

# **INTRODUCTION**

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Internal displacement, affecting some 28.8 million people worldwide has become increasingly recognized as one of the most tragic phenomena of the contemporary world. Among other factors one of the most important reasons of Internal displacement of human population is due to mega projects such as dams, roads, ports, urban development, pipelines and petrochemical plants, mines, and vast industrial plantation both reflect and instantiate the larger social projects of colonialism, development, and globalization. Mega projects broadly defined as projects which transform landscapes rapidly, internationally, and profoundly in very visible ways and require coordinated applications of capital and state power. In India alone involuntary settlement is estimated to have affected about 50 million people in the last five decades. The sheer magnitude of the numbers involved is mind boggling. Experience shows that most people who are forced to relocate often end up worse off than before. Three fourths of those displaced in India over five decades still face an uncertain future.

These problems usually cause to all vulnerable groups of people like men, women and children of that area. Although such development is needed for better living and economic growth of the region as well as for the country but due to lack of planning and inadequacy of just and proper rehabilitation many a time local people suffer a lot which violates their fundamental rights of life, livelihood, shelter, food and dignity. It is said that women outnumber men in internally displaced populations and that the needs of women and men differ, the absence of a gender perspective in the assistance community and that gender is either being ignored or is not properly understood. Within a short period of time it should motivate immediate and deliberate action to promote a focus on gender. The gender focus would be primarily on women and children.

A major impact falls on women and children who are in flight, adapting to life in camps, or are directly caught up in the midst of conflict. This effect of displacement includes family separations, exposure to gender violence, trauma, and impaired health, loss of property, depression and most importantly, physical deterioration.

Most of the internal displaced persons are victims of environmental degradation, development process and ethnic conflicts. Though technically they are citizens of the country, empirically they are refugees. There are clear parallels between refugees and the displaced persons. Both lack the protection of their governments. For refugees, there is the international protective mechanism under the UNHCR (United Nation High Commissioner for Refugee) mandate and a specific body of law to address their needs. The needs of the internally displaced remain to be addressed largely with the general provisions of human rights law and humanitarian law and through ad-hoc operational measures and mechanism. Despite the intensity & scope of internal displacement, there is no adequate system of protection and assistance for the displaced people.

The pervasive nature of internal displacement and the challenges of responding effectively inspired this policy on internally displaced persons. A broad and integrated approach is required to reduce the human costs of population displacement and resume progress towards long-term development. The provision of concrete, comprehensive assistance and a durable solution to internally displaced persons needs is a USAID (United Nation Agency for International Development) priority. Humanitarian law applicable to situations of non international conflicts, Art 3 common to the four Geneva Conventions (common article 3 GC) is the cornerstone to the protection of the internally displaced. Governments are often tempted to label a conflict a mere right or internal disturbance, rather than internal armed conflict, to avoid application of common article 3GC. As far as the rights of the displaced people in international area are concerned, the United Nations has played the key role. The part played by the UN (United Nation) can be found in the several Resolutions passed by its General Assembly and the International Instruments issued by the UN. The UN Resolutions and Conventions on Human Rights that articulate the rights of human beings as also the displaced people and which constitute the basis for the making of national legislations.

The present study aims to highlight not only the UN directives but also the position in the various parts of the world. For instance, it seeks to highlight the displacement of AMERICA where in 2010 adopted Brasilia Declaration on the Protection of Refugees and Stateless Persons in Americas, which included some elements relevant to IDPs. USA, AUSTRALIA, though, as of now there is no

legally binding instrument in international for protection against the IDPs, the African union has gone a step forward and adopted the African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) amongst others.

Displacement has severe consequences for all but for women and children those are particularly devastating. Women and children bear the brunt of the forced move a lot more than the male members of their families. Many problems that women and children face in displacement situation stem from the gender bias, especially in developing countries. When displacement occurs, large amount of damage results than simply the loss and destruction of goods and property, people's lives and the social fabric are left in tatters. The long-term impact of displacement on women and children may mean the permanent loss of social and cultural ties, the termination of career and regular employment, and disruption or loss of educational opportunities. Children suffer the most when displacement spans periods of several years. They miss education during their formative years, undergo immeasurable trauma and psychological stress, suffer stunted growth due to extended poor nutrition, and have difficulties in socialization.

