CHAPTER I
INTRODUCTION

1. Basic idea on internally displaced persons

Internal displacement of civilian populations and the need of protection of their human rights is one of the most stressing need of the post-cold war era. Kofi Annan, the former Secretary General of United Nations observed that “internal displacement has emerged as one of the greatest human tragedies of our time. It has also created an un-precedented challenge for the international community: to find ways to respond to what is essentially an internal crisis.”\(^1\)

Over the years, millions of people in Asia, Africa, Europe, and Latin America have been forced to move out of their homes due to various reasons. Internally displaced persons (IDPs) are in fact refugees so to say in their own homeland. At present the problem of internal displacement has stood as a global crisis because of the physical, social, and psychological dangers and indignities to which these people are exposed. The usual causes of displacement are violent conflicts, systematic violation of human rights, forced dislocation, development projects, and other man-made and natural disasters.

The Internally displaced persons do not cross an international border, but they are forced to leave or flee their homes for reasons almost similar to refugees.\(^2\) In a conflict situation most of the IDPs want to flee as far as possible from conflict situation. However, in the modern world refugees are generally not welcomed that is why they choose to remain in their own country.

Whereas the number of refugees assisted by the Office of the United Nations High Commissioner for Refugees (UNHCR) had been reduced to 10.6 million at the end of 2001, the number IDPs as per estimate has gone up about 20-25
million at the same date\textsuperscript{3}, outnumbering refugees. According to a global estimate, by the end of 2009, about 42.3 million people had been forced to leave or flee from their habitual residences or homes due to conflict, violence, and human rights violations. Out of these around 15.2 million people are refugees while some 27.1 million were IDPs.\textsuperscript{4} In the year of 2009 only, at least 6.8 million people were forced to become IDPs in some 23 countries, an increase of 2.2 million as compared to 2008.\textsuperscript{5} This staggering number of internally displaced persons poses a serious challenge for various humanitarian, non-governmental and other organizations to tackle this vexed problem.

Of course, the problem of internal displacement did exist even pre-Cold war era. But the problem has become more acute after Cold War due to two reasons. Firstly the attitude amongst Western states towards refugees has been changed considerably since 1980s because refugees no longer play an important role after the end of Cold War era. During the Cold War period western states welcomed refugees fleeing from countries of opposite block as it was a political act designed to demonstrate the failures of the political system in protecting its own citizens\textsuperscript{6}, and secondly recent trend to contain refugees within the countries of origin.

\textbf{1. 1. The Concept of Internal Displacement}

The expression ‘internally displaced person’ is of recent usage. Earliest references to internally displaced persons were found in the expression ‘displaced persons’ used by the United Nations in the Sudanese context.\textsuperscript{7} No definition of ‘internally displaced persons’ existed, when the issue of internal displacement emerged in the early 1990s in the international agenda. At the onset of the mandate the working definition had been put forth in 1992 by the United Nations Secretary General, which defined internally displaced persons as: “Persons or groups who have been forced to flee their homes suddenly or unexpectedly in large numbers, as a result of armed conflict, internal strife,
systematic violation of human rights or natural or man-made disasters; and who are within the territory of their own country.”

The causes listed in the definition were drawn from the broader refugee definition used in Africa and Latin America that extend beyond the persecution criterion in the 1951 Refugee Convention and encompass persons fleeing from armed conflict, internal strife and systematic violation of human rights. This working definition was revised in 1998 and the Guiding Principles on Internal Displacement has now defined who is an internally displaced person. Guiding Principles is a document that seeks to provide protection to all internally displaced persons. It deals not only with the consequences of displacement but also with the causes of displacement. However it is important to note that by placing the description of ‘internally displaced persons’ in the introductory section rather than in the main body, the Guiding Principles seeks to highlight the descriptive and non-legal nature of the term internally displaced persons. The purpose is not to create a new legal category to which rights and obligations would be attached, but to improve the legal protection for the internally displaced population which already exists in international law.

There is another drawback in the descriptive definition of internally displaced persons (IDPs) as provided in the Guiding Principles as the definition is not universally accepted by the legal scholars. Therefore, concept of IDPs has been discussed by different institutions and scholars in different perspectives. Some NGOs use definitions that do not differentiate between internally displaced persons and refugees. For instance, Lutheran World Federation (LWF) targets those who have been uprooted as result of natural disaster, civil conflicts, ethnic strife, economic deprivation and other injustices, thereby placing refugees, internally displaced persons, and economic migrants within the same category. Others focus on persons in need, irrespective of whether they are internally displaced or not. Many others emphasized that internal displacement could easily fall outside their purview, given the problem of mandates and limited funds for emergencies.
Some commentators do not consider people displaced by natural disasters such as drought, flood, or earthquake as IDPs. These authors emphasize the element of coercion which characterizes forced displacement. They interpret coercion as requiring action either by a government or by an insurgent group.\textsuperscript{14}

