

**ETHNIC CONFLICT AND INTERNALLY DISPLACED PERSONS:
CASE STUDIES ON GUJARAT,
JAMMU AND KASHMIR AND THE NORTHEAST**

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CERTIFICATE

It is certified that the dissertation entitled "ETHNIC CONFLICT AND INTERNALLY DISPLACED PERSONS: CASE STUDIES ON GUJARAT, JAMMU AND KASHMIR AND THE NORTHEAST" submitted by Miss Sanjeevini Bhasker Badigar is in partial fulfillment of the requirements for the award of the degree of Master of Philosophy of this University. This dissertation is original and has not been submitted in part or in full for any other degree or diploma of any other University. We recommend that this dissertation be placed before the examiners for evaluation.

A handwritten signature in black ink, appearing to be 'Gurpreet Mahajan'.

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(Chairperson)

A handwritten signature in black ink, appearing to be 'Zoya Hasan'.

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Introduction

Location or place of habitual residence is fundamental to human existence. Forced dislocation or displacement causes a compounded deprivation of human rights. Displacement by its very nature entails deprivation of multiple rights and it affects not only those displaced but the regions that the displaced move into and leave behind as well. Circumstances at the end of the Second World War forced the international community into a realization of this.

In the refugee regime that has developed subsequently, displaced individuals who manage to cross an international border are as refugees eligible for assistance from the international community in the collective person of the UNHCR, an organization with a staff of more than 5000 and a 1.22\$ billion annual budget. Depending on circumstances, UNHCR defends their right to asylum, offers them emergency shelter, food, medical care, rehabilitation, assistance and ultimately helps in resettlement. However, after the end of cold war, due to change in the nature of conflicts as well as various political reasons the international community has come to realize that the bulk of forced population movements occurs within national boundaries rather than across international borders. This has resulted in the development of the category of Internally Displaced Persons.

The aim of this study is to analyse this category of Internally Displaced Persons (henceforth IDPs) and to apply this lens of IDPs to situations of internal displacement caused by ethnic conflict in India.

The UN Guiding Principles describe internally displaced persons as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state

border.”¹ This definition emphasizes the involuntary and coerced nature of movement and the fact that it takes place within national boundaries.

Theoretical background:

The Guiding Principles approach displacement from the perspective of the needs of internally displaced persons. They identify the rights and guarantees of internally displaced persons in terms of protection, assistance and solutions.

The literature on IDPs focuses on two of the most pervasive forms of displacement namely, development induced and conflict induced displacement. These have come to be considered as two “key research domains” within the studies on displaced populations;² so much so that there is much separation and insularity between the two domains.

Recently however, efforts have been made to “cross the boundaries” into the other domain, advancing overarching typologies, drawing comparisons and illuminating differences that cannot be subsumed or commonalities that can. It has been realised that both development induced internally displaced persons and conflict induced internally displaced persons confront many strikingly similar social and economic problems. Voutira and Harrell-Bond emphasise that impoverishment is a “consequence for virtually all types of displacement”.³ Impoverishment thus allows for a common denominator in the experience of both conflict induced and development induced displacement. Michael Cernea has developed Impoverishment Risks and Reconstruction (IRR) model which deconstructs impoverishment as the result of displacement into its components.

Deconstructing displacement:

Michal Cernea deconstructs the syncretic, multifaceted process of displacement into its identifiable, principal and most widespread components namely landlessness,

¹ UN Guiding Principles on Internal Displacement, UN Document E/ CN.4/ 1998/ 53/ Add.2.

² Cernea, Michael and Christopher Mc Dowell (Ed.), ‘Risks and Reconstruction- Experience of Resettlers and Refugees, The World Bank, Washington DC, 2000. pg 17

³ Ibid pg 18

joblessness, homelessness, marginalisation, food insecurity, increased morbidity and mortality, loss of access to common property assets, and community disarticulation.

Landlessness:Expropriation of land removes the main foundation upon which people's productive systems, commercial activities, and livelihoods are constructed.

Joblessness: The risk of losing wage employment is very high both in urban and rural displacements for those employed in enterprises, services or agriculture. Unemployment and underemployment among displaced often endures long after physical relocation has been completed.

Homelessness: Loss of shelter may be temporary for some internally displaced, but for some, homelessness or worsening in their housing standards remains a lingering condition. The loss of a family's individual home and the loss of a group's cultural space tend to result in alienation and status deprivation.

Marginalisation: Displacement causes a drop in the social status of those displaced. Middle income farm households do not become landless, they become small landholders; small shopkeepers and craftsmen downsize and slip below poverty thresholds. Many individuals cannot use their earlier required skills at the new location; human capital is lost or rendered inactive or obsolete. Economic marginalisation is often accompanied by social and psychological marginalisation. Moreover IDPs are often perceived by host communities as a socially degrading stigma.

Food insecurity: IDPs are most likely to fall into temporary or chronic undernourishment, defined as calorie-protein intake levels below the minimum necessary for normal growth and work.

Increased morbidity and mortality: Massive displacement threatens to cause serious declines in health levels. Displacement-induced social stress and psychological trauma are sometimes accompanied by the outbreak of relocation-related illnesses, particularly

parasitic and vector-borne diseases such as malaria and schistosomiasis. Unsafe water supply and improvised sewage systems increased vulnerability to epidemics and chronic diarrhoea, dysentery, and so on. The weakest segment of the demographic spectrum—infants, children and elderly—are affected most strongly. The interaction between the two processes included in the risk model—decrease in health and loss of shelter—has been long established empirically.

Loss of access to common property and services: The loss of common property resources such as pastures, forested lands, water bodies, burial grounds, quarries and so on results in significant deterioration in income and livelihood levels especially of the poor and landless. These losses are compounded by loss of access to some public services such as schools.

Community disarticulation: Forced displacement disperses and fragments communities, dismantles patterns of social organisation and interpersonal ties and kinship groups become scattered. Life-sustaining informal networks of reciprocal help, local voluntary associations, and self-organised mutual service are disrupted. Michael Cernea holds that there is a net loss of “social capital”. There is a loss to associational life as dismantled social networks that once mobilised people to act around common interests and to meet their most pressing needs are difficult to rebuild. The loss of what he calls reciprocity networks directly worsens the corollaries of poverty—namely, powerlessness, dependency, and vulnerability.

These components described above must be seen in their interconnectedness as a pattern of variables. This model called the Impoverishment Risks and Reconstruction model provides a useful tool to study displacement due to development. The model seeks to define and predict the cumulative impacts of displacement and to provide a practical guide to resettlement. This model has also been used to study refugee-like situations.⁴ The plight of internally displaced persons has been likened to those of refugees who haven't

⁴ Voutira, Eftihia and Barbara Harell-Bond, ““Successful” Refugee Settlement: Are Past Experiences Relevant?”, in Cernea Op. cit. pp 56-76

crossed an international border. While scholars like Voutira and Harell-Bond use this model to study refugee-like situations, in this study it will be used to examine situations of conflict induced internal displacement in India.

Conflict induced internal displacement:

The descriptive definition of IDPs includes situations of generalized violence and violations of human rights as causes of displacement. Situations of generalized violence and violations of human rights can include state violence, politically targeted violence by militant groups, and even violent crimes with a political sub text. This study however, primarily focuses on displacement caused by ethnic conflict. While this is the principal aim, it must be mentioned with the caveat that it is not always possible to neatly distinguish the specific “push factors” of displacement, especially in ‘troubled areas’ like the Northeast.

Varshney points out that ethnic conflict can be violent or can be waged in the institutionalized channels of the polity as non violent mobilization. Ethnic protest that takes an institutionalized form in parliaments, in assemblies, in bureaucracies or on the streets is conflict, but not violence. “Such conflict must be distinguished from a situation in which conflict takes violent forms, rioting breaks out on the streets and in neighbourhoods, and in its most extreme form, pogroms are initiated against some ethnic group with full connivance of state authorities.”⁵ Literature on conflict induced IDPs uses the term ethnic conflict to imply conflict that takes violent forms.

Theories on ethnic conflict:

There are a large number of theories that seek to explain ethnic conflict. Varshney makes a useful categorisation of existing traditions of inquiry into ethnic conflict namely, essentialism, instrumentalism, constructivism, and institutionalism. The earlier traditions of essentialism and instrumentalism seek to explain why ethnic conflicts occur at all. The

⁵ Varshney, Ashutosh, *Ethnic Conflict and Civic Life: Hindus and Muslims in India*, New Haven and London, Yale University Press, 2002. pg 25

latter two- constructivism and institutionalism- are both more recent and a big advance over the first two.

The key proposition of essentialism is that ethnic conflicts today can be traced back to older animosities between groups. Clifford Geertz and Walker Connor are leading advocates of the essentialist view. The key proposition of instrumentalism rests on the purely instrumental use of ethnic identity for political or economic purposes by the elite, regardless of whether they believe in ethnicity. The two views are presented as being fundamentally at odds; one focuses on the intrinsic power of ethnic differences, the other concentrates on their instrumental value, political or economic.

Paul Brass's arguments to explain communal conflict between Hindus and Muslims are also essentially instrumental. Paul Brass argues that ethnicity is socially constructed and conflict that appears to be social in nature is actually the result of the manipulation of symbols by the elite for their own benefit. According to Brass, while it is true that people have emotional attachment to language, religion, culture, and kinship, "a sense of identity based on attachment to one's region or homeland usually does not become a politically significant matter for those who remain there unless there is some perceived discrimination against the region and its people in the larger society."⁶ And while the myth of common descent does clearly unite some people, its "fictive character presumes variability by definition". Consequently even the "facts of birth" are either inherently of no political significance or are subject to variation."⁷ For Brass, then, the key factor for ethnic conflict is not emotional or psychological, but political: "The study of ethnicity and nationality is in large part the study of politically-induced cultural change".⁸

Another group of theories that seeks to explain ethnic conflict is the constructivist view. Thinkers such as Eric Hobsbawm, Linda Colley and Benedict Anderson who subscribe to the constructivist view see identities like ethnicity that we take for granted today as constructed quite recently in history.

⁶ Brass, Paul R., *Ethnicity and Nationalism: Theory and Comparison*, Sage Publications, 1991. pg 71

⁷ Ibid pg 71

⁸ Ibid 75

In the literature available so far, the institutional arguments are best able to deal with why ethnic conflicts emerge, subside or even remain dormant. These are also arguments that, unlike constructivism, have flourished in political science. The central idea of the institutional theories of ethnic conflict is that there are clearly identifiable connections between ethnic conflict or peace, on the one hand, and political institutions on the other.

Of the many arguments in the field, those of Arendt Lijphart and Donald Horowitz tower over the institutional landscape. Lijphart argues that, in order to be successful and to preempt or reduce ethnic conflict, democracy in a plural society requires elite compromise. A plural society is defined as one in which the various ethnic groups are segmented and have little criss-crossing. Elite compromise can best be assured by a political system that works on inter group consensus, rather than inter group competition. A consensual democracy of this kind can be called consociational.

Horowitz regards this institutional scheme more a normative wish than an empirically sound generalization. Horowitz argues that grand coalitions cannot work well if they are not grounded in electoral incentives. Thus for Horowitz, making it impossible for political parties to win power unless they make appeals across ethnic barriers is the best institutional intervention in an ethnically divided society.

Theories proposing a link between institutional forms and ethnic conflict have acquired remarkable sophistication in the past three decades. There are disputes in this literature, but they are about what kinds of political institutions would resolve or exacerbate conflict in multiethnic societies. That identifiable links between institutions and ethnic conflict exist is either considered self evident or not seriously questioned. Varshney also points out that institutions do not simply specify procedures, rules and site for political contestation; they also begin to generate predispositions to outcomes, given the number and size of ethnic groups.

It matters whether multiethnic societies have consociational or majoritarian democracies, federal or unitary governments, single or multi-member constituencies, proportional representation or a first past the post electoral system. An uncritical transfer of institutional forms regardless of whether a society is marked by ethnic divisions can be a serious cause of ethnic conflict. Contrariwise, an institutional choice suited to the ethnic map of a society resolves or at any rate mitigates conflict.

Atul Kohli also holds that democracy, which is an “import” for countries like India can be a cause instead of a solution for ethnic conflict. He argues that firstly, the prevailing cultural conditions do not readily mesh with the imported model of democracy. In developing countries like India, “for example, mass suffrage is introduced in a context where identities and attachments often tend to be more local than national; authority in society tends to be dispersed but, within dispersed pockets, quite rigid and hierarchical; and community norms often prevail over narrow individualism. As democracy is introduced and competing elites undertake political mobilization, old identities are rekindled and reforged. Modern technology hastens the process (for example the availability of the teachings of Khomeini on cassettes or the dramatization of Ramayana in television)” and mobilized identities collide with each other or with the state.⁹

He argues that considerable state intervention is inherent in the overall design of late development¹⁰. An interventionist state in a poor setting controls large proportions of a society’s economic resources, thus attracting the competitive energies of many of those who seek economic improvement. Intense competition over the state’s resources, in turn, politicizes numerous cleavages, adding to the problems of developing countries democracies. According to Kohli, ethnic conflict and self determination movements are inevitable or “expected in a multicultural developing country democracy like India.”

Myron Weiner has demonstrated, accelerating mobility in the context of scarce resources in a poly-ethnic society can lead to mobilization along ethnic lines and result in inter-

⁹ Basu, Amrita and Atul Kohli (Ed), ‘Community Conflicts and State in India’, Oxford University Press

¹⁰ Kohli, Atul, ‘Democracy and Discontent: India’s growing Crisis of Governability’, Cambridge, Cambridge University Press, 1990

ethnic tensions.¹¹ Faced with such increased demands and other ethnic tensions, states can resort to coercive strategies which are inevitably short-term palliatives.¹²

This study concentrates on internal displacement in three regions that have faced the largest displacement of populations due to ethnic conflict in recent times namely, Gujarat, Jammu and Kashmir and the Northeast. While these regions are frontier regions, they have also witnessed displacement of large populations due to ethnic conflict. There are significant differences in the displacement events in these three regions. Also, the internally displaced persons in each region are not a homogeneous entity as some theorists treat them. Within a region like the Northeast itself the push factors of displacement are complex and do not fit easily into categories coined by academicians. However there are also many similarities in their situations when they are uprooted.

Methodology and sources:

Taking a cue from the institutional approach which emphasises that institutions play an important role in ethnic conflicts, this study examines the responses of the state to displacement due to ethnic conflict in the above mentioned regions. The principal and most prevalent components of the process of displacement identified in Cernea's Impoverishment Risks and Reconstruction (IRR) model as well as the UN Guiding Principles on Internal Displacement serve as a framework to study displacement due to ethnic conflict in these three regions of India that have faced protracted violence and displacement due to ethnic conflict. This theoretical background has been used in this study to coherently aggregate disparate empirical findings on the three regions along the model's key variables. Although there are significant differences in situations of displacements in these three regions which differ not only in terms of ethnic cleavages that caused displacement but also time periods, the model makes it possible to use a comparative approach to study the patterns of displacement across regions and the Indian government's response.

¹¹ Weiner, Myron, 'Sons of the Soil: Migration and Ethnic Conflict in India, Princeton, N.J., Princeton University Press, 1978.

¹² Ganguly, Sumit, 'Explaining the Kashmir Insurgency: Political Mobilisation and Institutional Decay', *International Security*, Vol.21, No.2. Autumn 1996. pg 78

The analysis is based on ethnographic and empirical accounts on the displaced populations. Various UN documents, books, journals, newspaper articles, reports by the government and non governmental organisations, media reportage and footage have been important sources for mapping displacement.

Materials have been collected from libraries such as the Jawaharlal Nehru University's Central Library, Nehru Memorial Library, Centre for Study of Developing Societies, Indian Social Institute and Ratan Tata Library.

Objectives of study:

The following are the main objectives of this study:

- To analyse the emerging category of internally displaced persons.
- To investigate how much conceptual clarity this category brings to the reality of displacement due to ethnic conflict.
- To examine the relevance of the Guiding Principles on Internally Displaced Persons in ameliorating the plight of IDPs as regards its significance in influencing the behaviour of nation states.
- To assess the salience of this category in the Indian context.
- To comparatively examine the empirical and ethnographic accounts on displacement in Gujarat, Jammu and Kashmir and the Northeast.
- To examine the causes of ethnic conflict that led to displacement.
- To study the responses of the state to situations of internal displacement.
- To investigate if the category of internally displaced persons provides any leads for institutional responses to situations of internal displacement.

Outline of the study:

Chapter one theoretically analyses the category of Internally Displaced Persons. This category emerged at the international level by an initiative of the UN. This chapter therefore examines the standing of this category in international law and the potential that

this category has in affecting the behaviour of nations. It also examines the challenges in the application of a broad category like IDPs to local incidents of ethnic conflict in India.

Chapter two analyses empirical and ethnographic accounts on the displacement of Muslims in the post Godhra violence to arrive at patterns of displacement across Gujarat. This chapter also examines the relief and rehabilitation efforts both by state and private groups as in this case, private groups were the primary providers of relief.

The third chapter is an empirical study on the causes and subsequent state response to displacement in two regions that have been the site of massive displacement due to ethnic conflict namely, Jammu and Kashmir and the Northeast. The underlying comparative method in this chapter seeks to gauge the Indian state's approach to situations of internal displacement.

Chapter 1

Internally Displaced Persons: The emerging category and challenges to its application

For institutions to respond to situations, they need categories. Categories are expected to bring some conceptual clarity to particular realities. A category that has recently emerged to describe forced population movements is Internally Displaced Persons (IDPs). The aim in this chapter is to understand this category, to investigate how much conceptual clarity this concept brings to the reality of displacement due to ethnic conflict and if it provides any leads for institutional responses to situations of ethnic conflict.

Also, categories do not arise in vacuum but evolve in response to certain catalysts and in particular contexts. This chapter also endeavours to understand the context in which this category evolved. This category was created at an international level through the United Nations and I will be using it to understand situations of internal displacement in India. Therefore, another important question that underlies this chapter is the salience of such grand, universal categories in understanding local incidents of violence within nation states.

In the recent past, there have been significant attempts to understand ethnic conflict and in particular violence against an entire group and the resultant human suffering. There has been a proliferation of labels to describe the violence due to ethnic conflict. They have been referred to varyingly as riots, pogroms, comprehensive humanitarian crises, genocides etc. Ethnic conflict often causes forced population movements. The most important reason for choosing this category to understand situations of internal displacement in India was that the primary focus of this category is those displaced due to ethnic conflict.¹ It counts as internally displaced those who have been forced to flee. By and large the discourse on displacement and rehabilitation of displaced so far has focused

¹ Muggah, Robert, 2003.

on development induced displacement. As Barutcsiki's argues, the Guiding Principles on Internal Displacement contain few provisions that are directly applicable to development induced internally displaced persons.² Although the category is descriptive and gives room for including various types of displacement, its focus, as is evident from various sections of the Guiding Principles, is on those displaced due to ethnic conflict.