The male and gender biases negatively affect displaced women in two ways: first, the widespread nature of male biases in Indian society helps perpetuate gender inequality in terms of unequal resource allocation and distribution, and also legitimizes the silencing of women's and children interests, second, biases within state institutions, structures and policies help perpetuate these societal inequalities. Women often find them in double bind. The state policies and programmers could potentially remedy inherent gender biases found in the family and wider society; they have failed to do so in the case of resettlement programmers. Official programmes have mostly exacerbated gender inequalities within displaced communities.

In India, there are a rising number of protests against compulsory acquisition of land for construction of manufacturing units such as Tata's Nano 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 Gujarat) or for developing Special Economic Zone such as Nandigram or construction of large dams like Sardar Sarovar Dam on the river Narmada, which famously led to a

cancellation of grant by World Bank due to protests under the argument that the tribal population was getting displaced under unfair conditions among other reasons such as environmental impact of the project. The effects of displacement spill over to generations in many ways, such as loss of traditional means of employment, change of environment, disrupted community life and relationships, marginalization, a profound psychological trauma and more. It is not the idea of this report to paint a dark picture of land acquisition for development purposes. However, to deny these perspectives is no more an escape-route for the government, particularly given the increasing international pressure and accountability and rising internal protests in India.

Over the last few years, state collusion with corporate and other forces has resulted in violence against local communities and forceful land acquisition without adequate compensation and rehabilitation, as in the case of Nandigram in West Bengal. Documents submitted by Universal Periodic Review, including the summery prepared by the Office of the High Commissioner for Human Rights, also raise issues of the lack of transparency, and intimidation of small and marginal landowners in the process of land acquisition, with security forces and police being used to suppress people's protest. There is a regular removal of people from their land due to the development of big projects usually found in Singur under Medinipur districts and also in Chandmoni Tea Estate under Darjeeling Districts.

The people of Sikkim have been protesting, including through an indefinite hunger strike, against the over two dozen proposed mega hydroelectric projects on the Teesta River, particularly in Dzongu, the holy land and exclusive reserve of Lepcha indigenous community. The proposed hydropower projects would have a drastic effect on the social, cultural and religious well-being of the Lepchas, as well as on the fragile environment of Dzongu.

Law, as a Social Engineering, is the remedy of existing imbalances, as a vehicle to establish an egalitarian social order in a Socialist Secular Bharat Republic. Social and economic democracy is the foundation on which political democracy would be a way of life in the Indian polity. Social and Economic retransformation requires that the material resources or their ownership and control should be so distributed as to subserve the common good. The concept of social engineering

needs to be applied for protection of IDPs as the present laws are not appropriate for the protection of IDPs and they are found to be at the mercy of the state administration that have to look after the affairs of other people.

The nature and dynamics of events leading to internal displacement has been varying from state to state depending upon the composition of the population and the related context of conflict. For instance, Gujarat and Kashmir have seen waves of religious intolerance in the post-independence period. The manifestations have included Hindu- Muslim violence, retaliation attack by Muslims, and Hindu Nationalist groups' attack on Christian communities and so on.

The context in north east India shows a different aspect. Once sparsely populated, in recent decades it has swelled with the arrival of millions of ethnic Bengali Hindus and Muslims from Bangladesh and from India's West Bengal state. Population growth has led to competition for land, jobs; culminating in tensions among ethnic minority groups as well as between migrants and ethnic groups. These tensions gave rise to ethnic and politically based insurgencies that have battled the Indian Armed Forces, have attacked each other and turned on civilian populations belonging to rival ethnic groups. Thousands of people have been displaced due to this violence. The plight of indigenous people vis-à-vis displacement in India is basically a matter of policy failure and unaddressed alienation in the name of national interest.

Tribal /Indigenous people in India constitute approximately seven percent of the population. The major threat to their livelihood is because of large scale alienation of their lands by state machinery for mega projects such as mining, large dams, industries, highways, army firing ranges, military cantonments etc. With the increasing privatization of resources mining has become a double edged sword- lucrative for the government but destructive for the marginalized people of the region. Most minerals like Bauxite, Uranium, Chromite and Coal are in tribal areas of Orissa, Madhya Pradesh, Bihar and Maharashtra. Uranium mining in Jharkhand and Meghalaya has not only led to the destruction of vegetation, water resource, fish etc. but has caused serious damage to the health of Tribals. Narmada Valley project is yet another case in point which raises many valid questions on social justice, common property resource management and conditional foreign aid.