1.2. Refugees and IDPs

In everyday speech the word ‘refuge’ is used to describe a person who is forced to flee his or her home due to reason for which individual is not responsible—be it persecution, public disorder, civil war, famine, earthquake or environmental degradation. In international law refugee is a person who is forced to leave home for certain specified reasons and who is outside the country of his or her origin and does not have its protection. The most widely accepted definition of the term refugee is contained in the 1951 Convention.\textsuperscript{15}

At the core of the international refugee law is the principle of ‘non-refoulement’ which prohibits repatriation of people to states where their life or liberty would be at risk.\textsuperscript{16} The principle is recognizes as part of customary international law and therefore binding on all states. The principle is also incorporated in some other international treaties such as 1984 Convention against Torture\textsuperscript{17} which has not yet been ratified by the Government of India. Despite the fact that refugees and internally displaced persons are similar in many regards, there exist several differences between the two in the international law regime. First, IDPs are not the subject of a treaty adopted at the universal level, although Guiding Principles are based on binding international human rights and humanitarian law. Second, as opposed to refugees, IDPs have not crossed an international border from their country of origin. Third, the definition of internally displaced persons in the Guiding Principles is significantly broader than the refugee definition as it includes those displaced by armed conflict, human rights violations and natural disasters\textsuperscript{18}, while the refugee definition is restricted to those with a well-founded fear of being persecuted on at least on of the five grounds.\textsuperscript{19}
As the IDPs remain within the jurisdiction of their own country, they are primarily under the protection and care of the national Government. In a conflict situation as citizens, IDPs have right to be protected under international humanitarian law (IHL). However, there is no agency which has been entrusted with the sole responsibility to assist them. The mandate of the United Nations High Commissioner for Refugees (UNHCR) has been extended to include certain IDP population. Thus international community is not under legal obligation to protect IDPs, help them to return, or find them somewhere to start a life anew.

When refugees and IDPs are living in camps or organized settlements, conditions can be damaging to their physical, mental and social well being. Conditions in the camps are often overcrowded, leading to public health problems and a lack of privacy. Living in such conditions for prolonged period may lead to erosion of social practices and culture.²⁰

2. Protection and Assistance of IDPs

Growing concern within the international community as regards the increased occurrence of internal displacement has resulted in appointment of Francis Mading Deng as the Representative of the United Nations Secretary General in 1992.²¹ The mandate of the representative has since been renewed on three occasions.²²

Today, the UN Guiding Principles on Internal Displacement²³ offer a comprehensive and authentic basis for providing protection and assistance to IDPs. These principles bring together in one document the various legal norms applicable to the internally displaced and offer remedies. Although the principles do not have the force of law unlike treaties, they set standards for both governments and insurgent groups that their conduct is open to scrutiny and will be measured against specific standards.²⁴
It is widely acknowledged that IDPs face more risk with regard to their basic human rights and in particular their physical safety and material security, as well as other forms of human rights violations than the rest of the population. Displacement deprives them of the basic necessities of life—shelter, food, medicine, education or employment opportunities, and are discriminated against the people where they reside. Their family and communal ties are shattered. What is worse is that in a conflict situation they are often trapped within the zones of the very conflict from which they seek to flee, forcing them to move again and again.

Under normal circumstances States are expected to assist and protect displaced population on the ground of being their citizens. If they cannot discharge these responsibilities for lack of capacity or resources, they are expected to seek or at least welcome international co-operation to assist displaced population. However, it is a big challenge for the international community, when governments are unwilling to provide for security and well-being of their displaced population. When persons are internally displaced by natural and man-made disasters, such as drought, flood or nuclear disaster, governments are usually more willing—if not always able, to provide assistance in cooperation with international community. But when persons are displaced by conflict or political causes, governments are often found to be less willing to protect and assist their internally displaced population.25

Since there is no international humanitarian institution which has the overall responsibility for protecting and assisting internally displaced persons, a large number of United Nations agencies, humanitarian organizations and nongovernmental organizations (NGOs) have come forward to provide assistance, protection and development aid when governments are unable or unwilling to meet their responsibilities. However the level of assistance varies from country to country making it uneven international response. There is a continuing debate as to whether to strengthen the existing norms or to change
the international legal normative framework in order to make it more specific to deal with internally displaced population.\textsuperscript{26}

When the United Nations High Commissioner for Refugee (UNHCR) was created in 1950 by the United Nations General Assembly to provide international protection to refugees its original mandate does not specifically cover IDPs. But in view of the growing linkage between refugee problems and internal displacement, UNHCR has redefined its policies to offer protection to IDPs.\textsuperscript{27} Because of the agency’s expertise on displacement, it has for many years been assisting millions of internally displaced persons. More recently under the ‘cluster approach’ UNHCR has the lead role in overseeing the protection and shelter needs of IDPs as well as coordination and management of camps.\textsuperscript{28}

International Committee of the Red Cross (ICRC) is assisting and protecting internally displaced persons only in situations of armed conflict and thus provides assistance to certain groups of internally displaced persons. However, ICRC does not have a general mandate to provide protection and assistance to internally displaced people. ICRC seeks to provide protection and assistance to the victims of international and non-international armed conflict and internal disturbances and tension. In these situations, it seeks to give priority to those who are in most urgent need, in accordance with the principle of impartiality. In this respect, the ICRC considers an internally displaced person first and foremost a civilian, who as such is protected by humanitarian law.