An understanding of this category of IDPs takes us in and out of various discourses. The dominant discourses in this chapter are international law, international relations, human rights and communalism in India.

The New Area of Forced Migration Studies:

The category of IDPs comes under this developing field of forced migration studies which encompasses not only its traditional concern with nature of refugee law and refugee rights but has widened to include human rights component related to the protection of civilians and non combatants caught up in internal conflicts, asylum seekers whose refugee status applications are pending, returnees and also stateless persons. Understanding forced migration issues involves an interdisciplinary and multidisciplinary approach and in fact, it is the convergence of several disciplines around this common concern that has brought attention to this subject.

Of course scholars of international relations, international law and the United Nations have dealt with forced migration. However the treatment of issues that fall under forced migration is international only to an extent. The broad contours of the emerging field of forced migration have become a preserve of not only scholars of International Relations but equally shared by sociologists, anthropologists, economists, historians and political scientists.³ Mapping displacement requires the expertise of sociologists, anthropologists and political scientists as well. It is important to note that as such the broad contours of the larger field of forced migration studies are yet to be worked out.⁴

² Baratuscki, M, 2000. See also Op. cit.

³ Ibid. pg 3

⁴ Mishra, Omprakash (Ed.) 2004. pg3

Paul Brass points to competing “systems of knowledge” which seek to interpret local incidents of violence.⁵ It is interesting to note however, that often discourses which talk about related issues exclude each other or fail to take note of the advances made in other fields about the same issue.

For instance, studies in international law and international relations have revolved around seemingly separate spheres of international politics. Writings on international law were largely concerned with the formation, promulgation and codification of international laws. While the centrality in international relations of realist thinking which accepted the view that nation-states operated “in a tenuous net of breakable obligations,” discouraged careful examination of the role of transnational institutions and hence of international law.⁶

Perhaps most indicative of the mutual isolation of the two disciplines was the general failure of international law scholars to use quantitative techniques and rational choice theory which had emerged as important tools of analysis in political economy but had generally taken a back seat to more traditional modes of legal argumentation and analysis in writing on international law. In turn, international relations scholars often ignored international law scholarship altogether.⁷ In recent years, the chasm between the disciplines has narrowed as international law and international relations theorists have begun to share insights.⁸ An understanding of the category of IDPs and its implications requires one to draw on both international law as well as international relations.

⁵ Brass, Paul (Ed.), 1996. pg 1 “Ideologies of protest from Marxism to contemporary feminism and the simultaneous spread of systems of psychiatric, psychological, criminological and sociological systems of “knowledge” have all produced authorities who claim to know better than the people themselves the reason for common or uncommon violence in everyday life”.

⁶ Hoffmann, Stanley, 1956. pp 357, 364

⁷ Hathaway, Oona A, ‘Do Human Rights Treaties make a Difference?’, *The Yale Law Journal*, Vol. 111, No.8., Jun., 2002, pg 1943.

⁸ *Ibid* pg 1943, also fnnt 1943.

Descriptive definition of IDPs:

The UN Guiding Principles on Internally Displaced Persons describe internally displaced persons as “persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border.”⁹

The fact that the description of “internally displaced persons” is located in the introductory section, rather than in the main body is indicative of the descriptive and non-legal nature of the term “internally displaced persons”. The descriptive identification of IDPs in the Guiding Principles highlights two elements, the coercive or otherwise involuntary character of movement; and the fact that such movement takes place within national borders.

It also provides examples of how internal displacement may be brought about- situations of generalized violence, violations of human rights, or natural or human made disasters. The words “in particular” indicate that the listed examples are not exhaustive.

In the Annotations of the Guiding Principles, Kalin Walters and others specify that the guiding principles do not provide a legal definition for internally displaced persons. Becoming displaced within one’s own country of origin or country of habitual residence does not confer special legal status in the same sense as becoming a refugee does. This is because the rights and guarantees to which internally displaced are entitled stem from the fact that they are human beings and citizens or habitual residents of a particular state. Those rights and guarantees emanate from a particular vulnerability and special needs that flow from the fact of being displaced.¹⁰

⁹ UN Guiding Principles on Internal Displacement, 1998.

¹⁰ Kalin, Walter, 2000, pg2.

The Atypical situation of IDPs:

IDPs are often described as refugees who have not crossed an international border. Their situation is peculiar because even though they remain within the borders of a state and therefore under its jurisdiction, they are however, to borrow Hannah Arendt's words, stateless. Arendt recognised that to be displaced within the borders of one's country or to live in camps signalled statelessness: "the stateless person, without right to residence and without the right to work, had of course to transgress the law. Neither physical safety-being fed by some state or private welfare agency- nor the freedom of opinion changes in the least their fundamental situation of rightlessness."¹¹

There is general agreement that the "displacement event" constitutes a violation of basic and fundamental rights. Conflict induced internal displacement is considered to be an unquestionable violation of international humanitarian law and human rights.¹² Displacement by its very nature generally entails deprivations of multiple rights. "Along with its emotional cruelty, displacement often breaks up the nuclear family, cuts off important social and cultural community ties, terminates stable employment relationships, precludes or forecloses formal educational opportunities, and deprives those in need of special protection, such as infants, expectant mothers and the sick, of vital public/private sector services."¹³ The displaced thus have to face vast material and cultural losses.

Also, while racial, ethnic, religious, gender-specific or political discrimination occurs, in one way or another, in every society, "internally displaced persons, often living in alien surroundings, deprived of their security, property and social status, are particularly exposed and vulnerable to discriminatory treatment."¹⁴

No less serious is the political tension that accompanies forced relocation. This is more so in the case of conflict induced internally displaced persons. This is because conflict

¹¹ Arendt, Hannah, 1973.

¹² Cohen, Roberta, 1998. Also in the Geneva conventions 1 and 2- the deliberate abuse of non combatant rights and the International Declaration of Human Rights.

¹³ Internally Displaced Persons: Compilations and Analysis of Legal Norms, 1998. pg3

¹⁴ Ibid pg14

induced internally displaced persons are in addition to being the victims of the cumulative effects of displacement, also the victims of violence or a very real threat of it. For instance, it has been widely recognised in refugee studies that catastrophic stresses such as torture, rape and exposure to war are associated with a typical cluster of symptoms now labelled “post-traumatic stress disorder” or PTSD. Analysing and explaining what happens during conflict induced internal displacement is therefore crucial to forced migration studies.

Conflict induced internal displacement has more long term and lasting consequences due to the added dimension of exclusion. Social and economic exclusion intensifies the deprivation of conflict induced internally displaced persons. Michael Cernea points out that forced displacement epitomizes social exclusion of certain groups of people. “It cumulates physical exclusion from a geographic territory with economic and social exclusion out of a set of functioning social networks.”

Despite this kind of situation of compounded deprivation of rights which would lay claim to the attention of scholars and activists of human rights and international law scholars and policy makers, internal displacement remained a blind spot in international studies for a long time.

Alarming rise in the number of IDPs:

IDPs emerged as an issue of international concern arising out of the changed political environment from the end of the cold war and the growing awareness of the consequences of internal conflict.¹⁵ By conservative estimates, there are between 20 and 25 million persons worldwide who are internally displaced because of conflict.¹⁶ In a study commissioned by the Norwegian Refugee Council (NRC) for the 1998 Global IDP Survey, Susanne Schmeidl noted that in 1970 there were 5 million IDPs from 5 countries; by the end of the 1980s, there were 7 million in 10 countries. The scale and magnitude of

¹⁵ Muggah, Robert, 2003.

¹⁶ Sorensen, Birgette Refslund and Mark Vincent, 2001.

internal displacement is more pervasive than refugee flows- estimated in hundreds rather than tens of millions of people world wide.¹⁷

Between 1980 and 1990, the numbers of both internally displaced persons and refugees nearly tripled, to 22 million from 23 countries and about 17 million from 15 countries respectively. From 1990, significant demographic changes took place in the two groups. While the estimated number of refugees declined from 1990 onwards, internal displacement increased sharply, peaking at 27 million in 32 countries in 1994.¹⁸

Some scholars attribute the apparent increase in internal displacement to the changing nature of conflict and the rise of communal violence since the end of cold war.¹⁹ Omprakash Mishra also observes that the breakdown of some multinational states, proliferation of conflict involving ‘ethnic cleansing’, civil war, insurgency, guerrilla warfare, primarily within borders of the state but having international ramifications, are the primary features of the post-cold war world. “This has changed the very nature of conflict- from conventional wars between nation states to inter- communal conflict within states”.²⁰ The change in the nature of conflict is thus seen as a major catalyst of the swell in the number of IDPs.

Another factor often blamed for the increase in internal displacement is the declining willingness on the part of some states, particularly after the end of the cold war, to accept large refugee inflows. ‘Compassion fatigue’ and ‘host country predicament’ in the post cold war world effectively means that fewer internally displaced persons can escape

¹⁷ The enumeration of IDPs is characterized by its own set of definitional and methodical challenges. In addition to the lack of legal precision over who constitutes an IDP- statistics are dubious. The most comprehensive overview of IDP statistics especially of populations internally displaced by conflict is the Norwegian Refugee Council’s IDP Database. See Muggah, Robert, 2003.

¹⁸ Hampton, Janie, 1998.

¹⁹ Stremmlau, John, (<http://www.ccpdc.org/pubs/peril/peril.html>)

²⁰ Mishra, Omprakash (Ed.), 2004. pg6

national boundaries.²¹ Internally displaced thus remain within the borders of their own countries and often, having left their homes find themselves in refugee-like situations.²²

Development of the category of IDPs:

UN efforts towards the development of the category of IDPs started in 1992 when, at the request of the Commission on Human Rights, the then UN secretary-general, Boutros Boutros Ghali, appointed a representative, Francis Deng to raise awareness of the problem and to investigate ways to improve protection and response. In his first comprehensive study, presented to the Commission on Human Rights in 1993 Dr Deng observed that unlike in the case of refugees, there was “no single organization” within the UN system responsible for protecting and assisting the internally displaced.²³

Deng studied the degree to which internally displaced were protected under existing international law and in 1996, presented the Internally Displaced Persons Compilation and Analysis of Legal Norms. The study examined international human rights law, humanitarian law and refugee law, and concluded that while existing law provides substantial coverage for the internally displaced, there are significant areas where it fails to provide sufficient protection.²⁴

The two principal categories of insufficient protection for internally displaced persons were as follows: one area of insufficient coverage resulted from gaps in legal protection which occurred where no explicit norms existed to address identifiable needs of the displaced. In some cases there was a norm in human rights law but not in humanitarian law and vice versa. In such cases it was only possible to articulate rights by analogizing from existing provisions of law that were apply only in limited situations or only to certain categories of persons as children, refugees or minorities. The second area of insufficient coverage resulted where a general norm existed but a corollary; more specific

²¹ Sorensen, Birgette Refslund and Mark Vincent, 2001. Pg2

²² Kalin, Walter, 2000. pg 4

²³ United Nations Commission on Human Rights, Comprehensive Study prepared by Dr. Francis M Deng, Representative of the Secretary General on the human rights issues related to internally displaced persons, pursuant to commission on Human Rights, Resolution 1992/73, UN document E/CN.4/1993/35. Geneva: UNHCR.

²⁴ Internally Displaced Persons: Compilations and Analysis of Legal Norms, 1998. pp iii, 77

right had not been articulated that would ensure implementation of the general norm in areas of particular need to internally displaced persons. In such cases there was a possibility to infer specific legal rights from existing general norm.²⁵

Given the atypical situation of the IDPs as well as their increasing numbers, it was only possible to express the rights of IDPs by inferring and in some cases analogizing from related aspects in international law and humanitarian law. To follow up on the assessment that the Compilation and Analysis of Legal Norms team had produced, the Commission on Human Rights asked Deng to prepare a normative framework, and this later became the Guiding Principles on Internal Displacement²⁶.

The Guiding Principles have synthesized the many applicable norms into clear principles and have highlighted those more concrete aspects of human rights and humanitarian law guarantees that are of special significance to the internally displaced. The principles identify the rights and guarantees of internally displaced persons. They approach displacement from the perspective of the needs of internally displaced persons. They address the needs of the IDPs in terms of protection, assistance and solutions. In keeping with its focus on needs, the Guiding Principles are structured around the phases of internal displacement: they address protection against displacement; protection during displacement; the framework for humanitarian assistance; and protection during return, resettlement and reintegration.²⁷

While there is hope that the principles will eventually attain the status of customary law, they are not a draft declaration on the rights of internally displaced persons, nor are they binding in law but reflect and are consistent with international human rights law, humanitarian law and refugee law. The Guiding Principles restate in more detail those legal provisions that respond to the specific needs of the internally displaced persons and spell them out in order to facilitate their application in situations of internal displacement.

²⁵ Op.cit. pg 77

²⁶ UN Guiding Principles on Internal Displacement, 1998.

²⁷ Kalin, Walter, 2000. pg2.

They also clarify those areas where the compilation came to the conclusion that present international law contains grey areas and even gaps.

While not themselves legally binding, the Principles draw extensively on legally binding provisions of international humanitarian and human rights law and, by analogy, on the basic principles of refugee law. Moreover, although it is legally non binding it purports to lay down certain guidelines and influence state behaviour and therefore has some normativity. Thus an analysis of the salience of the Guiding Principles and possible institutional responses would have to start with international law. The discourse in international law on such instruments brings us to the ongoing debate on soft laws.

Soft Laws:

Robert Muggah points out that in many cases of internal displacement, appropriate human rights instruments (that might otherwise guarantee the rights and entitlements of displaced people) have not been signed or ratified- and thus any question of legal obligations are in large part a function of soft law and national legislation.

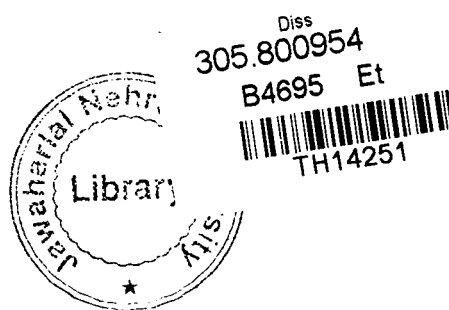
Although soft law has been the subject matter of an ongoing debate, and there is little consensus on its exact meaning, it has been gaining currency for some time now in international legal parlance.²⁸ The concept of soft law has been used in reference to international prescriptions that are deemed to lack requisite characteristics of international normativity, but which, notwithstanding this fact, are capable of producing certain legal effects.²⁹

A number of definitions of soft law have been suggested. Some writers refer only to norms in hard law form, usually a treaty but with vague or weak requirements and characterize this as “legal soft law” while others concentrate on instruments in non-legal form, for example resolutions of international organizations and codes of conduct, termed “non-legal” soft law”.³⁰ CM Chinkin describes soft law as instruments ranging from

²⁸ Handl, Gunther F., 1988. pg 371

²⁹ Ibid. pg 371

³⁰ Gruchalla-Weisieski, Tadeusz, 1984. pg 44



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treaties, but which include only soft obligations (“legal soft law”³¹), to non binding or voluntary resolutions and codes of conduct formulated and accepted by international and regional organizations (“non-legal soft law”), to statements prepared by individuals in a non governmental capacity, but which purport to lay down international principles.³²

For international lawyers, devising and enforcing universal rules of conduct for states means overcoming two cardinal challenges: how to make such precepts legitimate in a diverse community of nations; and how to make them stick in the absence of any one sovereign authority or supranational enforcement mechanism.³³ Soft law appears to be a technique to circumvent this problem.

As new domains from the environment to the internet come to be seen as appropriate for international regulation, states are sometime reluctant to embrace any sort of binding rule. In the past many legal scholars and international courts simply accepted the notion that no law governed a particular subject until a new treaty was concluded or states signalled their consent to a new customary-law rule (the reluctance with which human rights norms were considered law prior to the UN’s 2 key treaties in 1966) or alternatively struggled to find customary law where none existed. However, today all but the most doctrinaire scholars see a role for the so called soft law-precepts emanating from international bodies that conform in some sense to expectations of required behaviour but that are not binding on states.³⁴

This then has been the emerging trend in international law. There are deepening global interdependencies in environment, international security and economic matters which have necessitated transnational interactions. These transnational interactions require enunciation of norms applicable to the interaction. These norms have become rules to guide future transnational interactions. There is a wide and growing body of such soft

³¹ Some writers refer only to norms in hard law form, usually a treaty but with vague or weak requirements and characterize this as “legal soft law” while others concentrate on instruments in non-legal form, eg. Resolutions of international organizations and codes of conduct, termed “non-legal soft law”

³² Chinkin, CM, 1989. pg 851

³³ Ratner, Steven R, 1998. pg 65

³⁴ Ibid. pg 67

laws. Economic international law and the international law of the protection of the human environment against new risks created by industries and hazardous technologies are the favourite grounds on which new 'soft' regulations have thriven.

Soft law instruments are concluded by states to combine collective regulation and restraint in economic dealings with a flexibility and freedom to manoeuvre where events or changing circumstances so require.³⁵ The trend in international law then seems to be increasing international normative activity and international regulation of more and more issues once seen typically as part of state domestic jurisdiction. This is also true of soft law in areas like human rights.³⁶

Soft law is also seen as introducing a graduated scale of normativity. It is seen as a step in a gradual movement towards hard law; as being "able to provide the material element of custom".³⁷ In arguing for the normative function of soft law, the success of the development of human rights law from the Universal Declaration on Human Rights is cited.³⁸ Some scholars thus find that soft law can be considered as an expression of emerging notions of an international public order, thus a vehicle for extending the realm of legitimate international concern of previously exclusive areas of national jurisdiction.

Some observers of this development however, have taken strong exception to the increasing use of this term, defining it as a pathological phenomenon of international law; as a practice that lends itself to legal pretension; as blurring the distinction between law and non law.

Others like Sir Joseph Gold points out that it is too easy to be condescending toward soft law. Soft law can overcome deadlocks in the relations of states that result from economic

³⁵ Chinkin, CM, 1989. pg 853

³⁶ Ibid pg 853

³⁷ Gruchalla-Weisieski, Tadeusz, 1984. pp 53, 54

³⁸ Ibid pg 860

or political differences among them, when efforts at firmer solutions have been unavailing.³⁹ Sometimes, Sir Joseph says, soft law may be the only alternative to anarchy.

In the case of the Guiding Principles, they were developed over several years pursuant to the mandate given to the UN Representative of the Secretary General on IDPs, Francis Deng in 1992 by the Commission on Human Rights and reinforced by subsequent resolutions of both the Commission and the General Assembly. The Commission and General Assembly had subsequently requested him to prepare an appropriate normative framework for the internally displaced.⁴⁰

In the introduction to the Guiding Principles, the stated scope and purpose is to “provide guidance to”:

- The Representative of the Secretary General on IDPs in carrying out his mandate’
- States when faced with the phenomena of internal displacement;
- All other authorities groups and persons in their relations with IDPs; and
- Intergovernmental and non governmental organizations when addressing internal displacement.