These and many more un-highlighted cases bring out the issue of Internal Displacement as a major development concern in India. This concern in turn is related to certain vulnerable communities, whose life and existence are endangered. Development-induced displacement and its impact on the social, cultural and economic lives of the affected people is a huge discourse in contemporary India. Dislocation due to displacement has an irreversible impact on the lives of those displaced. Review of the existing literature shows that impacts are more severe on the most vulnerable groups such as the landless, tribal, women and children. In resettlement planning and policies it becomes imperative to understand the differential impacts on men and women as gender blind programmes and policies can unintentionally reinforce gender disparities that already exist in society. Also, inherent societal biases in planning and policies may preclude women from benefiting from opportunities provided through the projects.

The paradigm of development that has found favour with planners makes displacement of large number of people, even whole communities, and an unavoidable event. It is recognition that displacement, and the related concerns of R and R, are not familiar to vast areas of the law which affect the rights and lives of the displaced person. But 'public purpose' emerges as the justification, the doctrine of eminent domain gives to the state an enormity of control overland and related resources, and so over the lives of the people; acquisition provides the process; and compensation is the limited replacement of the rights of the displaced person.

The law has been constructed on the acknowledgement of the individual dislocated person; experience has revealed the inadequacy and inequity, inherent in this approach. It does not accommodate the implication it has for displaced communities, and in circumstances of mass displacement. Thus, may be presumed that it gives 'development' a priority which is denied to the large scale and often traumatic displacement that it entails.<sup>1</sup>

Human being and human agencies constitute typical social aberrations. The mechanism of judicial justice is devised in all civilised societies to remedy the wrongs that may be perpetrated through individual, executive, legislative system itself. If rule of law is to prevail regulation of conduct violative of human rights

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<sup>1</sup> Usha Ramanathan, "*Displacement and the law*," Economic and Political Weekly, June 15, 1996, p.1486.

becomes an essential aspect of governance of the country. The right to access to justice as contained in the relevant international human rights instruments forms an important basis for strengthening the rule of law through the administration of justice. The office of the High Commissioner for Human Rights has done commendable work on development of human rights which include the promotion and protection of human rights in the field of administration of justice within the framework of the United Nations Decade for Human Rights Education, 1995-2004.

Looking to the Indian context of Statute law in which the substantive right of the affected person- often in the form of money compensation is derived. The statute has a profound influence on judicial understanding of the problem of displacement. The statute is seen insidiously but definitely determines judicial interpretation of constitutional mandates. It is to this that the lack of empathy may partially be attributed, when a court finds that ‘preferential’ treatment of displaced families would be against the equality promised in the Constitution- even while accepting the poverty of the displaced.

Judicial hands off on matter of policy have given power to the state beyond legitimate challenge. The relevant concerns in the context of displacement would then be justiciability, the nature of legal imagination the finality which is an integral part of the character of justicing, and the development of a relationship between law and justice.<sup>2</sup>

Following more other forms of displacement, one another important displacements in India is the form of disaster. It has had some of the world’s most severe droughts, famines, cyclones, earthquakes, chemical disasters, mid-air head-on air collisions, rail accidents, and road accidents. India is also one of the most terrorist prone countries. India was, until recently, reactive and only responded to disasters and provided relief from calamity. It was a relief driven disaster management system. India also has world’s oldest famine relief codes. In recent times, there has been a paradigm shift and India has become or is becoming more proactive with emphasis on disaster prevention, mitigation and preparedness.

India traditionally accepted international help in responding to disasters. However, after the 2004 Indian Ocean tsunami, India refused to accept international

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<sup>2</sup> *Supra Note. 1 p 1486.*

response of assistance from foreign governments. Not only that, India deployed its defence personnel, medical teams, disaster experts, ships, helicopters, and other type of human, material, and equipment resources to help Sri Lanka, Mauritius, and Indonesia. It may be noted that India itself suffered from the tsunami and was internally responding at the same time. India is also lower income group country, while Indonesia is middle-income group country.

As the tsunami experience illustrates, disasters do not recognize or respect national geographic boundaries. In the increasingly globalized world, more disasters will be spread over many countries and will be regional in nature. India has set up an example of responding internally and simultaneously in neighboring countries for the other countries to follow.

