

Term Paper for Module D 2007

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What are the special provisions for Women IDPs in international regime of protection and care of IDPs? How far have they helped the cause of women's rehabilitation and care?

by Anita Ghimire

According to the widely accepted definition "Internally displaced persons are persons or group of persons who have been forced or obliged to flee or to leave their homes or place 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 and human made disasters, and who have not crossed an internationally recognized state border" Guiding Principles on Internal Displacement (GPID, 1998).

According to the Norwegian Refugee Council (NRC, 2006), humanitarian organizations assess the ever-growing problem of internally displaced persons (IDP) as the most compelling crisis confronting the humanitarian assistance community. 23.7 million people in at least fifty countries of the world are displaced by internal conflicts, communal violence and gregarious violation of human rights. In Asia alone, 2.7 million people are internally displaced in 11 countries by conflict (Eschenbacher, 2006). It's quite alarming that though the number of international and intra-state conflicts has fallen dramatically by 40% since the cold war, the number of countries reporting internal displacement has increased; the past few years have witnessed a change from large scale refugee movement to increasing internal displacement (Banerjee et al. 2005)

Among the internally displaced people approximately 75-80% is women and children (Banerjee et al. 2005). The needs and experience of women are different than those of men- and this applies to all phases of displacement – from the root cause of flight to return or resettlement in some new areas. Though men and women may have common experience- its implications and consequences are gendered. This is basically due to the roles they are expected to play in a society. Socially constructed roles are challenged in case of conflict and displacement. For example: during conflicts women may experience the same human right deprivation as men (though most often in such cases women are by far restricted) but human right violation takes different forms for women. For men it is mostly the fear of physical attack, fear of being killed, pressure to take up arms by either of warring sides but for women it is the sexual violence and practices that are dangerous to their lives and health like child brides, trafficking etc. And this is more so in case of Asian countries where attitudes towards women are guided by the "mystified notions of chastity"[] and the honor of a family or community and sometimes the nations as a whole are bound to women's bodies or are a marker of male honor. So to challenge this honor, sexual violence towards the women of rival community is an often practiced war strategy. As Judy Benjamin(1998) remarks" *Taking advantage of the weakest has long been a key strategy of conflict; fighters are trained to zero in on their enemy's weak points. In situations of displacement, women and girls become easy targets of aggression, a vulnerable flank upon which aggressors focus their attacks to humiliate and defeat their opponent*".

The consequences of such violence are also different for women. Sexual violence directed towards women may lead to pregnancy and the women consequently may find it impossible to live in community. Women who had been forced to join the Maoists in Nepal were not easily accepted back by their community once the insurgency stopped, even when they wanted to go back to their families, but men were easily welcomed back. Reproductive roles of women also make them less mobile and thus more susceptible to physical abuse.

During the phase of settlement in another place, men may face greater risk of forced conscription, loss of life, torture and for women it is sexual exploitation, domestic violence and rape. Displacement often changes the gender roles and new roles are simply added to women. Most often in new place, women have to bear the double brunt of being a provider as well as a caretaker of the family and in cases where men are attacked or imprisoned women are also left to work for the release of their male members.

Not taking into account their role of feeding and taking care of the family, women are highly discriminated during the distribution of aid.

During the phase of return and rehabilitation too, women are mostly the first to return and check the viability of the returning of the male members. Unaccompanied by male members they are much susceptible to violence of all kinds.

Thus it is an established fact that women and children are the hardest hit during different stages of conflict and displacement. Through this I emphasize on the differences of the effect of conflict and displacement on women and men. All this accounts for why policy and programs should be gender sensitive.

Special Provisions in International Regimes of Protection and Care for Displaced Women.

Regarding the international regime of protection and care of internally displaced women, the Guiding Principle on Internal Displacement (GPID, hereafter) is the leading document used by all concerned in situations of displacement. It in its 30 principles brings together in one document the many norms which were scattered in different instruments and were of importance to IDPs. Unlike the refugee law which is blind towards women's concern we can see that attempt has been made in the GPID to prioritize the concerns of displaced women.

Following principles of the GPID spell about women's issues:

Principle 4 says that the principles shall be applied 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.

Principle 7 says, when displacement occurs in situations other than emergency, 3-d The authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation.

Principle 10 states: -No one shall be arbitrarily deprived of his or her life.

Principle 11. 2.says that - IDPs whether or not their liberty has been restricted, shall be protected in particular against 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: slavery or any other form of contemporary form of slavery such as sale into marriage, sexual exploitation, or forced labor of children.

Principle 18 speaks of efforts to be made to ensure the participation of women in the planning and distribution of these basic supplies.

Principle 19 states that special attention should be given to the health needs of women and

Principle 20 says that both men and women have equal rights to obtain government documents in their own names.

Other mechanisms are:

1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the 1999 Optional Protocol. Article 2 of CEDAW states that the public authorities, individuals, organizations, and enterprises should refrain from discrimination against women.

Article 3. speaks of women's right to get protection from sexual violence.

Article 6 speaks against trafficking and sexual exploitation of women.

Article 3 of Geneva Convention of 12 August 1949 calls for halt of weapons against civilian population and to protect all civilians including children, women and persons belonging to ethnic and religious minorities from violations of humanitarian law.

Article29 of ILO 1930 Convention concerning forced or compulsory labor also impacts the situations of women, in particular forced labour, abuse and torture of labourers including women.

Regarding the effectiveness of these provisions and how far it has contributed in helping the cause of women's rehabilitation and care- it is dependent on various factors.

First and foremost, the GPID itself is not a binding document though the argument is there that it has been derived from international human right and humanitarian law which are legally binding. So there is no obligation for the states to get bounded by it and in case of conflict we find that even the states are not guided by any human right or humanitarian law; in fact in most situations it is the state mechanism which is responsible for more human right violations than the insurgent forces. Let me give an example of how it effects the protection and care. Nepal till 2007 had made 3 IDP policies. Though they always said GPID was the base of such policy the first two policy regarded only those that had the physical evidence (house burnt or destroyed, family members killed etc) of being threatened by Maoists as the IDPs. Those who could not show such physical evidence and those that were displaced due to the actions of security forces were not regarded as IDPs. There is a lot of question here; Did people not have threats from security forces? Is sexual violence or fear of being sexually assaulted not a reason to being displaced?? How could women show with physical evidence that they were susceptible to sexual violence, if ever they could reach the state mechanisms at all? Should they wait until they are sexually assaulted? and most importantly Are men and women who have been displaced due to general situations of conflict but do not have any particular party to blame, not IDPs??

In our short visit to Dang, an urban area in the Mid Western Nepal, we found that most among the displaced people are women who have come there from mid western hills of Rukum, Salyan, Rolpa who were living alone in their place of origin because their male counterparts had gone to Himanchal, Shimla etc states of India for seasonal labour- a long practiced economic strategy for these parts of Nepal where there is very low productivity compounded by unavailability of jobs. During conflict these women were very much in threat of rape, forced recruitment and other forms of assault by both the sides. But when they came to Dang they were not registered as IDPs due to the above mentioned laws- so whatever the provisions for IDPs were- they were left unprotected and without any support till the third policy was made in 2007.

Similarly due to gender related economic and social circumstances (illiteracy, less access to information, uninvolved in political and legal concerns) women are less likely to have information and the means to such protection and care. Most of the above mentioned women were neither aware of the government policy nor of the compensation which the national IDP policy 2007 gave them.

Besides during situations of conflict there are also problems of access and problems of response which obstructs the humanitarian organizations on reaching up to women. Gender issues in case of emergency situations are always shadowed. "This is an emergency situation, Everyone will get the same. There is no time for gender"- this concept becomes prominent and so when men benefit from the same aids, women's quota are fulfilled but needs unmet .As Mertus(2004) writes *"The washrooms and latrines and wells are built on grid patterns, very poorly lit and unguarded, this ignores the needs of women and makes them susceptible to being sexually assaulted."*^[ii]

Even when today there is a trend of national and international organizations to employ women, the question is how far these women really have their say in fulfilling their needs.

Another very disturbing trend is that gender in South Asia always points at women- in most projects, it is taken for granted that gender issues means women's issues and meeting women's special needs. Women's problems and needs are always weighed against the standard –" men's problem and needs." So policies and programmes are made in which there are 1,2,3,4,5 – catering to general needs which is considered to be common for both men and women but obviously designed from the male perspective and there are certain added provisions for women which are specific to their femaleness. Just adding few provisions for women in policies which is otherwise power blind and structurally resists female needs is useless and thus projects often fail to benefit women.

Thus we can see that there is a resistance towards women both at the policy and its implementation. As UNIFEM repeatedly argues-policies are always made from men's perspective, the state itself is patriarchal and it is the majority of male who implement the policy.

In the implementation phases we see that food and humanitarian aid distribution process often neglect women's role of feeding and caretaking and give aids to men. Aid kits rarely have items specific to women's needs and as Dr Paula Banerjee often argues, compensation are always handed to men. Men who are addicted to alcoholism or other habits like gambling etc are found to spend it on their own pursuit and the family remains hungry. On the contrary, giving compensation to women

often means giving compensation for the whole family. The fact that during displacement women's role often increases as both caretaker and provider is ignored.

Though in comparison to refugee law where the fear of sexual violence doesn't grant women the status of a refugee, GPID though not specific in its definition of IDPs to include women who have fled fear of sexual violence, identifies people "who have fled situations of generalized violence and violation of human rights" as IDPs and women fleeing threat of sexual violence may be interpreted to be included in such category. But in principle relating to return, resettlement and reintegration Principle 28(11) as with earlier principles on care and protection, there is no mention of internally displaced women's participation in planning and management of return, resettlement or reintegration. This is a stark example of how male perspective- where there is only concern for women's protection and care but not in her equal participation in planning and management- is reflected in policy. Leaving principle 18 and 20 all other specific mention of women in GPID is related to protection.

Lets see at the phase of implementation of GPID- even when there are 4 principles that speak of protection to displaced women, it has been found that at the implementation level the same agencies who are responsible for protection and have been trained on the GPID have raped women and run prostitution rings in IDP camps^[iii] whereas we can find examples of civilians who have given refuge to women who have fled violence (Sammadar, 2007: Lapierre and Collins, 2001). So it is the attitude of regarding women that needs to change foremost. Allocating 30%, 50% quota to women and making policies for women- if they really are and not like eggs on top of cakes that have started to bake, cannot do much for women if they are not strictly monitored at the implementation level. The patriarchal society needs to see women as equals and for this genuine empowerment of women is as crucial as correcting the attitude of regarding women as a mere physical object.

Conclusion.

Legal provisions have definitely helped the cause of women's rehabilitation and care and the GPID is more gender sensitive. Other laws have also helped in the cause of women. But it again rests on the state to take into account such laws. Though international humanitarian law is binding to even the insurgent forces and all countries of South Asia are signatories to CEDAW (though with some reservations), implementation of such law is not strictly monitored. Civil society and international agencies should be involved in strict monitoring of the implementation of such laws. Though there are growing concerns for women's need, yet there is a need for a paradigm shift towards accounting the needs, roles, expertise, skill and interests of both men and women in every step of the making of the policy as well as its implementation. Only then will the policies be complete and thus produce the desired result.

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[i] see ..pp 18.....

[ii] see Mertus (2004) pp. 250

[iii] see IDMC report 2006, for details

Discuss whether the UN Guiding Principles influence the policies of rehabilitation in South Asia.

by *ASHIRBANI DUTTA*

Introduction:

The development of UN Guiding Principles on Internal Displacement in 1998 was the first ever and a hallmark effort taken at the international platform to safeguard and protect the rights of the Internally Displaced Persons (IDP). The Representative on the issue of Internally Displaced Persons, Francis M. Deng formulated this non-binding instrument to compile, restate and interpret the existing laws. The primary sources which the drafters relied upon, while formulating this instrument, were

humanitarian law, human rights and refugee law. It is mainly based on the concept of "sovereignty as responsibility" where the national authorities are vested with the primary responsibility to protect and safeguard the rights and interests of its own citizens, which laid down the foundation stone of the concept of "sovereignty". But if they are unable to fulfill their responsibilities, they are expected to ask for and address outside aid and assistance. If they refuse or deliberately obstruct access of the international community, to these IDPs, putting them at risk, the international community has a right and even a responsibility to express its concern and provide aid and assistance through international involvement ranging from diplomatic dialogue, to negotiation of access to bring in aids and supplies, to political pressure, sanctions and in exceptional cases, to military interventions. Deng, after framing a holistic and all-inclusive definition of IDPs for the first time in Principle 2 of the Guiding Principles, went further to protect the rights of the IDPs before, during and after displacement along with drafting a section dedicated to rights and obligations of humanitarian aid providers. Guiding Principles is essentially a compendium focusing exclusively on the rights of IDPs as a specific group with particular needs. It provides a handy schematic of how to design a national policy or law on Internal Displacement to answer the requirements of International Human Rights.