ICRC has repeatedly asserted that international humanitarian law, which is legally binding on both state and non-state actors is fully adequate to address most of the problems of internally displaced population. This is in spite of the fact that the term ‘internally displaced person’ appears nowhere in that law. In fact, the 1949 Geneva Conventions and their 1977 Additional Protocols give extensive protection to the civilian population, both against displacement and to
those who have been displaced. In addition international humanitarian law contains express prohibitions and limits on forced displacement.\textsuperscript{29}

During peace time human rights laws applies to internally displaced persons as it applies to all individuals without distinction and almost in all circumstances. Even though forced displacement had never been the focus of attention at the time of the development of the human rights instruments, these instruments are of particular relevance to internally displaced persons. Some of the human rights instruments which may be referred in this context are the Universal Declaration of Human Rights,\textsuperscript{30} the International Covenant on Civil and Political Rights,\textsuperscript{31} the International Covenant on Economic, Social and Cultural Rights,\textsuperscript{32} the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,\textsuperscript{33} the Convention on the Prevention and Punishment of the crime of Genocide,\textsuperscript{34} the International Convention on the Elimination of All Forms of Racial Discrimination,\textsuperscript{35} the Convention on the Elimination of Discrimination Against Women\textsuperscript{36} and the Convention on the Rights of the Child.\textsuperscript{37} However, there are certain situations in which human rights can be restricted, sometimes even derogated from. For instance Article 4 (1) of the ICCPR provides that, in times of public emergency, some of its provisions can be derogated from.\textsuperscript{38}

As the conflict has been major cause of internal displacement in various parts of the world, international humanitarian law plays a crucial role of the protection of internally displaced. Internal displacement also occurs in situations of internal disturbance or civil unrest. Under the international law such situations are not categorized as armed conflict and as such humanitarian law cannot apply.

\textbf{3. Situations and causes of displacement in India}

Since independence, India has been experiencing armed conflict and ethnically based internal strife that has led to widespread conflict-induced displaced in Jammu and Kashmir in the Northwest and in the Northeastern states. In India
there are numerous causes of displacement of population. War, conflict, human rights abuses, forced relocation due to development projects have generated a high level of internal displacement in the country. Even the natural disaster related displacement is prevalent in India. However development-induced displacement has overwhelmingly dominated the IDP scenario in India. The nature, frequency and extent of the causes of internal displacement in India are so varying that it would be a Herculean task to monitor and record them. More than 500,000 people are living in displacement in India due to armed conflict or generalized violence as of 2011. Most of them have been living in displacement for years, which means that they are not able to enjoy various human rights. Many of them are likely to live in displacement outside of camps both in rural as well as urban areas.

One of the fundamental purposes of the United Nations is to Promote and encourage respect for human rights and fundamental freedoms. Moreover, by accepting the International Conventions guaranteeing the human rights India has obligation to ensure these basic rights of such population. However, sometimes the sovereignty concept creates an obstruction as the UN Charter prohibits any interference in matters which are essentially within the domestic jurisdiction of the State. In many cases Governments are unwilling to admit the presence of such population within their territory as it reflects the State’s failure to protect its citizens. India is also no exception.

There are primarily four factors responsible for internal displacement in India –

1. Political causes, including secessionist movement
2. Identity-based autonomy movement
3. Localized violence
4. Environmental and development-induced displacement.

So far as the development-induced displacement is concerned there are two main causes they are dam construction and urban transportation projects.
Others include creation of forests and reserve parks, and the construction of mining and thermal power plants. The level of displacement is higher in domestically financed projects than the projects financed by World Bank because World Bank now gives more importance to the issue of displacement when decision to finance a project is taken.\(^45\)

Most of the research that have been conducted on development since 1980s have shown that even though per capita incomes and average expectations of life have risen, there is little evidence to show that nutritional standards of thousands of people have improved much over the years.\(^46\) Hundreds of thousands of people have been displaced from their customary modes of life and many of them have found their homes in inhospitable areas.\(^47\)

Presently Assam is facing recurring problem of displacement of population due to the recent conflict in July and August 2010 between Bodos and Muslim communities in Bodoland area and the problem has attracted the attention of the entire country.

However, the extent to which international law can be directly incorporated into domestic jurisdiction remained contentious for a number of years. The traditional view on the point was that treaties do not create rights in municipal law unless specifically incorporated in the domestic legislation. Law in this regard has been substantially altered by the Supreme Court and the issue has been finally settled by the court in Vishaka vs, State of Rajasthan\(^48\). In this case Supreme Court took recourse to human rights enhancing provisions and incorporated them into the fabric of domestic law.\(^49\)

### 3.1. Jammu and Kashmir

The Kashmir conflict that emerged in late 1980 is one of the most staggering conflict in international politics, that has resulted loss of thousands of lives and
large-scale displacement from different parts of the state. Some 350,000 Kashmiri Pandits remain internally displaced as a result of conflict between militants seeking either independence or accession to Pakistan, and Indian security forces and police. Around 100,000 people are still living in the city of New Delhi and some 240,000 people in Jammu. As of June 2010, some 250,000 Pandits from the Kashmir valley were living in displacement.

