential medical services and sanitation should be provided to the IDPs.<sup>32</sup> The Guiding Principles lay down directions to ensure various other rights such as right to education; the rights to freedom of thought, conscience, religion or belief, opinion and expression; the right to seek freely opportunities for employment and to participate in economic activities; the right to associate freely and participate equally in community affairs; the 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; and the right to communicate in a language they understand.<sup>33</sup>

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<sup>23</sup> Part of 2 of the “Introduction: Scope And Purpose” of the U.N. Guiding Principles on Internal Displacement

<sup>24</sup> Part of 3 of the “Introduction: Scope And Purpose” of the U.N. Guiding Principles on Internal Displacement

<sup>25</sup> Principle 4(1) of the U.N. Guiding Principles on Internal Displacement

<sup>26</sup> Principle 3 of the U.N. Guiding Principles on Internal Displacement

<sup>27</sup> Principle 10(2) of the U.N. Guiding Principles on Internal Displacement

<sup>28</sup> Principle 10(1) of the U.N. Guiding Principles on Internal Displacement

<sup>29</sup> Principle 11(2) of the U.N. Guiding Principles on Internal Displacement

<sup>30</sup> Principle 9 of the U.N. Guiding Principles on Internal Displacement

<sup>31</sup> Principle 10(1) of the U.N. Guiding Principles on Internal Displacement

<sup>32</sup> Principle 18(1) of the U.N. Guiding Principles on Internal Displacement

<sup>33</sup> Principle 22 and 23 of the U.N. Guiding Principles on Internal Displacement

## B. Other Conventions & Treaties

The Universal Declaration of the Human Rights (hereinafter referred as UDHR) has unequivocally mentioned equal rights of every citizen.<sup>34</sup> Every individual has a right to freedom and dignity to life and they cannot be discriminated on the basis of their National origin or birth or any other status.<sup>35</sup> Further, UDHR also guarantees every person to move within the State borders and outside any country at any point of time.<sup>36</sup> Article 15 of the UDHR envisages a person's right to Nationality as a privilege of which no one will be deprived. The right to own property<sup>37</sup>, freedom of religion<sup>38</sup>, right to equal treatment by the law and right against torture or cruelty<sup>39</sup>, inhuman or degrading treatment or punishment are all ensured<sup>40</sup>. All the aforementioned rights form an integral part of the rights of IDPs.

The International Covenant on Civil and Political Rights (hereinafter referred as ICCPR) grants civil and political rights including those mentioned under UDHR. The ICCPR also state that all persons have right to self-determination and can freely determine their political status.<sup>41</sup> Further, all persons have a right against discrimination<sup>42</sup>, and have religious,<sup>43</sup> social and cultural freedom<sup>44</sup>. It also guarantees freedom of movement within the territory of a State and has liberty to choose his place of residence.<sup>45</sup> Article 20 of the ICCPR specifically prohibits any hate propaganda on the lines of race, religion, Nationality. The rights granted under UDHR are further reiterated by International Covenant on Economic, Social and Cultural Rights in addition to other socio-economic rights (hereinafter referred as ICESCR).

An analysis of the central government's responsibility as a party to relevant international treaties shows that it must take steps to prevent forced evictions, and to provide adequate compensation in cases where forced evictions have occurred. Article 17 of the International Covenant on Civil and Political Rights (ICCPR), to which India is a party, underlines that everyone has the right to the protection of the law against arbitrary or unlawful interference with his or her privacy, family and home.<sup>46</sup> In all the five States that are covered in the study, people are still living out of their homes, the compensation that have been awarded is inadequate and is a onetime assistance.

India is party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and so is bound to recognize and take steps to ensure the realization of the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.<sup>47</sup>

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<sup>34</sup> Article 1 of the UDHR

<sup>35</sup> Article 1 and 2 of the UDHR

<sup>36</sup> Article 13 of the UDHR

<sup>37</sup> Article 17 of the UDHR

<sup>38</sup> Article 18 of the UDHR

<sup>39</sup> Article 7 of the UDHR

<sup>40</sup> Article 5 of the UDHR

<sup>41</sup> Article 1 of the ICCPR

<sup>42</sup> Article 2 of the ICCPR

<sup>43</sup> Article 18 of the ICCPR

<sup>44</sup> Article 1 of the ICCPR

<sup>45</sup> Article 12 of the ICCPR

<sup>46</sup> <http://www2.ohchr.org/english/law/ccpr.htm>.

<sup>47</sup> ICESCR Article 11, <http://www2.ohchr.org/english/law/cescr.htm>



The Committee on Economic, Social and Cultural Rights (CESCR) in its General Comment 7 refers to Article 11.1 of the ICESCR and defines ‘forced eviction’ as “the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. The prohibition on forced evictions does not, however, apply to evictions carried out by force in accordance with the law and in conformity with the provisions of the International Covenants on Human Rights”

In addition, “States parties shall ensure, prior to carrying out any evictions, (...) that all feasible alternatives are explored in consultation with the affected persons, with a view to avoiding, or at least minimizing, the need to use force. Legal remedies or procedures should be provided to those who are affected by eviction orders”<sup>48</sup>

General Comment 7 also highlights that: “All the individuals concerned have a right to adequate compensation for any property, both personal and real, which is affected.” Furthermore, “Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.”

In 2008, the CESCR recommended that India “take immediate measures to effectively enforce laws and regulations prohibiting displacement and forced evictions, and ensure that persons evicted from their homes and lands be provided with adequate compensation and/or offered alternative accommodation”, in accordance with General Comment 7.

It is important to note that all these provisions apply regardless of whether the evictees held legal title to their housing or land, or were “encroachers”. The Basic Principles and Guidelines on Development-Based Evictions and Displacement, drawn up by the UN’s Special Rapporteur on Adequate Housing, state that: *“All those evicted, irrespective of whether they hold title to their property, should be entitled to compensation for the loss, salvage and transport of their properties affected, including the original dwelling and land lost or damaged in the process.”*

The Convention on the Elimination of All Forms of Discrimination against Women (hereinafter referred to as CEDAW) emphasises that the political, social, economic and cultural rights of women should be ensured and women should be given equal opportunities for development. The UN Declaration on the Elimination of Violence against Women of 1993 (hereinafter referred to as the Declaration) recognizes the vulnerability of women living in conflict areas. Article 4 directs the State to refrain from any act of violence and lists the measures that should be taken to protect women. Formulation of law, monitoring of kinds of violence, budgetary allocation, sensitization of public officers and encouraging women’s movement are some of the measures listed. Like the aforementioned Declaration, UN Convention on the Rights of Children (hereinafter referred to as CRC) also provides protective measures for children in armed conflict areas. The CRC stresses on a complete recovery of a child from conflict zone. States that *“promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts.”*<sup>49</sup>

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<sup>48</sup> CESCR, General Comment 7, “The right to adequate housing (art 11.1 of the Covenant): forced evictions”, <http://www.unhcr.ch/tbs/docnsf/0/959f71e476284596802564c3005d8d50?Open=document>

<sup>49</sup> Article 39 of the CRC



## Indian Laws & Policies

### A. Constitution of India

The Constitution of India has provided for right to equality (Article 14), right against any discrimination on the basis of caste, race, sex, religion, place of birth (Article 15), right to reside in any part of the country [Article 19(1)(e)], right to life and liberty (Article 21). The scope of Article 21 has been expanded time and again to make it inclusive of right to live life with dignity, right to shelter, right to food, right to health and others.. Food, shelter and clothing are the most basic human rights.<sup>50</sup> The Hon'ble Supreme Court enunciated that violation of rights guaranteed under Article 21 affects right to practice any trade or profession as mentioned under Article 19(1)(g) and as well as the freedom to reside in any part of the country.<sup>51</sup> Thus, the Supreme Court has rightly upheld that the right to life is “arc of all the fundamental rights”<sup>52</sup>. These rights are the source which will play an important role in substantiating the right for an agency for the IDPs. . The Constitution thus shares the principles of the UN Guiding Principles on IDPs and does not exclude them from any of the rights enshrined in the same. As per the Constitutional provisions, all IDPs are to be treated as equal in the eyes of law, as any other citizen would receive equal protection of law and would be protected from discrimination. The right to live life with dignity and the right to food and shelter was upheld by the Supreme Court in the case of *Olga Tellis v. Bombay Municipal Corporation*,<sup>53</sup> where pavement dwellers were forcibly removed without being provided with any alternative place to reside. The Supreme Court of India directed the State government to provide rehabilitation to the slum dwellers and held that the action of municipal authorities was in violation of fundamental rights of the displaced people. The Apex Court further mentioned that right to life does not mean a mere existence like an animal. It was further upheld that:

*“Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally, intellectually and spiritually. Right to shelter, therefore, includes adequate living space and decent structures, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc. so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one's head but right to all the infrastructure necessary to enable them to live and develop as a human being... Want of decent residence, therefore, frustrates the very object of the Constitutional animation of right to equality, economic justice, fundamental right to residence, dignity of person and right to live itself.”*<sup>54</sup>

The rights of IDPs is closely linked to the judgment in the above case. IDPs, by the very nature of their status, are rendered homeless. The relief camps set up for them are often found lacking in the basic amenities with food and supplies barely reaching the IDPs. In September 2010, it was reported<sup>55</sup> that in Andhra Pradesh, IDPs from Chhattisgarh had limited access to food and drinking water. As of July 2009, only ten per cent of the IDPs had ration cards, and malnourishment was a problem<sup>56</sup>. They were regularly evicted from their

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<sup>50</sup> P.G. Gupta v. State of Gujarat, 1995 (2) SLR 72

<sup>51</sup> Id

<sup>52</sup> Francis Coralie Mullin, Petitioner v. The Administrator, Union Territory of Delhi and Ors., AIR 1981 SC 746

<sup>53</sup> [1985] 2 Supp SCR 51

<sup>54</sup> This principle has been reiterated in many SC judgments. Cite a few more judgments in the footnote

<sup>55</sup> <http://www.internal-displacement.org/> / 8025708F004CE90B / (<http://CountrySummaries/>) / C5BFD0104FE7EA56C125779200432A32? Open Document & count=10000

<sup>56</sup> Deccan Chronicle, 12 June 2010; NCPCR, 3 March 2010, p.2; Tehelka, 11 July 2009

makeshift hamlets by police or forest officials, who beat them up, burned their huts and destroyed their belongings. Some were relocated by force to other areas, often in close proximity to the Chhattisgarh border, without being consulted and without receiving adequate alternative housing.<sup>57</sup>

In Gujarat it was reported<sup>58</sup> that after the communal violence in 2002 IDPs in relief colonies were constantly threatened by evictions, as the land that their dwellings had been constructed on had been declared agricultural land by the government. The residents themselves had neither land nor property titles<sup>59</sup>

Relief colonies were not connected to the city centres, as there were no paved roads and no transportation facilities, meaning that IDPs had little access to livelihoods, schools and health care services. In addition, the IDPs and the religious organisations providing the bulk of the aid to them had different priorities, with the latter preferring the construction of mosques to health clinics and madrasas or Islamic religious schools to secular schools<sup>60</sup>.