There is an effort to disseminate the Guiding Principles as widely as possible. However, unlike in the case of refugees there is no parallel international organization which has the authority to intervene on behalf of tens of millions of internally displaced persons across four continents.⁴¹ There are no regional mechanisms to deal with problems of internal displacement in the South Asian or Asian region either. The South Asian Association for Regional Cooperation (SAARC) or Association of South East Asian Nations (ASEAN) are reluctant to discuss such issues at the regional level because of the principle of non

³⁹ Gold, Joseph, 1983.

⁴⁰ UN Guiding Principles on Internal Displacement, 1998.

⁴¹ Korn, A. David, 1999. “In keeping with the traditional notions of sovereignty, the international legal and institutional regime created to protect refugees did not include internally displaced people because they were seen as falling domestic jurisdiction of the states concerned”. UNHCR, ‘State of the World’s Refugees: 50 years of Protection, Oxford, OUP, 2001. The International Committee of the Red Cross, with its principle mandate for international humanitarian law, arguably has more of a statutory basis to intervene on behalf of conflict-induced displaced people. Muggah, Robert, 2003.

interference in each others internal affairs and the principle of state sovereignty. Most regional efforts to coordinate and improve the response to internal displacement in Asia stem from non governmental efforts.⁴²

Even if the Guiding Principles or its content do eventually become part of human rights law, the question remains whether it could even then influence the behaviour of nations. Wollstonecraft while differing from Bentham's legalism, saw human rights to be, as it were 'legal rights in waiting' that is, as ethical claims that must be legalized for them to be effective. Wollstonecraft's analysis of the variety of processes through which subjugation and deprivation come about pointed to the constructive role that recognition can play even without formal legislation.⁴³

The Guiding Principles have highlighted the plight of the internally displaced and so like Wollstonecraft, one would imagine that the compilation and articulation of the rights of the internally displaced notwithstanding its non legal nature would lead to a greater sensitivity to the violation of human rights of the displaced at the international level. Even if one were to agree to this, it seems too idealistic to assume then that behaviour of states would subsequently, in a few years or decades be altered to stem or avoid situations of internal displacement.

Oona Hathaway rightly points out, "the disinclination of international lawyers to confront the efficacy of international law is nowhere more evident- or more problematic- than in the field of human rights law. After all, the major engines of compliance that exist in other areas of international law are for the most part absent in the area of human rights. Unlike the public international law of money, there are no competitive market forces that press for compliance. And unlike in the case of trade agreements, the costs of retaliatory non compliance are low to non existent, because a nation's actions against its own citizens do not directly threaten or harm other states. Human rights law thus stands out as

⁴² Internally Displaced People: A Global Survey, 2003. pg 104

⁴³ Wollstonecraft, Mary, 1996.

an area of international law in which countries have little incentive to police non compliance with treaties or norms.”⁴⁴

The question that remains is, what does it take for ‘legal rights in waiting’ to become rights. And even if they do become rights does it have any significant effect on the behaviour of states?

In the international realm only the parties who voluntarily accede to the laws are bound to abide by them (with the notable exception, of course, of customary law).⁴⁵ Human rights treaties impinge on core areas of national sovereignty without promising obvious material or strategic benefits. If states act primarily in pursuit of their self interest, as dominant theories of international relations generally assume, a finding that human rights law frequently alters state behaviour would be as Oona Hathaway points out, be “deeply puzzling”.

Oona Hathaway made a quantitative study to examine the extent of compliance of human rights treaties by states. Hathaway examines five subject areas- genocide, torture, civil liberty, fair and public trials, and political representation of women- that cover the broad spectrum of human rights and draw their measures from a variety of sources.⁴⁶

Genocide and torture are the most widely prohibited human rights violations. Both are the subject of international treaty instruments and are among the few human rights that are virtually universally acknowledged to be a violation of customary international law.⁴⁷ Indeed, the norms against torture and genocide are widely regarded as *jus cogens* and therefore nonderogable. The norms against torture and genocide are also relatively clear

⁴⁴ Hathaway, Oona A, 2002. pg 1938

⁴⁵ Ibid. pg 2005

⁴⁶ Op. cit. pg 1965

⁴⁷ Various judgements are cited in support of this such as *Filartiga v Pena Irala*, 630 F.2d 876, 890 (2d Cir. 1980); *Regina v. Bartle, ex parte Pinochet*, [2000] 1 A.C. 147 (H.L. 1999) (recognizing the inviolability of international provision against torture and therefore allowing the extradition proceedings against General Augusto Pinochet to go forward); Eduardo Moises Penalver, *redistributing Property: Natural Law, International Norms and the Property Reforms of the Cuban Revolution*, 52 FLA.L.REV. 107, 138 (2000) (“[C]ommon examples of *jus cogens* include the duty to respect human rights and the prohibition of genocide.”).

and precisely specified.⁴⁸ However Torture and Genocide Conventions appear to have the smallest impact on human rights of all the universal treaties.

In this study by Hathaway the graphical picture that emerges indicates that countries with the worst human rights ratings are sometimes as likely as those with the best ratings to have joined the relevant human rights treaties. Many countries that ratify human rights treaties, it appears, regularly and predictably violate their voluntarily assumed human rights treaty obligations.⁴⁹

As regards internally displaced persons, in April 2000, at the UN Commission on Human Rights, the government of India, while acknowledging that the Principles “could serve as useful guidelines for states” asserted that “they are not legally binding.” In India’s view, international action with regard to internally displaced must “remain within the bounds of the concept of sovereignty, which should not be diluted in any manner. This implies that such action should be at the request of, or with the consent of, the country concerned.”⁵⁰

An examination of the compliance of nation states to human rights treaties thus reiterates the seemingly intractable problem in the implementation of human rights treaties of national sovereignty. Deng sought to reconcile the tension between sovereignty and international intervention by introducing the concept of ‘sovereignty as responsibility’.⁵¹ Roberta Cohen also highlights the “tensions between traditional notions of sovereignty and an emerging international responsibility towards populations at risk.”⁵²

⁴⁸ Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted Dec. 10, 1984, art. 1, S. TREATY DOC. NO. 100-20, at 19 (1988), 1465, U.N.T.S. at 113-14 defining torture (entered into force June 26, 1987).; Convention on the Prevention and Punishment of the Crime of Genocide, adopted Dec. 9, 1948, art.2, S. EXEC.DOC.O, 81-1, at 7 (1949), 78 U.N.T.S.277, 280 (entered into force Jan.12, 1951) [hereinafter Genocide Convention] (defining genocide).

⁴⁹ Hathaway, Oona, 2002. pg 1981

⁵⁰ Statement by Mr. A Gopinath, Joint Secretary of the Government of India at the 56th Session of the Commission on Human Rights, Geneva, April, 2000. Ibid. pg 347

⁵¹ Cohen, Roberta and Francis Deng, 1998. pp 275-280

⁵² Cohen, Roberta in Mishra, Omprakash(Ed), 2004. pg 345

The language of human rights and grand constructions:

Omprakash Mishra points out that “most of the coerced population movements in the world are a result of human rights violations and therefore, human rights concerns cross cut all forced migration issues”.⁵³ The discourse on IDPs is couched in the language of human rights.

Michael Freedon describes human rights “as a conceptual device, expressed in linguistic form, that assigns priority to certain human or social attributes regarded as essential to the adequate functioning of a human being; that is intended to serve as a protective capsule for those attributes; and that appeals for deliberate action to ensure such protection.”⁵⁴ This language of human rights is plausibly problematic because the human rights discourse assumes an equality of persons (although there are specific human rights which don’t fit neatly into fundamental rights as universal); that gives the impression of ignoring the importance of ideological beliefs and cultural codes but comes with its own ideological underpinning and influence.

Even Burke believed the promotion of human rights rather than citizen’s rights reflects thinking about an abstract universal community and imposes political structures, conceptions of the individual and peculiar relationships between individual and community that are not generally shared.⁵⁵ Paul Ricoeur has observed that in the discussion on human rights, “the subject is now the people as a cultural reality. Universality gives way to generality. Man is no longer whatever has a human face; the concept dissolves in the antithesis between the individual and the group.” For him, “discussion on human rights, narrowly conceived as subjective individual rights, becomes more self justification and subterfuge- and ideology, in short as soon as it hides the violations of economic and social and cultural rights.”⁵⁶

⁵³ Mishra, Omprakash (Ed.), ‘Forced Migration in the South Asian Region: Displacement, Human Rights and Conflict Resolution’, Kolkata, Jadavpur University, Brookings Institution and Manak Publications, 2004. pg4

⁵⁴ Freedon, Michael, 1991. pg 7

⁵⁵ Lazreq, M., 1979. pp32-34

⁵⁶ Ricoeur, P., 1986. pp 16, 26

The development of the category of IDPs after the cold war as discussed above is also an indication of this. In fact 'compassion fatigue' and 'host country predicament' can also be interpreted as indicative of a pull back of developed countries from granting right to asylum since refugees no longer count for scoring brownie points as they did during the cold war. It has also been observed that complaints about soft law are in large part the concern of developed countries who sense a shift in power in formal lawmaking areas. International law has become less Eurocentric after World War II. The decolonization process as well as the human rights movement has given an impetus to the rise of claims.⁵⁷ In fact some scholars point out that developing countries see customary law, what is considered as hard law, as created primarily because of the power that the industrial world exercises over others.⁵⁸

Thus although this category of IDPs and the Guiding Principles are couched in the language of human rights and have been formulated avoiding the various pitfalls of the international system including national sovereignty, utilizing it would be a "political act", "just as the selection of a form and level of explanation for riots and pogroms, a context in which to place the discourse on violence- for scholars as well as journalists and politicians is a serious political act".⁵⁹ It is plain that even the application of these human rights and redressal of grievances would involve the labelling of an event or displaced people as riot affected, internally displaced etc. which would also be a political act.

Ranabir Samaddar points out that population flows under various conditions of coercion has been throughout the ages, epochs and centuries. Yet modern expressions and explanations of human population displacement do not take into account the "history of enmeshing peoples" and focuses more on the present of the conflict.⁶⁰ Paul Brass also points out that events which occur in isolated villages and hamlets or on the city streets

⁵⁷ Chinkin, CM, 1989. pg 853

⁵⁸ American Society of International Law, Proceeding of 82nd Annual Meeting, Vol82, 1988. pg 377

⁵⁹ Paul Brass points out that the discourses of ethnicity, communalism and violence used to represent riots and pogroms are never neutral to the event. Brass, Paul (Ed.),1996. pg 6

⁶⁰ Samaddar Ranabir, 'The Cruelty of Inside/ Outside' in Omprakash Mishra (Ed), 2004. pg 24

have become subject to placements in categories and contexts previously not known to or incidental to the lives of those who experience them.⁶¹ According to him, in our attempt to understand ethnic conflict, there might be a tendency to 'fit' the explanation in the master narratives and ideological and social science paradigms. He suggests that the tendency to place particular kinds of riotous events into a pre-framed context could involve misplacement, which in turn contributes to the distribution and persistence of that event in space and time.⁶²

More often than not such explanations are highly generalized and categorical explanations for particular events that often disguise and certainly always simplify, covering a variety of personal and political behaviours. "They are grand constructions created in the battle of discourses in deeply divided societies."⁶³

Categories like IDPs can indeed be described as grand constructions couched in human rights language which do not give adequate attention to the political aspects of displacement issues. The focus of the discourse on IDPs thus far has primarily been on the rights of those displaced, which does not fully appreciate the political and social complexities that cause displacement and continue after forced displacement.

It is important to situate internally displaced people in their contexts to arrive at relevant institutional responses. This is especially important because although according to Principle 15 (c), internally displaced persons have the right to seek asylum in another country; what makes them internally displaced is that they remain within the borders of their country. As seen in the chapter on Gujarat, conflict induced IDPs often have to return to situations which could continue to be antagonistic or as in the case of the Northeast face the threat of being displaced from their new place of residence by the host population. These aspects are crucial to arriving at solutions to ameliorate the plight of IDPs. Michael Cernea also points out that specific resettlement programs (plans) are required each time, in order to build the bridge from the general risk model to the

⁶¹ Brass, Paul, 1996. pg 1

⁶² Ibid. pg 2

⁶³ Op.cit. pg 6

particular resettlement circumstances and to mobilise concerted actions by interested institutions and social groups.⁶⁴

Applying the lens of IDPs to the Indian context:

Thus in applying the lens of IDPs to the Indian situation, the following chapters analyse various explanations offered for ethnic conflict that led to displacement before analysing the patterns of displacement. There are some peculiar problems in the Indian context, which if taken cognisance of can help develop this category further.

Population displacement is an outcome of multiple set of factors. There are many “push factors” leading to internal displacement. The UN Guiding Principles do not apply to persons who move voluntarily from one place to another solely in order to improve their economic circumstances. What is emphasized here is the element of choice.

According to Penz what makes migration displacement is that it is migration that is induced by coercion.⁶⁵ Penz observes the relationship between coercion and choice. Robert Muggah also reiterates that internal displacement occurs when coercion is employed, where choices are restricted and where they are facing more risks than opportunities by staying, which is purported to distinguish it from “voluntary” or “economic” migration.⁶⁶

However the distinction between coercion and choice becomes unclear in situations of extreme poverty where people have no choice but to move to another place to seek their livelihood. Clearly in the case of rural-urban migrants this is problematic. For example a poor farmer faced with drought and starvation hardly has a choice but to move. Coercion or choice is thus a nebulous criteria for determining whether people fit into a category. Even more problematic from an operational perspective is countries at war where it is

⁶⁴ Cernea, Michael, 2000. pg 34

⁶⁵ Penz, P, 2002.

⁶⁶ Muggah, Robert, 2003.

very doubtful if it makes any sense to distinguish IDPs from other “war affected populations who are besieged in their own homes?”⁶⁷

Moreover, categories like this do not take into consideration structural violence as one of the “push factors” of displacement. The notion of forced is so narrowly defined, that the structural violence permeating these societies escapes our attention, though violence and coercion are considered as benchmarks in determination of IDPs.⁶⁸

For example, in the case of Dalits, the lack of social, political and economic power and their deficient presence at the national decision making levels make them susceptible to exploitation. Attacks on Dalits continue to this day. As recently as in 2005, Dalit homes were burnt in Gohana due to upper caste resentment at their development. Similar incidents were also reported at Amravati. In their case Dalits displacement is one more facet of socially legitimized exploitation.⁶⁹

When the state is the perpetrator of violence:

Another important area that needs much deliberation and thought in this category of IDPs is the role of the state. The Guiding Principles place “primary duty and responsibility” on “national authorities” to “provide protection and humanitarian assistance to internally displaced persons within their jurisdiction”.⁷⁰ This reflects the generally recognized principle of sovereignty which as contained inter alia, in Article 2 (7) of the UN Charter prohibits intervention in matters that are essentially within the domestic jurisdiction of any state. The UN General Assembly on several occasions has reaffirmed “the sovereignty of affected states and their primary role in the initiation, organization, co-ordination and implementation of humanitarian assistance within their respective territories. It is important to note that subparagraph 2 of Principle 5 of the General Principles does mention international intervention; and according to well established principles of international law, refusal of a state to consent to an offer of relief might,

⁶⁷ Crisp, J. 2001, pg168

⁶⁸ Samaddar, Ranabir. 1999

⁶⁹ Chatterjee, Debi, ‘The Dalits in India as Development’s Victims: The Twice Damned’, in Omprakash Mishra (Ed.), 2004. pp477-494

⁷⁰ UN Guiding Principles on Internal Displacement, 1998. Principle 3, 25

amount to a violation of the right to life, at least in certain circumstances. However as illustrated above, in the compulsions of international politics, compliance to international law or even signed treaties is easier said than done.

While the Guiding Principles place primary responsibility on the state, they fail to address situations of internal displacement due to ethnic conflict where the state itself is the perpetrator of violence. For instance, many of the most serious and violent conflicts that India has experienced in recent years have been directed against the state.⁷¹ Sanjib Barua points out that one of the consequences of the discipline of political science being state centered is that in the discourse in comparative politics, often non-state violence is seen as uniquely dangerous and immoral, while implicitly investing state violence with special sanctity.⁷²

The case of India could raise some serious questions in the utilization of this category to understand internal displacement due to ethnic conflict. However categories are evolutionary and they remain relevant if they accommodate changing realities. The discourse on refugees has also undergone significant changes since the 1951 convention which was originally only intended for refugees in Europe. Even today the refugee discourse is changing because refugees or refugee like situation are more within borders than outside. In fact, as illustrated earlier, the category of IDPs developed within this discourse. Therefore there is a possibility for the development of this category further to make it more nuanced and relevant.

Further, it can be argued that the fact that the law is breached ever so often in every day life would not be reason to do away with it because it does influence human behaviour. The same can be said for international law. The Guiding Principles have highlighted the plight of the internally displaced and this is a major landmark in the recognition of their rights and emerging institutional responses towards those displaced by ethnic conflict.

⁷¹ Basu, Amrita and Atul Kohli, 1998. Pg 2

⁷² Barua, Sanjib, 1999. pgl

The Guiding Principles have brought some conceptual clarity to the reality of displacement due to ethnic conflict. The various principles draw attention to the plight of the displaced during various stages both during and after displacement. Conceptually at least, the Guiding Principles have to an extent remedied the “rightless” situation of the IDPs by gleaned all the relevant aspect of international law including human rights law, humanitarian law and refugee law and also making explicit what was implicit in international law with regard to the IDPs. The Guiding Principles however do not suggest or put in place any mechanism for the protection of IDPs.

In terms of how relevant these Guiding Principles will be in creating institutional responses to the plight of IDPs, an optimistic picture does not emerge from studying the compliance of countries to various other human rights norms. However, Guiding Principles are in the form of soft laws and though there is considerable debate about the very terminology of soft laws and their influence, if one were to go by Wollstonecraft’s analysis of human rights as legal rights in waiting, then over the years, through dissemination, it could lead to the development of the rights of IDPs.

In order to understand displacement and suggest institutional responses, it is important to situate IDPs in their social, economic and political milieu. At the very outset the application of the category of IDPs and the accompanying language of human rights to the Indian context presents certain problems such as using coercion as a criterion for identifying internally displaced persons and also dealing with situations in which state is the perpetrator of violence. This is further illustrated in the following two chapters that deal with IDPs in India.

Chapter 2

Internal Displacement in Gujarat due the post Godhra violence: the effects of displacement and the state's response

Violence due to ethnic conflict has dotted Indian politics since the time of independence and even before. At the time of independence itself, millions of people were displaced due to partition. Since then, internal displacement due to ethnic conflict has occurred over a number of fault lines or cleavages such as religion, caste, language, tribe as also due to various structural reasons. However, three scenes of protracted violence that have caused displacement of large populations have been Jammu and Kashmir, North East and recently, Gujarat.