The Government has encouraged the return of the displaced population by providing cash assistance, interest free loans and apartments in some places where displaced Pandits can stay until they have repaired their homes. However, people are reluctant and discouraged from returning to Kashmir, because the security situation has not been conducive to return, and attacks and massacre of people by separatist groups still continuing.

Since the end of 1990s, clashes between Indian and Pakistani forces and attacks by separatist groups have also led to several waves of displacement from border villages along the Line of Control (LOC) and international border. In May 1999, conflict broke out between India and Pakistan over Kashmir. The conflict centered around Kargil area, high in the Himalayan Mountains. The conflict displaced an estimated 60,000 to 100,000 people, mostly Kashmiri Muslims. The largest towns in the area, Kargil and Dras, were left completely deserted. Most of the displaced fled heavy Pakistani shelling of their villages. People living in villages in other places along the border returned after the war, but in Akhnoor sector people could not, as most of their homes had been destroyed in the shelling and their fields rendered infertile due to increased toxicity in the soil.
3.1.1. Other displacement in Jammu and Kashmir

In 2009 in Poonch district in Jammu and Kashmir, 15,000 people living in 22 villages were separated from their agricultural land, education, and livelihood by a fence that was erected by the Indian army five kilometers away from the Line of Control (LOC) inside the Indian-controlled territory. People’s movement was also restricted as they were not allowed to move about after four p.m. Their security was threatened by both the Indian and Pakistani armies. No compensation was received by the people as they had no access to their farmland.  

3.2. Central India

In India, leftist extremist groups commonly referred to as Maoists or Naxalites, have significantly increased insurgent activities during the past few years in the States of Madhya Pradesh, West Bengal, Bihar, Chhattisgarh, Jharkhand, Orissa, Tamil Nadu, Maharashtra and Andhra Pradesh. Discrimination against the tribal population, displacement by large development projects, and failure on the part of the Government to ensure food security are the primary reasons for the rapid growth of Naxalite movement. The Naxalite conflict has so far affected more than 200 districts of India. Both the Naxalites and government security forces, with their allied militia Salwa Judum and Special Police Officers have been responsible for human rights violations. They raided hundreds of villages in Chhattisgarh State’s Dantewada and Bijapur districts, where tribal communities constitute 79 per cent of the population. They used threats, beatings, arbitrary arrests and detentions, killing and burning of villages to force residents to support Salwa Judum. Thousands of villagers were forcibly relocated to Government run Salwa Judum camps near police stations or paramilitary police camps to prevent the Naxalites from recruiting villagers. Around 450,000 people are estimated to have internally displaced by the
Naxalite conflict since 2005.\textsuperscript{58} IDPs staying in camps in Chhattisgarh had limited access to food and only some of them were receiving free rations. They also lacked shelter, sanitation facilities, access to health care services, and access to education.\textsuperscript{59}

According to National Commission for Protection of Child Rights, internally displaced children from Chhattisgarh were not being admitted to schools in Andhra Pradesh because they did not have school-leaving certificates and did not understand Telegu being the language of instruction in Andhra Pradesh. As of July 2009, 1,000 to 1,500, displaced children were out of school, and there were only four residential bridge courses offered, which was not sufficient to cater to the needs of all displaced children who had missed out their schooling.\textsuperscript{60}

\textbf{3.3. Gujrat}

Communal violence between Hindus and Muslims in Gujrat from 28 February to 2 March 2002 led to the death of more than 2,000 people and the displacement of about 250,000 people. As of December 2009, almost eight years after the violence, just over 19,000 IDPs are still living in 86 'relief colonies' set up by various organizations and civil society groups in October 2002 after the closure of official relief camps.\textsuperscript{61}

The violence started after 58 Hindu pilgrims had been killed in a fire on a train in the Gujrat city of Godhra on 27 February. The death of these pilgrims sparked off intense violence in Gujrat. The violence was reportedly orchestrated by Hindu organizations under the umbrella of the Sangh Parivar, and officials of the governing Bharatiya Janata Party (BJP) as well as the members of the police were allegedly complicit in it.\textsuperscript{62}
The plight of the displaced continued to be miserable. In June 2007, a Supreme Court appointed committee headed by N.C. Saxena found that 4,545 Muslim families comprising around 30,000 persons who were displaced by the post-Godhra communal riots were still living in miserable conditions in 81 relief camps in Gujrat. They faced acute scarcity of food and security. Only five of the 81 colonies had government or government recognizes schools, and only four served mid-day meals to children. Only four colonies had fare price shops, and only 725 out of the 4,545 families were recognized as below poverty line.\textsuperscript{63}