In 1979 India ratified human rights Covenants that is International Covenant on Civil and Political Rights 1966 (ICCPR) and International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR) through the Instruments of Accession by India to the Human Rights Covenants 1979. Apart from these till today India has ratified the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (on 3rd Dec. 1968), 1979 Convention on the Elimination of All Forms of Discrimination Against Women (on 9th July 1993), and the 1990 Convention on the Rights of the Child (on 11th Dec. 1992). The first National Policy on Resettlement and Rehabilitation was brought out for project affected families or in other words families affected by development in the country. As a matter of fact several similarities prevail between refugee and displaced persons with regard to cause of displacement and its situation. But dimension of human rights violation may be different and the available remedy of rights violation is also dissimilar. Internally displaced persons can take recourse of law of the land which include judicial intervention through writs (under articles 32 and 226 of our Constitution). Displaced women and girls are often in especially vulnerable situation and should be granted adequate protection and treatment according to Guiding Principles 4, 18 and 23.

Part III of our Constitution provided certain basic human rights to the women and children in form of Fundamental Rights. In fact, Part III of the Indian Constitution reflects the provisions which are laid down in Universal Declaration of Human Rights, 1948, ICCPR and ICESCR. Part III and Part IV of our Constitution

## *Introduction*

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attributes some rights as fundamental rights to all the women and children such rights are right to equality, right to life and personal liberty, right to education, protection against arrest and detention in certain cases, prohibition of traffic in human beings and forced labour, equal justice and free legal aid, enforcement of these rights under Article 32 of our Constitution.

In India the Constitution is the mother of rights and duties, therefore any attempt to highlight the condition of any class of citizens, it is desirable to take into account the constitutional guarantees in this regard. Part III and IV of the Constitution of India provides for fundamental rights and directive Principles of State Policy which is available to all citizens of India including those who are internally displaced. It is very much important to examine the Articles of the Constitution which apply uniformly, whether it is internally displaced or not--- Article 14- Right to Equality; Article 15- Prohibition of discrimination on ground of religion, race, caste, sex or place of birth; Article 17- abolition of Untouchability; Article 19- Right to Freedom regarding speech etc; Article 20- Protection in respect of certain offences; Article 21- Protection of life and person liberty; Article 21A- Right to education; Article 22- Protection against arrest and detention; Article 23- Right against exploitation; Article 24- Prohibition of employment of children in factories, etc; Article 29- Cultural and educational rights- protection of interests of minorities, Article 32- Right to Constitutional Remedies- Remedies for enforcement of rights conferred by Part III. Article 38- State to secure a social order for the promotion of welfare of the people; Article 39- Certain principles of policy to be followed by the State; Article 39A- Equal justice and free legal aid; Article 43- Living wages, etc; Article 45- Provision for early childhood care and education to children below the age of six years; Article 46- Promotion of educational and economic interests of SCs, STs and other weaker sections; Article 47- Duty of the State to raise the level of nutrition and the standard of living and to improve public health. Article 51A exercising any enforcement of the fundamental rights, the citizens owe a similar duty in order to deserve the exercise of the fundamental rights. But basically it is found that these constitutional guarantees have not been secured to the people who are always in the road of displacement. Equality rights mostly denied to these internally displaced people. Though government has

provided some reserved benefits to the internally displaced persons, the private concerns lag behind.

The Internally Displaced Women and Children are directly under the protection of the state government and hence the state government needs to protect their right. If the state government fails to protect their right after they get displaced then they would be forced to live in abject poverty. The State Government has the authority to formulate its policies and whenever it does so it should direct it towards protecting the rights of Internally Displaced Women and Children, that is to say it needs a wholesome approach and not a half-hearted approach because India has a large number of displaced populations but there is no law to look after them. The State Government has also failed to provide them appropriate rehabilitation to have in cases of ethnic conflict, communal strife or for that matter development. The executive needs to give a serious thought to all these consideration as India is marked as Welfare State in which the welfare of individual needs to be looked after.

It is well known to all that the doctrine of separation of powers are applied in Indian legal system where in, the implementation of laws are in the hand of the executives they can make rules, regulations and bye laws as delegated legislation for the effective implementation of the Parent Statutes passed by the state and the central legislative it is therefore need to discuss on the role of executives in implementation of human rights, which are recognized either as fundamental rights or constitutional rights or other legal rights, applicable to the internally displaced women and children present in India.