The Apex Court and various State High Courts have directed the State authorities and agencies to take cognizance of condition of IDPs.<sup>61</sup> While upholding constitutional and fundamental rights of the IDPs, the Delhi High Court stated that the plight of IDPs often gets ignored as a result of the politics involved in the whole situation.<sup>62</sup>

In the case of *State of Karnataka & Ors. Vs. Narasimhamurthy & Ors.*<sup>63</sup>, the Apex Court held that the right to shelter is an important part of Article 19 (1) and fundamental rights would be meaningful if they were available for poor unequivocally. While the judiciary has enumerated right to shelter for displaced people time and again, the government is yet to demarcate a clear procedure through which people can make a claim. The absence of a National legislation and a clear policy on IDPs has caused ambiguity around issues concerning them. This gives the State governments as well as the central government ample scope to ignore the pressing situation of IDPs in India, thus systematically violating their rights as citizens of India.

The Directive Principles of State Policy are guidelines to the State and Central Governments and are considered essential in the governance of the country. The States have a duty to apply these guiding principles while formulating laws and principles to promote the welfare of its people through a just social order. Article 38 of the Constitution envisages that the State will minimise inequalities and maintain social order and secure political, social and economic justice. Further, Article 39 substantiates the right to adequate livelihood of the citizens. It also discusses opportunities and facilities that should be provided to a citizen for a healthy development and should be protected from any form of exploitation. Time and again it has been observed that such guiding principles in the Constitution have been ignored when issues of IDPs have had to be addressed. IDPs continue to face discrimination in employment and are exploited systematically due to their inability to find jobs. Families with daughters live in fear of gender violence and children regularly drop out of

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<sup>57</sup> HRW, 14 July 2008, pp.85, 88, 91–92; Tehelka, 11 July 2009; Deccan Chronicle, 12 June 2010

<sup>58</sup> Supra 44

<sup>59</sup> Crisis States Research Centre, March 2010, p.8; CJP, 19 July 2010, p.16

<sup>60</sup> Crisis States Research Centre, March 2010, pp.8, 12; CJP, 19 July 2010, p.16

<sup>61</sup> P.K. Koul Vs. EState Officer, W.P.(C) No.15239/2004 & CM No. 11011/2004

<sup>62</sup> Id

<sup>63</sup> 1996 AIR SC 90

school. In Gujarat, a committee appointed by the Supreme Court reported in June 2007<sup>64</sup> that the economic conditions of the IDPs were dire, with their livelihoods having ended since the 2002 riots and their former clients unwilling to use their services<sup>65</sup>. Many IDPs were not able to find work in their vocations during displacement and worked as vendors, rickshaw pullers or domestic help<sup>66</sup>. Some displaced children had dropped out of school and worked as labourers as their families could not afford the transport to the nearest schools. Many families in the relief colonies preferred not to send their daughters to schools outside the neighbourhood because during the 2002 violence Muslim girls were sexually abused. Consequently, a generation of displaced Muslim children are growing up less educated than their parents<sup>67</sup>.

## **B. The Land Acquisition Act, 1894**

As per the Land Acquisition Act, 1894 (hereinafter LAA) the government has the authority to acquire the rights over any land from a private holder. No consent of the land owner is required for such a transfer. They are entitled to a just remuneration. The compensation is only limited to land transferred for public use or development purpose and not for those land lost as a result of outbreak of any violence. The legislation did not envisage any provision for relief and rehabilitation in lieu of the problems arising out of the displacement.<sup>68</sup> The monetary relief without proper rehabilitation as envisaged under the LAA increases the issue of landlessness and causes extreme economic hardship to people.<sup>69</sup> The Ministry of Finance is the concern agency for the LAA.

Further, any relief and rehabilitation plan formulated like the National Rehabilitation and Resettlement Policy, 2007 (hereinafter NRRP) was mostly in context of people displaced as a result of government acquired land and not as a result of outbreak of any kind of violence. The NRRP defines affected family as:

*“(b) “affected family” means:*

*(i) a family whose primary place of residence or other property or source of livelihood is adversely affected by the acquisition of land for a project or involuntary displacement for any other reason; or*

*(ii) any tenure holder, tenant, lessee or owner of other property, who on account of acquisition of land (including plot in the abadi or other property) in the affected area or otherwise, has been involuntarily displaced from such land or other property; or -*

*(iii) any agricultural or non-agricultural labourer, landless person (not having homestead land, agricultural land, or either homestead or agricultural land), rural artisan, small trader or self-employed person; who has been residing or engaged in any trade, business, occupation or vocation continuously for a period of not less than three years preceding the date of declaration of the affected area, and who has been deprived of earning his livelihood or alienated wholly or substantially from the main source of his trade, business, occupation or vocation because of the acquisition of land in the affected area or being involuntarily displaced ”*

It is of special significance to note that the survivors of communal violence and atrocities by the army, State pogroms and salwa judum have not been given any specific reference and can only be read into the aforementioned provision as people involuntary displaced. Thus, the government has failed to execute its duty

<sup>64</sup> Life miserable in Gujarat relief colonies: court panel, The Hindu, 5 June 2007

<sup>65</sup> Infochange News and Features, July 2008

<sup>66</sup> Crisis States Research Centre, March 2010, p.10). <sup>67</sup> Crisis States Research Centre, March 2010, p.9

<sup>68</sup> Bulbul Khaitan & Nitya Priya, “Rehabilitation Of The Displaced Persons In India” (2009) 2 NUJS Law Review 111- 125 At pg 113

<sup>69</sup> Pooja Mehta, “Internally Displaced Persons And The Sardar Sarovar Project: A Case For Rehabilitative Reform In Rural India” (2004-2005) 20 American University International Law Review 613-648 at pg 640

at two levels. First, by its failure in protecting right to life and right to live life with dignity of the citizen displaced due to any one of the abovementioned causes and secondly, the government has so far has not dwelled on the issue of their rehabilitation. The NRRP takes note of special needs of people displaced as a result of development projects and provides for relief and rehabilitation. However, the policy has failed to adequately address the needs of IDPs formed as a result of violence occurring due to communal conflicts, AFSPA and issues pertaining to naxalites.

The Land Acquisition (Amendment) Bill, 2007 was passed in February 2009 but lapsed with dissolution of the 14th Lok Sabha. The provisions of the said Bill sought to compensate displaced people with monetary value of the land, losses incurred and cost of rehabilitation. It also empowers people to challenge the acquisition and make the government answerable to whether land acquisition really meets the qualification of “public purpose. Further, the Rehabilitation and Resettlement Bill, 2007 on the lines of NRRP with a similar definition of “affected families” has been formulated and is pending before the Parliament.

### **C. The Right of Children to Free and Compulsory Education Act, 2009**

The Right of Children to Free and Compulsory Education Act, 2009 (hereinafter referred as RTE Act) provides for free and compulsory education of children between the age group of 6 to 14 years. The RTE Act lays down the procedure for admission, appointment of teachers and States the duties of teachers and the school management committees. The nodal agency for the said law is Ministry of Human Resource Development.

In its present form, regrettably, the legislation does not provide for internally displaced children. It is imperative that the RTE Act be amended to add provisions specifically for internally displaced children and corresponding rules for access to education and resources related to education should be formulated. The teachers should be trained to understand the predicament of these children.

### **D. Right to Information Act, 2005**

The Right to Information Act, 2005 (hereinafter referred as RTI Act) was implemented to make the work of public authorities transparent and generate accountability. The RTI Act empowers citizen to seek information on budget allocation, dispensation of any resources and reports proposed and expenses incurred by the government and its agencies. It further iterates that every department make all information available to public unless specifically prohibited by law. It carves a separate agency within every department for dispensation of information. The RTI Act stipulates that the names of officers in charge of dispensation of information should be readily available. Thus, the RTI Act can also be instrumental in gathering information regarding IDPs. The State should further fulfil the obligation under the RTI Act by identifying the nodal agency to provide all kinds of information.

### **E. Right to Vote**

As per Article 326 of the Constitution of India every citizen above the age of 18 years has the right to vote. The Conduct of Elections Rules, 1961 States that a person's name should be enrolled in the electoral roll for voting and the voter must carry his voter identity card at the time of voting. Further, the Rules allow people to vote through postal ballot. In absence of a voter identity card, people can be denied the right to vote. In the cases of IDPs, provisions for issuance of voter identity card in a time bound manner and also voting through postal ballot should be allowed.