This chapter looks at displacement of Muslims in Gujarat in the violence that followed the burning of the coach S6 of Sabarmati Express on 27th February 2002 in which 58 passengers lost their lives. Given the fact that the event was very recent and that the situation in the state continues to be volatile, the observations, linkages, conjectures and deductions made will be qualified. However, the violence that followed what will be referred to as the Godhra incident, from 28 February to May 2002, makes for an ideal case study of internal displacement due to ethnic violence and its effects.

The sources for the mapping of displacement have been newspaper articles, survivor's accounts, media reportage and footage, reports of the National Human Rights Commission, other enquiries by the central and state government and various non governmental organizations as well as articles and papers analyzing the violence. Well over 50 reports on the violence in Gujarat have been made public. National institutions which have addressed the violence in Gujarat include the National Human Rights Commission (NHRC), the National Commission on Women (NCW), the Minorities Commission of India and the Election Commission. The Nanavati Shah Commission of inquiry set up by the Gujarat government continues to see depositions.

As pointed out in chapter one, the Guiding Principles highlight the well accepted principle that national governments have the primary responsibility to provide humanitarian assistance in cases of displacement.¹ The agency of the state is thus of prime importance in displacement issues. This chapter primarily studies the various responses of the state to the displaced Muslims. It looks at various institutional responses to the victims of violence, from the response of the state government to the central government and judiciary. It does not attempt to enumerate the myriad consequences of displacement that are yet to be fully realized but rather, aims at tracing the various patterns of displacement using the framework of the Guiding Principles on Internal Displacement and Michael Cernea's Impoverishment Risks and Reconstruction model. Another thread that runs through this chapter is the rehabilitation of displaced persons. The sociological aspects of post conflict rehabilitation, repatriation and justice issues have thrown up important questions about the socio-economic boycott of Muslims, their position in the Gujarati society, the discrimination they face and the larger project that the violence was intended to achieve.

India has resisted international scrutiny from the United Nations and international organizations with regard to the post Godhra violence by citing reasons of national sovereignty. Amnesty International was denied visas in 2002 to conduct research in the state on the violence in 2002. Chairperson of the National Human Rights Commission, Justice Verma met the then UN High Commissioner for Human Rights, Ms Mary Robinson and informed her that it was not necessary for her to visit India in the context of the violence in Gujarat.”²

Despite the fact that the Indian government managed to stall international scrutiny through the argument of national sovereignty, the rapid advances in communication technology created a significant amount of outrage both nationally and internationally; reaction among academic circles and civil society as well as an institutional response through the proposal for a bill. All this in can be linked to the dissemination of the

¹ UN Guiding Principles on Internal Displacement, 1998. Principle 3(1), 25.

² Amnesty International, 2005. pg 6; Also International Initiative for Justice in Gujarat, 2003. Pg3

Guiding Principles on Internal Displacement to provide a milieu for reflections, albeit circumspect, in the emerging discourse on displacement due to ethnic conflict.

The ‘Godhra incident’:

The trigger for the months of violence against the Muslims in Gujarat was the event which has increasingly been referred to as the ‘Godhra incident’. On 27th February 2002 there was a fire in coach S6 of Sabarmati Express in which 59 passengers including many women and children lost their lives, most of whom were Hindus. Officials of the state government of Gujarat ascribed the fire to a planned attack by local Muslims on Hindu kar sevaks returning by train from Ayodhya. The UC Banerjee Report subsequently concluded on the basis of forensic and circumstantial evidence that the fire originated in the coach itself without external input and that the fire was accidental and not a deliberate attempted event.

However, following news reports about how a group of ‘Muslim miscreants’ had set fire to a train compartment that was carrying Hindu kar-sevaks who were participants in the Hindutva campaign to build a temple in Ayodhya, a wave of revenge killings against Muslims engulfed Gujarat.

In the violence that followed, 16 of Gujarat’s 24 districts were engulfed in organized armed mob attacks on Muslims. Most of the attacks were concentrated between 28 February and mid-March 2002. In some parts of Ahmedabad and Mehsana²⁰⁰¹, they continued till much later. The mobs were on an average more than 2000-3000 and often even 5000-10,000 strong.³ According to official sources 762 people were killed, whereas human rights groups believe that over 2,000 people, mostly Muslims were killed. Countless women were also subjected to unimaginable acts of sexual brutality and property worth about three billion rupees was destroyed. While most estimates are of about 100,000 people in camps in Gujarat, taking into account those displaced who

³ Concerned Citizens Tribunal, 2002. pp19, 122; Also Robinson, Rowena, 2005. pg 28

moved in with family and friends, the total number of internally displaced is not less than 2,50,000 persons.⁴

Causes of the violence that led to displacement:

Several scholars have tried to analyse the causes behind this violence that lasted for months. Before going into the various explanations offered it is important to remember the immediate context of the violence where right wing organizations had penetrated almost all levels of the state administration as well as civil society. This was also the time when the collapse of the twin towers of the World Trade Centre in New York had led to perhaps unprecedented mobilization of international opinion against Islamic terrorism. This also contributed to popular perception that the fire in coach S6 was the result of a planned attack against Hindus.⁵

The Vishwa Hindu Parishad (henceforth VHP) used this as a justification for its own actions as India was seen as a greater victim than the US of Muslim militancy. While Hindutva propaganda has always doubted the loyalty of Muslims to the Indian nation, when world opinion against Islamic terrorism solidified post September 11 attacks, these charges became louder.⁶

In Gujarat, Muslims make up to 9% of the population.⁷ Achyut Yagnik points to a time, before independence when conflict was considered inauspicious in Gujarati culture.⁸ “Mercantile society, dominated by Jain and Vaishnava Banias, thrived on competition and generally resolved conflicts of interest through compromise. While the structure of society was feudal, public life and business dealings were governed by the *kajiyanu mon kaalu* norm, that is, ‘conflict is always inauspicious’”.

However, since the 1960s, the state of Gujarat has witnessed a series of communal outbreaks. Bhiku Parekh observes that Gujarat has the dubious double distinction of

⁴ Basu, Amrita and Srirupa Roy, 2004. pg 321

⁵ Parekh, Bhikhu, 2002.

⁶ Basu, Amrita and Srirupa Roy, 2004. pg 344

⁷ Census of India, 2001.

⁸ Yagnik, Achyut, 2002; Also see Achyut Patnaik and Suchitra Sheth, 2005.

having the highest per capita deaths in such violence in the country and causing the highest number of casualties in a single cluster of riots.⁹ Compared to 80 deaths in communal riots per million in Bihar and 42 in the neighbouring Maharashtra during the past fifty years, the figure for Gujarat is 120.¹⁰ The Gujarat government also admitted in its report which was submitted to the NHRC on 28 March 2002 that Gujarat had a long history of communal riots with 443 major communal incidents occurring between 1970 and March 2002 and a climate in which both communities lived in a constant state of apprehension of further violence.¹¹ In the years 1998-1999, about 200 communal clashes were reported in Gujarat.¹² Since the outbreak of post Godhra violence of 2002, a number of low intensity clashes and outbreaks of violence on a number of issues have occurred time and again.

Scholars have sought to find explanations for the Gujarat violence in the economic, political and cultural milieu of Gujarat over the past few years. These arguments trace the structural changes and shifts in economic, political and social contexts to the realigning of dominant ideologies. Several scholars have argued that these structural changes contributed to the rise of the Sangh Parivar, “the organizational and ideological mainstay of the violence”.¹³

According to Amrita Basu and Sirupa Roy, there is a positive though not unilinear relation between economic liberalism and political and social illiberalism seen in the dismantling of Nehruvian socialism, the neoliberal restructuring of the economy since the late 1980s and the ascendancy of the Sangh Parivar. As the neoliberal state withdrew more and more from providing public goods and essential social services, Sangh organizations stepped in and filled the gap and subsequently spread their social base as the providers of education. This also enabled them to saffronise the education curriculum.

⁹ Parekh, Bhikhu, 2002.

¹⁰ Varshney. Ashutosh, 2002.

¹¹ This report was in response to NHRC’s notice to the government of Gujarat on 1 March 2002 on the measures it had taken to deal with the then ongoing violence in Gujarat; Amnesty International, 2005. pg 22

¹² Shah, Ghanshyam, 2002; Also Amnesty International, 2005.

¹³ Basu, Amrita and Srirupa Roy, 2004. pg 325

Jan Breman also argues that the new economic policy laid the groundwork for violence against the Muslims. Gujarat was the mainstay of the textile industry. The number of mill workers in Gujarat however, dwindled from 1,60,000 to 25,000 in 1997. Breman estimates that at present about 70% of the Gujarati workforce is casual labor. The impact of such deindustrialization and the resulting informalisation of the economy, made the disenfranchised, insecure, unemployed population especially receptive to Hindutva. Moreover, Breman argues that the closure of the textile mills resulted in more than just pauperization and 'lumpenisation' of the working classes.

It also contributed to the segregation of urban spaces along religious lines, and to the decimation of the social infrastructure of industrialized polity. Rowena Robinson also points out that it is easy to pinpoint 'Hindu' and 'Muslim' areas in either Baroda or Ahmedabad.¹⁴ Bhiku Parekh also draws attention to the fact that there is extensive residential, social and educational segregation in many parts of the state. Hindu and Muslim children often go to different schools. In Godhra, some areas with a heavy Muslim concentration are called 'Pakistan', and many Hindus tend to avoid them. This is also the case in Ahmedabad and some other cities.

Scholars like Bhiku Parekh and Achyut Yagnik link the violence to what they perceive as a profound cultural change in Gujarat. According to Achyut Yagnik, there was a rise of an expanding middle class in a moral vacuum in which Hindutva stepped in. "In the first half of the 20th century, the rising Gujarati entrepreneurial class along with the middle class expanded and consolidated their economic and social control, deriving meaning and direction from two ideals – independence and nation building. After Independence, the pace of their expansion became more marked as they grew both in number and in their control over the modern economic, educational and political apparatus. With the weakening of the mercantile and Gandhian ethos, degeneration within the Congress and the diminishing of the focus provided by the nation building project, this class became devoid of moorings in any value system. Despite outward modernization and institution building, modern values of equality, fraternity, justice and secularism remained weak. In the ensuing vacuum, Hindutva provided both an identity beyond caste and community as

¹⁴ Robinson, Rowena, 2005. pg 48

well as sanction to pursue their own agenda of greater political, economic and social control. Also, Hindutva as an ideology scarcely raises any ethical questions for its supporters. In the case of Gujarat, this aspect made it more attractive for the entrepreneur middle class that wants to perpetuate its hegemony.”¹⁵

The rise of Hindutva and its apparent ubiquitousness in Gujarati society today has been attributed to a particular development by many scholars- the changing caste politics in the state. For the past few centuries, Gujarati traditional culture was shaped and dominated by the higher castes made up of the Brahmins, the Banias and, to a slightly lesser extent, the Patidars who constitute 35% of the population.¹⁶

The Congress formulated an election strategy in which it aimed at a vote bank which comprised of Kshatriyas (not to be confused with upper caste Kshatriyas, Harijans, Adivasis and Muslims which came to be known as KHAM. While this formula was successful at the elections, the upper castes for the first time sensed a political and economic threat to their domination. The educated middle class, mainly the Brahmins, Banias and Patidars, reacted sharply by starting an agitation against the reservation system in 1981 and again in 1985.¹⁷ As a result of these two agitations, the Brahmin-Bania-Patidar combine acquired a savarna unity.

The Bhartiya Janata Party (henceforth BJP) leadership, drawn mainly from the upper castes, indirectly participated in both anti-reservation agitations. In order to expand their social base and dislodge the Congress, they realized the need to co-opt ‘backward communities’ including Scheduled Castes and Scheduled Tribes groups. From 1985 onwards, the Sangh Parivar tried to consolidate its social base through a series of symbolic *yatras* and by 1990, was able to win over a large section of urban Dalits and Other Backward Castes. The riots of 1990, after Advani’s arrest during his rath yatra

¹⁵ Patnaik, Bhikhu, 2002.

¹⁶ Parekh, Bhikhu, 2002.; Also Guzder, Cyrus, May 2002.

¹⁷ Ghanshyam Shah, 1994.

from Somnath to Ayodhya, saw Dalits and Muslims in pitched battle in industrial Ahmedabad.

In the 1990s, the Sangh Parivar tried to win over tribals who constitute 15% of Gujarat's population. They did this by systematically creating a rift between the so-called 'Hindu tribal' and the 'Christian tribal', mainly in the areas south of the Narmada. Christians were targeted in the Adivasi area of the Dangs in 1998. Concerted attempts were also made to 'hinduise' Adivasi religious and cultural practices by instituting new festivals and converting tribal shrines into temples. The Vanvasi Kalyan Ashram made efforts to 'reconvert' and 'educate' the Adivasis. As a result of ideological propaganda, deployment of fear and provision of material the post Godhra violence saw unprecedented participation of Adivasis in the violence against the Muslims.¹⁸ Several scholars have thus sought to locate the Gujarat violence in the context of the transformations underway in the region.

The critical role of the agency of the Sangh Parivar:

It is evident that the Sangh Parivar played a pivotal role in the violence. According to Amrita Basu and Sirupa Roy, what explains the Sangh Parivar's success in the riots was the crucial role it played in the long term erosion of the boundaries between organizations in the civil society, political society and the state. They draw attention to one of Sangh Parivar's greatest assets, that it is simultaneously active in all three domains of state, civil society and political society. The Rashtriya Swayamsevak Sangh (henceforth RSS) and VHP are active in the domain of civil society and the BJP in political society and in the state as was the case in 2002 when BJP was in power not just in Gujarat but also a part of the coalition in power at the national government. They contend that massive violence of the kind that happened in Gujarat can only take place when institutions located in these different arenas coalesce and coordinate their activities.¹⁹

Thus, the BJP addresses questions of identity and belief that political parties usually address and it can do so in a superficial manner jettisoning unpopular ones according to

¹⁸ Basu, Amrita and Srirupa Roy, 2004.; Also Devy, Ganesh 2002, and Achyut Yagnik, 2002.

¹⁹ Basu, Amrita and Srirupa Roy, 2004.

political exigencies while the RSS and VHP will pursue these with vigor as they don't have the compulsions of political correctness. An important aspect of this relationship is that the BJP provides the RSS and VHP access to state power. Numerous RSS pracharaks and VHP members have become leading prosecutors, office bearers and political officials in Gujarat. Chief Minister Narendra Modi and Governor SS Bhandari are RSS pracharaks and the then home minister Gordhan Zadaphia is a VHP member.²⁰

Important in explaining the precision with which Muslims were targeted and the severity of the violence was the information that was available to mobs regarding ownership of Muslim houses, shops and even of pushcarts in urban areas. This was possible due to the close connections between local level BJP dominated municipal councils and VHP and Bajrang Dal.

The RSS and VHP have also managed over years of concerted efforts, to segregate the two communities and reduce associational contacts. "A number of Sangh Parivar campaigns from the 1990s severed Hindu-Muslim relations in the religious, social and cultural arenas in which they had been forged."²¹ For instance the BJP led state government established a police cell to monitor inter religious marriages. The Bajrang Dal also distributed swords and tridents as early as a month before the violence.²²

It is also important to point out here the role of the vernacular press in the escalation of the violence. The Gujarati newspaper Sandesh, Gujarat Samachar on 28th February 2002 carried stories of rapes of Hindu women by Muslim men. Prior to this, through various campaigns of the VHP, propaganda about a Muslim agenda to marry and take Hindu women was circulated to vitiate the atmosphere.

Another factor in the Gujarat violence was the funding from the Indian diaspora communities in different parts of the world.²³ The Sangh Parivar received funds under innocuous sounding charity associations such as the Indian Development Relief Fund (IDRF). Even organizations like Cisco Foundation and Microsoft Corporation have

²⁰ Op cit. pg 336

²¹ Ibid pg 336

²² Ibid pg 338

²³ Robinson, Rowena, 2005. pg 236-51

reportedly contributed to IDRF. Besides this, the Sangh Parivar also receives significant support from non-resident Indians around the world through overseas Hindutva organizations such as the Hindu Students Council, the Overseas Friends of the BJP, the Vishwa Hindu Parishad of America.

“The IDRF was able to distribute 83% of the 5 million dollars that it received in an eight year period to Sangh organizations in India. Of the IDRF funds, 69% went to organizations actively engaged in ‘Hinduisation’ and education of tribals...key components of the long term strategy of ‘identity production’ and the cooptation of tribals.”²⁴

Debates on terminology for the violence:

While most scholars would agree that the violence that followed the Godhra incident was not a spontaneous outbreak of a riot, there has been considerable debate over the terminology to be used to describe the violence. According to Steven Wilkinson’s interpretation of a longitudinal database of riots in India, the post Godhra violence against the Muslims is in line with the pattern of communal riots in India in which Muslims have been the worst sufferers.²⁵

A number of other scholars have argued that the violence in Gujarat 2002 was different from past incidents of communal violence witnessed in the country since independence. Bhiku Parekh also points to the “manner in which people were burnt alive in a ‘systematic and gruesome manner’ was new”. This pattern of killing accounted for about 40% of the deaths.²⁶ The crimes committed during the violence in 2002 against the Muslim minority which included murder, rape, gang rape, lynching, torture etc. were also committed as part of a systematic attack against Muslim men, women and children. According to Amnesty International, there is evidence that the crimes were pursuant to policies both of the government of Gujarat and of a number of organizations.²⁷

²⁴ Basu, Amrita and Srirupa Roy, 2004. pg350

²⁵ Wilkinson, Steven, 2002.

²⁶ Parekh, Bhikhu, 2002.

²⁷ Amnesty International, 2005. pg 14; A government organizational policy “need not be formalized and can be deduced from the way in which acts occur. Notably if acts occur in widespread or systematic basis

Another significant way in which the post Godhra violence was different from other forms of riots was that several mosques and dargahs were not simply demolished, but saffron flags, and statues of Hanuman were planted in the rubble symbolizing larger connotations of “spatial claims”. An estimated five hundred mosques and dargahs were destroyed in Gujarat.²⁸ Moreover, little or no rebuilding efforts were undertaken after the riots as is the usual state practice. Instead, after the 2002 violence, several small sacred places were razed to the ground, debris were removed and the areas tarred over. Where these did not occur, authorities refused to rebuild sacred Muslim sites.²⁹

Parekh also draws attention to the spatial contours of the violence which was not confined to the usual cities of Ahmedabad and Baroda but extended to a total of 37 cities and towns. The spread of violence to rural areas was similarly unprecedented. Muslim shops, houses and industrial units were also systematically attacked and a virtual economic war was declared on the whole community.³⁰ This violence saw the participation of various sections of society unlike what violent mobs have been witnessed to be in previous communal clashes. The mobs that attacked Muslims included Adivasis, Dalits as well as middle class professionals.