The report of the National Commission of Minorities found enough evidence to suggest that there continue to be large number of internally displaced families in Gujrat who are living in subhuman conditions in colonies constructed entirely by NGOs. There has been no support from the State to compensate them for their loss of habitual place of residence and normal livelihood or provide basic services and livelihood options to allow them to live with dignity in their present location. There has been no attempt to secure a safe environment or facilitate their return to their homes.\textsuperscript{64}

\textbf{3.4. Northeastern States}

As a result of environmental degradation, socio-economic and political transformation, and the Government sponsored development projects, the entire Northeast India has experienced massive internal displacement. Almost all the states of the region have witnessed widespread violence and displacement of people in recent years as the region is characterized by extraordinary ethnic cultural, religious and linguistic diversity belonging to different ethnic groups\textsuperscript{65}. The region has a large and diverse non-tribal population as well. It is important to point out here that one can find all the three kinds IDPs in Northeast India especially in Assam.
Contrary to widespread perception, however, the tribal population of the region constitutes only about 30 per cent of the total population. The ‘non-tribals’ dominate Assam and Tripura and Manipur, while the rest of the states are having tribal population ranging from 60 to 90. per cent.\textsuperscript{66} Nearly one million people have been forced to flee their homes by ethnic violence in Northeast India over the past 20 years.\textsuperscript{67} The region’s perpetual vulnerability to ethnic conflicts and the resultant violence has caused innumerable deaths and massive displacement in these states.

3.4.1. Conflict

Despite the fact that the Northeast India is rich in natural resources the region remains under developed, isolated and affected by violent ethnic conflicts. Over 30 rebel groups are active in the region which is home of about 200 tribal groups inhabiting in India. There are diverse reasons for violent conflict in Northeast India. Some of the reasons that may be mentioned are socio-economic and cultural factors, the global changing trends, the process of implementation of democratic process and the geographical factors. Northeast conflicts can be broadly perceived as ethnic identities confronting the mainstream Indian state. Confrontations may be categorized as (a) indigenous group versus state; (b) tribe versus tribe; and (c) tribal versus non-tribal. In some case more than one of these elements may overlap.

Throughout the British colonial period, the Northeast was treated separately and differently from other regions of British India. The hill areas were treated as partially excludes area\textsuperscript{68} under the provision of Government of India Act 1935. Most of the tribal communities of the hills thus remained cut off from social and political developments taking place elsewhere in the country. Therefore, when region was annexed with the Union of India aftermath of India’s independence, people of the Northeast resented it. Moreover, isolationist policies persisted even during the post-independence era. As a result, many of the tribal
communities of the hills started asserting themselves and demanded autonomy and separate statehood through peaceful democratic movements and later by insurgency movement. In this way the region has become the breeding ground of large number of armed groups.

There are some other reasons for increasing armed conflict in the region. First, failure of peaceful accords and agreements with armed opposition groups and the policy to suppress these movements by the Government of India with the imposition of draconic legislation called the Armed Forces Special Powers Act (AFSPA), 1958. Second, extraction of mineral resources and construction of large dams and other development projects without considering the rights of indigenous population. Third, the trend of global economic policy and era of globalization has also contributed to the increasing trends of violent conflicts.

From the 1990s to the start of 2011, over 800,000 people were forced to leave their homes due to inter-ethnic conflict in western Assam along the border between Assam and Meghalaya and in Tripura. According to IDMC’s conservative estimates more than 76,000 of them are still living in displacement in November 2011, but in absence of proper monitoring it is not known how many of them have been able to rebuild their lives.

Both the Central as well as State Governments in Northeast especially Assam Government have not done enough to protect the rights of displaced population and to prevent further conflict in the State. The Constitution of India offers greater autonomy and control to a large number of indigenous people over their areas in the Northeast India under the Sixth Schedule. But the granting of autonomy has generated waves of inter-ethnic violence as groups seek to establish a local majority in order to qualify. As a result both indigenous and non-indigenous groups have been affected by violence and displacement.
3.4.2. Development and displacement

In India millions of people have been displaced in the name of development. These people have become impoverished due to development and the fruit of development does not reach them. Even the planning commission does not have the accurate figure as of how many people in India have suffered and deprived of their livelihood without physical relocation. It has been estimated that around 50-60 million people have been displaced. This figure includes around three million displaced in Jharkhand, three million in Orissa, five million in Andhra Pradesh, one million in Kerala, 100,000 in Goa, two million in Assam, 4.2 million in Gujrat and 7.5 million in West Bengal. These figures exclude the high displacement states of Chhattisgarh, Madhya Pradesh and Maharashtra. Among all the Northeastern states Assam tops the list, so far as the development related displacement is concerned.

Psychologically, involuntary displacement lays the foundation for jealousy, inferiority, humiliation and frustration. The poor find themselves thrown out of their original place of residence and living in abstract poverty with poor infrastructure for example non-availability of electricity, sanitation, hospital facilities etc. Thus, forced relocation has a direct consequence on both physical and mental health of the relocated people. It can result in the spread of infectious diseases and nutritional stress, and thereby increasing morbidity and mortality.