## **F. Constitution & Salwa Judum**

Most of the aforementioned laws or proposed laws remain silent on the issues pertaining to people involved in the battle between the naxalites and police forces. A number of tribal people were provided training and were given arms to assist police officers in tracking naxalites, which led to the case of *Nandini Sundar and Ors. v. State of Chhattisgarh*<sup>70</sup> before the Apex Court. The Supreme Court in the said case observed that it was unconstitutional to arm tribal youth after providing minimal training and education and then expect them to work as a combative force. Further, it is the displaced tribal youth who with no means of subsistence join either the naxals or the Special Police Officers (hereinafter referred as SPOs). The primary concern can be effectively summed up as following:

*“It is abundantly clear, from the affidavits submitted by the State of Chhattisgarh, and by the Union of India, that one of the primary motives in employing tribal youth as SPOs is to make up for the lack of adequate formal security forces on the ground. The situation, as we have said before, has been created, in large part by the socio-economic policies followed by the State. The policy of privatization has also meant that the State has incapacitated itself, actually and ideologically, from devoting adequate financial resources in building the capacity to control the social unrest that has been unleashed. To use those tribal youngsters, as SPOs to participate in counter-insurgency actions against Maoists, even though they do not have the necessary levels of education and capacities to learn the necessary skills, analytical tools and gain knowledge to engage in the such activities and the dangers that they are subjected to, clearly indicates that issues of finance have overridden other considerations such as effectiveness of such SPOs and of constitutional values.”*

Issues pertaining to tribes and land cannot be demarcated as two separate concerns. There is a need for effective laws to protect the political, social, cultural and economic rights of the people involved as a peacekeeping agency. They should be provided with adequate resources and compensation for the loss caused. The Supreme Court rightly ordered for the security and protection of SPOs and prohibited their employment for peace-keeping purposes.

## **G. NHRC’s Recommendations on Relief and Rehabilitation of Displaced Persons, 2008**

The magnitude of the problem and absence of a law has led to formulation of the Recommendations on Relief and Rehabilitation of Displaced Persons, 2008 by NHRC (hereinafter NHRC Guidelines) to be followed by all the States of the country. The recommendations reiterate the relief and rights Stated in the Guiding Principles.<sup>71</sup> The NHRC Guidelines reiterates the right to an adequate standard of living and directs that the competent authorities ensure access to food and potable water, shelter and housing, appropriate clothing, and medical services and sanitation. Most importantly, the need for a new law is clearly declared through the NHRC Guidelines.<sup>72</sup>

## **H. Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011**

The Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011 (hereinafter CTV Bill) adheres to the principles enunciated in international laws and conventions. It provides

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<sup>70</sup> (2011) 7 SCC 547

<sup>71</sup> Discussed in the subsequent section of the paper

<sup>72</sup> Part 3 of the NHRC Guideline States the following: “3. There is a need for Central and State Governments to re-examine and amend laws, policies, plans, regulations and practices to mainstream and integrate human rights concerns on issues related to pre-displacement, displacement, relief and rehabilitation. For instance, human rights principles should inform the relief manuals of various States.”

for holistic relief for the IDPs. Monetary compensation, rehabilitation, and provision for lost property and land has been included. The CTV Bill, unlike earlier bills on communal violence, provides for medical care, counselling, provisions for education, special care for people with disability, elderly, unaccompanied minors and expectant mothers.

The CVT Bill has also carved a separate provision for gender based violence. Further, targeted and communal violence,<sup>73</sup> hate propaganda,<sup>74</sup> offences by public servant and continuation of violence as a result of dereliction of duty by a public officer have been incorporated as an offence. Though prior sanction is not required for trial of a public servant in cases of dereliction of duty, sanctions will be required for any other charge.<sup>75</sup> Further, Clause 14 of the Bill seeks to establish command responsibility of a public officer. If a public servant who is in command, control or supervision of the armed forces or security forces fails to exercise control over persons under his or her command, control, or supervision and as a result of such failure leads to commission of offences then the public servant will be penalized. The Ministry of Home Affairs is the in-charge of the Bill. The said Bill, if implemented in the present form will be effective in creating a deterrent for the perpetrators of violence. The State mechanism will also ensure that law and order will prevail as provisions of command responsibility have been created and the requirement of sanction for initiation of cases against police and army personnel has been done away with in certain cases.

However, it is significant to note that this Bill has come under severe criticism from all quarters. A primary critique is that the Bill places excessive faith in the State machinery by asking for a substantial expansion of the State bureaucracy. The National Advisory Council (NAC), which drafted the Bill had been entrusted to voice the concerns of the civil society and to maintain the role of civil society as a check against the government. However, in the drafting of this Bill, the NAC vested greater powers with the State. It is also feared that the Bill focuses on excessive measures and might become a draconian law when implemented. There have been severe criticisms of the witness protection clauses in the Bill as well. The IDPs who belong to the minority community could have received some protection through this legislation but it is yet to see the light of day.

### **I. Protection of Children's Rights in Areas of Civil Unrest**

The National Commission for Protection of Children's Rights (hereinafter NCPCR) has formulated a policy document after observing inhuman living conditions in many camps and an alarming rate of child and maternal morbidity and mortality due to poor healthcare, sanitation and water facilities. The Protection of Children's Rights in Areas of Civil Unrest (hereinafter NCPCR's Recommendation) recommends that protection, emergency services for health, food and nutrition, clothing, shelter and schooling should be available for the children living in the camps. The vulnerabilities of the children should be identified and sensitisation programmes should be carried out to adequately deal with all the children amongst the IDPs. Most importantly, the NCPCR has recommended that the Ministry of Home Affairs be the nodal agency to ensure the policy is being implemented. This policy, however, is limited only to Naxalite affected areas and does not apply to IDPs in areas affected by riots.

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<sup>73</sup> Section 3 (c) and 9 of the CTV Bill, 2011

<sup>74</sup> Section 8 of the CTV Bill, 2011

<sup>75</sup> Section 13 and 76 of the CTV Bill, 2011



### **J. National Food Security Bill, 2013**

The National Food Security Bill, 2013 (hereinafter referred as NFSB) is a mere outline stating that certain households are entitled for the public distribution system. The NFSB is vague and has formed an ambiguous category of ‘priority households’ to be decided by the State governments. There is no acknowledgement of people who are internally displaced, homeless and other such vulnerable categories. Also, a grievance redressal forum has been provided at district level. The said forum should have been more localised for easy access especially for people residing in rural areas. Further, no specific directions have been provided for issuance of ration cards. The NFSB was cleared by the Union Cabinet on March 22, 2013 to be debated in the Parliament and the effort seems to only a feeble reaction towards a growing National and international pressure to have a law on right to food. Further, the 12th Five Year Plan mentions the need of attaining sustainability and self-sufficiency in terms of food production especially for the tribal population. Better irrigation systems, mechanism for high yielding crops, use of latest technologies, improvement in fishery and animal husbandry are some of the schemes being introduced.

### **K. The Rights of Persons with Disabilities Bill, 2012**

The Rights of Persons with Disabilities Bill, 2012 (hereinafter referred as the RPDB) seeks to protect persons with disabilities from any discrimination, and to provide them with equal opportunities on an equal basis with others. The RPDB envisages respect, dignity and autonomy of person with disabilities.<sup>76</sup> Further, the RPDB provides protection from violence, abuse, exploitation and inhuman and degrading treatment.<sup>77</sup> Right to education<sup>78</sup>, education of adults<sup>79</sup> and equal employment opportunities<sup>80</sup> are some of the rights granted under the RPDB. The Bill is an attempt to establish fundamental rights for persons with disability. Section 15 of the RPDB directs the State to provide immediate security, relief, and rehabilitation to persons with disabilities in cases of communal violence and internal disturbance. The State is further empowered to introduce schemes for social security and health care for persons with disability.<sup>81</sup> In cases of internal disturbance, persons with disabilities will have limited means to reach safety and security. The said Bill will be a step towards ensuring fundamental rights of person with disabilities. However, it needs rule to specify the agency and procedure to ensure relief and rehabilitation of the persons with disabilities amongst the IDPs. Further, persons with disabilities amongst the internally displaced should be considered an extremely vulnerable category. Access to any kind of relief and making representation at any forum might be difficult for persons with disabilities. Thus, the rules should ensure that an agency is available to identify person with disabilities amongst the IDPs and make adequate representations on their behalf.

### **L. The National Health Bill, 2009**

The National Health Bill, 2009 (NHB) provides for a mechanism that will ensure health and well being of every citizen. The NHB incorporates IDPs within the definition of “vulnerable and marginalised individuals or groups”. The Bill provides for free and universal access to health services, inclusion of vulnerable and

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<sup>76</sup> Section 3 of the RPDB

<sup>77</sup> Section 13 and 14 of the RPDB

<sup>78</sup> Section 21 and 22 of the RPDB

<sup>79</sup> Section 23 of the RPDB

<sup>80</sup> Section 24 of the RPDB

<sup>81</sup> Section 29 and 30 of the RPDB



marginalised individuals or groups while devising any plan, policies or law, adequate representation from civil society and prevention of any violence particularly amongst the particular women, children, adolescents and older persons out of the marginalised section. The Bill is pending before the Ministry of Health and Family Welfare.

### **M. Justice Verma Committee Report**

In the wake of the outrage against the recent rape incident in Delhi during December 2012, the Government of India constituted a committee headed by Justice JS Verma to suggest reforms in the criminal law vis-à-vis cases of sexual assault. The Report drafted by the Committee is known as the Report of the Committee on Criminal Amendments to Criminal Law and popularly referred as Justice Verma Committee Report. The Report makes a number of recommendations to the government. It seeks to introduce acid attack, voyeurism and stalking within the purview of the criminal law. In context of IDPs, the Report takes a note of the plight of women in Kashmir, the North-East, Chhattisgarh, Odisha and Andhra Pradesh. The Report has made following recommendations:

- a. In cases of sexual assault armed forces or uniformed personnel should be governed by ordinary law
- b. Safety and security of complainant, witnesses, and detainees in police stations or at army or at paramilitary check should be ensured.
- c. AFSPA should be reviewed.
- d. Police and army personnel should be given a gender orientation and sensitisation programme.
- e. Commissioners sensitive to the issue should be appointed to ensure speedy protection and relief in the concerned areas.
- f. Further, suggestions with regard to increased police accountability were made to prevent regular occurrences of communal violence and ensure protection of women from sexual assault. A public servant who commands, controls or supervise army or police will have command responsibility to ensure that no sexual assault takes place by officers under his supervision. In case of breach of command responsibility, the public servant will be duly punished.
- g. In sensitive areas there should be clear demarcation of role of police and army officials.