What makes the pogrom argument a compelling one is the organized structure of the riots. Parekh notes that there was no previous riot in which the government was as ‘patently partisan’ as it was in Gujarat through multiple acts of ‘omission’ and ‘commission’. Paul Brass argues that the violence in Gujarat in 2002 constituted India’s first pogrom.³¹ According to Paul Brass, “Numerous features of these killings and destruction of property suggests the validity of the term pogrom and its systematic character.”³² Amrita Basu and Sirupa Roy rightly point out that the post Godhra violence was devoid of any of the spontaneity associated with riots, the unit of Wilkinson’s

that demonstrates a policy to commit those acts, whether formalized or not.” Prosecutor V. Tadic Judgment, Case No. IT-94-I-T (ICTY Trial Chamber, 7 May 1997), para 563.”

²⁸ Basu, Amrita and Srirupa Roy. 2004. pg 323

²⁹ Robinson, Rowena, 2005. pg 59

³⁰ Parekh, Bhikhu, 2002

³¹ Brass, Paul, See <http://conflicts.ssrc.org/gujarat/brass>

³² Ibid pg 4

analysis. They also point out that the pattern and the modalities of violence reveal a 'pogrom-like' rather than a 'riot-like' nature.

In fact Brass even goes on to say that the Gujarat pogrom transgressed beyond the boundaries of ordinary riots, pogroms and massacres into the "zone of genocide." He points in particular to the use of sexual molestation, rape and murder of women, as well as children, including the reported cases of cutting open a pregnant woman's belly and killing the foetus.

Rowena Robinson also draws attention to the "projects of violence in communal riots and genocidal pogroms" where, "death, and that by violence, is not enough. Torture is ritualized; it parodies key symbols of Muslim identity and practice at the moment of annihilation and severance. Mosques and monuments are treated to the same kind of symbolic and real violence."³³

Kakar and other scholars also speak of the vocabulary of violence ritualized in humiliating attacks on the body, property, places of worship, even monuments.³⁴ In the post Godhra violence, violence against women and children was a key feature.³⁵ Many girls were gang raped and burned so that no evidence remains. According to reports, between 250-300 girls and women victims were among the dead, the majority of whom had been raped or gang raped before their deaths.³⁶

Mobs attacked women specifically because women were seen as the biological and cultural reproducers and embodiments of the Muslim community in defiling which was seen as a duty towards the establishment of a Hindu rashtra.³⁷ According to Tanika Sarkar, the violent, punishing possession of the Muslim women's sexuality emasculates and dishonours the Muslim male. The killing of her children signals the beginning of the

³³ Robinson, Rowena, 2005. pp 18, 21

³⁴ Kakar, Sudhir, 1995. pg25

³⁵ Amnesty International, 2005 pg5

³⁶ Ibid pg 17

³⁷ Ibid pg 14

end of Muslim perpetuity.³⁸ The International Initiative for Justice in Gujarat which visited Gujarat, produced a detailed feminist analysis of the ideology that made the sexual humiliation and assault on Muslim girls and women possible and indeed necessary from the perspective of Hindu right wing groups. “The body of the mother-nation in these stories (in Gujarati newspapers of rape of Hindu women) is conflated with the body of the Hindu woman, and the ‘rape of both’ in such narratives becomes the justification for the retaliatory rape on the bodies of the ‘enemy’ Muslim woman”.³⁹

Displacement:

It is not possible to enumerate all the effects of displacement that are still being experienced in Gujarat. However, it is important to highlight some of the emerging patterns of displacement. Some aspects of displacement that come along with spatial displacement as enumerated in Cernea’s model, are landlessness, joblessness, homelessness, marginalization, food insecurity, increased morbidity and mortality, the loss of access to common property resources etc.⁴⁰ While these are common for displacement due to other causes such as development induced displacement or displacement due to natural disasters, in case of conflict induced displacement such as in Gujarat, this includes social, economic boycott, continued humiliation and a return to their homes entails a compromise to living under the conditions dictated by the authoritarian majority community.

Spatial displacement:

After the outbreak of violence on 28th February 2002, people fled to areas where their own community was a majority and to safe public spaces, mostly dargahs, madarsas, schools, graveyards and sought refuge there. These locations were then converted into relief camps. New camps were set up as violence continued and spread to other areas. The displaced persons in rural areas were worse off. They hid in fields, hills or jungles as

³⁸ Sarkar, Tanika, 2002. Pg 2876

³⁹ International Initiative for Justice in Gujarat, 2003. Pg21, 28

⁴⁰ Cernea, Michael, 2000. pp11-55

the camps were in towns quite far from the villages and it was difficult to reach them without police escorts.

Physical and Economic Toll in Post Godhra Violence

Districts	Towns/villages	Lives lost			Properties lost	
		Torched	Police firing	Total deaths	Residential	Commercial
Ahmedabad	54	144	46	351	642	1175
Amrely	1	1	0	1	0	0
Banaskantha	6	9	6	19	220	3
Baruch	4	0	0	5	57	30
Bhavnagar	2	7	5	12	40	0
Gandhinagar	7	1	1	13	12	30
Junagarh	2	2	2	5	0	27
Kheda	11	1	10	31	57	88
Mehsana	3	32	3	55	33	100
Panchmahal	14	40	1	106	115	0
Rajkot	1	0	0	4	70	0
Sabarkantha	22	75	8	122	822	509
Surat	7	4	4	13	0	155
Surendranagar	1	0	0	0	0	35
Vadodara	10	5	6	36	361	210
Anand	9	15	6	51	139	17
Patan	2	2	4	6	30	0
Dahod	10	19	6	53	0	0
Narmada	1	0	2	2	0	0
Total	167	357	110	885	2,598	2,379

This includes Wakf Board and MDRC offices Based on Gujarat relief commissioner's note.

Source: Muslim India 233, May, 2002

In June 2002 there were 30 camps in Ahmedabad alone sheltering 38,200 people and an estimated 40,000 IDPs living in camps elsewhere.⁴¹ Figures of persons sheltering in camps vary. The Gujarat government claimed that there were only 16 camps, housing

⁴¹ Human Rights Watch, 13 March, 2002; Also Bunsha, Dionne, 2002.

16,495 people, all over the State. However, according to an estimate, as on 19 June 2002; there were 30 camps in Ahmedabad alone, sheltering as many as 38,200 people. Later, according to official estimates, camps in Ahmedabad alone accommodated 66,000 people. Independent estimates however speak of 98,000 people. Unofficial estimates speak of another 76,000 and 25,000 persons respectively displaced outside Ahmedabad, many in remote and insecure locations and deplorable conditions. Out of the estimated 2,50,000 IDPs, an estimated 1,00,000 were in camps while the rest moved in with family and friends elsewhere.⁴²

As the numbers continued to swell to well over a hundred thousand people in Ahmedabad alone and more than half that number in other parts of the State, voluntary teams were formed, mostly in a spontaneous manner, by the Muslim community themselves to manage the camps. These teams mustered stockpiles of food supplies, medicines and drinking water, organised facilities for sanitation, and arranged cooks and health and sanitary workers.

The relief effort was largely carried out by private groups. Most of the support came from Muslim charities. A few local NGOs, Christian groups and foreign aid agencies such as UNICEF or the Red Cross chipped in.⁴³ As the weeks and months elapsed, the State was barely visible amidst self-help efforts of the affected communities.

According to the UN Guiding Principles on Internally Displaced Persons' Principle 3, national authorities have the primary duty and responsibility to provide protection and humanitarian assistance to the IDPs within their jurisdiction. The centrality of state responsibility in providing relief and rehabilitation in cases of displacement due to ethnic conflict is well established and this argument will be further developed in the fourth chapter.

The NHRC noted that while efforts had been made by many collectors and other district officers to provide interim relief to victims, often acting on their own initiative, the state

⁴² Concerned Citizens Tribunal, 2002. pg 122

⁴³ Bunsha, Dionne, 2006. pg 89

government did not provide a single camp or welfare centre for those affected by the violence. After almost 10 days, the district administration began to supply the camps with uncooked food rations and arrange occasional visits of medical teams. The camps needed Rs.30 worth of rations per person daily, whereas the government provided supplies (both in cash and in kind) worth only Rs.7.⁴⁴

In response to a petition, the Gujarat government gave assurances before the High Court in April 2002 that it would assume its constitutional duties to provide adequate relief to the camps, including food, water, sanitation, medical aid and tents for the inhabitants. Several reports however point out that these provisions were far from adequate.

The overall living conditions in the camps were abysmal without basic infrastructure and with no privacy. Medical facilities were severely inadequate for those suffering from direct impact of violence as well as recorded outbreaks of measles, chickenpox, typhoid and bronchopneumonia in camps. Sanitation and clean drinking water in the camps remained a problem making the displaced prone to disease.⁴⁵ The lack of cover was particularly serious during the monsoon as many camps had been set up in low lying areas, exposing them to rain and water-borne diseases.

Not only did the state not assist communally run relief efforts and denied prompt and adequate relief assistance; state agents, including police were also reported to have hampered trucks carrying privately mobilized relief materials from reaching the camps. Police harassment of camp residents and arbitrary raids were also reported. Also, in the beginning of March 2002, while the violence was still ongoing, the Gujarat government took steps to close the camps as quickly as possible to create the impression that normalcy had returned in the state, in an apparent effort to prepare for elections which were brought forward to December 2002.

⁴⁴ Bunsha, Dionne, 2002.

⁴⁵ Medico Friends Circle, May 2002. pg 11; Also see Bunsha, Dionne, 2006. pg 102. After the PM's visit on 4 April 2002, Shah Alam camp had more than 13,000 people but just 38 toilets.

The NHRC in its proceedings of 31 May 2002 recorded its concern that many displaced persons had left the camps because of pressure being exerted on them or because of intolerable living conditions in camps.⁴⁶

Despite appeals and an application to the Gujarat High Court by the Citizens for Justice and Peace, forcible closure of camps had begun in rural areas in May. Camp administrators continued to be harassed and coerced to shut down camps. In August 2002, Shah Alam camp, the largest camp in Ahmedabad, was shut down leaving people helpless about where to go.⁴⁷ The state government announced in October 2002 that all camps must be closed by the end of the month. One of the last to close was Haji House in Ahmedabad.⁴⁸

On 4th April 2002, the then Prime Minister A.B. Vajpayee announced during his visit to Gujarat the allocation of Rs.150 crore for the rehabilitation of victims. The Chief Minister announced that Rs. 2 lakhs would be paid in assistance to relatives of those killed in the Godhra incident and Rs. 1 lakh to relatives of those killed in the later violence. This decision was later changed to pay the same amount to victims of the Godhra incident as well as the violence that followed it. Subsequently, Rs.150,000 was disbursed for the death of a relative, with Rs.50,000 contributed from the Prime Minister's relief fund added to the state compensation of Rs. 1 lakh provided by the state. In all the government allocated Rs. 1500 million for relief and rehabilitation. This does not amount to much compared to the estimated Rs. 41,000 million suffered in losses.⁴⁹

A government notification said that disbursement of assistance would follow the norms fixed for the victims of the earthquake in 2001 in which building "assistance" of up to Rs. 50,000 was given for destroyed houses; cash "assistance" for loss of household was up to Rs. 3,000 and aid for disability as a result of violence between Rs. 2000-10,000. The state government however has made no effort to set up a mechanism whereby losses can be objectively assessed as a first step to providing adequate compensation.

⁴⁶ Human Rights Watch, 13 March, 2002; Also, Amnesty International, 2005. pg 90

⁴⁷ Indian Express, 26 August 2002; Amnesty International, 2005. pg.90

⁴⁸ Amnesty International, 2005. pg 90

⁴⁹ According to Gujarat Chamber of Commerce and Industry (GCCI) estimates.

In practice, compensation payments were grossly inadequate and arbitrary. Although Rs 50,000 was to be given for the loss of homes, there have been reports of people receiving as little as Rs.200-500. At least 25 per cent of the victims have received no compensation, and less than 10 per cent have received compensation of more than Rs.30,000 for the loss of their homes. Many people deposing before the Nanavati Shah Commission have complained about the inadequate amounts of compensation received by them.

The long drawn procedure of compensation was theoretically available but slow, insufficient and difficult to obtain for the victims. Many deaths were also not recorded by the police who had simply declared such persons as missing instead. The authorities refused to provide death certificates if the body was not found. Many bodies however, were burned beyond recognition and in some cases evidence, such as mass graves, were tampered with by adding salt which hastened the decomposition of bodies and made recognition more difficult. Legally, such deaths were treated as missing for which relatives were not entitled to compensation. The Gujarat Government resolution No RHL 102002-681-S-4 of 6 April 2002 stated that if a dead body is not found and a person is declared missing, compensation is given to the heirs only after scrutiny. According to one estimate by a civil liberties organization, “more than 50 per cent of deaths have not been recorded by the police, instead they are reported missing.”⁵⁰ Therefore they do not avail any compensation.

Financial Assistance for Loss of Residential Property/Earning assets

	Total No. of Housing Units	Total Assistance(in lakhs)	Average Amount per unit	Maximum	Minimum	Max. Damage
Urban Areas (Total)	1,567	110.02 Max ceiling 50,000	7,021	4,800 in Narmada	3,094 for 64 units in Kheda	4,584 for 1212 units in Ahmedabad
Rural Areas	2,902	589.88	20,327	37,172 for 110 units in	6,452 for 405 unit in	18,319 for 758 in

⁵⁰ Foundation for Civil Liberties, 2002.

(Total)				Anand	Kheda	Panchmahal
Urban Areas (Partial)	7,716	448.56	5,813	12,412 for 68 units in Dahod	4,782 for 4280 units in Ahmedabad	4,782 for 4280 units in Ahmedabad
Rural Areas (Partial)	7,032	898.64	12,751	22,333 for 9 units in Bhavnagar	1,909 for 11 units in Valsad	16,677 for 1388 units in Panchmahal
Earning assets (Rural)	3,926	230.46	5,870	9,000 for 35 units in Rajkot	3,000 for 1 unit in Valsad	6,268 for 500 units in Kheda
Earning Assets (Urban)	5,077	359.37	7,078	8,898 for 422 units in Panchmahal	1000 for unit in Navsari	6,570 for 1144 unit in Sabarkanta

Difference for total or partial damage is only Rs.304
Source: Muslim India 235, July 2002.

“Bodies, space, time are all inscribed and altered by violence. In the aftermath occupying the same social spaces may or may not be possible. Even when people attempt to reoccupy these zones of hurt, their’s is a beleaguered ‘normalcy’ that has to be slowly and painfully wrung out of the quotidian, now rendered grotesquely unfamiliar.”⁵¹

The social reorganization of space:

Prior to the 2002 violence itself, Muslim residential areas could clearly be identified in cities like Baroda or Ahmedabad. The violence of 2002 however made the spatial boundaries between Hindus and Muslims even sharper. Areas which saw a lot of violence have been deserted for areas with greater concentration of Muslims. For instance Paldi which saw a lot of violence has been deserted in favour of areas like Juharpura, Shahpur, Khanpur and Jamalpur which have greater concentration of Muslims.⁵²

⁵¹ Robinson, Rowena, 2005. pg 39

⁵² Robinson, Rowena, 2005.

The PUCL team in Vadodra concluded, “At the present moment, women feel secure only in the midst of their own community. There is fear that this will lead to ghettoisation of the community”.⁵³ Two years after the violence in Gujarat, many of those displaced by the violence have not returned to their original places of residence with many resettled by Muslim organizations amongst other Muslim communities inside or outside the state.⁵⁴

Real estate prices have begun to reflect these movements. Parts of the city of Ahmedabad to the west of the river Sabarmati, including, for instance, Vastrapur, Drive In Road, Gurukul or Satellite areas, have increasingly been closed to Muslims, regardless of class.⁵⁵ Rowena Robinson in a study on displaced Muslims in the Western region observes that there is a “definite indication that the violence inclined towards ‘purifying’ particular neighbourhoods by driving the few Muslims out, and certain areas, such as Pratap Nagar, Raopura, Mandvi or Tandalja, the last located suitably far from the city centre are recourse of displaced Muslims. While many have moved back to rebuild shops or shelter in shattered homes, the battle lines are fiercely drawn and recognized by all.”⁵⁶

The spatial displacement in the post Godhra violence so far does reveal a larger pattern of movement of Muslims. At the same time, displacement also has “individual trajectories”. In investigating the patterns of displacement and the reasons for flight, Rowena Robinson points out that some families who had no choice stayed behind while some families moved when resources enabled them to. While several families moved permanently, many more moved temporarily, living in relief camps or with kin in ‘safe’ areas until their homes were rebuilt and minimal safety ensured.⁵⁷

Marginalisation and socio- economic boycott:

This is especially true because of the socio-economic boycott of the Muslims. The BJP-VHP called for a boycott of Muslims. Leaflets circulated even before, but especially after, February 2002 called for a systematic boycott of Muslims urging Hindus not to buy from Muslims or to sell to them, not to use their services of any kind, not to employ them

⁵³ People’s Union of Civil Liberties, 2002. pg 16

⁵⁴ Amnesty International, 2005. pg 95

⁵⁵ Ibid. pg 48

⁵⁶ Ibid. pg 49

⁵⁷ Op.cit. pg 59

or be employed by them. The then Attorney General Soli J Sorabjee had also criticized the Modi government's reluctance to take necessary steps to restore confidence of the minority, and reportedly particularly criticized its support for the social and economic boycott of minorities.⁵⁸ "The entire community was shunned. Landlords threw Muslim sharecroppers off their land. They boycotted Muslim shops and wouldn't sell rations to them. The Patel sarpanch refused school admissions to (their) children. The local administration didn't give them permission to construct new homes in the village."⁵⁹ One poster in Sabarkantha, North Gujarat even declared itself as Muslim free. There have also been reports of Muslims being attacked when they return to their homes.

The Bajrang Dal threatened an entire village a fine of Rs. 2000 for anyone who spoke to Muslims. In some areas no one will buy anything from Muslims or rent out space to them. After the violence jobs were harder to come by due to the economic boycott of Muslims.

Even public utilities have begun to be segregated along religious lines. Muslims do not go to hospitals in Hindu areas and vice versa. This was especially pronounced around the time of the violence where people were attacked by mobs even in hospitals.⁶⁰ Even children face discrimination in schools. Some schools have also refused admission to Muslim students. As a result there has been an increase in the drop out rates, child labour as well as an increase in the number of children from the Muslim community seeking education in other states.

Rehabilitation:

Principle 14 (2) of the Guiding Principles on IDPs says that in particular, IDPs have the right to freely move in and out of camps or other settlements. Principle 15(d) talks of the right to be protected against forcible return or resettlement in any place where their life, safety, liberty or health would be at risk. This subparagraph sets forth the right of IDPs to be protected against forcible return or resettlement to places where their life, safety,

⁵⁸ The Asian Age, 2003.