A mild recognition:

An increasing number of the governments have accepted the authoritative character of the Guiding Principles by basing their national policies on them and in some cases have incorporated the provisions of the Principles into national law. For example, in Colombia, the Constitutional Courts cited Guiding Principles as a basis for two of its judgments on IDPs. In Angola, Government based its law on resettlement of IDPs on provisions in Guiding Principles. In Georgia, the government is in course of bringing its laws in compliance with the Principles. In Burundi, Philippines, Sri Lanka and Uganda Principles have been used as a framework of national policies. In Afghanistan, the Principles are being used to draft a decree for the safe return of IDPs. Even non-state actors have begun to acknowledge the Principles like Sudan People's Liberation Movement (SPLM).[i]

Reality depicts a different picture:

If we dig deep, the reality depicts a grim picture, especially in South Asia.

Stories from Afghanistan:

Afghanistan has been shaken by protracted occurrence of gross human rights violations. IDPs extensively suffered political killings, abductions, kidnappings for ransom, torture, rape, arbitrary detention and looting. Prison conditions were deplorable. Privacy rights were severely infringed. Civil war situations and arrogant responses of competing factions have restricted the enjoyment of rights like freedom of speech, assembly, association, religion and movement of IDPs. Among them displaced women were even more disadvantaged. They had no shelter to maintain their privacy. In the absence of male members, they were particularly vulnerable.[ii] The paucity of detailed and verifiable information on IDPs constrained the planning and response capacity of humanitarian actors supporting return movements and providing assistance to the IDPs. It also hampered the capacity of agencies to provide timely and objective information to IDPs concerning conditions of areas of their potential return. The targeted violence and looting by ethnic militia against ethnic Pashtuns and gross human rights abuses perpetrated against them led to sudden influx in the number of IDPs. Rampant looting and deprivation of assets[iii]; widespread loss sources of livelihood; shortage of food; unhygienic and sordid conditions of living inside camps posing health hazards[iv]; serious threat to physical safety; rape, torture, cruel, inhuman and degrading treatment[v]; arbitrary arrest; detention and hostage taking[vi]; loss and separation of family members leaving children vulnerable[vii]; separation of children from their family members[viii]; recruitment of children as soldiers[ix]; selling of children as domestic helps, for camel jockeys, as labourers or for the purpose of prostitution[x]; lack of legal system and judicial recourse mechanism in camps, beating young men for hours without the perpetrators being punished[xi]; lack of access to basic educational facilities[xii] and health facilities clearly depicts the failure of rehabilitation and resettlement programme of IDPs to satisfy the criteria of Guiding Principles. Pashtun IDPs in Northern Afghanistan were severely deprived of their fundamental right to life by their own security forces.[xiii] Woman and girls were taken away and are still missing.[xiv]

In India:

India has been a classic example which has witnessed various types of displacement in last 50 years of independence, e.g. Development-Related Displacement; Ethnicity-Related Displacement; Border-Related Displacement; Externally-Induced Displacement (to include economic migrants); and Human and Natural Disaster-Related Displacement. There are significant provisions in the existing municipal laws that are frequently invoked by the appropriate authorities to deal with the IDPs. While India is yet to evolve any separate legal instrument to address the problem of internal displacement, efforts have started since 1990s. The Working Group on Displacement, attached to Lokayan, prepared a Draft National Policy on Developmental Resettlement of Project-Affected People in late 1980s. Though it provided points of departure, debates and discussions followed even after. However, a noticeable change has occurred in the attitude of the government, as can be witnessed in the draft National Resettlement and Rehabilitation (R & R) Policy prepared in 1998as prepared by the then Ministry of Rural Development (MoRD), which is the first state-led attempt in this direction. In this draft, "family" includes every adult member, his (her) spouse along with their minor children. Its primary objective was to ensure minimum displacement, help the resettled people enjoy a better standard of life than before displacement, and enabled the displaced people to enjoy benefits on the same scale as beneficiaries of developmental project. It clearly defined the "owners" of the land for the purpose of R & R otherwise termed them as "encroachers". Provisions of compensation were extended to non-owners such as tenants, sharecroppers etc. It called for community consultation for R & R package, open public hearings, publishing of R & R plans, and fixing of R & R cost at 10 percent of the project cost and linking compensation with gross productivity.[xv]

In India, internal displacement, despite being a hard reality, took long to be a part of our public agenda, only when they were accompanied by factors in addition to purely humanitarian considerations to swallow the bait of sensationalism. While mainstream vernaculars report on displacement, such incidences are reported as and when they take place. Seldom there are any references or media enquiries on post-displacement state of the IDPs and their resettlement and

rehabilitation.[xvi] Despite a flow of heavy relief grant, as happened in case of protracted internal displacement in Kashmir along the Line of Control, there has been no effective body or monitoring mechanism to supervise proper utilization of that money. An effective mechanism was yet to be devised for the disbursement of huge relief grants.[xvii] All arrangements were made on an ad hoc basis. Simultaneously, civilians were often used to serve as defence shields. The Kashmiri Pundits selectively targeted and attacked indiscriminately, in order to effectuate "cultural onslaught on the minority to majority". Grabbing of land and properties belonging to Pundits was specifically used as an attempt to displace them. Disruption of academic calendars, deprivation of basic standards of living and failure of the government to facilitate enjoyment of rights of IDPs following displacement or in course of rehabilitation expressly suggests bureaucratic ignorance and reluctance to do the same. In contrast to the massive displacement following Gujarat Carnage, the protracted flight of Kashmiri Pundits was propelled by a deep sense of fear sometimes exacerbated by the administration.

The well planned, designed onslaught or aggression on the existence, culture and distinct identity of a particular community to exterminate them in a blatant manner marked the basic feature of Gujarat Carnage in February 2002, which led to massive displacement of minority community. It led to "unprecedented brutality" in the Indian history. Among the displaced, men and women were burnt alive. Women were particular targets being subjected to rape or other forms of sexual assault. Even camps run for the IDPs, in the process of rehabilitation depict stories of violation of relevant provisions of UN Guiding Principles. There were instances of direct attacks on the camps violating the inherent right to life and right to be protected from attacks or other acts of violence as laid down in Principle 10 of the Guiding Principle. On 18th March 2002 Odhav camp in Ahmedabad was attacked by a group of people with stones and petrol bombs.[xviii] The IDPs inside the camps, were reportedly forced to live in a state of terror. It was reported that IDPs were terrorized in the Vatwa camps in Ahmedabad, where audio cassettes containing cries like "maro maro" were played at night repeatedly on loudspeakers to frighten the IDPs.[xix] IDPs belonging to a particular community were selectively targeted. This selective targeting of IDPs was totally against the principle 12 of the Guiding Principle. Attacks were directed against the Muslims in the city of Ahmedabad. Throughout the state of Gujarat, homes and shops belonging to the Muslims were destroyed, whereas the neighbouring Hindu shops were left unaffected.[xx] Discriminatory behaviour on the part of government authorities, during Gujarat Carnage was also a serious violation of UN Guiding Principles. A few camps in Ahmedabad which were housing victims from the majority community were visited more frequently by the government authorities and received more regular rations. However, National Human Rights Commission (NHRC) reported that many of the largest camps in Ahmedabad have not been visited by any officials from high political or administrative level.[xxi] Such selective targeting of a particular community and discriminatory practices of the government officials were followed completely overruling Principle 12 and Principle 4, which expressly advocates to protect the IDPs from discriminatory practices. Provisions of Guiding Principles have also suffered blatant violation when authorities continued to turn blind-eyed to the gross inadequacy of relief that prevailed. Rations supplied to the IDPs were of poor quality and inadequate quantity. Conditions of camps were sordid without basic amenities and sources of livelihood, in violation of Principle 18 of the Guiding Principles. Sanitation facilities were deplorable with only one toilet for the whole camp. Due to unhygienic conditions and health facilities, there were outbreaks of infectious diseases like gastro-enteritis. Most camps were devoid of facilities for trauma care and psychological setback. There were no counselors for revival of mental health and spirit. Regretting the poor facilities in the camps for the IDPs, National Human Rights Commissions particularly pointed out that special care must be taken to cater the needs of women for whom special facilities should be provided in the camps. In complete violation of the Guiding Principles, the camps, in reality, depicted a different picture altogether. The committee constituted by National Commission for Women, after inspection of the camps sheltering the IDPs, commented that there was no special provision for comfort of pregnant women in any camp. All this was completely in contravention to Principle 19 of the Guiding Principle. The "bare minimum" necessity of privacy and sense of safety for women while bathing or going to toilets were completely neglected.[xxii] Guiding Principles was further violated by incomplete enumeration. Not all IDPs living in the camps were properly identified, listed and recorded by the government authorities. Proper identification and registration of all the IDPs living in the camps as well as in private accommodations should have been done on a mandatory basis in order to provide the IDPs with proper identification document to assist them prove their identity and residence. This was especially necessary when most of the displaced persons have already lost all their official papers of identity in course of displacement.[xxiii] This was essentially in violation of Principle 20 of the Guiding Principles which essentially recognizes the right of IDPs to be recognized everywhere as a person before the law. This right laid down the corresponding obligation on the concerned authorities to issue the IDPs all necessary documents for enjoyment and exercise of their legal rights such as passports, personal identification documents, birth certificates and marriage certificates. The concerned authorities are also vested with the responsibility to facilitate issuance of new documents or replacement of documents lost in the course of displacement, without imposing unnecessary formalities or conditions like requiring the IDPs to return to one's area of habitual residence in order to obtain the required documents. The article also provided that women and men shall have equal rights to obtain such necessary documents. Government officials, following Gujarat Carnage in February - March 2002, also refused assist the IDPs in family reunification, completely overriding Principle 17 of the UN Guiding Principles, which echoes right of the IDPs to respect his or her family life. It laid down that the family members of IDPs who wish to remain together shall not be allowed to do so. Families separated by displacement should be reunited. It also imposes a corresponding obligation upon the concerned authorities to facilitate unification of IDP families, particularly where children are involved. However, in Gujarat, Amnesty International reportedly noted that the government authorities were not assisting in the task of family reunification of IDP families. Around 2,500 persons were missing since violence broke out in Gujarat but government authorities have completely failed to establish the whereabouts of these missing people[xxiv], deliberately violating Principle 16. Further, right of the IDP to move in and out of the camps was reportedly violated in Gujarat. On many occasions, there survivors were reportedly not allowed to leave or move about freely even to obtain basic necessities[xxv], violating Principle 14. IDPs in Gujarat were also subjected to forcible return, clearly violating Principle 28. the camps inhabited by the Muslims but located in Hindu-dominated areas, posed a serious threat to government representatives keeping an eye on their vote banks. Running such camps in those areas could be interpreted by his/her electors as a policy of Muslim appeasement, which led them to shutting of shifting of camps in other areas to win the heart of their vote banks. Even in Gram Panchayat elections IDPs were pressurized to return to their respective places, often risking their life, to cast their votes. Sometimes government even fixed

the deadlines for their return.[xxvi] Further, disruption of academic calendar was another detrimental effect of internal displacement. IDP children or youth, studying in educational institutions and suffering displacement, have to lose their academic year flouting Principle 23.

In the city of Kolkata, in the state of West Bengal, India, there have been eviction drives of migrant labourers, who have settled down in the city in a haphazardly, in a routine manner, causing displacement of large number of people. Most of those who are displaced have been engaged in small and informal sector of economy, mainly hawking. Government of West Bengal went ahead to evict the hawkers by an operation code-named as "Operation Sunshine", displacing these hawkers from their means of livelihood. These hawkers were mainly the returnees from East Pakistan. 46 % of these hawkers coming from East Pakistan were neither the owners nor the licencees of the land on which they hawked. This operation in 1996 evicted nearly 24000 hawkers. The result of eviction was multifold. The hawkers were deprived of their means of livelihood. In utter poverty, many of them committed suicide. The authorities took no care to rehabilitate the evicted workers in other parts of the city. In this regard, Justice Vinod Gupta of Calcutta High Court issued injunction in the process of eviction to stop the government from any further eviction. Without integrated planning. The inadequacy of rehabilitation has been the major problem in the entire process. While 24,000 hawkers were evicted, the government could provide alternative arrangement of only 2,962 stalls. In desperation many of them returned to their old places, this time, without temporary, makeshift shanties, but under the open sky. The government was not harsh with them only because this might prove unfavorable for the then upcoming electoral process. Similarly, the "New Town" Project of Rajarhat, undertaken by the government with the expansion of city of Kolkata has evicted about 1,31,000 persons, of which 6,170 are marginal farmers, 2,105 are small farmers and 4,605 are landless farmers and 4,000 fisherman.[xxvii] But till date no sufficient initiatives have been taken by the state government to rehabilitate them. Even, protracted ethnic conflict in the North East India led to a large scale Internal Displacement of Bengali Hindus and Muslims from and within Assam; of Adivasis or Tea Tribes and Bodos from and within Western Assam; displacement of Bengalis from Meghalaya, displacement of Bengalis from and within Tripura, displacement of Nagas, Kukis and Paites in Manipur; displacement of Reangs from Mizoram and displacement of Chakmas from Arunachal Pradesh and Mizoram.[xxviii] No sufficient initiatives have been taken by the government to rehabilitate the displaced victims. Though in India we find the central government have been progressive at the law and policy level to come up with drafts and policy initiatives and though government is seriously thinking in lines of coming up with a National Law and Policy of Rehabilitation and Resettlement, the reality at the ground level depicts a stark picture of ruthless violation of UN Guiding Principles.