However, the Criminal Law Amendment Act, 2013, which was enacted after taking into consideration the Report, has left a lot to be desired. It has completely overlooked the demand to reconsider application of AFSPA in the concerned States. The provision of command responsibility has also been excluded from the said Bill. Further, the Bill did not remove the sanction required to initiate any criminal complaint against army personnel. Thus, the IDPs may remain untouched by the changes brought about the aforementioned Bill.

## Chapter 6:

# Immediate Steps for Rescue and Rehabilitation

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The discussion thus far, point to a need for protection of IDPs who are victims of different types of conflicts require relief and protection measures. For a longer period of time than those who are displaced as a result of development projects. They are victims of violence and violation of their human rights and often suffer from deep psychological trauma, which requires immediate attention. They are not just victims of violence but suffer from deep psychological wounds which need immediate attention. Things particularly become challenging for the more vulnerable sections among the IDPs, particularly women and children. While it is of utmost importance that a law is enacted to ensure that their basic human rights as citizens are not violated, till that happens, the Government of India should take certain urgent steps to attend to their immediate needs.

The IDMC, an arm of the Norwegian Refugee Council, in its 2012 report “Global Overview 2011: People internally displaced by conflict and violence – India”, notes how confusing things are at the policy level in India: “There is no national policy, legislation or other mechanism to respond to the needs of people displaced by armed conflict or generalized violence in India. The central government has generally devolved responsibility for their protection to State governments and district authorities. These bodies are often unaware of IDPs' rights or reluctant to offer support, particularly in those cases where they have played a role in causing the displacement.” It says that there is “no ministry at the central level” with the mandate to “ensure the protection of IDPs.” Worse, there is no central agency which can take the “responsible for monitoring the number and situation of people displaced, returning, settling elsewhere in India or seeking to integrate locally.”

As the first step in the absence of a law to deal with the IDP problem, the Government of India should appoint a special nodal agency, preferably under the Ministry of Home Affairs (MHA), in order to identify those who become displaced as a result of violence. Experience suggests that things have not moved in the absence of any such agency. Even a decade after the Gujarat riots, nothing has been done to rehabilitate the children who were psychologically affected due to the riots. A 2009 study, “Challenges of Promoting Mental Health among Internally Displaced Children in India: How Value- Education Heals Riots Victims”, commissioned by Janvikas, and conducted by Kumar Ravi Priya of the Indian Institute of Technology, Kanpur, on the children who were witness to the riots and violence had seen riots happening remain under the influence of the highest degree of deprivation, fear and depression. The study involved 102 children who had witnessed violence, killings, rapes, mayhem and vandalism during the Gujarat riots. The rehabilitation of the victims of the Kandhamal remains a non-starter even today. Indeed, there are several crying needs which such an agency alone can look into:

1. Enumerate the number of IDPs and entitlements to be given to the victims.
2. Provide reparation and compensation in such a way that women and children are not made further victims.

3. Assess special vulnerabilities and ensure that State and Central government agencies attend to them.
4. Identify the government agencies which are duty bound to do all this, and what should be done in case of non compliance.

Pending a law for the IDPs, administrative orders under various Central ministries and State government departments can be immediately promulgated in order attend to their immediate worries. While the MHA's nodal agency can do the job of identification, other ministries such the ministry of health, the ministry of human resources, the ministry of rural development, the ministry of woman and child, and the ministry of social justice and empowerment – and their counterparts under State governments -- can immediately identify IDP issues and work towards solving them. The actions that can be taken urgently can be brought under three categories – rescue, relief and rehabilitation:

#### **A. Rescue:**

1. Availability of fire engines, trained rescue workers and emergency health services must be ensured.
2. Safe passage from site of violence to temporary shelter must be ensured.
3. A three-tier structure must be set in place to ensure that efficient measures are taken to ensure the basic rights of the affected people.

#### **B. Relief:**

1. All affected people must be registered within 15 days of the time of they become of victims of violence and are forcibly displaced. They should be issued and appropriate identity by the relief commissioner and till such time as they are fully and certified as rehabilitated, they should be given below poverty line (BPL) or Antyodaya cards and all benefits available under BPL or Antyodaya card holders should be made available to them.
2. The schemes under which BPL and Antyodaya card holders – including subsidies provided for food grains and other goods through public distribution system, housing, livelihood, health and education should be identified and government departments asked to give work.
3. The State departments of women and child development should be responsible for administering schemes related to maternal and infant health, Anganwadis, Balwadis. Targeting both families listed as affected as well as individual women and children.
4. Health schemes like Janani Suraksha Yojna, vaccination Programmes, ensure emergency health care, run mobile health van should be made available.
5. Fast track courts should be organized to conduct trials on a day to day basis. National Legal Services Authority (NALSA) provides for free legal service for “a person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or”. The assistance of NALSA should be taken not only to provide legal aid but also for periodic monitoring of the cases for speedy disposal. NALSA's training programmes should ensure the magistrates become more sensitive to issue.

### **C. Rehabilitation:**

1. Complete entitlement based on assessment done by the designated authority should provide a certificate and a statement of the list of entitlement to the victim/ family and the timeframe by which they need to be provided and the person authority responsible for the disbursement and/ or service mentioned. In case of default the right of the victim to complain should also be given and an appropriate nodal officer should monitor these complaints till a final certification of all entitlements having been duly given is not taken from the victim.
2. Efforts should be initiated to bring to tolerance, respect for pluralism and need to set up human rights culture among the youth. Diversity appreciation camps must be organized at large scale in affected areas.

The National Disaster Management Authority (NDMA) can play a crucial role in relief and rehabilitation of the IDPs. The trained force of the NDMA can be helpful in providing first-aid, other medical care, counseling for trauma and also in ensuring that resources for relief are made available to the IDPs. While NDMA has formulated guidelines for cyclone, flood, earth quakes, landslides, chemical disaster, nuclear and radiological emergencies, there should also be guidelines for communal violence and violence occurring due to armed conflicts and other forms of violence, including State pogrom.

Also, NDMA should share its expertise in assessment, developing response mechanisms and make available its human, financial and conceptual resources. The MHA should be the nodal agency for the IDPs. This is because MHA is responsible for issues pertaining to police, law and order, rehabilitation of refugees, centre-State and inter-State relations on issues pertaining to law and order, protection of citizens against internal disturbance, and all matters relating to internal security. Displacement generally occurs as a result of violence within a State/s, development project or natural disaster. A coordinated effort would be needed in cases of displacement as a result of violence. In fact, an all round scheme of rescue, relief and rehabilitation is needed for the IDPs.

The NHRC should be entrusted with the task of monitoring of relief and rehabilitation programme of the IDPs. NHRC has a set-up to monitor the progress in cases of abolition of child labour. It can be replicated for the IDP children. In fact, NHRC and NALSA can work in coordination to monitor the progress and seek State accountability, too.

No doubt, these would be temporary measures in the absence of a comprehensive law on the IDPs. There are various laws protecting fundamental rights of citizens, but formulation of a separate law for IDPs becomes a necessity as it alone can take care of the finer aspect and their needs. For instance, while there are laws to protect the right to life of a citizen and equal treatment, there are no provisions which bar the authorities to the IDPs to return to the original place of habitat. IDPs should not be forced to return unless they are sure of a secure living.

The Indian laws are silent on issues pertaining to restitution of property of the IDPs, nor are there any laws to secure their identity and documentation. The new law should ensure mechanism to restore and protect civil, political, religious and cultural rights of the IDPs. The interests of the IDPs sought to be protected are diverse and the issues are serious and are connected directly with the functioning of the State. Few of the key points are listed below:

1. Apart from safety and security, the law on IDPs should ensure health and hygiene of the people living in the camp. Social security should also be provided to the IDPs.
2. Areas of conflicts should be indentified and their status should also be reviewed periodically.
3. The experiences of IDPs with the legal agency should also be monitored. There should be minimal involvement of lawyers while making claims for relief.
4. Provisions pertaining to education and vocational courses should be incorporated. Education and vocational training will help to minimize the disadvantages suffered as a result of displacement.
5. Improvise on definition of “ death due to injury” to include deaths over a period of one year where the death is shown to be resulting from an injury caused due to the communal violence.
6. The provision regarding the waiting period of seven years to declare a missing person dead should be revisited. An affidavit from the local panchayat stating that the person missing is probably dead should be used as a base for deciding this.
7. The State should work in close collaboration with voluntary organizations.
8. Mechanisms should be created for reassessment of disability and where a larger disability has occurred later as a result of the injury suffered during the communal violence, the compensation should be given for the subsequent level of disability
9. If needed, where people are not residing in their voter constituency, they should be allowed to vote in the nearest booth that exists.
10. State must develop a robust vulnerability index to identify and address the needs of the most vulnerable amongst the affected people. This could include single women, children, disabled, old people etc.
11. The law on IDPs should focus on violence and vulnerabilities faced by women and children. The law should incorporate the experiences and disabilities faced by women especially in cases of sexual violence. Loss of memory and vague recollection of the incident should not be used against the victim of sexual assault. The criminal justice system should understand the shock and trauma faced by the IDPs and the same should be reflected at the time of adjudication of justice.
12. NFSB ignores the rights of IDPs. The NFSB should make special provision for IDPs and the process of documentation or ration cards should be specific.
13. The information regarding IDPs and the relief and rehabilitation granted should be available under the RTI Act. The data in terms of number of people displaced (men, women, children and specially enabled), publication of missing people, issuance of documents, grant of monetary relief, availability of formal education and vocational training for IDPs should readily be available. Thus, it becomes pertinent to demarcate a nodal agency responsible for IDPs.
14. Police officers may not be cooperative while registering a complaint against their own colleague. Also, there are issues of jurisdiction raised by the police. The IDPs should be allowed to get their cases registered at the most convenient and accessible police station. The police headquarters

should also be authorized to take such cases. Complaints and FIRs sent by post or hand delivered to any police station should be considered as proof of being affected, and further as a claim for entitlement to relief and rehabilitation measures.