In comparison to the number of people displaced by conflict and violence, the number of people uprooted by development project is believed to be much higher. Studies carried out by the World Bank have estimated that every year since 1990, roughly ten million people worldwide have been displaced by infrastructural development projects. In several parts of the world big dams have become debatable issue and have been focus of increasing attention. It is estimated that three Gorges Dam on the Yangtze river in China will cause the displacement of about 1.2 million people in next few years. In India the Sardar
Sarovar dam on the river Narmada had faced fierce protest for several years, and the World Bank even withdrew support from the project in 1993. These projects easily get go-ahead without undertaking any proper safeguards to protect the rights of those people who are at risk of displacement.

In many parts of the country, communities protested forcible acquisition of land by the Governments for construction of manufacturing units such as Tata Nano’s car in Singur, in which 997 acres of agricultural land was acquired to set up a factory for one of the cheapest cars in Asia, (the project was subsequently shifted to Gujrat) or for developing Special Economic Zone (SEZ) such as Nandigram.

Generally displacement leads to impoverishment and the next step is marginalization, which goes far beyond impoverishment leading to social and cultural insecurity. Even when displaced population receive high compensation, it is only the land owners who get benefited and most of the people who lose their jobs and livelihood are landless agricultural labourers as they get neither job nor compensation. Another distressing feature of development-induced displacement is that when people pushed out of their homes due to earthquake or war, they receive attention from media as well as international aid agencies. But no such sympathy is won by the victims of development-induced displacement.

It is said that development-induced displacement is different from conflict and even natural disasters. Some disasters are inevitable, just as some conflicts may be necessary. On the other hand development is seen as a right to which all people should have access. But just as people have a right to development they have also a right to be protected from development’s negative effects, including arbitrary eviction and the loss of economic, political, civil and other human rights. The problem of development-induced displacement and land acquisition are interrelated. Displacement in such cases is not just alienation from land, but also from livelihood, culture and community. As the Government
has no legal obligation to rehabilitate and resettle displaced people under the law, it can accentuate the impoverishment risks. Between the period of 1947-2000 in Assam altogether 51,437 families have lost their livelihood due to development projects. If we assume that on an average each family consists of five members, then the number of affected people increases to five times, that is to 2.5 lakh. For a small state like Assam, the number of displaced persons is very large indeed.\textsuperscript{78}

Indian citizens do not have legal right to rehabilitation if they are displaced from their original habitat. There is no law in the country under which displaced person can challenge displacement and disruption of occupation caused by the government in the public or national interest. The age-old enactment Land Acquisition Act, 1894, even after amendment of a number of times still retains the colonial exploitative character.

The current legal system recognizes only individual ownership and considers land as merely a commodity and a place of cultivation and building. On the other hand most of the forest and other tribal communities in India especially tribals in the Northeast sustain their livelihood on common property resources (CPRs). Thus the law allows alienation of CPR land even without any compensation. Thus migrants from outside the Northeast can easily encroach on CPRs, and at times cause displacement of local population.

Rehabilitation measures are largely taken depending on how strong is the public opinion or how well organized the affected people are, in the particular project area. As there is no law on rehabilitation of displaced persons, equality before the law and equal protection of law in equal circumstances guaranteed by the constitution\textsuperscript{79} cannot apply.
3.4.3. Natural disaster-induced displacement

Natural disasters in India generally have close connection with environmental degradation and consequent climate change. Floods, cyclones, avalanches, drought, landslides and river-bank erosion are some of the common natural disasters that cause displacement in India. River-bank related displacement is more prevalent in flood plains of Assam and landslides are common in hill areas. However, floods are the most common natural disaster in India.

At present due to continuous environmental degradation flood and river-bank erosion in plains and landslides in hills have become endemic in Assam. This has caused innumerable deaths, destruction of property and population displacement. The intensity of flood, river-bank erosion and land slide has increased substantially over the years in terms of areas and victims claimed. Assam has lost 5,95,155 bighas of land due to erosion by the Brahmaputra between 1971-2009 on the basis of the information received from seven districts. A total of 40,246 families have been displaced by erosion. It is not only the river Brahmaputra but also other small and medium sized tributaries that cause damage and destruction in the plains of Assam i.e. Brahmaputra and Barak valley. Flood in Assam is an annual affair. Every year when monsoon hits India from June till September flood inundates both the Brahmaputra and Barak valley in Assam forcing the residents to temporarily abandon their homes. Yet the government’s rescue and relief operations are not up to the mark to reach people in time. This results in huge loss of property, livestock and even human lives. River bank erosion during high flood is another annual feature. The extent of loss to the bank erosion varies from year to year depending on severity of floods in the state. It is estimated that at least three million peasants have been displaced in recent years by erosion of prime agricultural land by the river Brahmaputra.
The problem of river-bank erosion in Assam started in 1950 that has turned ugly in following years. Every year, erosion renders thousands of families homeless and destroys their livelihood. Many of these people are forced to live in subhuman conditions on embankments and roads. These people have lost their right to live with dignity. What is more disturbing is the future of the children of these distressed families. Some people have spent more than 10/20 years of their lives on roads and embankments. Another hazard that sometimes comes with the flood and flash flood is the degradation of thousands of acres of farm lands and wet lands due to deposition of sand debris.