⁵⁹ Bunsha, Dionne, 2006. pg 84

⁶⁰ Ibid. pg 93

liberty or health would be at risk. Although this is a novel principle with no direct antecedent in existing instruments, protection against forcible return to situations of danger is well established in the refugee law principle of non-refoulement, and in major human rights protections relating to torture and the deportation or extradition of aliens. As prohibiting the return of internally displaced persons to situations of danger can contribute significantly to their physical protection and sense of security, sub paragraph (d) meets an important need by applying by analogy, the authority of existing refugee and alien related human rights to the field of internal displacement.

In refugee law and human rights law, states bear responsibility for violations of non-refoulement principle and for forcibly returning aliens to situations of danger. When this reasoning is applied to the context of internal displacement, it is clear that states bear an affirmative duty to ensure that internally displaced persons are not compelled to return or to be resettled in places where their lives or liberty are at risk. Principle 28 also emphasizes that IDPs should be allowed to return voluntarily to their places of habitual residence, or to resettle voluntarily to another part of the country.⁶¹

The government of Gujarat however, outrightly rejected responsibility for rehabilitation of the victims of the violence. This came as little surprise when the government itself has a role in the perpetuation of the violence. During a meeting with a large delegation of representatives of the Muslim community, the Chief Minister rejected the demands of violence affected victims of resettlement in alternative resettlement sites and refused funds for rebuilding ransacked shrines despite clear NHRC recommendations in this regard.

No survey of needs was conducted. After privately run relief camps were closed, no alternative housing was provided forcing those once again displaced to seek refuge with relatives or move into rented accommodation, provided they could pay for it. No physical or psychological rehabilitation was provided by the state.⁶²

⁶¹ Kalin, Walter, 2000, pg2.

⁶² Amnesty International, 2005. pp 954,95

This situation was further aggravated by the call for socio- economic boycott by the BJP-VHP. Faced with the serious obstacle of living in the habitual residences, some families have rented rooms in Muslim neighbourhoods of the closest town. Not only in Vadali, but also in Himmatnagar, Godhra, Kalol, Halol and several other small towns, the displaced have sought safety in numbers. Rehabilitation housing has been constructed at the outskirts of these towns, where land is cheaper. The segregation which had started a sort of ghettoisation in cities like Ahmedabad has now begun in rural Gujarat.⁶³ Rehabilitation has thus further segregated the victims of violence.

The principle of non refoulement or voluntary return has been extended to the internally displaced both during and after displacement. There are reports of those who tried to return to their homes shortly after being displaced by the violence being lynched by mobs despite being accompanied by police escorts.⁶⁴ After the violence, return has been made difficult by the hostile environment and socio-economic boycott. The state however, as pointed out above, has forced the camps to shut down leaving some with no other alternative to return to environments where their security is under threat.

Various developments, after the violence have made voluntary return difficult for the displaced. For instance land grab is a simple tactic to make return impossible. Overnight, Waheeda Shiekh's house in Gomtipur disappeared to make way for two temples. Elsewhere, those returning had to agree to certain conditions. At a peace committees meeting in Kadval village in Panchmahal district, returning Muslims were asked to sign a document with the following terms laid out:

Revoke names of those accused in FIR

Muslims cannot attend Hindu marriages or ceremonies.

If there is any robbery or crime, Muslims will be held responsible.

They would have to follow the wishes of the village elders

⁶³ Bunsha, Dionne, 2006. pg 88

⁶⁴ Ibid pg 85

Apologize for taking out a rally on 3 March 2002 in which they shouted 'Pakistan Zindabad'.⁶⁵

Justice situation:

Difficulties in rehabilitation and reintegration of the displaced are further exacerbated due to hostile and vitiated atmosphere as the perpetrators of the violence continue to roam at large. Over 4,000 complaints were registered with the police, but many other victims afraid of the police and of retribution by the perpetrators, must be assumed not to have approached the police with their complaints. After investigation, about half of the registered complaints were closed by the police who claimed that the accused could not be found. Hundreds of cases came to court; of these, around 200 have been concluded with 217 acquittals and one conviction and hundreds of cases pending in various stages of proceedings.⁶⁶

Complainants in cases relating to five key incidents, supported by non-governmental organizations and the NHRC approached the Supreme Court to request direction for reinvestigation and trial in courts outside Gujarat. These cases relate to the Best Bakery, Godhra, Gulberg Society at Chamanpura, Narodia Patiya and Sardarpura. Petitions relating to all but the Best Bakery case are pending in the Supreme Court which stayed proceedings in these cases in November 2003.

Some positive developments in 2004 were that besides ordering the transfer of the cases of Bilqis Yakoob Rasool and Zahira Shiekh to courts outside the state of Gujarat, the Supreme Court also directed in late August 2004 that over 2000 complainants that the police closed claiming it could not find the accused, be reviewed and, if appropriate, reopened. The Supreme Court also ordered that some 200 cases which had ended in acquittal of the accused be reviewed. A special police team set up on September 2003 after the Supreme Court had expressed its unhappiness with investigations carried out in the state, investigated several cases and in August 2004 arrested a police officer accused

⁶⁵ Bunsha, Dionne, 2006. pg 86

⁶⁶ Amnesty International, 2005. pp 7, 68

of tampering with the evidence. Applications to transfer several other key cases to courts outside Gujarat are pending in the Supreme Court.

Local observers have reported that numerous “compromises” have been arrived at in villages in Gujarat where Muslim residents have agreed to the demands of the aggressors and withdrawn criminal charges. Often they have also had to accept a whole lot of conditions such as abandoning specific Muslim customs. In some cases such “compromises” are endorsed on official stamp paper, signed in the presence of district administrators. Such compromises may mean for women that in the pursuit of their daily chores, like going to the market, they encounter men who may have raped them or their daughters or sisters who do not hesitate to remind them of the incident, thus deepening and continuing their humiliation.⁶⁷

Justice VN Khare said he was anguished and pained by the trials in the post-Godhra cases in which he detected “complete collusion” between the accused and the prosecution in Gujarat. He said “There was no prosecution in the riot cases at all. Therefore the Supreme Court had to step in to break the collusion between the prosecution and the accused”.⁶⁸

The post Godhra violence was the result of the building up of an atmosphere that was the result of years of socio- economic and cultural transformations in the Gujarati society. While the Bajrang Dal’s agency as the ideological and organisational mainstay of the violence is evident, it is the various transformations in the preceding years that created a milieu in which there was collusion between the state, the Bajrang Dal and the majority community which enabled such large scale violence to go on for months.

This violence caused the spatial displacement of thousands of Muslims who languished in camps for months or moved to live with their relatives elsewhere. While the state is the primary provider of relief in case of natural and man made disasters, the primary

⁶⁷ Commonwealth Human Rights Initiative, quoted in AFP 20 September 2002; Concerned Citizens Tribunal, 2002. pp 109-110

⁶⁸ Indian Express, 6 May 2004, referring to the Chief Justice’s interview with Press Trust of India, PTI, on 1 May.

providers of relief in this case where private groups largely from the displaced community itself. The condition of the displaced in Gujarat reflects the pattern of the process of displacement identified earlier. In addition to this, socio economic boycott and a concerted effort to change the demographic character of the area have compounded the deprivation of the internally displaced persons in Gujarat.

Chapter 3

The Indian state's response to displacement in Jammu and Kashmir and the North East

Two frontier regions that have been the site of protracted violence and large scale displacements due to ethnic conflict are Jammu and Kashmir and the Northeast. While both these regions have witnessed secessionist movements and counter insurgency operations by the Indian state that have been the cause of displacement, they have also been the site of large population movements due to ethnic conflict. This chapter looks at the causes of violence due to ethnic conflict that led to displacement in these two regions. The focus is not so much on the trigger incidents than the larger social, political and institutional context. Using the components of displacement identified by Cernea as interconnected variables, this chapter further analyses the patterns of displacement. It also comparatively analyses the response of the Indian state to both these sites of large scale displacement.

Jammu and Kashmir

According to a survey conducted by the Norwegian Refugee Council (NRC) for the 1998 Global IDP Survey, the largest population displacements in India have been related to the protracted conflict in Jammu and Kashmir. Since 1989, approximately 34,000 people, including thousands of civilians, have died as a result of the conflict with militants. An estimated 3,50,000 Kashmiris have been internally displaced as a result of fighting. Most are living in Jammu (2,40,000) or Delhi (1,00,000), many of them with relatives. In Kashmir valley, 90% of the minority Hindu Pandits fled the valley during 1990. Towards the end of 2001, another wave of displacement took place with some 60,000 Kashmiris fleeing heavy shelling and a massive build up of troops on both sides.

Causes for the conflict that led to displacement:

A number of explanations have been offered to explain ethnic conflict and the resultant displacement of Kashmiri Pandits. Since the time of independence, Kashmir has been a

bone of contention for India and Pakistan. India denounces Pakistan as the orchestrator of the insurgency, while Pakistan describes the violence in Indian-occupied Kashmir as an uprising, against the suppression of the Kashmiris' wish to join Pakistan.

Indian, Kashmiri and Pakistani nationalists have portrayed this as the inevitable result of trying to merge incompatible identities. A common contention is that the conflict has been fuelled by social differences between Hindus and Muslims. The Pandits and Dogras belong to the traditional elite in Jammu and Kashmir. The Pandits, like Brahmins all over India, have been over represented in banks, private companies and salaried jobs in the private sector in relation to their share of the population.¹ The role of religious cleavages cannot be denied, but the eruption of violence which led to displacement cannot be accounted for by such an essentialist argument alone.

Varying explanations of the events that led to the development of a violent ethnic conflict have been offered. The immediate events that led to the exodus of Pandits from the valley started when the members of the Jammu and Kashmir Liberation Front kidnapped Dr. Rubiya Sayeed, the daughter of the Indian Minister of Home Affairs. The kidnapers refused to release her until several incarcerated members of their group were released. Following hasty negotiations over the next several days, the government in New Delhi agreed to meet the abductors' demands. In the weeks and months that followed, dozens of groups of varying ideological orientations emerged and wreaked havoc throughout the Kashmir valley, killing government officials, security personnel, and innocent bystanders. Since December 1989, this has continued till date with varying intensity. Faced with the wrath of many of the Islamic militant groups, Kashmiri Pandits started fleeing the valley.

Today's violence has historical roots. Considering the traumatic events of the partition and the incomplete nature of the settlement at the time of accession, it is quite

¹ Jha, Prem Shankar, 1991. pp34-37. Also see Bose (et al), 1990.

understandable why so many authors emphasize historical roots when trying to explain the conflict in Jammu and Kashmir.²

A number of scholars see the violence as the outcome of earlier political conflict. Varshney has traced the origins of the crisis to the clash of three competing visions of nationalism: Kashmiri, secular and Islamic.³ Jha on the other hand argues that the violence in Kashmir can be traced to middleclass frustrations. He contends that employment opportunities have not kept pace with the growth of an educated middle class in Kashmir. Consequently the rebellion against the Indian state represents the expression of the collective and growing frustration of the people with the lack of economic opportunity.⁴ While Jha's argument has yet to be proved empirically, it also fails to explain the depth of resentment against the Indian state, nor does it explain the ethnoreligious dimensions of the insurgency.

Sumit Ganguly contends that two interlinked forces of political mobilization and institutional decay best explain the origins of the insurgency which lead to displacement of the Kashmiri Pandits. On the one hand, the developmental activities of the Indian government gave rise to accelerated political mobilization in Kashmir, making a younger generation of Kashmiris more conscious of their political rights. Simultaneously, on the other hand, the government was also responsible for the deinstitutionalizing of politics in the state, which drove the expression of political discontent into extra-constitutional contexts. Ganguly argues that growing levels of literacy, higher education and media exposure continued to increased political mobilization. Heightened political awareness inevitably led to heightened political demands. Increased political mobilization combined with institutional decay led to the rise of violence in Kashmir.⁵ Eventually, with the last institutional avenues for the expression of dissent blocked, pent-up discontent culminated in violence.⁶

² See for example Varshney, Ashutosh, 1992. pg 194; Also Rizvi, 1992. pp 49-51 and Cheema, 1992. pp94-97

³ Ibid. pp 191-234

⁴ Jha, Prem Shankar, 1991. pp34-37

⁵ Ibid. pg 77

⁶ Ganguly, Sumit, 1996. pg 80

According to Widmalm, the Congress party gave priority to nation building over democracy. The centralizing tendency of both the Congress and the National Conference and their manipulation led to erosion of the credibility of institutions and democratic structures as an arena for working out issues of ethnic conflict. In the 1987 state assembly elections, the Congress and National Conference cartel was almost unbeatable and despite widespread perceptions of fraud and unfair elections almost no efforts were taken to rectify things. This created a 'deep sense of alienation' among Kashmiris about the system. It was this that motivated the young generation to say, "To hell with the democratic process and all that this is about", "let's go for the armed struggle". It was the flash-point"⁷

According to these sources, alienation and motivation to resort to violence stemmed generally from what was seen as the betrayal of the rules of democratic fair play and, more specifically, from events during the 1987 elections. He points out that the period prior to this, from the mid 1970s to 1984 was one of democratic progress, freedom of expression and the right to organize unprecedented in the history of Jammu and Kashmir.

Thus according to Widmalm, the salience of incompatible identities should be regarded as the inevitable outcome of an earlier and distinctly political conflict in JK- a struggle for power between elites in the state and central government. He agrees with Robert Dahl's claim that democracy can be seen as a vital component for nation building process.⁸ Balraj Puri would also agree to this contention. He points out that with free and fair elections, a natural process of integration of Jammu and Kashmir with India had been initiated. Therefore beginning with the democratization process in the mid 1970's, "there... [were] ten years in Jammu and Kashmir with no fundamentalism, no secessionism and no communalism". The assertion here is that while ethnic conflict existed, it was manageable.⁹

⁷ Widmalm, Sten, 1998. pp 149-182; Widmalm's interview with Abdul Ghani Lone.

⁸ Dahl, Robert A., 1971. pg43

⁹ Balraj, Puri, 1993.

Government initiatives for the displaced Pandits:

The Indian government has reportedly already spent more than 3000 crores on running the camps. It has also envisaged a Rs 2,600 crore 'action plan' which would include three 'transit settlements' in Srinagar, Baramulla and Anantnag.¹⁰ A number of schemes have been adopted by the government to accommodate the interests of the exiled community. The Ministry of Home Affairs of the Central Government coordinates the schemes. Maharashtra is one of the states which special provision for admission of the members of the displaced community in education and professional courses.

Cash assistance is provided to some of the displaced families and the minimum amount paid has been increased twice. In addition to this, limited quantities of rice, wheat and sugar are supplied free to the affected families through the Relief Commissioner. Of the remaining families, if one of their members is a government employee, they are not entitled to cash relief or free ration. They only get salaries of the family members employed with the government departments. Only about one-third of the registered families are paid the relief amount fixed by the administration. This may be less for smaller families, and is reduced after a death in the family. Basic pay is given to those who were employees of the state government. The government has also given cash compensation to the family members of those killed by militants.

Camps for the displaced:

Eighteen camps have been set up by the administration for the displaced people in the Jammu region. Largest camps of the displaced people are at Purkhoo, Mishriwala and Nagrota in Jammu region. A large number of displaced families have been accommodated in government quarters at top Sherkhania, Janipur, Sarwal and Reasi. These people have not been given camp-status that involves government assistance and subsidies. In Delhi, there are 15 camps sponsored by the Delhi administration in community halls spread across the city. The transit camps are located in Mar colony and Lajpat Nagar.

¹⁰ Times of India, 23 August 2000; Also Mishra, Omprakash and Sreeradha Dutta, 2004. Pg 385

The camps merely provide the basic amenities to the displaced population. The plight typical of those displaced is also the plight of the Kashmiri Pandits. They have been able to begin their schooling or colleges but the main problem arises when they begin to look for a profession an occupation within their own state. Also, the climatic conditions of Jammu plains being very different from that of the Kashmir valley, the displaced Pandits have yet to get acclimatized to the sweltering heat of the plains.

It has been empirically established that the more vulnerable groups, such as the aged, suffer increased morbidity and mortality rates as a result of losing their places of habitual residence.¹¹ Cernea draws attention to the interaction between the two processes included in the risk model- decrease in health and loss of shelter. According to one estimate almost 6000 Pandits have died after moving from Srinagar. Prior to 1990, when the Pandits were still living in the valley, about 1000 were killed by the militants. In other words, the figures of those who died after fleeing the safety of the mainland were six times than that of those killed at the height of violence in the valley. As observed elsewhere too, the displaced community has seen a sharp decline in the birth rate and a phenomenal increase in the death rate due to health and various psychological disorders.

While old age and natural causes have contributed to the toll, many have fallen prey to the diseases brought about by the unhygienic conditions in the camps.¹² As Cernea's model has shown overall in the absence of preventive health measures, direct and secondary effects of dislocation include psychosomatic diseases, diseases of poor hygiene (such as diarrhoea and dysentery), and parasitic and vector-borne diseases caused by unsafe and insufficient water supplies and unsanitary waste systems.¹³

The displacement has had devastating consequences on the socio-psychological, physical health and demographic profile of the uprooted. It has been extremely difficult for the displaced to cope with the trauma of losing their homes and habitat and severing of cultural and community ties.

¹¹ Ferraro, K.F., 1982. pp 90-96

¹² Mishra, Omprakash, 2004. pg 386

¹³ Cernea, Michael and Christopher Mc Dowell (Ed.), 2000. pg 17

Resettlement and Rehabilitation:

Repatriation is not a viable option for the displaced Pandits yet as the valley is still fraught with terrorism and insurgency. The leaders of the Pandit community have voiced a demand for “Panun (Our Own Kashmir). This demand envisages a separate homeland for the community on the Northeast of river Jhelum with Union Territory status. However Kashmiri groups active in Jammu, New Delhi and abroad differ on how to respond to the measures taken by the government at securing the return of the displaced to their homes.

The state government led by Farooq Abdullah had set up an apex committee under the Minister for Revenue and Rehabilitation to look into the issue of return and rehabilitation of the community and finalize the long term and short term solutions. A subcommittee headed by Financial Commissioner (Planning) was appointed to prepare an ‘Action Plan for the Return of Migrants’. The report held that, “In the absence of social acceptability and the fact that the security situation continues to be serious it was felt that the government’s effectiveness in respect to resettlement and rehabilitation of migrants, as well as credibility of its efforts, need to be established.”¹⁴

There are not many examples of Pandits returning to the valley. Militant attacks have continued. The most reprehensible terrorist attacks have included the Sangrampura killings in March 1997, the killings in Udhampur in June 1997, the Wandhama killings in January 1998, the Prankote killings of April 1998 and the infamous Chattisinghpora massacre of the minorities in February 2000.