- 15) Monitoring of the relief- The NHRC should be entrusted with the monitoring of relief and rehabilitation programme of IDPs. The NHRC has a similar set-up for monitoring progress in cases of abolition of child labour. The NHRC and NALSA can work in coordination to monitor the progress and seek State accountability.
- 16) National Disaster Management Authority (hereinafter referred as NDMA) can play a crucial role in relief and rehabilitation of the IDPs. The trained force of the NDMA can be helpful in providing first-aid, other medical care, counselling for trauma and also in ensuring that resources for relief are made available to the IDPs. While NDMA has formulated guidelines for cyclone, flood, earth quakes, landslides, chemical disaster, nuclear and radiological emergencies, there should also be guidelines for communal violence and violence occurring as part of State pogroms. Also, the NDMA should share its expertise in assessment, developing response mechanisms and make available its human, financial and conceptual resources.
- 17) The Ministry of Home Affairs (MoH) should be the nodal agency for the IDPs. The MoH is responsible for issues pertaining to: police; law and order; rehabilitation of refugees; centre-State relations; inter-State relations; protection of States against internal disturbance; ensure that governance of States is carried out in accordance with the Constitution; all matters relating to internal security. Displacement generally occurs as a result of violence within a State/s, development project or natural disaster. All the aforementioned departments must be coordinated in cases where displacement is a result of violence. An all round scheme of rescue, relief and rehabilitation is needed for the IDPs which can be effectively be secured through the aforementioned agency.

#### **D. Training and Awareness**

- 1) Officials must be trained and refresher courses have to be offered from time to time.
- 2) Awareness to be spread among the affected communities using media and grassroot level advocacy strategy.iii. Affected communities must be given information on their rights as citizens and as IDPs.

#### **E. Monitoring and Evaluation**

- 1) A monitoring structure must be included within the law to evaluate the implementation of the legislation.

#### **State-specific recommendations**

Even as a Central law is the need of the hour, States should take extra steps to implement them in a way that no IDPs are deprived of the rights they are entitled to as citizens of India. During inter-State migration of IDPs, urgent steps should be taken to ensure that they enjoy the migrant IDPs rights as the local population. There are a large number of IDPs who have crossed borders from Chhattisgarh and reached Andhra Pradesh. Most of them are tribal's. Their status as scheduled tribes (STs) should be recognized, and the State, with active



Central assistance, should move towards providing them all the benefits which a local ST household is entitled to. They should be ensured housing with all the basic amenities like drinking water, irrigation facilities to their fields, supply of electricity and transport facility. They should also be ensured a PDS card in order to access food supplies at subsidized rates and get free medical help at the PHCs. In fact, the education departments of each State must ensure that a primary school is established in every IDP settlement by appointing teachers who can communicate with IDP children in languages familiar to them. In case of inter-State migrations, the State governments of respective governments should begin negotiations to reach an understanding to work towards resettlement, rehabilitation and protection to the IDPs who wish return.

In whichever State administration the IDPs move into, it is the responsibility of the host State and the State of origin to address the situation creating IDPs, and the rights and dignity of IDPs. Both the host State and the State of origin must, therefore, be made accountable to the principles of natural and legal justice along with ensuring welfare rights of the IDPs. Fast track courts could be set up. These should especially urgently look into such issues like arrest of children and violence against women. Welfare benefits are a part of the right to life of every citizen guaranteed under the Indian Constitution, and this must be respected in case of IDPs as well. Very often host States deny these benefits as they take the plea of financial burden, lack of proper policy, etc. A proper policy would ensure that such excuses do not hold any ground and IDPs access justice and welfare as a right. Then, there are IDPs who are persecuted by the Forest Department, thanks to archaic forest laws. There is a tendency to take away the forest land of those tribal's who are displaced as a result of violence. There should be clear instructions to the authorities to verify and settle the claims of such IDPs.

Human rights organizations working among the IDPs in the southern regions of Orissa and Chhattisgarh have come across regular cases of torture and second degree human rights violations on tribal's, whom the government brands as Maoist supporters. In most cases, fact findings have revealed unjustified excess use of violence and an intentional criminalization of tribal's fleeing conflict and violence. This is totally uncalled for and reflects a lack of sensitivity on the part of the police administration. There is an urgent need to prepare strict, enforceable and punishable guidelines on the usage of force and second degree human rights violations on IDPs and sensitization of police force to the vulnerability of the IDPs. The proposed nodal agency under the MHA should look into this aspect with utmost care, and ensure that complaint is filed and a grievance redressal mechanism is in place at the State level.

## **Conclusion**

There is no umbrella legislation to ensure relief and rehabilitation of IDPs. The IDPs belong to a vulnerable category. There should be a clear mandate stating the procedure to make claims. Absence of legislation creates lack of legal obligation, and IDPs remain undefined and unprotected.<sup>87</sup> A comprehensive legal structure is the prerequisite in ensuring the rights of the IDPs.<sup>88</sup> The law should integrate issues of security and relief aid.<sup>89</sup> An effective inter-agency coordination should take place. The role of police and army should be very well-defined, and unambiguous. The system to dispense relief aid should be through a government agency and must be transparent.



# Annexure 1

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A Study on Internally Displaced Persons of India: Mapping and Citizenship rights

## **Conducted by**

ANHAD, Human Rights Forum, ANT (Assam), Agricultural and Social Development Society (ASDS) and Janvikas, Center for the sustainable use of natural and social resources (CSNR), Janavikasa (Orissa)

## **Anchored By**

Centre for Social Justice

## **Supported By**

ACTION AID

## **Background**

The state in conflict with its own citizens and citizens in conflict with each other is a phenomena which has been in existence since the medieval age. Territorial rights, water rights, subsequently on identity politics, violent battles within existing territories of governance has taken centre stage, which has led to the emergence of a new category of vulnerable increasing the complexity of conflict.

In such situations the worst tragedy normally is of community at large being evicted and thrown out of their homes either through overt violent act or through subtle political pressures. The phenomenon world over has seen that such people are the worst hit and found the least attention for any remedy or succor. Internal displacement is not new to the world and to India. The International community has been sensible and created a space within the United Nations (UN), the UN Guiding Principles on internal displacement defines *“internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border”* and agreed upon a set of standards to be applicable to ensure human rights of Internally Displaced Persons

However in the case of India, it witnessed the largest internal displacement across the country during the partition and subsequently all along the borders, internally displaced people continue to be a sore point in political negotiation as well as basic human rights neglect. It is off late that communal violence and with large

scale private army of land lords and state supported actions have systematically been using violence as a means to displace people from their homes and thereby take control of their assets.

The case of 2002 Gujarat violence is pathetic and countless stories of people losing their land and houses to the powerful community has been seen similarly in other parts of the country . States like Kashmir, Orissa, Chhattisgarh and states of the North East have been for very long now been struggling with violence and the subsequent internal displacement. The Internal Displacement Monitoring Committee in December 2011 estimated at least 506,000 people in India are displaced due to conflict. Estimated figures by IDMC state wise are: North East: 79,000 which include Adivasis, Bodos, Muslims, Burs and Lake dwellers, Gujarat and Orissa communal violence has displaced around 29,000, central India hit by Naxal violence the estimated number of IDPs are 48000 and in Kashmir 2,50,000 .These account only for those who have been living in camps or in colonies but most of them who have found alternative housing or still languishing on the streets and have not yet been accounted for.

Thus internal displacement in India largely remains a subject that has been invisibilized both by the government and the society. We are still far away from any mandate of getting reasonable entitlements and reparation for the victims since there is no national law that deals with internal displacement. The states role is critical in protecting the citizens and compensate them or even abide with the UN Guiding Principles on Internal Displacement. The central Government continues to deny the existence of IDPs, in the light of these realities it is necessary to map the existing IDP population and also analyze their social economic status.

## **Section 1. Informed Consent of the respondent**

Name of the researcher : \_\_\_\_\_

Name of co-researcher if any Contact address of researcher : \_\_\_\_\_

Mobile no of the researcher : \_\_\_\_\_

Contact address of the co-researcher : \_\_\_\_\_

Date of the interview: Address/ place of the interview : \_\_\_\_\_

Signature of the researcher : \_\_\_\_\_

Name of the Respondent : \_\_\_\_\_

Contact address of the respondent : \_\_\_\_\_

Mobile no of respondent (optional) : \_\_\_\_\_

I consent to giving information to this research which has been read out to me:

Signature /Thumb impression of the respondent : \_\_\_\_\_

## Section 2: Primary Information

(1) Name of respondent: \_\_\_\_\_

(2) Any other name : \_\_\_\_\_

(3) Name of head of household : \_\_\_\_\_

### 4. Family Information :

4.1: What is the total number of family members living here presently: (This will also include the name of the respondent and the head of the family)

Sl	Name of family members	Relationship with Head of Family 1. Self; 2. Wife 3. Father 4. Mother 5. Son 6. Daughter 7. Husband 8. Others specify	Sex – 1. Male 2. Female	Age	Educational qualification 1. Primary School 2. Middle School 3. High school 4. Graduation 5. Post graduation 6. Not literate 7. others
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

### (5) Religion:

1. Hindu                      2. Muslim                      3. Sikh                      4. Christian                      5. Any other

(Please specify)

### (6) Caste:

1. Scheduled Caste    2. Scheduled Tribe    3. OBC                      4. General                      5. Any other

(please specify)

### (7) Tribe:

(Please mention the name of the tribe specifically).....