India does not have definite policy or law to provide for specific needs of internally displaced persons and if we look at the handling of the situations of displacement in India, it can be easily assumed that India is lagging behind in the matter of protection of human rights of internally displaced persons. Further there is also lack of awareness amongst the members of the civil society. Even media attention is not uniform towards the entire displaced population as conflict-induced displaces get some sort of attention whenever conflict erupts, other categories of displaced population are not lucky enough to get it and there plights always remain behind the screen.

India has obligation to ensure human rights of IDPs both under the national as well as international law. Article 51 of the Constitution of India provides that the State shall endeavour to respect for international law and international treaty obligations. Thus India has obligation to guarantee the rights, specifically those enshrined in UDHR, ICCPR and ICESCR to its citizens, Because UDHR is universally accepted document and ICCPR and ICESCR have been ratified by India.

4. Statement of the problem

It is very difficult to obtain accurate data on IDPs in India because there is no designated organization responsible for the collection of data. There is no coordinated procedure for data collection, verification, assessment and analysis. There is also no central agency responsible for monitoring the number
of people displaced and returning to their original place. Every displacement situation is tackled in a piece meal manner. In case of conflict-induced displacement and in natural disaster situation humanitarian and other human rights agencies have limited access to displaced population. These organizations--NGOs (Non-governmental organizations) and other civil society organizations have generally focused on specific situation rather than on overall situation. The displaced, whose numbers are known are generally those living in camps and registered there. It is very difficult to get accurate figure of those people who live in displacement outside the camps.

So far as internal displacement is concerned Assam is one of the worst affected State in India. The conflict and flood and erosion induced displacement assumed menacing proportion in Assam. The issue of ethnic conflict is closely linked to the politically contentious issue of illegal immigration into Assam from erstwhile East Pakistan. In Assam

In case of conflict-induced displacement it is difficult for individual scholar or journalists to investigate the situation because of inaccessibility of conflict zones and the people living therein and also security threat.

5. Objective and significance of the study

The objective of the study is to know the general situation of internally displaced population in the state of Assam in terms of availability of food, shelter, health, sanitation, education, financial help received from government and protection of other human rights.

Since the creation of the mandate of the Representative of the United Nations Secretary General on Internal Displacement in 1992, great achievements have taken place for the protection of internally displaced persons. Especially international community has accepted the importance of providing effective
solutions to the plight of the internally displaced. Despite having a normative framework in the form of Guiding Principles on Internal Displacement and institutional structures within the United Nations system to improve the response to situations of internal displacement, a lot is yet to be done.

Considering the fact that incidence of internal displacement is quite high in Northeastern region especially in Assam and lack of definite policy or law to effectively control the problem of displacement of population, the investigator believes that more research on the subject is needed to be conducted with regard to improve the response system. The present study proposes to look at the response systems with regard to IDPs and the national and international responsibility for their protection.

6. Overview of chapters

The study consists of eight chapters. The first chapter introduces objective, database, the causes, nature and scope of the problem of internal displacement in India as a whole. The chapter II proceeds to analyze the legal framework applicable to situations of internal displacement under international law which basically started in 1992 when the United Nations took the initiative to for the protection and assistance of internally displaced persons by appointing the Representative on IDPs. The chapter gives a brief account of the development of ‘soft law’ in the form of Guiding Principles on Internal Displacement, institutional framework, and role of various agencies for the protection and assistance of displaced population. Chapter III looks into various causes of population displacement of violent conflicts taking place in different states of the Northeast India especially in the States of Arunachal Pradesh, Manipur, Tripura Mizoram and Meghalaya. The chapter also discusses the situations of population displacement in these States. Situations of displacement in Assam is not discussed in this chapter as displacement scenario in Assam is discussed elaborately in the following chapters.
Chapter IV proposes to deal with the brief historical background of the conflict in the state of Assam right from the pre-British period illustrating how various factors have triggered the conflict in present day Assam. The study also tries to critically evaluate the various policies adopted by the British as well as independent India which caused internal displacement. In the next chapter i.e. the chapter V proposes to discuss on the extent of displacement caused mainly by Government sponsored projects and for Special Economic Zones and land rights questions. The issue of rehabilitation and resettlement policy of the government is also proposes to be discussed in the present chapter. The chapter VI examines the magnitude of the problem of flood and river-bank erosion-induced displacement and measures taken to control disaster management. In the chapter VII i.e. the data collected from the field study are analyzed and in the last chapter i.e. chapter VIII, the investigator has along with the concluding remarks put forwarded a number of suggestions and recommendations.