The exodus of the Pandit community had started in 1989-1990. In spite of the exodus, around 1220 families comprising 5423 persons had stayed back in Srinagar, Baramulla, Anantnag, Palama, Badgam and Kupwara region of the valley. The people who stayed back were mostly marginal farmers, petty businessmen and low income serving personnel. They had thrown their lot with the majority community during the militancy and chosen to stay in the valley.

¹⁴ Mishra, Omprakash, 2000. pg 388

In March 1997 the militants killed seven Pandits, starting another exodus of the remaining Pandit population. Then there was the Sangrampora killing that put a break in discussion on the possible return of the displaced people. Most of the twenty-nine Hindu families who had gone back to their hometown in Baramulla in 1996 found the condition extremely unsafe despite assurances they were given and returned to live in camps once again. The anti minority violence in Kashmir and increasingly also in other regions of the state has convinced the minorities that they cannot return to their homes in the near future.

The central government has reportedly spent US \$63 million on food and financial aid for the internally displaced who fled the Jammu and Kashmir conflict. Another US\$4.6 million has been spent on compensation for destroyed houses. Schools for the displaced children have been constructed and medical care provided. The displaced populations however, have claimed that this has been insufficient to cover their needs. While their situation has been far from ideal, the government response to internally displaced from Kashmir has been much more generous than the response to the plight of the displaced in the Northeastern states.¹⁵

North East:

The Northeast is home to 200 of the 430 tribal groups in India, with about 500 languages and dialects, spread over 2,50,000 sq.km, constituting the seven states of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura. The Northeast is connected to the rest of India only by a narrow twenty kilometre wide corridor and surrounded on all other sides by international boundaries: Bhutan, Tibet, Burma, Bangladesh and Nepal (if Sikkim is included as part of the Northeast).

In recent years internal displacement caused by violent ethnonational conflicts in many parts of Northeast India has attracted the attention of scholars studying forced migration. Most observers agree that there have been episodes of conflict producing significant

¹⁵ Norwegian Refugee Council, Profile of Internal Displacement: India, 2003. pg 117

levels of internal displacement in this region. However, estimating the precise number of IDPs, as in other parts of India, and more in the case of the Northeast has not been easy.

The Norwegian Refugee Council's profile of internal displacement in India in 2000-2001, based on its Global IDP Database, is illustrative of the wide divergence that exists between various available estimates of IDPs in Northeast India and it also points to the absence of data in some cases. The available estimates of the number of IDPs in the state of Assam in 2000-1, for instance, varied between more than 200,000 to more than 87,000 persons. The estimates of Reangs displaced from Mizoram and living in the refugee camps of Tripura varied between 31,000 and 41,000. The profile cites one estimate that at least 80,000 Bengalis were uprooted in Tripura since 1993. In Manipur, conflicts between tribal groups led to the displacement (at least temporarily) of as many as 130,000 Kukis, Paites, and Nagas since 1992, but there were no estimates of the number of IDPs in Manipur in 2000-1. In Arunachal Pradesh as many as 3000 Chakmas had become internally displaced, but the number of those who have left the area was unknown.¹⁶ The US Committee for Refugees in its report for the year 2000 estimated that there were 157,000 displaced persons in Northeast India.¹⁷

Due to restrictions imposed by the Indian government on visits by international human rights organizations it is difficult to monitor or give exact numbers of the displaced in the Northeast.¹⁸ Most of the displaced in the Northeast estimated at 150,000 internally displaced has been inaccessible to foreigners. Medecins Sans Frontiers (MSF- Holland) has been denied state government permission to provide health care in the Reang camps in Tripura similar obstacles have been reported with regard to assistance to IDP camps in Kashmir.¹⁹

¹⁶ Norwegian Refugee Council, Profile of Internal Displacement: India, 2001.

¹⁷ United States Committee for Refugees, 2000.

¹⁸ Barua, Sanjib, 2005. pg 21. Also Norwegian Refugee Council, Profile of Internal Displacement: India, 2003. pg 117

¹⁹ Ibid pg 117

Despite the absence of precise figures, these estimates underscore the magnitude of the IDP crisis in Northeast India. The North East has witnessed at least seven major cases of strife-induced internal displacement in the fifty years of the Indian republic, namely,

The displacement caused due to movement for Bodo homeland

The displacement of Bengalis from Tripura

The displacement of “tea tribes” in western Assam

The displacement of Reangs from Mizoram

The displacement of Nagas, Kukis and Paites in Manipur

The displacement of Chakmas from Arunachal Pradesh and Mizoram

Complex ‘push factors’:

Demographic change in this region is often seen only from the perspective of “push factors”. As mentioned earlier, in the literature on IDPs, displaced persons have been categorized according to the causes of displacement as conflict induced IDPs, development induced IDPs or natural disaster related IDPs. In the complex ethnoscape of the Northeast, displacement due to all the above mentioned reasons can be found. Even ethnic conflict induced internal displacement can be categorized as those displaced due to homeland movements, those displaced by refugees, ethnic communities displaced by counter insurgency measures etc.

Often economic migrants or refugees are the cause of ethnic conflict and displacement. In Arunachal Pradesh for example, the settlement of the Chakma and Hajong refugees in parts of Arunachal Pradesh by the Assam government is opposed by the state government of Arunachal Pradesh on the grounds that it causes displacement of the local population who are supposed to be protected as indigenous people.²⁰ Thus the displaced populations in an ethnoscape²¹ as fluid as that in the Northeast cannot be easily categorized into academic categories of particular types of displaced people.

²⁰ Dutta, S., 2002. pp208-9. Also Government of Arunachal Pradesh, ‘White Paper Chakma and Hajong Refugee Issue’. Pgl

²¹ Appadurai, Arjun, 1990. pp 1-23. Baruah borrows Appadurai’s term coined to deal with the flows of people across international borders and the emergence of multiple forms of diasporic identities. For Appadurai the term ‘scape’ serves to draw attention to the fact that these are not objectively given relations ‘deeply perspectival constructs.’ Ethnic identities in the Northeast too are perspectival constructs.

Sanjib Barua borrows Appadurai's 'ethnoscape' to describe the ethnicities in the Northeast which according to him are also perceptual constructs. Perhaps the same can be said about categories such as refugees, IDPs, migrants in the Northeast. Categories such as refugees, IDPs, migrants etc can also seem perceptual when population movements occur in a context like Northeast with its complex ethnoscape, areas and populations with protected status and the Indian state's treatment of it as a frontier region.

The complex ethnoscape of the Northeast and the myriad situations of ethnic conflict and resultant displacement can indeed seem overwhelming to understand. The aim here therefore is not so much to analyse the specific "push factors" of the various situations of displacement due to ethnic conflict which would just be skimming the surface, but rather to describe the particular historical conditions and institutional context in which some of the "typical ethno-political conflicts of the region take place" and why these conflicts have proven to be particularly conducive to episodes of ethnic violence and displacement.

This section looks at the displacement caused by the Assam movement (which became a kind of model for other exclusivist movements in the region) and the recent episodes of conflict induced displacements namely, the Reangs displaced in Mizoram and the Paites, Kukis and Nagas who were displaced in Manipur.

The historical conditions and institutional context that shape divisive politics leading to displacement:

A number of reasons have created peculiar conditions in the Northeast which have made the region prone to ethnic violence and recurrent episodes of displacement. Today's violent ethnic conflicts that lead to displacement need to be understood in a historical context. The situation in the Northeast today can be traced to an attempt by the colonial state to insulate some of the peoples organised in pre-capitalist social formations from the devastation that the initial onslaught of global capitalism had brought.²²

²² Barua, Sanjib, 2005. pg 188

Attempts to deal with 'aborigines' by creating protected enclaves where they can be allowed to pursue their 'customary practices' including kinship and clan based rules of land allocation go back to the earliest period of British colonial rule in India. It is important to point out here that this did come about after massive dispossession and displacement in the colonial attempts to reign down the savage tribes.²³

In 1874, the Indian legislature passed a Scheduled Districts Act. The Government of India Act of 1919 empowered the Governor General to declare any territory to be a backward track where law passed by the Indian legislature would not apply. The Constitution of India of 1950, retained most of the provisions of the 1935 Act. The Constitution made a distinction between the tribal areas of Assam (five of the seven states of today's Northeast) and those in the rest of the country. While the tribal peoples of the rest of India came under the Fifth schedule, the Sixth Schedule provided for the administration of the tribal areas of Northeast India.²⁴

The Sixth Schedule provided for autonomous districts and autonomous regions within those districts with elected councils which enjoy powers to levy some taxes, to constitute for administration of justice involving tribals and law making powers on subjects including land allotment, occupation or use of land, regulation of shifting cultivation, formation and administration of villages and town committees, appointment of chiefs, inheritance of property, marriage and social customs.

Thus in the four of the seven states of Northeast India- Arunachal Pradesh, Meghalaya, Mizoram, and Nagaland- the lion's share of public employment, business and trade licences, and even the right to contest for elected office are reserved for Scheduled Tribes legally considered indigenous to those states and the right of others to hold and exchange property rights in the land is severely restricted. The vast majority of seats in three of these state legislatures- indeed all but one seat in the case of three legislatures are reserved for candidates belonging to Scheduled Tribes.

²³ Ibid pg 188

²⁴ Ibid pg 188

However, the Northeast is one of South Asia's last frontiers and through much of the twentieth century these sparsely populated areas have attracted large scale migration from the rest of the subcontinent. This region has received huge flows of refugees and economic migrants from neighbouring Bangladesh (erstwhile East Pakistan) and Nepal, and to a much lesser extent from Burma especially until the 1970s and even today though to a lesser extent. As a result the demographic character of some states in the region has undergone a sea change.²⁵

There is a perception that the Scheduled Tribes in the states with the most comprehensive protective discrimination regimes have done well economically and have been relatively successful in insulating themselves from being swamped by immigrants. While a homeland has become something to aspire for various ethnic groups, Scheduled Tribes as well as those who don't have one, ethnic activists of existing homelands have become zealous defenders of what they see as their statutory entitlements. In a complex ethnoscape where there is talk of turning a territory into a homeland for specified ethnic groups and there are ethnic militias to back such demands, political violence inevitably enters the picture.

The first waves of refugee influx following the partition displaced the indigenous populations from their ancestral lands in Tripura and Assam. According to Subir Bhaumik, this initially was not perceived as internal displacement, but as land alienation because the land displacement was not instantly visible, as it had not been caused by direct conflict. But when indigenous groups- and militias raised by their youth- began to give vent to their resentment through armed action against the settlers, large scale internal displacement became a reality in Northeast India.²⁶

The Northeast as a frontier region is important for the Indian state to maintain its territorial integrity. The Naga rebellion and stirrings of unrest in other parts of the region as well made the Indian state anxious about this region's position as a frontier region for

²⁵ Bhaumik, Subir, 2004. pg 405

²⁶ Op. cit. pg 405

security reasons. The “managers of the Indian state began to see the external and internal ‘enemies’ in this frontier region coming together and constituting a looming threat to national security. Extending the institutions of the state all the way to the international border- nationalizing this frontier space- became the thrust of the Indian policy ever since.

Over the next few years, the governmental structure of the region was fundamentally redesigned to create what Barua calls a cosmetically federal regional order. The region was organized into a number of mini states all of them with formal institutions of any other Indian state government. This not only consolidated the idea of homelands and also had the effect of imposing a particular developmentalist paradigm. In the sparsely populated parts of this frontier region, these economic trends invariably meant more immigration.²⁷

Many parts of the Northeast are also going through a process of transition from shifting cultivation to settled agriculture, from clan control of land to commodification of land, urbanization and cultural change associated with the process of ‘modernisation’. The new economic opportunities created by this process of social transformation also attract migrants to this region.

This political discourse has thus shaped the politics of insider-outsider which has created a powder keg of a situation in the Northeast that seems to flare up in violence ever so often. Varshney made a distinction between ethnic conflict that occurs on the turf of institutional channels and violent ethnic conflict which erupts outside this. It is important to look at the peculiar state of state-society relations in the Northeast which tends to tip the balance towards violent ethnic conflict.

Most political scientists emphasize that for the state to be able to implement its policies and for it to function, it needed to be embedded in society. As colonial states realized a long time ago, state capacity is not a function of autonomy from social influences; it is

²⁷ Baruah. Sanjib, 2005. pp33-57

significantly enhanced when an autonomous state is embedded in society through networks connecting state and society.²⁸

For most of the Northeast however, the Indian state is more like another colonial power that replaced the British colonial rule. Moreover the thrust of India's policy in the Northeast seems to be to either create a group of local stakeholders in the Indian dispensation, primarily in terms of a share in the insurgency dividend, or de-link the institutions of the state from the local societies²⁹.

This is probably why ethnic conflict which is understandable in any diverse society becomes prone to violence in a setting like the Northeast. Away from major urban centres there are situations where it is quite apparent that institutions of the state cannot guarantee the security of life and property. Thus the militias fill in the gap left by the state.³⁰ In addition to this, the Indian governments policy of pumping money into this society is the 'pull factor' attracting migrants to this region which causes further tension and competition for resources in addition to the insider outsider dispensation which seems to now be typical of the Northeast mindset.

Displacement caused by anti- insurgency operations:

In response to the secessionist movements in Nagaland and Mizoram, the Indian army, as a result of deliberate state policy, regrouped hundreds of Naga and Mizo villages in order to isolate the 'insurgents' from the people. This regrouping of villages uprooted and displaced several thousand tribal people from their homelands. This was part of the anti-insurgency operations in the hills of undivided Assam.³¹ Relocation of populations as part of counter insurgency strategy that happened in Mizoram in 1966-69 affecting at least 1,50,000 peasants is not going to be possible now.³²

²⁸ Evans, Peter, 1995.

²⁹ Barua, Sanjib, 2005. pg 23

³⁰ Ibid. pg 16

³¹ Hussain, Monirul, 2004. pg 394

³² Bhaumik, Subir, 2005. pg 409

In addition to this the counter insurgency measures by the Indian state has led to “significantly diminished form of democracy”³³ in Northeast India today. There is an inherent anti-democratic, militaristic and authoritarian logic to counter-insurgency as is also evident in Kashmir, but it is especially so under these conditions. Counter-insurgency has meant the de facto suspension of the rule of law, or at least a highly selective view of legality.

The Armed Forces Special Powers Act (AFSPA) Section 3 gives the Governor of the state or centre the power to declare an area disturbed. Section 4 of AFSPA allows security forces to “fire upon or otherwise use force, even to the extent of causing death”. Finally the act gives legal immunity to security personnel in that they cannot be prosecuted for violating the rights of the arrested persons without the Central Government’s permission.³⁴ Apart from AFSPA other laws such as Terrorism and Disruptive Activities Prevention Act (TADA) and the National Security Act apart from enabling counter insurgency operations have been used to silence journalists and human rights activists.³⁵ Militarization has become a way of life in Northeast India. As Barua points out, political violence in the Northeast can no longer be seen as temporary and aberrant.

It is important to locate the various incidents of ethnic violence in this historical institutional context. The political upheaval that became a model for the recent wave of ethnic displacement campaigns in the region is the Assam movement of 1979-85 which was a movement based on the linguistic and cultural identity of the ‘Asamiyas’.³⁶

Displacement of ‘tea tribes’ in Assam due to movement for a Bodo homeland:

A movement which followed and probably equalled the Assam movement for the terror and violence it generated was the movement for a Bodo homeland. The demand for a

³³ Ibid pg 19

³⁴ Government of India, 1972

³⁵ Amnesty International, 2000. pp 81-86

³⁶ Barua, Sanjib, 2005. pg199; Monirul Hussain uses the term Asamiya instead of the generic Assamese to refer to those who have accepted Asamiya language as their mother tongue. Hussain, Monirul, 2004. pg 401

homeland for the Bodos on the North bank of Brahmaputra in the late 1990s produced widely reported displacements. In 1993, an agreement was signed between Bodo activists and the Assam state government for the formation of a Bodoland Autonomous Council. However the precise territorial jurisdiction of the Council was left open to be settled later. Disputes over the precise jurisdiction eventually led to the collapse of the agreement. On the other hand the continuing public discussion about a dissonance between what Bodo activists see as a historically Bodo area and the contemporary demographic reality of overlapping ethnicity has fuelled violence against 'outsiders'. East Bengali Muslims and Hindus, Nepalis and Santhals have been victims of the displacements that have followed.

Displacement of Reangs in Mizoram:

The displacement of Reangs (also known as Brues) in Mizoram relate to the demand by the Brue National Union for an autonomous district for Reangs comprising contiguous areas of three states. The Reangs, a 'nomadic' hill tribe have a large presence on the tribal belts in Tripura, as well as Mizoram.³⁷ Mizo politicians and organizations like the Young Mizo Association vehemently oppose the demand and see the Reangs not as indigenous to Mizoram, but the bulk of them as recent immigrants. They see the demand for a Brue homeland as a conspiracy to split up Mizoram. But from the Reang activist's point of view, the demand for a Reang homeland is justified.

Displacement of Kukis and Nagas in Manipur:

The major element in the Kuki-Naga clashes that have led to the displacement of Kukis and Nagas in Manipur is the Kuki demand for the creation of Sadar Hills (Kangpokpi) district. The demand for a separate district by bifurcating the Senapati district of Manipur is framed in terms of the inconveniences of the people living far away from the present district headquarters. However, the proposal is read by the Nagas as the beginning of the process of creating a Kuki homeland in an area of Manipur that the Nagas claim as theirs, and which Naga militants and sympathizers would like to someday see as part of greater Nagalim.

³⁷ Chakraborty, Sanat, 2004. pg 418

The Kuki-Naga conflict, the Paite-Kuki conflict and Meitei- Pangal (Muslim) conflict and fleeing of Nagas from the valley in the wake of the Naga ceasefire extension to Manipur has caused internal displacement of thousands of people. The Kuki-Naga conflict led to a spin-off conflict between the Thadou speaking and the Paite speaking groups. According to one estimate 40-50 Kuki villages were burned or uprooted in these clashes and 7500 displaced while 50-55 Paite villages were burned and 15700 displaced.³⁸

The Kuki-Naga conflict in the hills of Manipur has led to the displacement of about 11000 Kukis and Nagas since 1992. The casualties on both sides have been severe, though the Kuki casualties according to some estimates have been greater. More than 10,000 houses belonging to the Kukis and the Nagas were torched in the arson and more than 600 villages were uprooted. The conflict in Churadchanpur district between the Thadou speaking and Paite speaking groups resulted in the displacement of 15,000 Paites and 7,500 Thadous since mid 1997. Over 3000 houses belonging to the two communities were reduced to cinders; while around 100 were maimed, more than 500 lost their lives. Another conflict between the Meites and the Pangals Muslims in the valley led to the displacement of more than 1000 persons, destruction of 9 villages and burning of 196 households. More than 7000 Nagas have been displaced in the wake of the Naga ceasefire extension in Manipur.