### (8) For how long have you been living at this current location?

i) < 6 Months                      ii) 6 months to 1 year                      iii) > 1 year to 2 years  
iv) 2 years to 5 years    v) 5 years to 10 years                      vi) More than 10 years

**(9) Please specify the distance between your original place of residence and present place of residence?**

- i) >10 km;                      ii) 10Km to 50 Km;  
 iii) 50km-100km;    iv) 100 and above

**10) You have come to the present location from which of the following?**

- 1) Village                      2) Panchayat                      3) city                      4) district  
 5) Block                      6) state

### **Section 3: Information on Displacement (Immediately after the violence)**

**1) What is the main reason for leaving your original place of residence?**

 

(if the answer is 1 please enter the option as 1a or 1b)

6 Conflicts

- Religious conflict
- Caste, conflict

7. Tribes Conflict

3) Clash between State and any other armed Group

4) Others:

**(2) When did you leave your original residence?**

1. Date:

2. Month/Season:

3. Year:

**(3) Where was your original residence located?**

Street Name (Urban)	Village/ Town (Urban):	Panchayat/ Municipal- Ward No	Sub-Division /Mandal/Block	District:	State:	Police Station

**MULTIPLE DISPLACEMENTS: (In case there is no multiple displacement shift to the next section)**

**4. Did you shift anywhere else before coming to this (current) place?**

1. Yes                      2. No

☐

**5. If yes, where (all) did you shift? (Multiple responses are possible)**

1. To a temporary settlement/camp provided by the government
2. Temporary settlement provided by private organizations/ Individuals
3. To a relatives place/persons or tribes known
4. To forest
5. Make shift arrangements in revenue/forest lands
6. Temporary settlements provided by religious organization
7. Any other specify

☐☐☐☐☐

**6. How many times did you have to shift before coming to this current residence?**

- 1) Once                      2) Twice                      3) More than 2 times

☐

**7. What were the main reasons for this recurrent shifting?**

1. Fear of attack;
2. Lack of facilities;
3. Eviction by the government
4. Any others (Please specify)

☐☐☐

#### **SECTION 4: PROTECTION AND CASE DETAILS (Action Taken During the time of displacement and the present status)**

Note for the researcher: This section is related to the information on cases that are filed by either the respondent, police etc. Information regarding the various agencies they have contacted to get information etc also needs to be considered. Copies of FIR if available please do collect. There could be a possibility that the respondent might have suffered losses, but he/she could have been implicated and therefore a cross case could have been filed against the respondent.

- The information sought is designed as per the stages that are followed in a criminal case.
- FIR: Is First Information Report
- Charge sheet: Is a document that has to be prepared within 90/60 days of filing the FIR
- Bail: Sought by the accused
- The respondent must have approached various agencies like NHRC, Chief Secretary, The High Court, Commissioner, the Director General of Police etc information regarding this should also be asked.

**A. Situation Immediately after the Violence/Conflict**

**1) Were you and your family given protection during the time of the conflict?**

- 1) Yes                      2) No                      3) Don't Know

☐

**(Please fill the responses for Q2 to Q7 if applicable)**

**2) If Yes through which agency?**

- 1) Police    2) Army  
3) Para Military Force                      4) Other state agency  
5) any other

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**3) If No, did you ask for protection?**

- 1) Yes                      2) No

☐

**• If yes, within how much time of asking of protection did the police or any protection agency arrive?**

- 1) Within an hour    2) Less than 5 hours  
3) More than 5 hours    4) After 24 hours      5) Others

☐

**5) Did you experience any harassment from the protection agency?**

- 1) Yes                      2) No

☐☐☐

**6) If Yes, what kind?**

- 1) Abuses                      2) Using Physical force    3) Any other

☐

**7. Were you taken to a camp/did u go to a camp?**

1. Yes                      2. No                      3. Not applicable

☐

**8. If yes to which camp location you were taken or you went?**

1.  
2.  
3

☐

**9. While moving to camp, any one accompanied/guarded you?**

1. Yes                      2. No                      3) Don't know

☐

**10. If Yes, Who accompanied/guarded you?**

1. Police    2. Army  
3. Para Military Force    4. Other state agency    5. Any other

☐

**11. Did you experience any difficulty during the transit?**

1. Yes                      2. No

☐

**12. If Yes, What kind?**

1. Threats                      2. Abuse    3. Wild animal attacks  
4. Ill health                      5. Fear of being displaced again    6. Any other

☐☐☐

**13. If there were women with you were they treated well during transit?**

1. Yes                      2. No                      3. NA

☐

**14. Did you have enough food supplies during the transit?**

1. Yes                      2. No                      3. Only limited stocks

☐

**15. If you did not go to a camp, did you shift to any other place away from your home?**

1. Yes                      2. No

☐

**16. If yes, where?**

1. To a relatives place  
2. To a temporary settlement provided by the government;  
3. Temporary settlement provided by private organizations/ Individuals  
4. Temporary settlements provided by religious organization  
5. To another state  
6. Any other

☐

**17. Were expecting women, minor children and elderly given special assistance during transit?**

1. Yes                      2. No

☐

**18. If Yes, What kind of assistance?**

1. Separate vehicle;  
2. Nutritious food to check they don't remain hungry for a long time;  
3. Proper Drinking water  
4 Medical support/ Medicine; 5. Any other

☐☐☐

**19. Was the place to which you reached after the conflict was safe for you and your family?**

1. Yes                      2. No

☐

**19. If no, what kind of insecurity did you experience?**

1. Fear of attack;                      2. Fear of being displaced again;  
3. Eviction by government agency;                      4. Lack of security for women;                      5. Any other

☐☐☐

**20. Did you suffer any losses during the conflict?**

1. Yes                      2. No

☐

**20.1 If yes, what kind**

- 1) House was burnt/destroyed                      2) House was looted  
3) Shop was burnt/destroyed                      4) Shop was looted  
5) any other premises destroyed

☐☐☐☐☐



**20.2 What among the below mentioned did you also lose?**

☐☐☐☐

- 1) Stored Grains                      2) Standing crops,  
3) Livestock                      4) Vehicles                      5) any other please specify.

**20.3 Was the assessment of your damage done by the government?**

☐

1. Yes                      2. No                      3. Don't Know.

**20.4 If yes, was the community/ affected person called during the damage assessment?**

☐

1. Yes.                      2. No                      3. Don't Know.

**20.5 Was an Ombudsman (Assessment person) appointed to carry out the damage assessment?**

☐

1. Yes                      2. No                      3. Don't Know

**21. Did you lose any family member as a result of the conflict?**

☐

1. Yes                      2. No

**22. Did anyone go missing as a result of the conflict?**

☐

1. Yes                      2.No

**22.1 Has the police taken any action suo-moto even if you could not complain/ lodge FIR? (Because police can act suo-moto without waiting for any private complain)**

☐

- 1) Yes                      2) No

**22.2 Have you registered a complaint or FIR in the police station, regarding any loss?**

☐

1. Yes                      2. No

**22.3 Have you approached any legal or state agencies to represent your case?**

☐

1. Yes                      2.No

**23. If yes, which of the below mentioned did you contact?**

☐

- 1) Police Station    2) Forest Dept    3) ITDA                      4) Block level office  
5) NHRC                      6) NCPCR                      7) Collector                      8) Local court  
9) High Court                      10) Legal Aid Cell,    11) Any other

**(If the response to Point no 22.1 is NO shift to the next section)**

**24. If Yes to (Q22.1) what is the nature of the complaint/case?**

☐☐☐☐☐

- 1) Burning                      2) Looting                      3) Theft                      4) Murder  
5) Rape (attempted) 6) Injury                      7) Threat                      8) Missing  
9) Threat to convert religion

**25. After how many days were you able to put in your complaint?**

☐

- 1) Within 24 hours of the event                      2) between 2-5 days  
3) After a week                      4) After 15 days)  
5) After a Month                      6) Other specify

**26. Did the police take / register your complaint?**

1. Yes                      2. No

☐

**27. Do you have the copy of the complaint/FIR?**

1. Yes                      2. No

☐

**28. If No, which authorities did you approach for redressal?**

- 1) Police Commissioner;                      2) Director General of Police;  
3) Filed the case directly in the court;      4) You sent it through post;  
5) Any other Specify;                      6) Approached nobody

☐☐

**29. After filing the complaint was the accused arrested?**

- 1) Yes                      2) No  
3) Don't Know      4) Not applicable

☐

**30. Did/do you receive threats /Harassment from the accused?**

- 1) Yes                      2) No

☐

**31. If yes, have you sought for protection against such threats from the accused?**

- 1) Yes                      2) No

☐

**32. If yes, were you granted protection?**

- 1) Yes                      2) No

☐

**33. Were/was the accused granted bail?**

- 1) Yes                      2) No                      3) Don't Know      4) Not applicable

☐

**34. If you are getting threats have you approached the court to cancel the bail of the accused persons (if bailed out)?**

- 1) Yes                      2) No

☐

**35. After filing the FIR within how many days was the charge sheet filed?**

- 1) 30 days                      2) 60 days                      3) 90 Days  
4) More than 90 days                      5) Don't know      6) NOT applicable

☐

**36. Did the police file its investigation report before the magistrate?**

- 1) Yes                      2) No                      3) don't know

☐

**37. If yes, in what form?**

1. Charge sheet      2. Final report      3) Don't Know

☐

**38. Are you satisfied with the charge sheet/final report?**

- 1) Yes                      2) No

☐

**39. If no, have you filed a protest petition before the magistrate?**

1. Yes                      2. No

☐

**If NO go to section C**

**40. At what stage is your case?**

- 1) Deposition;      2) Further statement;  
3) Argument;      4) Judgment;      5) Don't know;