Vulnerability of women:

Even the rehabilitation and resettlement programme especially in South Asia clearly depict a lack of gender sensitivity towards the Internally Displaced Population. Countries like Sri Lanka in spite of ratifying all the international instruments and creating pro-women legal mechanism, failed to provide sufficient security to women and children, who forms vast majority among the IDPs and their situation is still worrying. The government of Sri Lanka though assumed some responsibility towards the displaced, its policy has been heavily influenced by security concerns that determined the extent and nature of the humanitarian response to be extended for the care of the displaced. In conflict areas armed forces enjoyed certain amount of impunity which gave rise to the cases of rape, torture and sexual violence against women. In one such cases in April 2001, two Tamil women were taken into custody in North western Mannar district by Naval personnel and gang raped. In another case it was reported that a 72 year old internally displaced widow was raped by two soldiers.[xxix] In Sri Lanka rape was systematically used as an instrument to displace women and among those displaced many were victims of rape. When instruments of state like members of armed forces have perpetrated rape, these people were hardly ever prosecuted. Among the IDPs the situation of women in government-run camps as reported in 2001 is extremely serious. There is severe lack of privacy in these camps. Often these camps, known as welfare centres, are heavily guarded and the entry and exit are restricted. In such situations young women are particularly vulnerable, with an alarming increase of pregnancy in these camps among the teenage girls in these camps. Displaced women are more likely to seek work or engage in economic activity than men. The restrictions on entrance into and exit from camps affect these IDP women who work outside of the camps. Among the South Asian countries, Sri Lanka has not ratified the ILO Convention regulating standards for women workers. Such non-ratification has adversely affected women IDPs who are now forced to take up jobs in unorganized sectors. The rehabilitation camps are the recruiting grounds for agents who send these women IDPs to work as maids in different countries, prostitutes etc making them victims of various abusive situations[xxx] in the process of being trafficked.

In countries like Burma, since 1970s, the regime has practiced forced relocation of ethnic minorities. Women are especially victims of sexual violence in the process of rehabilitation and relocation. Rape is use as a systematic weapon in their anti-insurgency campaigns against civilian population by the Burmese military regime. 25 % of Burmese women were raped and killed. Of them 83 % of women are raped by military officers. 76 % of the rapes were documented in the areas where ethnic minority was forcibly relocated.[xxxi] In Burma women also became vulnerable because the Burmese army often recruited porters from the displaced communities. When troops used to arrive, men used to run away, leaving the women alone, lest they be conscripted. When porters were conscripted, women were left back all alone more vulnerable to rape. With the increase in women-headed households among the displaced communities, being left with few opportunities as wage labour, and struggling to meet the demand of family, women fall prey to military men. Lack of access to health services, poor healthcare, malnutrition, stress and endemic diseases have made the life of these displaced women miserable, violating the principles of the Guiding Principles.

Even situation of Internally Displaced Women in Chittagong Hill Tracts was deplorable. The tribes of these areas were largely called Jumma People. They were displaced for the first time in 1961 due to construction of the Kaptai Dam. They went through the next phase of displacement in 1980s following armed encounters between security forces of Bangladesh and an armed wing of tribal people called Shanti Bahini. As a result large number of Jumma people crossed borders and the rest who stayed back became dispersed. Bengali settlers filled the areas that Jummas evacuated. In contravention to Principle 2 and 4 of UN Guiding Principles the state had policy to displace tribals and encourage settlement of Bengali in this area so that the demography would change in favour of the settlers. The state sponsored reign of terror imposed harsh implications of displaced women being systematically exposed to rape, abduction, kidnapping and forced

marriages to Bengali population.^[xxxii] Lack of legal recognition of the settlers, sexual violence, deplorable state of mental and physical health with proper care, facility and counseling clarified lack of implementation of Guiding Principles at the ground level.

Notwithstanding the UN Guiding Principles or CEDAW, states in South Asia have set up no specific laws or policies on Internally Displaced Persons (IDPs). They treat each of the cases on the ad hoc basis. Therefore for certain groups like Kashmiri Pundits because of their proximity to the state power, are able to get certain amount of rehabilitation and relief packages. But Muslims of Gujarat and Sathals in Assam do not even get one-fourth of what is allotted to the Kashmiris. In most of the South Asian states while women continued struggle under the patriarchal dominance, their mobility and access to resources and rehabilitation packages are governed by the practice of viewing them more symbols of group honour, systematically distancing them from public domain. Thus, while the state laws and policies prove to be a mere eyewash without systematic implementation of UN Guiding Principles, the state laws and policies make the displaced communities destitute without being sufficiently trained to deal with administration.

[i] Dr. Robert Cohen, "Sovereignty as Responsibility: The Guiding Principles on Internal Displacement", P. 5.

[ii] Mossarat Qadeem, "Afghanistan: The Long Way Home" in "Internal Displacement in South Asia: The Relevance of the UN's Guiding Principles" 33 (Paula Banerjee, Sabyasachi Basu Ray Chaudhury & Samir Kumar Das eds., New Delhi: Sage Publications, 2005).

[iii] In contrast to Principle 21.

[iv] In contrast to Principle 18 (1) & (2).

[v] In contrast to Principle 11(2).

[vi] In contrast to Principle 12.

[vii] In contrast to Principle 17 (1)(2) & (3).

[viii] Id.

[ix] In contrast to Principle 13 (1).

[x] In contrast to Principle 11(2).

[xi] In contrast of Principle 12 of Guiding Principles.

[xii] In contrast to Principle 23.

[xiii] Supra Note 2, at 50 – 53.

[xiv] In contrast of Principle 16 (1) & (2).

[xv] Samir Kumar Das, "India: Homeless at Home", in "Internal Displacement in South Asia: The Relevance of the UN's Guiding Principles" 139 (Paula Banerjee, Sabyasachi Basu Ray Chaudhury & Samir Kumar Das eds., New Delhi: Sage Publications, 2005).

[xvi] Ibid at 119.

[xvii] Ibid at 125.

[xviii] Ibid at 131.

[xix] Ibid at 132.

[xx] Id.

[xxi] Id.

[xxii] Id.

[xxiii] Id.

[xxiv] Ibid at 133.

[xxv] Id.

[xxvi] Id.

[xxvii] Ibid at 137.

[xxviii] Ibid at 149.

[xxix] Paula Banerjee, "Resisting Earsure: Women IDPs in South Asia" in "Internal Displacement in South Asia: The Relevance of the UN's Guiding Principles" 284 (Paula Banerjee, Sabyasachi Basu Ray Chaudhury & Samir Kumar Das eds., New Delhi: Sage Publications, 2005).

[xxx] Ibid at 285.

[xxxi] Ibid at 288.

[xxxii] Ibid at 302.

What are the effects of globalization and urbanization on the poor in South Asia? What are the problems of development paradigm accepted in South Asia vis a vis marginal population and displacement?

by *Ishita Dey*

The development paradigm adopted by the various South Asian countries is largely influenced by the existing policies of the global funding agencies. To meet the demands of the globalization, countries like India and China liberalised their markets post 90's and 70's respectively. The economic liberalization was initiated to enhance economic growth in South Asian countries. This economic growth has been initiated often at the cost of the human rights and ecology specially as public-private partnerships became a celebrated feature of the liberal economies of South Asia. Public-private partnership projects are one of the initiatives of the development process to urbanise certain centres in South Asia. The developing countries of South Asia like India, Bangladesh and Sri Lanka, to name a few, are implementing these strategies to facilitate foreign aid from the global funding agencies like World Bank and Asian Development Bank. The new strategies of development have

been co-opted by the South Asian countries to enhance economic growth at the cost of human rights as the rising internal displacement figures of India, Sri Lanka and Bangladesh.

Table I

Country	Year	Number of people displaced
India	2006	At least 60,000
Sri Lanka*	2006	460,000
Bangladesh	2000	500,000

**It is difficult to determine the exact numbers of internally displaced people in Sri Lanka today due to the overlap between those displaced by the conflict and the 2004 tsunami, and between those displaced by the conflict before and since 2006. According to estimates of international humanitarian agencies, however, around 460,000 people remained displaced in Sri Lanka in August 2007 as a result of conflict and violence, including over 181,000 people, or 49,000 families, displaced by the fighting since April 2006. The remaining IDPs are those who were displaced prior to April 2006.*

(Source: <http://www.internal-displacement.org/>)

The rising figure of internally displaced persons is a result of conflict-induced displacement, natural disaster-induced displacement and development-induced displacement as it might be applicable. What is significant to note here is that in the recent times there has been gross underestimation of the number of displaced persons in case of development-induced displacement as some independent initiatives reflect. If we take the case of India, a study conducted by Walter Fernandes and others (2006) on "Displacement in West Bengal and Assam" from 1947-2000 reveals that 70 lakh people had been adversely affected by projects; 39 lakh of them had been physically displaced, of whom about three lakh had been resettled by the projects. In Assam, the study reveals that 25 lakh have been affected by projects. These figures are disturbing and alarming. For the expansion of greater Kolkata, 700 acres were notified in 1995 and acquired in 1999 for Rajarhat. It caused 800 Displaced Persons and 11,000 Project Affected Persons. These figures open up another dimension of development paradigm embedded in a notion of *urbanization* which creates stratified corners in a city space, makes way for expansion of roads, highways and airports at the cost of human lives and ecology in the name of development.

In this paper, I plan to address the effects of the globalization and urbanization from the vantage of certain policies initiated by the governments of South Asian countries. These policies not only reflect a top-down development approach but also show the nexus between the development projects and the global funding agencies is not only restricted to the policy making exercises to initiate development but also rehabilitation of those who will not enjoy the direct fruits of development.

The first section of the paper will deal with the attempts by the Delhi Government to re-design the Delhi cityscape in 1970s. This redesigning has had certain severe implications in the history of internal displacement in Delhi specially in the context of the two administrative schemes that were introduced during the National Emergency in 1975 - the Resettlement Scheme and the Family Planning Scheme. Both these schemes reflect the biases of development paradigm as far as urbanization is concerned, in terms of segregation of city spaces. In the following section, through a detailed study of the National Water Policy 2002 by Government of India one plans to look into the nexus between the global market forces and national policy maker. One of the underlying implications of this policy is to make maximum use of water resources and preserving them through construction of dams. The study will draw on the proposed and ongoing work of 48 dams in North East India to look into the number of displaced and how these projects have surpassed Environment Impact Assessment and other guidelines. The final section of the paper will deal with the NRRP 2007 and look at the underlying implications of this policy in terms of the rehabilitation of the victims of development paradigm.

Section I: Re-designing cityscapes and urban planning

In 1960s, the Delhi Government in its attempt to free the capital of its slums created a specially stratified area called "Welcome" in West Delhi. This attempt was initiated under the "*Jhuggi Jhompri Removal Scheme*". The evicted slum dwellers were issued "demolition slip" and "allotment slip" by Delhi Development Authority and Municipal Corporation of Delhi. In return they got a temporary "camping plot" of twenty five yards or a "commercial plot" by paying a nominal license fee. By mid 1970s, approximately 2552 residential plots were allotted. On 26 June 1975, Indira Gandhi declared a state of emergency in India. Two administrative schemes were introduced during this period; resettlement scheme and family planning scheme. The main aim of the Resettlement scheme was to demolish all unauthorized dwellings and shift the inhabitants to the outskirts of the city. Owing to the pressures from the Government to implement stringent measures to control population; the bureaucratic machinery of Delhi Development Authority (DDA) devised their own way of meeting the target. The DDA officials adopted a top-down approach; whereby they started allocating plots to those who could produce sterilization certificates. Often employees from the lower ranks were given incentives to search for poorer relatives; this in a way produced a structure of co-victim hood. Emma Tarlo in her work recounts how this structure of co-victim hood produced an informal market of "certification" whereby by the already displaced persons searched for poorer relatives / neighbours who could undergo sterilization for money. The worst affected as she recalls were the migrants who were not economically privileged and lived on a day to day allowance; such as rickshaw pullers, sweepers, peons. They were also victims of DDA and Municipal Corporation of Delhi's demolition drive to free the city of all unauthorized property which left more than half a million displaced (Emma Tarlo in Veena Das eds 2000).