Present Status of Displaced People:

The Assam movement and the movement for Bodoland led to the displacement of large populations. There is an estimated 200,000 displaced persons currently living in 78 relief camps located in Kokrajhar and Bongaigaon districts.³⁹ Most of the displaced persons in the Barpetta massacre in 1994 returned to their villages a few weeks after the massacre. However there are more than 20,000 Muslim inmates in 18 relief camps located in Kokrajhar and Bongaigaon districts since 1993.

³⁸ Haokip, TT, 2004. pg 222

³⁹ Amar Assam, 2000.

Adivasis, mainly Santhals who were displaced from western Assam had to be accommodated in fifty eight relief and rehabilitation camps and more than ninety five percent of them lived in these camps.⁴⁰ Santhals constitute the bulk of displaced people in Assam today. There are also a few thousand Bodos, Rabhas and Indian Nepalis also living in relief camps. Both Kokrajhar and Bongaigaon districts have become highly vulnerable to internal displacement since early nineties of the twentieth century a fact which continues till now. In fact every fourth person in the Kokrajhar district is a conflict induced displaced person.

Camps for the displaced:

It was pointed out in the state legislature on 4 April 2000 that all these displaced persons are leading a dehumanized life in makeshift unhygienic relief camps. The state government provides them food for only 5 days a month.⁴¹ The conditions of the relief camps are pathetic and the inmates do not get adequate food. The children of displaced IDPs in these camps are deprived of education for years together. There is no privacy for inmates. Safe drinking water is also unavailable. Out of fear of losing their lives, most displaced cannot leave camp premises. There are no provisions for medical aid and no immunization to protect the displaced persons and their children from epidemics. Significantly, many displaced persons particularly the children die as a result of simple diseases and epidemics. Many died because of starvation and malnutrition. Many parents have reportedly sold of their children due to poverty and helplessness. Many girls from displaced families have been forced to accept prostitution along the national highway.⁴²

Initiatives by the State:

The government of Assam granted Rs.10000 each to some families. Besides, the government of Assam allotted houses to 1758 Bodo and Santhal families under the central government sponsored scheme called 'Indira Awas Yojana' (Indira Gandhi Housing Scheme). As a result, 5000 inmates have reportedly left the relief camps

⁴⁰ Mishra, Omprakash and Sreeradha Dutta, 2004. Pg 386

⁴¹ Ibid.

⁴² Hussain, Monirul, 2004. pg 402

recently.⁴³ This is not even 6 per cent of the total displaced persons awaiting rehabilitation. There are more than 200,000 inmates living in relief camps out of which 70000 are children.⁴⁴ The food supplied by the government includes only rice and salt and sometimes 'dal'. The monthly ration hardly meets the requirement for a week. Some inmates were even killed when they were trying to collect firewood from nearby forests.

The rehabilitation of displaced persons is still uncertain. The displaced persons cannot return to their villages as 'others' have occupied their lands, their cattle and there is a threat to their lives. The state can only provide these displaced persons security when they live together collectively in relief camps. According to Monirul Hussain, the state sponsored relief camps reflect the state of postcolonial Indian state.⁴⁵

Although the official figure varies, over 35,000 Reangs have crossed borders and taken shelter in Assam and Tripura, living in extremely uncertain conditions.⁴⁶ The Reangs in the camp in Kanchan, Tripura were reportedly living under life-threatening conditions, leading to a number of deaths from curable diseases.⁴⁷ The immediate return of some 30,000 Reangs from Mizoram currently in camps in Tripura has been ordered by the central government and the National Human Rights Commission. However the state government in Mizoram has refused to take back the displaced and has argued that only half of them could be defined as original residents of Mizoram.⁴⁸

In case of the displaced in Manipur, the non-existence of formal relief camps does not mean the non existence of displaced people there. Various relief camps set up by the government immediately after the displacement could not even provide even the basic necessities. Hence displaced persons prefer to stay outside the relief camps. Moreover the displaced tribals prefer to move back to hill areas where their own groups of people are dominant. Women and children who account for 70 per cent of the displaced are in

⁴³ Amar Asam, 2000.

⁴⁴ Ibid

⁴⁵ Hussain, Monirul, 2004. pg 402-3

⁴⁶ Chakraborty, Sanat K., 2004. pg 428

⁴⁷ Norwegian Refugee Council, Profile of Internal Displacement: India. 2001.

⁴⁸ Norwegian Refugee Council, Profile of Internal Displacement: India, 2003. pg 116

extremely vulnerable positions. A large number of the affected children are inadequately nurtured in makeshift orphanages. The displaced have received little medical care and they have no access to formal education. IDPs in urban centres live mainly in rented houses without any regular source of income.

This internal displacement has not only affected the concerned IDPs but entire communities. The areas to which the IDPs flee are also heavily affected. In rural areas forests and grasslands are quickly stripped for housing and farming. The damage done to forest and environment will have long term economic effects. In urban centres, social services, water supply and sanitation facilities quickly became overloaded. The conflict has also spilled over to neighbouring villages and regions. The Kuki-Naga conflict originally confined to Ukhrul district has spread to other districts like Churachanpur and even to Nagaland. According to TT Haokip, due to the internal displacement, ethnically mixed villages, once common in the hills of Manipur, have virtually ceased to exist.

The state and central governments have not come up with any formal structures or mechanisms to deal with this issue of internal displacement. Distribution of blankets, essential commodities and ex-gratia payments and setting up of camps, though inadequate seems to be the main policy of the government both at the central and state governments. No concrete steps have been taken to rehabilitate the displaced persons neither in their original villages nor in other places the state. The central governments only involvement so far has been to provide states minimal funds to assist the displaced persons.

Displaced populations are spilling over to other states, stretching their resources and causing greater competition for resources. For example the displacement in Manipur taxed the neighbouring Mizoram whose government had to provide the displaced people the needed support in terms of giving them shelter, food, health care etc.

Insufficient and sporadic initiatives by the Indian state:

Most internally displaced persons in the North East have been living in temporary camps. Assistance, primarily provided by state governments and NGOs has, according to the Norwegian Refugee Council's Global Survey, been insufficient and sporadic. According to the Global IDP Survey, in March 2001, over 2,00,000 internally displaced persons in the district of Assam were living in "abominable" conditions.

As Cernea's model shows, the various components of the 'displacement event' such as homelessness, increased morbidity and mortality rates, loss of common property resources etc. can all be seen in varying intensity in the Northeast. The state's response to the IDPs however has been to provide the bare minimum for survival and as empirical studies show, even subsistence needs such as clean drinking water and shelter were not adequately available.

One national body that has consistently intervened for the cause of IDPs is the National Human Rights Commission. In the Northeast, the National Human Rights Commission has intervened in at least two situations capable of creating internal displacement such as the Chakmas and Hajongs in Arunachal Pradesh and the Reangs who fled Mizoram for Tripura.

Displacement and insurgency:

Situations of internal displacement have larger implications on surrounding communities and on society at large. In the case of frontier regions such as the Northeast, situations of internal displacement can also have larger security implications.

Byron J. Good points out that when dislocation and resettlement are experienced as unjust, when compensation is viewed as inadequate or unfairly distributed, bitterness and a sense of 'relative deprivation' may prolong grieving, even for generations. The term 'relative deprivation' was used by the anthropologist David Aberle (1962) who found that not merely deprivation, but relative deprivation, "a negative discrepancy between legitimate expectation and actuality" associated with a sense of injustice, explained the

lingering bitterness felt by Navajo people in the American south-east and might help account for those who participated in nativistic and millenarian movements. Marris (1974) has argued that dislocation provokes a “crisis of reintegration” and that groups and individuals are “characteristically ambivalent”, moving between efforts “to adapt to change” and “to restore the past”.⁴⁹

Given the disconnect that already exists between mainland India and the Northeast, situations of internal displacement in the region need to be seriously considered by the Indian state. It is in the interest of the Indian state for its larger project of national integration to adequately respond with a well thought out policy for those displaced in the Northeast.

However, the government of India assumes national responsibility only for those displaced by the Kashmir conflict. When it comes to the estimated 200000 persons displaced by ethnic conflict in the Northeast, the central government assumes only marginal responsibility.⁵⁰ In fact the Indian government denies the existence of the problem. In a statement to the UN Commission on Human Rights in 2000, India insisted that unprotected internally displaced persons can only be found “in those countries where there is no effective state or where the state has collapsed.”⁵¹

Displacement due to ethnic conflict in the two frontier regions of Jammu and Kashmir has an institutional and historical context deeper than trigger factors that forced displacement of populations. It is important to take these into consideration while determining the push factors of displacement. While the causes of displacement are unique to the particular regions, the effects of displacement reveal a pattern.

They further reinforce the interconnectedness among the various components of displacement identified in Cernea’s model namely, landlessness, joblessness,

⁴⁹ Lumsden, 1993. pg25

⁵⁰ Cohen, Roberta, 2004. pg 350

⁵¹ Statement by Mr. A Gopinath. Summary Report, Regional Conference on Internal Displacement in Asia. Cohen, 2004. pg 350

homelessness, marginalisation, food insecurity, increased morbidity and mortality, loss of access to common property assets, and community disarticulation.

The Indian state's response to both these situations of internal displacement reveals inconsistency. While relief and rehabilitation efforts for Pandits have been inadequate, the initiatives for them by the state have been far greater. Besides the Central government, a few state governments have also certain provisions to aid the displaced Pandit populations such as reservation in educational institutions. In the case of the Northeast however, state response seems to be the provision of the bare minimum such as food in camps or provision of blankets.

Beside humanitarian reasons, it is in the interest of the Indian state, given that these regions are frontier regions, to have a policy for the rehabilitation of internally displaced persons.

Conclusion

Forced displacement of people from their place of habitual residence causes a compounded deprivation of rights. While the refugee regime addresses the rights of those who were forced to flee and have crossed an international border, those displaced within the borders of their own country were, to borrow Hannah Arendt's phrase, in a 'rightless' situation in international law for a long time. Initiatives by the UN, such as the Guiding Principles on Internally Displaced Persons have remedied this situation conceptually by gleaned international law including humanitarian law, human rights law and refugee law for provisions applicable to internally displaced persons and compiling them in one instrument. In areas where there was a lacuna in international law for internally displaced persons, refugee law was applied analogously for them; thus acknowledging their "refugee-like" situation and the need for the protection of their rights.

At the conceptual level, in the language of human rights, these initiatives have been landmarks in the recognition of the plight of IDPs. With regard to the salience of this category in improving the plight of the IDPs, as is evident in the first chapter which examines the standing of the UN Guiding Principles in international normativity, the Guiding Principles on Internal Displacement can best be described as soft laws. The Guiding Principles do not present a legal definition of internally displaced persons; nor does becoming displaced within one's own country of origin or country of habitual residence confer special legal status in the same sense as becoming a refugee does. Therefore, while the Guiding Principles do not codify the obligations of nation states towards IDPs, they are a development in the recognition of human rights of IDPs.

IDPs have been described in the UN Guiding Principles as those who have been "forced to flee"; the emphasis here is on coerced movement. However, coercion here is too narrowly defined and doesn't take into account structural violence such as violence against Dalits in India. Moreover in the discourse on IDPs so far, the language of human rights does not fully appreciate the political nature of conflict induced internal displacement.

Often, the intention behind the forced displacement of people is complete social exclusion. When violence occurs for a prolonged period and in the nature and scale of a pogrom or genocide, the state is a definite party to it. In the Guiding Principles however, national governments have been identified as having the primary responsibility for providing humanitarian relief to internally displaced persons. While this is obvious in the state centred international system, it ignores the role of the state in causing internal displacement. As witnessed in the case of post Godhra violence in Gujarat, there can be a complete collusion between those causing internal displacement and the state.

Literature on internal displacement categorises internally displaced persons according to the causes of displacement. Two of the most pervasive forms of displacement are conflict induced internal displacement and development induced internal displacement. In addition to the effects of displacement faced by those displaced due to natural disasters or development, conflict induced IDPs also have to face the effects of violence and social exclusion. Their displacement is not just spatial, but also social- displacement from social space. As evident in the displacement of Muslims in the post Godhra violence, internal displacement was part of a larger ideological project.

Following the institutional approach on ethnic conflict which was a common thread in this study, an analysis of the Indian state's response to situations of conflict induced internal displacement in different regions reveals deep inconsistencies. From empirical studies on state's response to situations of internal displacement in Jammu and Kashmir, the Northeast and Gujarat, it emerges that the Indian state's response to situations of internal displacement is ad hoc, reactive and at times reflects the biases of the majority community.

While the causes of displacement in these three regions, as well as the time periods differ, a comparative examination of ethnographic and empirical studies of all these regions was possible along the lines of Michael Cernea's Impoverishment Risks and Reconstruction model which deconstructed the effects of displacement into various components, namely, landlessness, joblessness, homelessness, marginalisation, food insecurity, increased

morbidity and mortality rates, loss of access to common property assets and community disarticulation.

In Jammu and Kashmir, the Northeast and Gujarat, a common factor among the displaced is the loss of land. In fact, land grab was a technique to make repatriation impossible. As Cernea's model points out, expropriation of land removes the main foundation upon which people's productive systems, commercial activities and livelihoods are constructed, and impoverishes the displaced.

Cernea's model identifies joblessness as one of the risks of displacement. He points out that the previously employed may lose in three ways: in urban areas, workers lose jobs in industries and services. In rural areas, landless labourers lose access to land owned by others (leased or sharecropped) and also lose the use of their assets under common property regime. Self employed small producers- craftsmen, shopkeepers and others- lose their small business. In Gujarat for instance, Dionne Bunsha's points out that landlords threw Muslim sharecroppers off their land.¹ Ashgar Ali Engineer's study estimates that 4,000 small businesses were affected, 2,379 properties owned by Muslims were lost and applications for assistance were received from 630 industries, 5,528 unit/shops/godowns and 183 hotels.²

Homelessness or worsening housing conditions remains a lingering condition for many IDPs. According to TT Haokip, more than 10,000 houses belonging to the Kukis and Nagas have been torched and more than 600 villages were burned to cinders in the Kuki-Naga conflict. The lack of camps for IDPs in Manipur is not an indication of rehabilitation of IDPs; rather IDPs left because of abysmal conditions in camps and took shelter in surrounding areas. In Gujarat, a survivor returned home to find two temples in the place where her house stood. Cernea's model has been used to predict that internally displaced persons' risk of worsening housing conditions increases if compensation for

¹ Bunsha, Dionne, 'Scarred: Experiments with Violence in Gujarat', Penguin Books, New Delhi, 2006. pg 88

² Engineer, Ashgar Ali, 'Communal Riots After Independence: A Comprehensive Account', Mumbai, Shipra Publications, 2004. pp220-223

demolished dwelling is paid at assessed market value rather than replacement value. In Gujarat, some displaced Muslims who lost their houses got a check for Rs. 500 as compensation while some returned the compensation they received because it was too little compared to the loss they had suffered.³

Multiple facets of marginalisation due to displacement have been observed in these three regions covered in this study. The cultural status of IDPs is belittled in the place where they move to because they are regarded as strangers and denied opportunities and entitlements. Families of IDPs lose economic power that they previously had.

IDPs face the risk of food insecurity. In the case of displaced Pandits of Jammu and Kashmir, limited quantities of rice, wheat and sugar are supplied free to the affected families through the Relief Commissioner. In Gujarat, the state government started providing uncooked food for the camps opened by private groups of the Muslim community only 10 days later. The camps need Rs.30 worth of rations per person daily, whereas the government provided supplies (both in cash and in kind) worth only Rs.7.⁴ This was also stopped when the government wanted to shut down the camps. In camps for displaced in Assam, the state government provides displaced persons food for five days a month.

Relocation- related illnesses particularly parasitic and vector-borne diseases such as malaria and schistosomiasis as well as displacement induced social stress and trauma are a common feature among the displaced in camps in Jammu and Kashmir, the Northeast and Gujarat.

Empirical studies show that loss of common property resources has ravaging long term consequences on the livelihood and social standing of IDPs.⁵ When displaced people's access to resources from common property resources is not protected, they tend to encroach on reserved forests or to increase pressure on common property resources of the

³ Bunsha. Op.cit. pg 87

⁴ Bunsha, Dionne, 'Refugees Without Refuge', *Frontline*, Vol 19, Issue 14, July 06-19, 2002

⁵ Cernea, Michael and Christopher Mc Dowell (Ed.), 'Risks and Reconstruction- Experience of Resettlers and Refugees', The World Bank, Washington DC, 2000. pg 29

host area's population. This is especially pronounced in the Northeast where displaced populations are spilling into neighbouring states and increasing competition for resources.

Forced displacement tears apart existing social fabric. It results in loss of "social capital"; dismantles patterns of social organization and interpersonal ties; and disrupts life-sustaining informal networks of reciprocal help. In the case of Kashmir, the displacement of Pandits from the valley for the past 12 years has produced serious doubts if the now legendary 'Kashmiriyat' can be revived even if they have an opportunity for repatriation. Rowena Robinson's ethnographic study on the displacement of Muslims in the post Godhra violence in Gujarat also shows instances where Muslims who have returned to their homes after the violence cannot trust their neighbours. Dismantled social networks that once mobilised people to act around common interests and to meet their most pressing needs are difficult to rebuild. While the people may persist, forced displacement can cause a destruction of the community that was, because it's spatial, temporal and cultural determinants are gone.

India has compelling reasons to create institutional measures for those displaced due to ethnic conflict. The number of conflict induced IDPs in India was estimated at 6,50,000 in 2001 by the Norwegian Refugee Council. In international forums, India maintains that local state governments are currently meeting the subsistence needs of IDPs, and foreign observers have to respect Indian national sovereignty.⁶

However, there is no policy for the rehabilitation for those displaced due to ethnic conflict nor is there any codification of the state's obligations to the internally displaced.⁷ The draft National Policy, Packages and Guidelines for Resettlement and Rehabilitation 1998 drafted by the Ministry of Rural Development and the earlier draft National Policy for Development Induced Displacement and Rehabilitation only address displacement

⁶ Permanent Mission of India to the UN-NY, April 2000.

⁷ Haokip, Op. cit. pg 222

due to acquisition of land for the purpose of development.⁸ It does not take into consideration displacement due to ethnic conflict.

The components of displacement identified here can be used to guide a policy response to situations of internal displacement. This study shows that forced displacement has a basic risk pattern. The common components of displacement identified in the Guiding Principles on Internally Displaced Persons and Cernea's model as well as the interconnectedness among the patterns of displacement among IDPs across the three regions studied here provide leads for institutional responses to those displaced due to ethnic conflict in India. Instead of ad hoc responses, the Indian state, given the problems of internal displacement it faces on various fronts and the attendant security threats, needs to have a well thought out policy on those displaced due to ethnic conflict.

⁸ Draft National Policy, Packages and Guidelines for Resettlement and Rehabilitation 1998, 3.3.1

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