☐

**41. Were you forced to compromise in your case?**

- 1) Yes      2) No

☐

**42. Did you compromise?**

- 1) Yes      2) No

☐

**43. If yes how the compromise was organized?**

- 1) Behind closed doors with the accused  
2) in front of the community;  
3) in front of the police or government Representative;  
4) in the court;  
5) any other

☐

**44. When the Compromise took place did women participate?**

- 1) Yes      2) No

☐

**B. Present Case Status**

**45. Did you receive free legal aid from the court for your cases?**

- 1) Yes      2) No

☐

**46. Do you think that the court will do justice to your case?**

- 1) Yes      2) No      3) I don't know

☐

**47. If no why?**

- 1) The accused are very powerful and will use money power;  
2) Do not have proper legal representation;  
3) The court is hostile;  
4) there is not enough evidence in our case;  
5) Public prosecutors hostile;  
6) Any Other reasons;

☐☐☐☐

**48. Has the case been finally disposed off or not?**

- 1) Yes      2) No      3) I don't know

☐

**49. If yes, what is the result?**

1. Conviction      2. Acquittal      3. Don't Know

☐

**50. Are you satisfied with the judgment?**

1. Yes                      2. No

☐

**51. If you are aggrieved have you preferred for an appeal or a revision?**

1. Yes                      2. No

☐

If no why .....

**52. If you are a victim of caste atrocity have you been provided with compensation?**

1. Yes                      2. No

☐

### **C. CROSS CASES OF CASES FILED AGAINST THE IDP'S**

Note: Here cross cases refer to cases wherein the victims have filed cases for their losses and have been implicated in turn either by the police or by the accused they have named. In case of Andhra Pradesh, most IDPs who have crossed over from Chattisgarh have been implicated by the police. If the responded has been implicated in such cases make sure to ask the respondent.

**53) In the present location, were any cases were filed against you.**

1. Yes                      2. No

☐

**54) If yes, what kind of cases were filed against you**

☐☐

1) Bind-over cases

2) Forest Offenses

3) Public property damage

4) Cross complaints

5) others specify

**55) Do you know anybody who is under 18 years age (at the time of alleged offence) but arrested by police and put in adult prisoners and being tried with the adult accused in the court ( not by juvenile board) ?**

1. Yes                      2. No

☐

**56) If yes who registered it against you?**

- 1) The accused      2) The police      3) Any others

☐

**57) Were you arrested on the basis of the complaint?**

1. Yes                      2. No                      3. Not applicable

☐

**58) Was a charge sheet filed in your case?**

1. Yes                      2. No                      3. Don't Know

☐

**59) For how long were you in Jail?**

- 1) > One month      2) 1- 3 months      3) 3- 6 months      4) More than 6 months

☐

**60) Did you apply for bail?**

1. Yes                      2. No                      3. Not applicable

☐

**61) If yes was the bail granted?**

1. Yes                      2. No                      3. Not applicable

☐

**62) If yes, from which Court?**

1. Lower Court            2. High Court

☐

**63) Is there anybody from your family who has granted bail but is unable to submit bail bond and surety due to lack of landed property/ finance?**

☐

1. Yes                      2. No

**64) Have you needed the support of legal aid from any agency?**

- 1) Yes                      2) No

☐

**65) If yes, then from whom?**

- (1) Legal aid authority                      (2) NGO,

☐

**66) What is the Stage of the cross case filed against you?**

- 1) Deposition            2) Further Statement  
3) Argument            4) Judgment            5) don't know

☐

**67) Since how long has your case been going on?**

- 1) > 2 years            2) 2 – 5 years            3) 5 - 10 years  
4) More than 10 years            5) others specify

☐

**68) If the matter is disposed what was the judgment?**

- 1) You were acquitted                      2) Imprisonment  
3) Fine                      4) any other

☐☐

**69) Are you satisfied with the judgment?**

1. Yes                      2. No

☐

**70) If you are aggrieved have you preferred for an appeal or a revision?**

1. Yes                      2. No

☐

If no why .....

## SECTION 5: RELIEF RESETTLEMENT AND RETURN

### Immediate Relief after Conflict

1) From your original place of residence what kind of an accommodation were you shifted to?

1) Temporary Relief Camp

2) School building

3) Tents

4) Community Buildings

5) built settlements

6) Religious place;

7) any other;

☐

2) What kind of relief items were provided to you when you arrived from native places and for how long?

Item	Who provided relief ( Tick appropriate one(s))				Period of support				Still receiving
	Government	NGO	Religious organization	Any other	One time	Every day for one month or less	1 month – 6 months	More than 6 months or more	
Grocery/food grain									
Cooked food									
Clean drinking water									
Sanitation facilities									
Vessels									
Shelter									
Medicine									
Security arrangements									
Sanitary napkins for women									
Clothes									
Tents									
Any other (specify)									

3) While at the new location/ shelter/ settlements what temporary cards were you given?

1) PDS cards

2) Health Cards

3) Job Cards

4) Voter cards

5) Camp Cards

6) Any other document

☐
☐
☐
☐
☐

4) For how long have you been living away from your original home?

1) Less than 1 year; 2) 1-5 years 3) 5-10 years

4) 10-15 years 5) More than 15 years

☐

5) Did the government re issue lost documents like voting cards, ration cards, school leaving certificate,

Caste certificate, driving license, Pan Card

1) Yes 2) No

☐

6) If yes which documents were you helped to get? (Please put a tick mark against the ones you received)

Documents	Did You apply 1) Yes 2) No	Did You receive 1) Yes 2) No
Caste Certificate		
Land Patta		
School Leaving Certificate		
College certificate		
Ration cards		
Driving license		
Passport		
Any other specify		

7. Do you have a voter ID of the current location?

1. Yes 2. No

☐

## EDUCATION

8. Has the education of your children suffered following displacement?

1. Yes 2. No

☐

9. Have any of your children dropped out of school as a result of shifting?

1. Yes 2. No

☐

10. If Yes

Sl.	Name of the Child	Present Age	Dropped out of which Class	Reasons: 1) School leaving certificate not obtained; 2) Fear; 3) Illness; 4) No school available; 5) Change in language; 6) Financial crisis; 7) Discrimination in school; 8) any other



**11. Has the quality of education that they receive now changed?**

1. Yes                      2. No                      3. Not applicable.

☐

**12. If Yes how?**

- 1) It has improved;    2) it has deteriorated;                      3) There is no difference;

☐

**13. In your earlier place of residence, what was the distance to the school from your house?**

- 1) < 1 Km                      2) 1- 2 km away                      3) more than 2 kms.

☐

**14) Have your children received scholarships to continue their education in the new location?**

1. Yes                      2. No

☐

**15) Is there any school in your new place of residence?**

1. Yes                      2. No

☐

If yes.....

**16) What is the distance to the school from your house?**

- 1) < 1 Km                      2) 1- 2 km away                      3) more than 2 kms.

☐

**17) Have your children been able to mingle with teachers and children of the new school?**

- 1) Yes                      2) No                      3) Don't know

☐

**18) If no, what are their complaints?**

(Multiple answers are possible)

☐☐☐

- 1) Lack of communication between teachers and students  
2) Cannot adjust to the new place  
3) Cannot cope with the standards of the school  
4) Cannot understand communicate in the new language  
5) Discrimination in schools 5) Any other, Specify

**LIVELIHOOD BEFORE AND AFTER**

Note for the Researcher: This section refers to employment of the respondent, it is important to capture the loss he/she has incurred due to the said conflict. Here it is important to note the kind of monetary losses that have occurred due to the loss/change of profession etc. Here self employment would include owning shops, selling vegetables, driving a vehicle etc.

**1) What work did you do in your original place of residence?**

- 1) Owned Land and worked on it                      2) Agricultural Labourer  
3) Earned out of selling forest products    4) small business/vending  
5) Casual labour                      6) Service in Semi Govt  
7) Service in Government                      8) Service in Private sector  
9) home based labour

☐☐☐

**2) In your original place of residence which other members of your family were employed?**

- 1) Son                      2) Daughter                      3) Wife                      4) Husband  
5) Daughter in law   6) Father                      7) Mother                      8) Any other;  
9) None

☐☐☐

**3) In the current location what is your main source of income?**

- Own Land and work on it                      2) Agricultural Labourer  
3) Earn out of selling forest products   4) Business  
5) Casual labour                      6) Service in Semi Govt  
7) Service in Government                      8) Service in Private sector  
9) NREGS                      10) any other

☐☐

**4) Which of the members of your family are employed now in your current location?**

- 1) Self                      2) Sons                      3) Daughters                      4) Wife  
5) Daughters in Law                      6) Father                      7) Mother                      8) Any other

☐☐

**5) Did you have to give up any productive assets in shifting from your original location?**

1. Yes                      2. No

☐

**5.1) If Yes, what asset did you have to give up?**

- 1) Land                      2) shop                      3) cattle  
4) livestock                      5) Forest land                      5) any other: specify.....