The beautification drive had led to the displacement of half a million population who were entitled to a plot of land according to the Resettlement Scheme. Post '70s in a drive to meet the demands of the family planning scheme the bureaucratic machinery "began to extend its family planning objective into public domain by making family planning; in particular sterilization ; a criterion for the right to Delhi Development Authority housing" (ibid: 244). This opens up another dimension of the situation of internally displaced persons in the context of urbanization. The very notion of urbanization that has been

adopted in the recent times has been at the cost of dislocating people from their livelihood, homes and also at the cost of ecology.

According to an unofficial estimate, the proposed Bangalore-Mysore Infrastructure Corridor (BMIC) project in 2002 might have displaced nearly 1.9 lakh agricultural farmers.

It is against this background it is important to examine the master plan of various cities and specially the newly launched "Jawaharlal Nehru Urban Renewal Mission", its mission and objectives and how do these efforts try to look at the process of urbanization in India. The duration of the mission is seven years from 2005-2006. Evaluation of the implementation of the mission will coincide with the commencement of the Eleventh Five Year Plan. The main emphasis will be to improve the infrastructure; in terms of "water supply, sanitation, solid-waste management, road network, urban transport and redevelopment of old city areas".

"Jawaharlal Nehru Urban Renewal Mission" (JNURM) promises to provide basic services to the "urban poor". The mission plans to provide financial assistance to projects to improve housing for lower income groups and economically weaker sections, water supply and sanitation. The mission has identified 63 cities across the country under three different categories- Category-A, Category-B and Category-C. Category-A entails mega cities, Category-B comprises of those cities with population exceeding one million and cities with population less than one million under Category-C. The mission in its guidelines proposes to encourage public-private partnerships (PPP) which has been the major point of discontent among activists, academics regarding the development and urbanization paradigm that has been adopted across South Asia. Most of these PPPs as we have seen in the past and in the recent times serve the basic objective of the international funding agencies. One of the significant suggestions is to develop 14 new settlement areas where new township of sizes 400 to 500 acres would be required to be developed in order to accommodate the projected population in a planned manner within 2025. The identification of the 14 settlement areas has been on the availability of vacant land of 400-500 acres and after undertaking geo-environmental, geo-hydrological and geo-technical studies for the respective areas. Some of the policy recommendations are an outcome of the existing policies of the global funding agencies. One such instance is the suggested water-tariff in the Kolkata chapter of JNURM. While no water tariff was to be imposed for slum dwellers there were suggestions to charge the industrial users Rs 15 per kilolitre and domestic use in fringe areas Rs 30 per meter per month with one time connection charge of Rs 1150. The pricing policy has its roots in the National Water Policy 2002 which has been the subject of much criticism because of its recommendations to treat water as a commodity rather than as a natural resource which is equally accessible to all despite economic differences. In the followings section we will review the National Water policy 2002 against the background of the proposed and ongoing protests against construction of dams in North Eastern States.

These attempts to redesign cityscapes reflect a tendency of urban planning that is futuristic for the economically privileged. It is well known that the projected master plan of Kolkata for 2025 aims to create more settlement areas. Though at the outset it clearly mentions that the newly identified settlement areas have vacant land of 400-500 acres; and this might be true it would not be detrimental if the upcoming projects could project the number of displaced like the way they project the number of people for whom employment opportunities will open up. In case of Guwahati Master Plan, according to unofficial estimates, the eight lane expansion will displace 6 lakh people. One of the biggest drawbacks of the upcoming projects is the gross underestimation of people being displaced for fear of compensation and people's resistance. This gross underestimation often leads to severe implications as we will see in one of the long drawn people's movements against certain development projects.

Section II - Review of the upcoming and ongoing water projects

According to some environment groups and activists, National Water policy 2002 has been framed to meet the demands of the international funding agencies and to facilitate entry of foreign aid in water projects. It is seen as a nexus between the global funding power and the national policy makers. It is against this backdrop that some of the ongoing water projects; mainly dams in the North East will be reviewed to see how water resources have been put to "maximum use" in the recent past.

In 1980, the planning commission of India approved the Mapithel Dam (Thoubal Multipurpose project) in Manipur. It has been twenty years that people are protesting against the ongoing construction of the dam because the project was launched without prior informed consent of the people of the eleven villages that will be affected in the process. The affected areas of the project include the following villages: Phayang, Louphong, Chadong, Lamlai Khullen, Lamlai Khunou, Maphou, Riha, Thawai, Zelengbung, Shangkai, Sikibung, Nongdam, Thangjingpokpi etc. Most of these villages are tribal villages. In the letter, (No. RO -NE/E/ IA/ MN/ HEP-6/3144-47); dated: 28 December 2006, the Chief Conservation of Forests, NorthEast Regional Office, Ministry of Environment and Forests, Government of India, B.N. Jha states that a regional official monitoring of the project revealed that the construction work is going on without obtaining environment/ forest clearances as required under Environment (Protection) Act, 1986 and Forests (Conservation) Act 1980 respectively. This letter reveals that despite measures like Environment impact Assessment and Social impact assessment, projects make headway progress. For twenty years "Mapithel Dam affected Villagers' organization" have been fighting against the construction of the dam and seeks suspension of construction of Mapithel Dam till the Thoubal Multipurpose project is reviewed with the formation of an expert committee. They also demanded that the rehabilitation plan should be prepared in full consultation and participation of the affected villagers. The press release against the construction of the Mapithel Dam by the "Citizens Concern for Dams and Development" demanded that that the review should be based on the recommendations of the World Commission on Dams, that all dams should fulfill the principles of equity, justice and respect rights of indigenous people.

The case of Mapithel dam shows how water projects in the name of multi-purpose use of water are bypassing the environmental and other guidelines. While the government is busy framing guidelines to suit the international monetary agencies. National Water Policy 2002 was subject to much criticism by Navdanya, an environmental group for whom this policy shifts the right of water from people and communities of India to a handful of multinationals such as Suez, Vivendi, Thames Water, Bechtel and others. One of the main criticisms against National Water Policy 2002 and PPPs is the issue regarding people's participation in exploitation of natural resources. National Water Policy has not taken into consideration

the question of community rights. Privatization of water has also been encouraged in the recent times through the proposed river linking project.

Water Policy exercise at a national level was also initiated in Sri Lanka after the World bank in 1996 proposed that public - private sector partnership in water, sewerage and sanitary services should be promoted in Sri Lanka's strategy to reduce poverty reduction. Suggestions were to introduce "Water rights and transferable water entitlements", to charge consumers for water rights, to enable private water companies to charge commercial rates for water. The proposed arrangement was to "price water" for "all type of consumers". Though the Government was forced to revise its dictums under the pressure from the people's movements Movement for National Land and Agricultural Reform (MONLAR) and Alliance for Protection of National Resources and Human Rights this case shows that control over water resources and utilization of water resources has not ended with the construction of dams. In India and Sri Lanka, the encouragement of PPP from the government is evident in policies. What is to be noted is how the community rights of people might be strengthened within the existing framework.

In the context of urban planning, preservation of groundwater resources is one of the main concerns of the national and state governments in India as envisaged in the Jawaharlal Nehru Urban Renewal Mission. If projects to preserve these resources displace people its time we take what kind of resettlement and rehabilitation policies we have in place and whether it speaks of community right and recognizes community property resources.

Revisiting NRRP 2007

National Rehabilitation and Resettlement Policy as a policy exercise is forty years old. This policy exercise is an outcome of the two reports on Land and acquisition in 1965 and 1985 where the respective committees pointed out that 40% of the displaced population are the tribals. It is against this backdrop the policy exercise began with the latest NRRP 2007 which proposes for the active participation of the "affected persons" in the resettlement and rehabilitation process.

"Affected persons" have been defined on rather arbitrary quantification of four hundred or more families in plain areas whereas as we know a slum/ squatter settlements in urban areas may actually be less than four hundred; two hundred or more families in hilly areas; which means sparsely populated areas in North eastern States do not figure in the imagined geography of the policy planners. The people in these areas as the NRRP 2007 proposes will be notified through local vernaculars and notice boards of the concerned gram panchayats.

NRRP 2007 ; at its outset talks of informing the affected persons but fails to initiate any sort of active participation of the people in deciding the resettlement area. It outlines that "the appropriate Government shall, by notification, declare any area (or areas) for rehabilitation and resettlement of the affected families". Though NRRP 2007 has created a separate set of rehabilitation and resettlement benefits for project affected families belonging to the Scheduled Tribes and Scheduled Castes which is commendable considerable most of the common property resources have been acquired without any adequate resettlement and rehabilitation at the same time certain provisions are disturbing. One of the suggestions is to allocate "one time financial assistance equivalent to five hundred days minimum agricultural wages for customary rights or usages of forest produce"(7.21.5). The main question that perturbs us is how can we quantify agricultural produce in areas where the produce is non- monetized in nature and orientation.

Another disturbing section of the NRRP 2007 that needs revision is that the Ministry of Defence should not be exempted from Social Impact assessment to acquire minimum area of land in connection with national security. In the Report on the displacement situation in West Bengal from 1947-2000 it is revealed that defense institutions like lower level offices, headquarters and quarters have displaced around 100,000 people.

Conclusion

What is evident is that the pattern of displacement has been systematic and continuous. The effects of urbanization and globalization are evident in the urban policies which have been subject to review in this essay to show how some of these policies are framed according to the financial guidelines of the international funding agencies. One of the pertinent issues is recognizing community right to natural resources, which has been surpassed in many of the policy exercises. Besides recognizing community right, the policies should look into the possibility of involving "affected people" in the development process itself.

In this essay, an attempt has been made to try and look at some of the policies to understand the development paradigm in the context of urbanization and globalisation. The development paradigm that has been adopted as these policies suggest is fragmented development and not holistic approach. One of the main issues is how the implementation of these policies is at the cost of human rights as most of the policies fail to project an estimate of the number of displaced people.

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In search of protection for Internally Displaced Persons (IDPs). Are IDPs as a concern for international or national response? What is the applicable international legal framework in respect of IDPs?

by *Magdalena Sikora*

Introduction

Unlike refugees who cross national borders and benefit from a created system of international protection, IDPs forcibly displaced within their own countries lack fundamental elements of support. The Internal Displacement Monitoring Centre estimates that at the end of 2005 some 23.5 million people^[i] were displaced within their own countries as a result of conflict and gross human rights violations (see Tables 1-5). No continent has been spared. This paper tries to examine who is responsible for protecting of this group of displaced people. State of origin? Or international community and law?

The Principle 3 of the Guiding Principles on Internal Displacement states that national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction. IDPs have the right to request and to receive protection and humanitarian assistance from these authorities.^[ii] However, following the estimations of the Global IDP Project three in four IDPs cannot count on national authorities for the provision of adequate assistance. In 14 countries, with a total of over 12 million IDPs, governments react with hostility or, at best, indifference towards their protection needs. Even worse, in at least 13 countries the very governments responsible under international law for protecting their citizens are themselves behind forced displacement and attacks on IDPs, either directly or through militias.^[iii]

Therefore, the general assumption discussed in this paper follows the statement that despite the fact that the protection of IDPs should be primarily the responsibility of the national State, there exists the necessity of the international community's involvement when the national State fails to fulfill the obligations towards its citizens. In majority of the cases there are a neglect, failures or gap which characterize the national humanitarian responses to IDP crises. In these cases, where individuals are in need of protection and assistance, and States are unable or unwilling to protect, the role of the international community in supporting the protection of basic rights and ensuring that needs are addressed has proved both imperative and pivotal.^[iv] In addition, the next aim of the paper is to examine which international legal norms are applicable to protect this displaced group of people (*lege lata*) and which are binding on the international community.