7. Sources of data

In the study the investigator uses both primary and secondary sources. The primary sources which have been used are information gathered by the investigator from the sample frame with the help of questionnaire and personal interviews, census statistics and government documents. The secondary sources in the study include published books, journal articles, news papers, dictionaries, text books and internet databases, government publications and publications of international bodies, reports of committees and commissions and data collected from research institutions.

8. Hypothesis

The Union Government and Government of Assam have failed to take concrete measures by developing legal and institutional regime to address the human
rights concerns of internally displaced population and to make specific provisions for development, resettlement and rehabilitation of displaced population thereby subjecting them to denials and deprivation of economic, social, political and cultural rights.

9. Research methodology

The investigator proposes to use both doctrinal and empirical methodology while conducting the study. During empirical study the investigator proposes to use both qualitative and quantitative method. Five districts of Assam i.e. Kamrup, Nalbari, Dibrugarh, Karbi Anglong and N.C. Hills (Dima Hasao) have been selected for the study. For the doctrinal study the investigator proposes to use books, Government reports, data, international instruments, journals, magazines, newspaper report, reports of other institutions like NGOs involved in activities relating to IDPs. For the empirical study data would be collected from visiting the places where IDP population is living.
END NOTE


2 Infra, Note 15, Ch. I.


6 Phuong, op. cit., p.3.


9 Under the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa (1969), the term ‘refugee’ encompasses definition in the 1951 Refugee Convention and ‘every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or whole of his country of origin or nationality, is compelled to his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality. In Latin America, the Cartagena Declaration on Refugees (1984) defines refugees as persons forced to move because their lives, safety or freedom have been threatened by generalizes violence, foreign aggression, internal conflicts, massive violation of human rights or circumstances which have seriously disturbed public order.

10 UN. Doc. E/CN/4/1998/53/Add.2. In the Guiding Principles internally Displaced Persons have been defined as ‘persons or group 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 affects of armed conflict, situations of generalized violence, violations of human rights or natural or man-made disasters, and who have not crossed an internationally recognized state border.’ Guiding Principles on Internal Displacement, Introduction, para.2.


12 Phuong, op. cit., p.57.

13 Cohen, and Deng, op.cit., p. 191.

Art. 1(a), United Nations Convention Relating to the Status of Refugees, 1951. The Article provides that refugee is a person who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular group, or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of the country.

Ibid, Art. 33. The Article states that ‘No contracting state shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”.

Article 3 (1), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984.

Supra, Note 10.

Supra, Note 15.


CHR Res. 1992/73.


Cohen, and Deng, op. cit., p.7.

Cohen, and Deng, ibid, p. 6.


Phuong, op. cit., pp. 42-43.


IDMC,”Internally Displaced Persons (IDPs) in India”, Nov. 2011, p.1, Available at www.internal-displacement.org, Accessed on 20/02/2011. This figure is based on conservative estimates. In India millions of people have also been displaced as a result of development projects and natural disasters. This report focuses exclusively on internal displacement due to armed conflict or generalizes violence.

Id.


Ibid, Art. 2 (7).

Lama, loc. Cit.

Hathaway, loc. Cit.

Bagchi, Amiya Kumar, “Inequality, Deprivation and Displacement”, in Banerjee, Nirmala and Marjit, Sugata’s (ed), Development, Displacement and Disparity: India in the last quarter of the twentieth century, New Delhi, Orient Longman, 2005, p.18.

Id.

AIR 1997 SC 3011.

Dhavan, Rajeev, Refugee Law and Policy in India, New Delhi, Public Interest and legal Support and Research Centre, 2005, p. 65.


Global IDP Database, 9 June 2004, loc. cit.


Mandal, Monika., ‘Internal Displacement in India: Status, Condition and Prospects of Return”, p. 34, Available at www.mcrg.ac.in, Accessed on 14/02/2012.

IDMC, 2 Sept. 2010, loc. cit.

Salwa Judum means ‘peace hunt’. It is a vigilant force supported by Government Security Forces and was set up in 2005. Government
Security Forces joined in Salwa Judum members on village raids to identify and remove suspected Naxalite sympathizers.


Id.

Id.

Ibid, p.15.

Ibid, p.32.


Under Section 2 of Bengal Eastern Frontier Regulation, enacted in 1873, the ‘inner line’ was introduced by the British in hill areas, beyond which no person could go beyond the ‘inner line’ without a license.

Geneva based Internal Displacement Monitoring Centre (IDMC), established by Norwegian Refugee Council (NRC), is the leading international body monitoring internal displacement worldwide.


Phuong, op. cit., p.31.

Marginalization is the process whereby something or someone is pushed to the edge of a group and accorded lesser importance. This is predominantly a social
phenomenon by which a minority or sub-group is excluded, and their needs or desires ignored.

77 Robinson, loc. cit.


79 Art. 14.


81 Hussain, Monirul, “North-east India’s Forgotten IDPs”, Available at www.fmreview.org, Accessed on 16/02/2012.