☐☐☐☐

**5.2) did you have to create any new assets for your livelihood?**

1. Yes                      2. No

☐

**5.3) If Yes, which of the following?**

- 1) Purchased land   2) Set up shop                      3) Anything else

☐

**5.4 If so, how did you manage to arrange for the finances?**

- 1) Self                      2) support from government  
3) support from Non government agency                      4) Nationalized Banks (loans)  
5) loans from private sources 6) Any other

☐☐

**6. Do you face any discrimination with respect to your daily wage employment?**

1. Yes                      2. No

☐

**6.1 If Yes, what?**

- 1) Get less salary compared to locals                      2) Get less wages compared to locals  
3) Do more work done than others                      4) Don't employ you  
5) keeps you in low hierarchy jobs/work only  
6) in marketing of your produce                      7) anything else

☐☐

**7) What kind of community relations exist with the locals?**

- 1) Good support systems with locals in times of need  
2) no relation even in times of need; 3) Don't even know them  
4) Conflict with the locals

☐

**8) What is the distance between your place of work and residence?**

- 1) <1 km 2) > 1 < 3 kms 4) < 3 kms

☐

**9) What are the problems faced in order to reach the place of work?**

- 1) Lack of transport 2) No safety for women  
3) Fear of being attacked 4) any other

☐☐

**10) Did the government make any efforts in providing job opportunities/work?**

1. Yes 2. No

☐

**11) If yes, what kind?**

- 1) Providing quota in jobs 2) recruitment in para military forces  
3) Jobs in NREGA 4) any other

☐

**If you were given Jobs under NREGA only then respond to the following questions.**

**12) Under NREGA, did you get job card?**

1. Yes 2. No

☐

**13) If yes, did you get work?**

1. Yes 2. No

☐

**14) If yes, how many days of work did you get?**

- 1) <10 days 2) 10 to 20 days 3) 20-30 days  
4) 30 to 50 days 5) 50-70 days 6) 70 -100 days

☐

**15. Did you get NREGA wages on time?**

1. Yes 2. No

☐

**Answer the following question only if married and spouse is alive:**

**16) If the spouse is a female, has your spouse had to begin work due to the conflict to support the family?**

- 1) Yes 2) No 3) Not applicable

☐

**FOOD /HEALTH/SANITATION**

**1) Has there been any change in your food pattern after coming to the new place?**

1. Yes 2. No

☐

**2) If yes what kind**

- 1) Food grains I am accustomed to is not available  
2) the water is not good                      3) any other specify

☐

**3) Do you experience a cultural shift in the new place?**

1. Yes                      2. No

☐

**4) If yes, what kind?**

- 1) The neighborhood is not friendly;      2) Cannot adjust to the social environment;  
3) Customs are different;                      4) festivals are new;  
5) Food habits;                                      6) Language;  
7) Dress;    8) any other;

☐

**5) In the current place can you freely practice your religion?**

1. Yes                      2. No

☐

**6) If no why?**

- 1) Threat by the local community              2) The religious place has been destroyed  
3) Any other

☐

**7) Do you have a ration card of the current location?**

1. Yes                      2. No

☐

**8) If yes do you get your full share of rationing?**

1. Yes                      2. No

☐

**9) If you do not have a ration card applicable for the current place have you applied for one?**

1. Yes                      2. No

☐

**10) In your original place of residence how far was the PHC from your house?**

- 1) < 1km                      2) 1 -3 kms                      3) More than 3 kms

☐

**11) Have you or any of your family members suffered any health problems after coming here?**

1. Yes                      2. No

☐

**12) If yes what kind of health issues have you faced?**

- 1) Skin problems                                      2) Abdominal problems  
3) Mental health issues                              4) Hunger  
5) Starvation    6) Others (specify)

☐

## Return

**1) Have you ever tried to return to your original place of residence?**

1) Yes

2) No

☐

**2) If yes, why could you not successfully return?**

1) You were attacked;

2) Your property was destroyed;

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3) You were threatened;

4) Police was not cooperative;

5) Government officials were not cooperative.

**3) If No why?**

1) Fear of attack

2) Social Boycott (In the native place)

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3) No property to return to

4) Better Opportunities;

5) other

**4) What steps has the government taken to re settle the displaced people?**

1) Built relief colonies

2) given loans to build houses/livelihood

☐☐

3) given land to build houses

4) Any other

5) None of the above

**5) Have you received any compensation for your losses?**

1) Yes

2) No

☐

**6) If Yes, what kind? (Note cash doles are given immediately after the conflict for house hold items, it's a onetime thing)**

1) Residential losses

2) Commercial losses

3) compensation for the dead

4) Injury

5) Cash Doles

☐☐

**7) Do you think that the compensation was adequate?**

1) Yes

2) No

☐

**8) Are you still receiving monetary assistance from the government?**

1) Yes

2) No

☐

**9) If yes, how much?**

1) < 1000

2) 1000- 2000

3) 2000-3000

4) More than 3000

☐

**10) If you have not received compensation have you responded to appropriate authority?**

1) Yes

2) No

☐

# Annexure II

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## AFFIDAVIT

I \_\_\_\_\_ son /daughter/wife of \_\_\_\_\_

I am the resident of \_\_\_\_\_ (Name of the colony/settlement/area) do hereby solemnly affirm and declare as under :

1. That I am citizen of \_\_\_\_\_

2. That my original place residence was \_\_\_\_\_  
(Name of the village/area/town/district)

3. I affirm that I have been living at \_\_\_\_\_ (colony/settlement/ area) since I was forced to flee from my home and places of habitual residence, in particular as a result of and in order to avoid the effects of armed conflict/situations of generalized violence/violations of human rights that took place on..... (date of the incidence)

4. I affirm that I am a victim of violence that took place on \_\_\_\_\_ (date of the incident) and which is the reason I have been living in the above mentioned colony/settlement/area.

5. I affirm that in the above mentioned colony/ settlement/area there are..... number of families who are internally displaced as they were forced to flee from their homes and places of habitual residence, in particular as a result of and in order to avoid the effects of armed conflict/ situations of generalized violence/ violations of human rights / human-made disaster that took place on\_\_\_\_\_ the total family list is attached herewith.

6. I affirm that I have been informed about the study “Internally Displaced Persons in India: Mapping and Citizenship rights” which is being conducted in 5 states of India. 7. The data regarding the location of the above mentioned..... Settlement /colony/area is true to our knowledge.

**DEPONENT**

**VERIFICATION:**

Verified at \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_(month), \_\_\_\_\_(year) on solemn affirmation that the contents of my above affidavit are true and correct to the best of my knowledge. No part of it false and nothing has been concealed therefrom.

**DEPONENT**



# ANNEXURE III

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## Checklist for Focused Group Discussion

Date of FGD

Time:

Name of Team members:

General information

Name of the location:

Name of Village/City:

Year of displacement:

Nature of displacement: rural to urban/rural to rural/forest to revenue land ...

Number of households in the location:

Target group: Youth/Women/Children/Mixed

Total number present:

Girls:      Women: Boys:                      Youth:              Men:

Points for FGD

Introduction: Purpose of the visit/discussion

About Study on IDPs in five states of the country

UN guidelines principles and Indian government's denial to sign the treaty

To know status of IDPs today: what has happened after the shift? Has anything changed over years? What role has the govt played? What role has NGOs played? how have people tried to cope?

## Checklist

### **With Youth**

Number of Years that they have been here for; approx age when they shifted here

Government support/NGO support in the shifting/settlement

education : drop outs/current status/whose efforts – boys and girls

Views on Basic amenities – drainage, water, housing patta, education, health

Current Livelihood: current; risks involved –boys and girls ;

Discrimination faced in any area

desire/ efforts to return

What Aspirations they had... from life; what they feel now..

challenges they see for the future

### **With Women**

We need to understand issues:

of women of HH headed by men

Difference between single women headed HH v/s women in male headed households in terms of: challenges of L/H; food intake; debt/credit; asset ownership; relationship of expecting women then: protection/issues while shifting; protection, special services

Points to be discussed:

Protection/issues while shifting – any harassment faced

Livelihood: past and present- even from home/ unpaid/supportive roles played;

Health issues: type of illnesses after coming here; mortality rate of children; risks by pregnant women; accessibility/discrimination for medical facilities

Food security:

Access to ICDS: for children; supplementary food for pregnant women

Access to Public Distribution system and its functioning

Coping strategies for food when food is less available

Change in food pattern, if any, effect on health

Views on availability of current basic amenities: DW / electricity / drainage / PHC / veterinary / roads / sanitation / ration shop / school

Risks they face/fear here, if any; especially as a woman

Social Relations : here as well as with back home : how do locals in new place and back home view them? are they invited for festivals/occasions?

Efforts/issues of return: what do they miss/feel?

(capture the loss of identity; loss of rootedness too)

### **With Children**

All children; children who have lost their parents

Checklist:

education issues : changes: drop outs, ashramshalas, language issues/discrimination in school

health issues/nutrition: illness, change in food intake...

children 'working': (girls and boys) type, age, risks... any one as soldiers?

issues during shifting: food(regularity, sufficiency)/water/cold/

Views on shifting here: what do they miss of back home?

aspirations for future

Overall checklist:

Reason for shifting

Type of protection/issues during shifting

food, DW: regularity and sufficiency of supply of food

children safety

women

cold

Type of property at origin ..status of the same

Reissuance of lost identify proofs: ration cards, voter card, land records, license...

Type of cases done ; status of cases; effect of cases getting registered

*Related to basic amenities* : DW / electricity / drainage / PHC / veterinary / roads / sanitation / ration shop / school

*Related to livelihood*

type of work men and women, children do

changes in work women, men and children did and are doing now (including home)

difficulties/risks faced for this Problems related to reaching place of work : lack of transport / no safety for women / fear of being attacked Loss of productive assets: shop/land/cattle...

new skills learnt

*Related to discrimination:*

with respect to employment

less salary compared to locals

less wages compared to locals

more work done than others

don't employ low

hierarchy jobs/work

in marketing of produce

offers lower rates

do not purchase produce

Changes in education: drop out/quality of education /discrimination

Role played by Government – in protection, shifting, settling, medical facilities, water, drainage, ration... for

rehabilitation : job/livelihood/houses/loans

Community relations with the locals : in times of need / invitation for festivals/occasions

Cultural shifts: customs/festivals/celebrations/food/language

Efforts for return: Problems in returning

Any positive change over years: Reasons for positive change:

Expenditure pattern: water, transport, fuel food, etc.