1. Towards international concern

The idea of the responsibility of international community brings following questions: what are the duties of the international community towards protection of IDPs? What are the international concepts and systems of positive duties which oblige States to co-operate in protecting internally displaced?

a) Responsibility to protect

Responsibility to protect is a new concept in international law with regard to the notion of international responsibility. It has even become as a new emerging international doctrine. The first institution which introduced the concept of responsibility to protect was International Commission on Intervention and State Sovereignty (ICISS), which with the support of the Government of Canada formulated in 2001 the Report of "Responsibility to Protect".^[v] Using the well-known nomenclature, the new concept of responsibility to protect can be seen as the emphasis of the reformed "the right to humanitarian intervention". The ICISS Report 2001 found a way forward by shifting the question away from the issue of state sovereignty, and putting the emphasis on the point of view of those in need of protection. It tries to resolve the question whether the state is fulfilling its responsibility to protect its citizens, and, if not, whether the international community is prepared to react. The Report divides the responsibility to protect into three specific responsibilities:

- Responsibility to prevent: addressing the cause of conflicts and man-made crises;
- Responsibility to react: responding to serious situations including the use of sanctions, international prosecution and in extreme cases, even military intervention; and
- Responsibility to rebuild: providing full assistance with recovery, reconstruction and reconciliation.

b) Humanitarian intervention and limits of sovereignty

Analyzing the concept of responsibility to protect it can be stressed that the contemporary significance of state sovereignty should entail the responsibility towards its citizens. However, if there is no consent and the state fails to fulfill the obligations, one should use the provisions regarding the humanitarian intervention from UN Charter. As Article 2 (7) of the UN Charter states "nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter"; however, "this principle shall not prejudice the application of enforcement measures under Chapter VII", which permits in its Articles 41 and 42 that the Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. It may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations. And if such a measure would be inadequate or have proved to be inadequate, the Security Council may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such an action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations. One should note that the fulfillment of international responsibility towards IDPs in the form of humanitarian intervention complements, rather than undermines, sovereignty, but it could not weaken the rule of law and world order, on the contrary it should enhance the duty of cooperation among states and strengthen of human rights protection worldwide. However, on the other hand, if the sovereignty can be seen as responsibility of State of origin, there is no need to refer to the concept of responsibility to protect, which deals with the intervention of international community only if the territorial state fails to fulfill its obligations towards its citizens.

c) Cooperation among States

As it is stated in the Declaration on Principles of International Law Friendly Relations and Co-operation among States, States have the duty to co-operate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international co-operation free from discrimination based on such differences. To this end:

- States shall co-operate with other States in the maintenance of international peace and security;
- States shall co-operate in the promotion of universal respect for, and observance of, human rights and fundamental freedoms for all, and in the elimination of all forms of racial discrimination and all forms of religious intolerance;
- States shall conduct their international relations in the economic, social, cultural, technical and trade fields in accordance with the principles of sovereign equality and non-intervention;
- States Members of the United Nations have the duty to take joint and separate action in co-operation with the United Nations in accordance with the relevant provisions of the Charter.[vi]

2. The international legal implications of internal displacement

There does not exist an international convention adequate to the plight of IDPs. They do not enjoy specific legal protection under international law. However, they are the concern of international law. Despite not being the beneficiaries of a specific binding convention, IDPs are protected by various bodies of law, principally international human rights law (hereinafter IHRL) and, if they are in a State experiencing an armed conflict, international humanitarian law (hereinafter IHL). They are also protected by the norms of international refugee law (hereinafter IRL) which are applied by analogy.

a) International human rights law (IHRL)

It exists undeniable correlation between IDPs and human rights. Violations of internationally recognized human rights are a prime cause of forced displacement. IHRL applies in peacetime and many of its provisions may be suspended during an armed conflict. Some authors argue that IHRL provides very little, if any, protection to IDPs, as it permits derogations in times of national emergency or internal strife and does not bind insurgent forces.[vii] As human beings, IDPs are automatically entitled to the protection provided for under IHRL, which recognizes and protects the attributes of human dignity inherent to all individuals. The provisions found in the Universal Declaration, ICCPR and ICESCR, should apply to IDPs. Many human rights, however, may be derogated from in times of national emergencies. In addition, governments who create situations resulting in internal displacement, or who are not sympathetic to the plight of the displaced for ethnic, religious, or political reasons, generally are unwilling provide displaced persons with rights found in international human rights instruments. Furthermore, IHRL does not directly address specific situations such as forcible displacement and access to humanitarian assistance.[viii] There are no references to the special needs and rights of IDPs in the legally binding human rights treaties. They can enjoy the human rights legal protection which is applicable for all human beings except for their status. However, a gap arises where states have not ratified key human rights treaties and are not obliged by their provisions.

b) International humanitarian law (IHL)

IHL is applicable in situations of armed conflict, whether international or non-international. If IDPs are in a State that is involved in an armed conflict and they are not taking part in the hostilities, they are considered civilians and, as such, are entitled to the protection afforded to civilians. Unlike IHRL, IHL contains norms expressly prohibiting displacement and is binding not only on states and their agents, but it specifically applies also to insurgent forces.

c) International refugee law (IRL) by analogy

IRL is not directly applicable to the situation of IDPs. Despite the fact that the root causes of displacement and the experience of being displaced are often similar for both IDPs and refugees, the main difference in crossing the national borders by the latter presents the applicability to another system of international protection. However, in some cases IRL can be applied as an analogy and as a point of comparison. IRL can specially be useful when IHRL and IHL do not provide the particular types of protection for IDPs.

d) Guiding Principles on Internal Displacement

The Guiding Principles are an example of "soft" international law and are not legally binding.

They are not binding primarily because they were formulated without State involvement (there was no formal intergovernmental negotiation of the content of the Principles). They were created in 1998 by the Representative on IDPs, Francis Deng at that time, with the support of a team of international legal experts following the request of UN Commission on Human Rights. They present an extent to which existing international law provides adequate protection for IDPs. They consolidate in one document existing norms of IHRL, IHL and IRL by analogy. As some authors argue, the Guiding Principles not only restate existing laws but make key provisions more explicit and address the gaps identified. For instance, they provide explicit guarantees against the forced return of IDPs to places of danger, and they provide for compensation for property lost during displacement.[ix] However, the Guiding Principles have not been created as an additional new legal solution. They rather intend to describe how the existing law could be applicable and applied to IDPs.

Conclusions/Recommendations

Summarizing, the protection of IDPs presents the legitimate interference in matters of international concern that are no longer left to a state's exclusive competence for its domestic affairs. The international community has a positive duty to protect internally displaced in the case when national authorities are not able or not willing to provide such assistance for their citizens. It should be find a balance between national and international responsibility towards the protection of IDPs. As long as the States of origin will refuse the assistance from international community, the protection of IDPs will be a dead letter of law. The creation of an independent international institution to regulate IDPs within their countries could constitute an external interference in the domestic affairs, which seems to be more acceptable by states of origin than international humanitarian interventions. Furthermore, IDPs are not protected by one legal international regime. Together, no specific international convention protects their rights. The Guiding Principles which are based upon international humanitarian and human rights law and analogous international refugee law are an example of "soft", non-binding law with no sanction instruments and implementation procedures. Nevertheless, as individuals who have not left their own country, they remain

entitled to the full range of human rights that are applicable to the citizens of that country. The challenge is to clearly identify the guarantees and rights implicit in existing international law that respond to their special needs. The principles of human rights and humanitarian law evidently apply to them during displacement situations, but the specific needs tend to be still neglected.

Table 1:

Countries in Asia affected by the problem of internal displacement (2006)

COUNTRY	LATEST NUMBER OF IDPs (in thousand)	NUMBER OF REFUGEES (originating from the country)	TOTAL POPULATION (in million)
Afghanistan	153,000-200,000	1,908,052 *	29,86
Bangladesh	500,000	7,294 *	141,82
India	at least 600,000	16,275 *	1,103,37
Indonesia	200,000-350,000	34,384 *	22,2
Myanmar (Burma)	540,000	164,864 *	50,51
Nepal	100,000-200,000	2,065 *	27,13
Pakistan	20,000	29,698 *	157,93
Philippines	60,000	465 *	83,05
Solomon Islands	Undetermined	27 *	0,47
Sri Lanka	312,700	124,800 **	20,74
Timor-Leste	150,000	251 *	923,000
Turkmenistan	Undetermined	820 ***	4,83
Uzbekistan	3,400	8,323 *	26,59
TOTAL	2,7 million		

Sources: Own elaboration based on statistics taken from Internal Displacement Monitoring Center (IDMC) and United Nations High Commissioner for Refugees (UNHCR).

* Statistics made by UNHCR, 2006.

** Statistics made by UNHCR/MNBD, 31 May 2006.

*** Statistics made by UNHCR, 2005.

Table 2:

Countries in Africa affected by the problem of internal displacement (2006)

COUNTRY	LATEST NUMBER OF IDPs (in thousand)	NUMBER OF REFUGEES (originating from the country)	TOTAL POPULATION (in million)
Algeria	1,000,000	12,006*	32,85
Angola	61,700	215,777*	15,94
Burundi	117,000	438,663*	7,5
Central African Republic	50,000	42,890*	4,03
Chad	56,609	48,400*	8,85
Congo	100,000 - 147,000	24,413*	3,99
Côte d'Ivoire	700,000	18,303*	18,15
Democratic Republic of the Congo	1,664,000	430,625*	57,54
Eritrea	50,509	143,594*	4,40
Ethiopia	150,000-265,000	65,293*	77,43
Guinea	82,000	5,820*	9,40
Guinea-Bissau	Undetermined	1,050*	1,58
Kenya	381,924	4,620*	34,25
Liberia	13,000	231,114*	3,28
Nigeria	Undetermined	22,098*	131,53
Rwanda	Undetermined	100,244*	9,03
Senegal	64,000	8,671*	11,65

Sierra Leone	N/A (IDMC not present)	40,447*	5,52
Somalia	370,000-400,000	394,760*	8,22
Sudan	5,355,000	693,267*	36,23
Togo	3,000	51,107*	6,14
Uganda	2,000,000	34,170*	28,81
Zimbabwe	569,685	10,793*	13,01
TOTAL	13,2 million		

Sources: Own elaboration based on statistics taken from Internal Displacement Monitoring Center (IDMC) and United Nations High Commissioner for Refugees (UNHCR).

* Statistics made by UNHCR, 2006.

Table 3:
Countries in Europe affected by the problem of internal displacement (2006)

COUNTRY	LATEST NUMBER OF IDPs (in thousand)	NUMBER OF REFUGEES (originating from the country)	TOTAL POPULATION (in million)
Armenia	8,000	13,965 *	3,01
Azerbaijan	558,387	233,675 *	8,41
Bosnia and Herzegovina	182,000	109,930 *	3,90
Croatia	4,500-7000	119,148 *	4,55
Cyprus	210,000	5 *	0,83
Georgia	220,000-240,000	7,301 *	4,47
Macedonia	726	8,599 *	2,03
Moldova	IDMC not present	12,063 *	4,20
Russian Federation	265,000	102,965 *	143,20
Serbia	246,100	189,850 *	10,50
Turkey	355,807- over 1 million	170,131 *	73,19
TOTAL	3 million		

Sources: Own elaboration based on statistics taken from Internal Displacement Monitoring Center (IDMC) and United Nations High Commissioner for Refugees (UNHCR).

* Statistics made by UNHCR, 2006.

Table 4:
Countries in Latin America affected by the problem of internal displacement (2006)

COUNTRY	LATEST NUMBER OF IDPs (in thousand)	NUMBER OF REFUGEES (originating from the country)	TOTAL POPULATION (in million)
Colombia	1,706,459 - 3,662,842	60,415*	45,60
Guatemala	242,000	3,379*	12,59
Mexico	10,000-12,000	2,313*	107,02
Peru	60,000	4,865*	27,96
TOTAL	3,7 million		

Sources: Own elaboration based on statistics taken from Internal Displacement Monitoring Center (IDMC) and United Nations High Commissioner for Refugees (UNHCR).

* Statistics made by UNHCR, 2006.

Table 5:
Countries in the Middle East affected by the problem of internal displacement (2006)

COUNTRY	LATEST NUMBER OF IDPs	NUMBER OF REFUGEES	TOTAL POPULATION (in million)
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	(in thousand)	(originating from the country)	
Iraq	1,300,000	262,142 *	28,80
Israel	150,000-300,000	632 *	6,72
Lebanon	256,000 displaced since 12 July; 68,000-600,000 (prior to July 2006)	100,000 refugees since 12 July (Govt., 27 Aug 2006); 18,323 (UNHCR, prior to June 2006)	4
Palestinian Territories	21,142-57,000	4,349,946 **	3,70
Syria	305,000	16,281 ***	19,04
TOTAL	2,1 million		

Sources: Own elaboration based on statistics taken from Internal Displacement Monitoring Center (IDMC) and United Nations High Commissioner for Refugees (UNHCR).

* Statistics made by UNHCR, 2006.

** Statistics made by UNRWA, December 2005.

*** Statistics made by UNHCR, 2005.

[i] See the "Report of Internal Displacement Monitoring Center" (IDMC), 2005.

[ii] Article 3 of the Guiding Principles on Internal Displacement contained in the annex of document E/CN.4/1998/53/Add.2 dated 11/02/1998. They were created in 1998 by the Representative of the Secretary-General on Internally Displaced Persons, Francis Deng at that time, with the support of a team of international legal experts following the request of UN Commission on Human Rights.

[iii] Eschenbächer Jens-Hagen, "Making the Collaborative Response system work", in *Forced Migration Review*, Supplement, 2005, p. 14-15.

[iv] See UNHCR, Informal Consultative Meeting, "The Protection of Internally Displaced Persons and the role of UNHCR", 27 February 2007.

[v] "The responsibility to protect", Report of the International Commission on Intervention and State Sovereignty (ICISS), December 2001.

[vi] Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations, UN General Assembly Resolution 2625 (XXV), 24 October 1970.

[vii] See Islam M. Rafiqul, "The Sudanese Darfur Crisis and Internally Displaced Persons in International Law: The Least Protection for the Most Vulnerable", *International Journal of Refugee Law*, Vol. 18, No. 2, pp. 354-385, 2006.

[viii] Balmanno Alain, "Protecting the Internally Displaced Under International Humanitarian Law", *American University Washington College of Law, The Human Rights Brief*, Volume 2, Issue 2, 1995.

[ix] Cohen Roberta, 'Recent trends in protection and assistance for internally displaced persons', the *Global IDP Project* of the Norwegian Refugee Council, 1998.

What are the special provisions for women IDPs in international regimes of protection and care of IDPs? How far have they helped the cause of women's rehabilitation and care?

by *Sharifa Siddiqui*

Definition: Internally displaced persons are persons or groups of persons who have been forced to or obliged to flee or 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 home made disasters, and who have not crossed an internationally recognized State border.

Unlike the refugees, internally displaced People (IDPs) stay within their own countries and rely on their own governments to uphold their civil and human rights. In most of the cases the governments themselves are responsible for population displacement and they are unwilling to admit the fact. As the IDPs stay within their country's border, it is very difficult for the international community to provide assistance to the IDPs. Displacement is often experienced and expressed as loss of home, of possessions, of social networks, and often even of culture and identity. Although the latter may not in fact be lost, pressures put on them often contribute to a feeling of loss and effect people's perceptions of self and society. According to the Internal Displacement Monitoring Centre there are 600,000 who are internally displaced as of January 2006. This figure only represents those living in camps.

Where women are concerned, their situation becomes even more precarious. Many are forced to live in camps and emergency shelters for decades, face discrimination in access to relief, receive limited health care, are subject to sexual exploitation, trafficking and violence, benefit in only small numbers from education and training, and have little or no possibility of participating in meaningful income-generating and employment opportunities. Being separated from their homes and communities, many have to rely on the international community for support. Displacement often leads to dramatic changes in family structure and gender roles, relations and identities. In conflict situations, many women are

suddenly thrust into the role of head of household because the men are recruited to combat, stay behind to maintain land, or migrate in search of work.

Poverty and a lack of any other income-generating activity forced many internally displaced women into prostitution and trafficking. Conditions of hygiene and other facilities in most camps for the internally displaced are dismal whether they are victims of natural disasters or of communal violence. (Kashmir, Gujarat, Tamil Nadu, Assam) In India after the Tsunami took place there were widespread reports of women being sexually assaulted when they went out to relieve themselves in the early hours or at dusk. In Nepal, according to local NGOs, displaced women fleeing their homes or living in IDP camps have sometimes been forced into prostitution to survive or have fallen prey to traffickers. In IDP camps in Uganda, many girls and women engage in "survival sex" to obtain food or "transactional sex" in exchange for spending money or small objects. Lack of access to income sources has forced displaced women to collect firewood is a common where if caught, they are subjected to sexual abuse, severe beatings and imprisonment by forest guards. Displaced women and girls are often exposed to sexual and gender-based violence in the course of obtaining basic resources such as food, water and fuel for themselves and their families. In Sudan, rapes and other forms of sexual abuse were frequently reported when displaced women and girls had to leave camp areas to gather firewood. In Liberia, displaced women have been forced to exchange sex for aid, including food from national and international peace workers, according to a report by Save the Children.

Sexual and gender-based violence is one of the most pervasive violations of the rights of women and girls during armed conflict and displacement. It is often employed as a strategy of war by armed actors to gain power. Women and girls are at risk of sexual and gender-based violence in most internal displacement situations. This can include rape, forced impregnation, forced abortion, trafficking, and sexual slavery. While men and boys may also be affected, research indicates that sexual and gender-based violence predominantly affects women and girls.

Rape has been used as a weapon – to punish communities for their political allegiances, as a form of ethnic cleansing, and to forcibly displace civilians. In many countries armed groups engage in acts of sexual violence to attack the values of the community, punish or terrorise communities and individuals accused of collaborating with enemy forces, or provide gratification for fighters. Armed groups in different parts of the world have abducted and kept as sex slaves thousands of women to provide sexual, domestic and agricultural services.

Refugee and internally displaced women and children constitute more than 70 percent of the world's more than 40 million refugees and internally displaced persons. Most can be found in developing countries that do not have the capacity and sometimes the will to meet the needs of the displaced. Compounding the fact is that the government of the country chooses not to invite external assistance, then the international community has limited option to protect these people.

Despite the scale of the worldwide displacement crisis and the particular vulnerabilities of the IDPs, the international community has been slow in addressing the issue. There is no single humanitarian agency for the protection and assistance of the IDPs. Although many organizations work for the protection of the IDPs but the approach is not comprehensive, systematic and predictable. The international framework for responses to internal displacement crises remain weak because states have been reluctant to allow a more systematic international involvement in an issue they consider an internal affair protected from foreign interference by the principle of sovereignty.

A number of international and legal frameworks drawn essentially from UN Charter on Human Rights have been developed to guide international responses to refugee and displaced peoples rights . these have been accompanied by codes of conduct, good practice guidelines and training programmes.

Implementation however lags behind partly because interpretations of agreed policy vary in different cultural and political contexts

The Guiding Principles (GP) were formulated to fill the gap in the international protection system and to promote assistance for IDPs. The aim of formulating these principles was to create an international framework for the protection and assistance of IDPs. The purpose of GP is to create symmetry in dealing with the IDPs because different countries deal with this issue of internal displacement in various ways. The GP give direction to the governments, NGOs, humanitarian, human rights and development organisations in protecting and assisting the IDPs. In 1998, the GP were presented to the UN commission on Human Rights by Mr. Francis M Deng, Representative of the UN secretary General on Internally Displaced Persons. The GP set forth the rights of IDPs and the obligations of and insurgent forces in all phases of displacement. **The GP offer protection before the displacement occurs, during situations of displacement and in post conflict return and reintegration.**

The GP reflect existing international humanitarian and human rights law. Most of these principles are drawn from Universal Declaration of Human Rights (UDHR), Geneva Convention IV, Protocol I and Protocol II, International Covenant on Civil and Political Rights, (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), ICRC Commentary, **Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)**, International Covenant on Civil and Political Rights (CCRP), American convention on Human Rights (ACHR), Rome Statue etc.

These Principles reflect and are consistent with international human rights law and International humanitarian law.

The Election Commissioner does not want to interpret the place of residence of IDPs as their ordinary residence. Those IDPs living with friends and with relations or permanent shelter can register to vote. But people who are living in IDP camps cannot be registered.

Livelihood activities are not sustainable and does not go beyond survival.

To sometimes reach that level of living that was previously theirs requires years of hard work.

A few examples from the Guiding Principles (Office for the Coordination of Humanitarian Affairs- OCHA) are as follows:

Principle 1 and 2 speak of the principle of non-discrimination and full equality in enjoyment of rights and freedoms as other persons in the country. Therefore gender equality is implicit in the principles.

Principle 3 enshrines the important aspects of protection and humanitarian assistance. IDPs and that includes women cannot be persecuted and punished for making such a request.

Principle 4 is important because it clearly states the Principle shall be applied without discrimination of any kind such as race, colour, **sex, and so on**. Section 2 Of Principle 4 is more explicit - it specifies '**expectant mothers, mothers with young children, female heads of household**, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.'

Principle 5 deals with protection from displacement and adequate measures of needs (nutrition, safety, health and hygiene) taken into account if evacuation is unavoidable.

Sub section D of Principle 7 specifies that the authorities concerned shall endeavor **to involve those affected, particularly women, in the planning and management of their relocation**.

Principle 10 states that no one shall 'Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances.'

Principle 11 is important in that specifies "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"

GP 16 and 17 emphasise on the importance preserving the family unit during the displacement. Many internally displaced persons are separated from their families as a result of the conflicts and other situations that uproot them. According to Article 16 (3) of UDHR "The family is the natural and fundamental group unit of society and is entitled to protection by the society and the state." These principles also have similarities with Geneva Convention IV (Article 20)- "each party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war with the object of reserving contact with one member and of meeting, if possible". Even in Article 3 Convention on the Rights of the Children it is clearly mentioned, "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interest of the child shall be a primary consideration."

GP 18, 19, 21 and 23 talk about the economic, social and cultural rights. Most of the time the IDPs are deprived of these rights. These principles include right to adequate standard of living, right to health and medical care, right to participation of women, right to education, right to work, property rights etc. These reflect the articles of ICESCR. Like, according to Article 11 (1) "The states parties to the present Covenant recognize 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." In article 12 of the same Covenant it is mentioned that "The state parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health". Different Articles of CEDAW is the basic foundation of the principles relating to the equal treatment and participation of women. According to Article 23 of UDHR "Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property."

4. Principles related to humanitarian assistance

access to humanitarian assistance is one of the most pressing problem for the IDPs. GP 24-27 deal with the roles and responsibilities of national authorities and international organisations in providing humanitarian assistance to IDPs. According to these principles states should take the main responsibility to protect its citizens but they also affirm an important role for international humanitarian organisations and other appropriate actors. The actors can be UNHCR, UNICEF, WFP, UNDP, ICRC etc. "The right to receive humanitarian assistance and to offer it, is a fundamental humanitarian principle which should be enjoyed by all citizens of all countries.... When we give humanitarian aid, it is not a partisan or political act and should not be viewed as such" (Principles of Conducting for the International Red Cross and Red Crescent movement and NGOs in Disaster response Programmes)

Principle 23 **includes full and equal participation of women in educational programmes**.

Conclusion

Guiding Principles is the only instrument that focuses on rights and obligations of the Internally Displaced Persons. It covers all possible areas of concerns for IDPs. Although it is not a legal instrument but all the principles are based on existing international law, humanitarian law and human rights law. Most of the countries of the world are signatories of these laws. So in a way they all are obliged to follow these principles while dealing with the IDPs. The number of IDPs is increasing in the world and it is an obstacle to the peace and development of the particular country and as well as to the world. States should take the primary responsibility to protect the IDPs and the wider use of these principles will help to address the problem in a more effective way.

Besides the OCHA guidelines, the UNCHR have been involved in activities on behalf of the Displaced Persons often when repatriation of refugees and rehabilitation and reintegration of IDPs are very closely interlinked. Frequently, the two categories –returnees and IDPs are present together in the same region and UNHCR operations are ethically bound to include the other.

Sometimes it becomes a crucial intervention in order to prevent a refugee situation from arising.

The guiding Principles though an important milestone (it was presented to the UNHCR in 1998) is not binding on states. However it has been important to identify the gaps which seem to be very many.

More recently, a protocol on the Prevention and Suppression of Sexual Violence against Women and Children in the Great Lakes region of Africa was adopted in 2006 within the framework of the International Conference on the Great Lakes region. The protocol calls on states to take particular measures to ensure that internally displaced women are protected. The UN and NGOs continued to develop initiatives to address sexual and gender-based violence in humanitarian situations during 2006, including medical and psycho-social assistance, and legal and income-generating activities. While advances have been made, much still has to be done to improve prevention of and response to gender-based violence in IDP communities. For instance, a 2006 study by the International Medical Corps on the mental health of displaced women in South Darfur found that almost one-third of displaced women surveyed suffered from a major depressive disorder. Almost all the women said that counselling provided by humanitarian agencies would help them. Because no UN agency has the overall responsibility for providing protection and assistance to internally displaced persons, the response of the international community has been ad hoc. IDPs, by definition remain within national borders, meaning

that their own governments are responsible for meeting their protection needs. Unfortunately, governments are often unable to provide protection, or may even be responsible for the displacement. Worse yet, assistance agencies are often reluctant to interfere and risk the anger of the host government, so the issue of protection may be ignored altogether. Greater advocacy efforts are needed to stress that the situation of IDPs is a legitimate concern to the international community because of the universal human rights issues involved.

Effective, gender-sensitive responses to IDP crises will require to coordinate effort among all UN agencies and NGO partners to introduce and train staff about gender, human rights laws, conventions, UN policies and guidelines. The training should be formal, structured, and linked to job performance and evaluations. Given the high staff turnover in assistance agencies, special efforts to support orientation and refresher training on these issues would improve assistance programs.

Human rights and displacement specialists emphasize the need for agencies to take the following steps in order to improve services for internally displaced persons:

1. Recognize the advocacy potential when women and children make up the majority of the IDP population.
2. Aggressively seek better understanding of the root causes of internal displacement, and disseminate findings, including the impact on women.
3. Agree on gender-sensitive protocol of response, a method of designating lead agencies, and the means of coordination.
4. Hone the collective abilities of organizations to forecast impending displacement situations and make projections on how such displacement might affect women and children.
5. Advocate with governments, presumptive authorities, and international agencies for appropriate and humane responses to displacement, with a focus on gender dimensions of displacement and human rights.
6. Appoint gender specialists at field locations to ensure that the rights of women and girls are protected, and that gender abuses and human rights violations are monitored and reported.
7. Pressure authorities to facilitate the safe and expeditious return of IDPs to their homes as soon as their safety can be assured, with special attention to ensuring the safety of children and women.
8. Disseminate the Guiding Principles on Internal Displacement and other relevant international human rights and gender rights instruments to all parties interacting with internally displaced persons.
9. Establish and implement an interagency training protocol on gender and human rights laws pertinent to IDPs for use by all agencies working with displaced persons.
10. Develop gender-sensitive "Best Practices" models for IDP assistance programs that may be replicated in a variety of settings.
11. Advocate for better access to IDPs in order to provide humanitarian assistance.
12. Include women in all peace, reconciliation, and reconstruction activities.
13. Make use of advanced communications technology such as computer modeling and videos to depict potential outcomes - social, economic, and gender impacts - of displacement of particular situations.

At the interagency level, progress was made in the elaboration of practical guidelines and tools to prevent and respond to gender-based violence of internally displaced people. The creation of a standby force of gender experts for deployment in humanitarian emergencies was part of efforts to more effectively integrate gender issues into the UN system.

In 2006, following a comprehensive review of the extent to which humanitarian interventions address the needs of women, girls and boys, the Inter-Agency Standing Committee, the primary mechanism for inter-agency coordination of humanitarian assistance, identified key gaps. Based on these, it proposed **five areas for action**: developing gender equality standards; ensuring gender expertise in emergencies; building capacity of humanitarian actors on gender issues; using sex and age disaggregated data for decision-making; and building partnerships for increased and more predictable gender equality programming in times of crises.

There has been much emphasis on women as victims of violence and not as potential agents of change. This has served to undermine their spirited perseverance and ingenuity in taking the lead in finding solutions to their problematic situations if not restricted to the confines of camp relations. Many displaced women quite remarkably show themselves to be resourceful, vibrant and receptive to new opportunities. They can play a major role in conflict-resolution. Historically, even when they have played a strategically important role in ending conflict, women have been ignored and denied space in the political negotiations.

What do identification documents mean to Internally Displaced Persons (IDPs) in India? How do these documents affect the struggle of IDPs to seek relief and rehabilitation?

by *Tarangini Sriraman*

Note: This term paper is based on primary and secondary research that I undertook (a) as a part of my investigative report on the relocation of fishermen in the aftermath of the tsunami (the report was submitted to the Asian College of Journalism, Chennai) and (b) for my M.Phil dissertation on "The State, Identification Documents and Processes of Citizenship" submitted to the University of Hyderabad. The section on internal displacement following the tsunami that I have included on the term paper is largely based on first-hand interviews with fishermen and other victims of the tsunami and a few Tamil Nadu Slum Clearance Board officials.

Identification documents are documents that simultaneously reflect and constitute our identity. Different documents add different facets to our identity and thereby make our identity open to insertion in the diverse projects and programmes of our state. Some documents reflect identities like our nationality, sex, state of domicile, religion, caste, race. Many identities like our nationality that are recorded in documents are ascribed to us as an obligatory status¹. Some other documents reflect identities that are less obligatory: they record our place of work, our income and our social status. To be counted as citizens of a state, we need these identification documents. In order to avail of all that they are entitled to, citizens need

identification documents. In the absence of these documents, citizens and non-citizens (refugees, illegal migrants, paperless immigrants and others) alike across the world are forced into life-denying and enervating situations.

The setbacks that non-citizens face in acquiring documents are however more pronounced than those that citizens face. In addition to financial and social problems, non-citizens, especially refugees and illegal migrants face legal hurdles in applying for documents. I however intend to discuss, for the purpose of this paper, the hurdles that Internally Displaced Persons *in India* (and not refugees) face in applying for, acquiring and retaining identification documents. I shall show that these IDPs face a range of problems, economic (in the form of costs incurred in applying and bargaining for documents and retaining documents), social (IDPs are often the objects of resentment for the local residents of the place they settle in) and legal (IDPs often find themselves on the wrong side of laws and legislations). I will make these observations in the course of outlining and studying internal displacement of various kinds experienced in India, like *natural disaster-related displacement*, *displacement caused by eviction of slum-dwellers*, *the displacement of nomads and displacement resulting from the xenophobia of native residents in some states*. The state of document-related deprivation that IDPs find themselves as a result of these various experiences of displacement is all-encompassing: they are faced with reduced opportunities of good healthcare, education for their children and voluntary housing and freedom from (financial and sexual) exploitation.

Natural disaster-related displacement (internal displacement in the aftermath of the tsunami):

The tsunami in the Indian Ocean on December 26, 2004, was different from other natural disasters both in the scale of damage it left in its wake, and in terms of the rehabilitation crises it generated. Governments were at a loss to provide speedy relief to their citizens in the wake of the tsunami. This was largely because they could not grapple with the administrative chaos that resulted out of competing claims. Fishing families lost belongings such as boats, catamarans and nets, while their settlements dangerously close to the sea were ravaged and their precious documents swept away. Non-fishermen like petty shop-owners lost their small establishments, while poor farmers found their meager pieces of land rendered useless owing to the percolation of saline water. In order to find their way out of such chaos and to distinguish between deserving victims and bogus victims, governments largely fell back on various methods of identification. All the victims of the tsunami realized intensely the indispensability of documents such as ration cards, Voter ID cards and Fishermen Identity cards during the process of rehabilitation. Such was the vital importance of these documents that the loss of no other possessions was as crucial as the loss of these. On the ration card, for instance, depended the ability to survive, on the death certificate, depended the ability to claim compensation for lost relatives, on the fisherman's ID card depended the ability to claim boats, nets and catamarans and on identification documents in general depended the right to alternative housing. (Many boats were not registered in the first place making it difficult to verify claims of lost and damaged boats.) In Tamil Nadu, on my tours to fishing hamlets, I noticed that the local administration had devised means to provide for victims who had lost these cards by supplying them with 'tokens'². Different tokens were given for different purposes, like tokens for alternative housing, tokens for food subsidies, so on. But these tokens only made victims vulnerable to the politics and the inconveniences of token distribution. For, in the case of house repair or alternative housing, tokens were given only to select victims. There was arbitrary discrimination between victims who owned 'pucca' houses and those who owned 'kuccha' houses. The latter were given tokens readily, the former were denied tokens very often. Even those victims staying in kuccha houses had to be present on the day the tokens were given. If they weren't, they risked not getting these tokens at all. This in turn meant that those who did not produce tokens did not enjoy the option of alternative housing. Often, these tokens meant to be substitutes for documents were just flimsy pieces of paper that could easily be lost. Tokens were also not distributed without prejudice: the then Jayalalithaa government was keen on resettling fishermen (most of whom had no desire to move away from the sea) staying in fishing hamlets in Srinivasapuram, Thideer Nagar and Beasant Nagar to places remote from the sea and the city (like Ennore and Thoraipakkam). These fishermen were given tokens while tokens were not made available to other poor victims (non-fishermen who resided side by side with fishermen in these areas who were equally affected by the tsunami). Many of these non-fishermen I spoke to were desperate to get away from the sea: the administration demolished their settlements but offered them no housing on grounds that they were living in rented houses. So far, I merely described the states of displacement that poor, low-income victims like fishermen, small farmers and petty shop-owners faced owing to the tsunami. However, there were other classes of victims too who were equally affected by the tsunami: Amitav Ghosh writes in a series of articles that middle class citizens in Andaman and Nicobar islands were devastated by the tsunami, the lives and the jobs that it claimed there. Many hard-working citizens who had carefully built their careers and accumulated documents like the voter's ID card and ration card, found themselves unable to reclaim their lives because they did not have the documents, which would allow them to go back to their jobs, acquire loans and insurance. Amitav Ghosh narrates the story of an indigenous Nicobarese who served in the Indian Army, and who had lost both his possessions and his identity. When Ghosh asked him why he couldn't go and declare himself, he told Ghosh, "The sea took my uniform, my ration card, my service card, my tribal papers; it took everything. I can't prove who I am. Why should they believe me?"³ In such an event, all that people cared to do was to have their names written down for nothing else was of as urgent import as having themselves identified.⁴

Nomads and identification documents:

If claiming compensation and rebuilding lives was such a daunting task for poor citizens and middle class citizens who were displaced by the tsunami, nothing compared to the ordeal that nomadic tribes had to undergo in the absence of these documents. For unlike the poor and middle-class citizens in India who lost documents *consequent to the tsunami*, these tribes *lacked documents to start with*. The Irulas, for instance, were a semi-nomadic adivasi community spread over North Tamil Nadu and South Andhra Pradesh. These tribesmen were forced out of their traditional occupation of hunting-gathering with the passing of the Wildlife Protection Act, 1972. Many of them took up fishing for livelihood among other things. Many Irula families were affected by the tsunami, yet very few deaths were reported and relief packages were very late in reaching these families.⁵ This was owing to their lack of identity proof such as ration cards, community certificates, voters' ID cards. Many Irulas do not even find place in the census, as they are not located close to the main roads. The Irulas have increasingly had cause to be frustrated by their undocumented state. Every time an Irula tries to get his or her child educated in a school, their lack of community certificates has stood in his way.⁶

Documents come in the way of nomads not simply in seeking compensation and help from the government in housing in the aftermath of a disaster like the tsunami. Governments find it convenient to displace nomads as a matter of course because they lack documents that they can use to protect themselves. Nomadic tribes, for instance, like Gadiya Lohar, Banjara, Nat and Bhopa in Rajasthan have lifestyles and occupations that do not make it easy for them to settle smoothly in the city, accept the housing and undertake the jobs that are offered to them.⁷ Yet they are forced to make the move to the city, owing to constraints, both historical and those that are by and large imposed by the local administration there. With their traditional occupations like foraging, trade in salt, blacksmithing, practising acrobatic skills displaced by forest regulations, advanced communications and technological developments, they are left with few options but to repair to the city. In the city, they seek work in construction sites, mines, stone quarry, road building, and so on.⁸ Often because these tribes do not find place in the lists of recognized tribes in the Constitution, state governments classify them and identify them on par with officially recognized disadvantaged groups for the purpose of providing for these people. While some are lucky to find themselves on any list at all, others are not, and are therefore unable to claim entitlements because they do not exist in the official record and cannot apply for cards.

Even if the local administration makes exceptional allowances for some nomadic tribes, by sanctioning a piece of land, and granting them ration cards, native residents will not allow these concessions. Mandakini Pant comments on the local power politics that nomadic tribes are inevitably caught up in. A band of the Gadiya Lohar community attending an administrative camp organized by the Rajasthan government in Alwar district requested the sub-divisional magistrate to allot land to them. The magistrate granted them some land and ordered ration cards to be issued, but was thwarted by a group of villagers who courted arrest, but refused to let these people acquire these cards.⁹

On other occasions, they are victims of government apathy: they try to avail of housing schemes because they lack proof of permanent residence or for that matter any other formal identification. When they seek to apply for formal identification documents like voter's ID card, they are asked to produce certificates like birth certificate, age certificate or community certificate. For instance, the Van Gujjars, a nomadic community in Uttar Pradesh, were asked to produce age certificates to obtain the voter's ID card. They protested against this requirement, saying that they were not registered at the time of their birth.¹⁰ Caught in this vicious circle, they are never able to make the switch to settled life in the city.

Implications of identification documents for slum-dwellers: (with specific illustrations of displacement during the Emergency)

The category slum-dweller covers many deprived persons-migrant workers, construction labourers, fishermen some of whom I have already discussed. Yet I see the need here to devote a section to the slum-dweller: because no matter what work he is engaged in, the slum resident faces a unique set of documentary problems which I explore here.

The legality of documents is of immediate interest to slum-dwellers, because they are not covered by any housing scheme, any social security scheme, any government scheme really, with the exception perhaps of the Public Distribution System. The slum-dweller is often denied benefits because he lacks crucial identity documents. Not possessing identification documents is a passive state of affairs that would mean deprivation for anybody. However, such documents threaten to impinge on slum-dwellers in an active sense too. The identification document regime put in place by the local, state and central government is part of the "control that municipal corporations have over public lands, and the central government has over public premises."¹¹ Documents often render slum residents ineligible for government schemes, while at the same time interfering with their life prospects and subjecting them to state power.

The latter is a scenario that is witnessed for instance, every time the slum-dweller attempts to set up base in a new location. The official attitude to slum settlements and slum-dwellers depends to a great extent on the slum-dweller's choice of location. Where the state perceives that slums are built in areas that constitute public land, or where they encroach on the Master Plan, the slum-dweller is arbitrarily evicted.¹²

I discussed elsewhere the function of tokens, flimsy identification documents in the event of natural disaster-related displacement of persons. But even in ordinary situations where the settlements of slum-dwellers are demolished and slum residents are relocated, state governments take resort to tokens. These tokens are extremely important because the Indian state makes alternative housing and other entitlements incumbent on the possession of these tokens. In other words, it is not enough that the slum-dweller possesses the token; he must be present when government representatives are distributing the rations or carrying out a relocation drive.¹³ It may often be that the token-holder is away at work or seeking work when volunteers come in search of them and since tokens serve only a short duration, they expire very soon. The function of the tokens then, without explicitly being so, is to provide for slum-dwellers and other temporarily identified persons, but on terms that are set by the state.

Emma Tarlo narrates the strange and insidious role of tokens in deciding the fate of slum-dwellers during the Emergency.¹⁴ These tokens became the basis of proving that a slum-dweller fulfilled the criteria that were spelled out for relocation. It was the peculiar quality of Emergency rule that many agendas were carried out and that many of these agendas were related to each other. Two related agendas in which the slum-dweller was mired, were the agenda of population control and the agenda of wiping cities clean of unwanted settlers and both these agendas turned on certain forms of documentation.¹⁵ Consequently, slum-dwellers struggled to hold on to their fragile settlements or to benefit from the government's relocation programme.

Claims to resettlement were recognized and plots allotted only if the slum-dweller was the proprietor of a settlement which he allowed to be demolished by the Municipal Corporation of Delhi so that he could be eligible for the resettlement plan undertaken by them, and if he had undergone a process of sterilization and obtained the valid token, the demolition slip or any other document that contained identity proof of the allottee. Such documents were to the effect of confirming that a person had undergone the process and in that sense was the original allottee.¹⁶

Given these stipulations and their demanding nature, residents took to manipulating their way to lay claim to plots without undergoing sterilization and without necessarily being the proprietors of their houses. No doubt, the process of identifying candidates through documents was responsible for carrying out inhuman agendas that exploited the vulnerable state that slum-dwellers found themselves in. But these agendas because they depended on documentary processes, submitted

themselves to dilution wherever convenient, thanks to a mutually beneficial trade-off between Slum Department officials and slum-dwellers.

Often then, it sufficed if the applicant produced the documents belonging to the original allottee, the Slum Department did not care to verify if the applicant was truly the proprietor of the settlement he claimed to own. Demolition slips then were fragile pieces of documentation because they could "slip" into the hands of unauthorized occupants who found ways of legalizing his claim to resettlement like stealing the relevant documents, paying the license fee for relocation, transferring property to their own name by paying damages and so on¹⁷.

Where sterilization and resettlement were concerned, plots were allocated after verifying the identity of the candidate on the basis of the sterilization certificate submitted. After officials verified this certificate and after slum settlers had filled an allotment order called the DDA Family Planning Centre Allotment Order, plots were given.¹⁸ It then became the effort of some to get hold of these certificates without getting sterilized, instead paying someone who is sterilized and possessing the certificate to channel their application.

Tokens, demolition slips, allotment orders were crucial not only for the people who eventually obtained resettlement plots but more so and negatively so, for all the people who were in reality eligible in a very perverse sense for resettlement (the slum-dwellers who submitted to demolition of their existing plots and sterilization) but who lost or forfeited such rights to others.

Their loss was tragic not simply because they did not pay enough heed to the documentary process, but because they suffered a senseless sacrifice (having undergone the painful process of witnessing their houses demolished and submitting to sterilization). Yet the impostors could not be rightfully blamed, if the choices available to them were stark such that they must give up things that were valuable to them without any guarantee that they will be given the official compensation promised to them.

Slum-dwellers were then fated to deal with documents: whether they wanted a better place to stay in, or if they wanted to ward off displacement and retain their plots and their slums, when they wanted to be part of a government housing scheme or whether they wanted to be left out of it.

Conclusion:

Increasingly and across states, irrespective of the hopeless and terrible conditions that refugees and IDPs flee to settle elsewhere, they find themselves unwelcome in the places they choose to settle in. Owing to the inhospitable and unaccommodating reception of native residents and the protectionist policies of state governments, IDPs are in grave danger in different parts of India. Both governments and native residents find it most efficacious to target the documents or the documentlessness of IDPs and migrants in general. For instance, when a group of native residents in Goa perceived that there was a sharp rise in the migrant community in Sancoale, they demanded that the names of these migrants be struck off the electoral rolls and their voter's ID cards cancelled.¹⁹ While the native residents were not afraid of the migrants voting per se, they did fear that if these voter ID cards remained unchallenged, so would their residence and employment rights (so that a passive response to the migrants would mean loss of jobs and housing for these native residents). Mohali and Ludhiana are both home to many migrant workers and these workers are often displaced owing to the resentful actions of native residents who routinely demand that the documents of the migrants be cancelled. The local policemen here on the other hand, conduct raids to seize unregistered vehicles owned by migrants and evict those who live in unauthorized colonies.

It is however not simply monetary loss that migrants face at the hands of protectionist governments and hostile residents. An appalling practice which was completely hostile to the medical needs of migrants was the practice of giving anti-retroviral therapy (ART) drugs on the basis of the ration card in Goa Medical College (GMC)²⁰. Here the ration card was something that an AIDS or an HIV positive patient had to produce to prove that he was a resident of Goa, that he was an insider²¹, that he was serious about pursuing his treatment. In the hospital, many patients who were unable to produce a ration card were not given these free drugs and were forced either to buy them privately, travel to government hospitals in other states or to go without these drugs because they could not afford them.

The Fundamental Right that citizens of India enjoy, namely the freedom to settle and reside anywhere in the country in Article 19, is a Right that many IDPs in India have been systematically denied. But that is not all. IDPs' rights to education, healthcare, rights to move the courts, right to employment have all been threatened in different contexts. There have no doubt been efforts to 'enfranchise'²² migrants, both those across the nation's borders and those who have been rendered documentless as a result of internal displacement. However, there have also been systematic efforts taken to disenfranchise IDPs and to thwart their enfranchisement as many regard the empowerment of IDPs as something that is achieved only at the cost of native residents. So while IDPs complain in many places bitterly that it is impossible for them to procure documents, others believe that these persons are a cause of their own misery and argue that they must never be allowed to gather documents.

Within an oppressive identification document regime, some documents are emerging as truly promising. The introduction of a 'Migrant Card'²³ in some parts of India is empowering as the possession of such a card is a safeguard against exploitation, and an insurance to a status and entitlements that goes along with such status. In other parts of the country, there is a bid to introduce something called a 'Food Passport' which will enable migrant workers to get Below the Poverty (BPL) Line rations in any part of the state irrespective of whether or not they possess a ration card.²⁴ But such measures of 'care and protection' are not far removed from the power discourse that guides governments.²⁵ These cards may prove to be palliative, if not reformative in a system that just has no room for those who are victims of forced resettlement.

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1 Rogers Brubaker, *Nationalism reframed: Nationhood and the national question in the New Empire*, Cambridge: Cambridge University Press, 1996.

2 A fragile substitute for legal documents concerning slum-dwellers and other vulnerable groups is the token. What makes these tokens a fragile substitute are the arbitrary criteria employed by the state to issue and distribute them and the physical form that they take. They are of flimsier paper, more perishable than documents like the ration card, the voter's ID card which are strictly speaking, "cards" Unlike documents, which are issued for long periods (though even documents have to be renewed), tokens serve an immediate purpose. They are given for a definite period of time, often until the token-owner acquires the document that the token is a substitute for. Tokens are often given in contingencies, or in time-bound schemes, where establishing one's identity is incidental only to the programme or the contingency, so that once documents are procured, or once the need to procure an entitlement is no more, these tokens lose their value. Tokens are distributed in programmes like the Food-for-Work programme or in programmes where a daily wage is promised in return for work completed. Tokens are given as substitutes for ration cards (in the tsunami, tokens were distributed as substitutes for ration cards). They are given regularly for alternative housing and resettlement (especially after eviction), in claiming compensation.

3 Amitav Ghosh, "Overlapping faults", *The Hindu*, Jan. 11, 2005.

4 Ibid. Ghosh writes, "On the morning of Dec. 26, this hard-won betterment became a potent source of vulnerability. For to be middle class was to be kept afloat on a life-raft of paper: identity cards, licenses, ration cards, school certificates, cheque books, certificates of life insurance and receipts for fixed deposits."

5 "The State and Civil Society in Disaster Response: An Analysis of the Tamil Nadu Experience", *Tata Institute of Social Sciences Report*, TISS Publications, Mumbai, 2005. The FIR was a standard document that needed to be filed for ex-gratia payments while the death certificate was accepted in other places, neither of which the Irulas could file or apply for.

6 "Irulas' outfit to issue identity cards to members", *The Hindu*, Feb. 3, 2007. The Irulas have woken up to their underregistration, and their 'low visibility': as a result, the Pazhangudi Irular Padukappu Sangham (the Irula Tribes' Protection Committee) has issued identity cards without any obvious sanction forthcoming from the government.

7 Mandakini Pant, "The Quest for Inclusion: Nomadic Communities and Citizenship Questions in Rajasthan" in *Inclusive Citizenship*. Ed. Naila Kabeer, New Delhi: Zubaan, 2005, p.87

8 Ibid., p.89.

9 Ibid., p.92.

10 S.M.A. Kazmi, "Van Gujjars fight for voting rights", *Indian Express*, February 10, 2007

11 Usha Ramanathan, "Demolition Drive", *Economic and Political Weekly*, Vol. XL, No. 27, July 2, 2005, p. 2908.

12 What makes such eviction possible or what makes the slum-dweller so vulnerable is his lack of residence proof or for that matter, lack of any substantial proof that makes certain Fundamental Rights like his right to settle anywhere an undeniable and inviolable right. He is entitled to this Fundamental Right, namely to settle anywhere he likes, as long as the place or land he chooses is not government-owned.

13 Usha Ramanathan, *Op. cit.*, p.2911.

14 Emma Tarlo, "Paper Truths: The Emergency and Slum Clearance through Forgotten Files" in *The Everyday State*, Ed. C.J. Fuller and Veronique Benei, London: C. Hurst, 2001. Tarlo describes the use of tokens in the sterilization and relocation drives that were related to each other

15 Ibid., p. 69. Emma Tarlo's work is organized around a resettlement colony called Welcome in East Delhi. She explains that the inhabitants of Welcome were targeted in the slum-clearance and sterilization drives and "rapped at the painful point of intersection" therein

16 Ibid., p. 77. Tarlo writes, "It was, we were told, in order to distinguish between original allottees and illegal impostors that the MCD had introduced a system of taking photographs of allottees, in which the latter clutched a small black board on which their names, their fathers' names and the numbers of their plots were chalked. These photographs, reminiscent of penal records, were used for identification purposes at the time of payment."

17 Ibid., pp. 77-78. Emma Tarlo records that all that people did was bring "a whole set of documents including photographs, ration cards, power-of-attorney documents recording the purchase of the plot, accompanied by a request for the property to be transferred to their names."

18 Ibid., pp. 79-80. Emma Tarlo calls our attention to the coercive nature of such identification documents, one of the points of the allotment order is the date of voluntary sterilization: the points of coercion being both that family planning is equated with sterilization and that sterilization is described as voluntary even before the form is filled out. This conceals the mandatory nature of the sterilization requirements for resettlement. Emma Tarlo describes this strategy game as one of official paper truths and unofficial truths.

19 "Delete migrants from voters roll, say Sancoale locals" Online Edition of *Goa Herald*, March 29, 2007. In the Memorandum that this resident community submitted against the migrants to the Deputy Collector there, they pointed out that migrant voters in Sancoale village had outnumbered Goans. The memorandum also says that migrant labourers have been issued voter ID cards without verifying their documents. "Delete migrants from voters roll, say Sancoale residents."

20 Preethu Nair, "No aid for HIV positive outsiders", Online version of the *Gomantak Times Weekender*, Goa, February 12, 2006.

21 The vulnerability created by the crude binaries that the ration card operates by, of valid/invalid, insider/outsider, citizen/alien represents the worst of its kind. So the Indian is either a ration card-holder and hence a citizen, or he has no ration card and he is not a citizen.

22 I am drawing here on T.H.Marshall's use of the term enfranchisement who writes on social and economic rights of citizenship like right to employment, right to education, right to a minimum income. T.H.Marshall uses the term initially to mean the right to vote, but expands it in his writings to imply comprehensive empowerment of the citizen. Social and economic rights not only complement political enfranchisement, they contribute to the lasting enfranchisement of the citizen. T.H.Marshall, "Citizenship and Social Class" in *Citizenship: Critical Concepts*, Vol. 2 Ed. Bryan Turner. London and New York: Routledge, 1994, p.

23 David Mosse, Sanjeev Gupta and Vidya Shah, "On the Margins in the City: Adivasi Seasonal Labour Migration in West India", *Economic and Political Weekly*, Vol. XL, No. 28, July 9, 2005, p. 3035.

24 Aparna Pallavi, "'Food Passport' for Migrants", November 6, 2005, www.boloji.com. The biggest problem for migrant workers and IDPs has been that they have been obliged to surrender their ration card when they move from one state to another, or within the state. They often have to produce a 'surrender certificate' when they apply afresh for a ration card.

25 Paula Banerjee, Sabyasachi Basu Ray Chaudhury and Samir Kumar Das, *Introduction to Internal Displacement in South Asia*, Ed. Paula Banerjee, Sabyasachi Basu Ray Chaudhury and Samir Kumar Das, New Delhi, Thousand Oaks and London: Sage Publications, 2005, p. no. 22