Judiciary has played a dynamic role in the protection of the rights of vulnerable group. The Judiciary has come in the forefront to protect the right of the displaced family. Justice is an attribute of human conduct. As said in the previous chapter, “law” as a social engineering is to remedy existing imbalances, as a vehicle to establish an egalitarian social order in a socialist, secular Indian Republic.

The term “displacement” has no doubt reached the Courts. The petitioners are those who have been affected by scourge of war, ethnic violence, natural calamities, development projects, such as; dams, reservoirs, industry, urbanization, wildlife parks and sanctuaries and mining. It is pertinent to mention here that wherever there is an excess of exercise of power by the executive, the judiciary steps

in, to balance the power. The judiciary has enabled the filing of Public Interest Litigation (PIL) for the easy access to courts and also to acknowledge the existence of a group interest.

The reasoning of the court is very fortunately influenced by the statutory laws. The displaced women and children, whose rights have been represented but marginally in the law, have had to resort to the assurances of policy; and policy has no more than persuasive effect. And further, courts are reluctant to adjudicate on the exigencies of policy implementation.<sup>3</sup>

As has been pointed out in the earlier chapter, India has a great tradition of human rights values since ancient historical period. In the post independent period also India was ahead in the matter of human rights, as inscribed in the constitution, with a court system as a vigilant sentinel and implementation instrument. Mahatma Gandhi, who led the struggle for independence battled, not merely for political liberation but for the composite freedoms found in the Universal Declaration for Human Rights, with his heart on the oppressive human condition.<sup>4</sup> Rabindranath Tagore, a cosmic visionary, was a leader in the valiant movement and regarded the ‘innate worth of the individual’ as of the essence, beyond acquiring the ‘means of attaining mere material satisfaction’.<sup>5</sup> On the whole, the national struggle was resistance to fascist trends and colonial exploitation as necessary, since liberty has ‘a true foundation only in the moral worth of the individuals who compose the state’.<sup>6</sup> Revolutionaries, martyrs, crimson ideologues, countless women ready to ‘do or die’ and great souls, each the pride of the nation, held aloft the banner of human liberation and marched to win Swaraj, impregnated with wide spectrum values covering political, social and economic content and belonging as a birth right of every one.<sup>7</sup> Thus when India became free, its democracy encompassed human rights in their comprehensive coverage.<sup>8</sup> Jawaharlal Nehru, as the First Prime Minister and national articulated this vision in immortal diction:

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<sup>3</sup> Usha Ramanathan, “*Displacement and the Law*”, Economic and Political Weekly, Vol. 31 No. 24, June 1996, Pg. 1490.

<sup>4</sup> V.R.Krishna Iyer, “*The Dialectics and Dynamics of Human Rights in India- Yesterday and Tomorrow*”, 1<sup>st</sup> ed. (Eastern Law House, Calcutta, 1999) Pg. 201.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

*'A moment comes, which comes but rarely in history, when we step out from the old to the new, when an age ends, and when the soul of a nation, long suppressed, finds utterance. It is fitting that at this solemn moment we take the pledge of dedication to the service of India and her people and to the still larger cause of humanity.'*

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*'And so we have to labour and to work hard to give reality to our dreams. Those dreams are for India, but they are also for the world, for all the nations and peoples are too closely knit together today for any one, of them to imagine that it can live apart. Peace has been said to be indivisible; so its freedom, so is prosperity now, and so also is disaster in this one world that can no longer be split into isolated fragments.'*<sup>9</sup>

Later was enacted a long constitution enriched by Fundamental Rights and incorporating social, cultural and economic rights (the latter although not judicially enforceable). Women account for around half of the world's 33.2 million internally displaced persons (IDPs).<sup>10</sup> In addition to the many general human rights violations faced by all IDPs, displaced women are often at greater risk than other affected populations. Internally displaced women face a range of protection issues on a daily basis. Most notably, sexual and gender-based violence is an unfortunate reality for many. Often without the protection of family and communities they had before displacement, internally displaced women can be vulnerable to rape, domestic violence, forced prostitution, trafficking and any number of other violent situations. Women who have lost their husbands to conflict, also face additional challenges and responsibilities as heads of households, and often have to rely on basic survival skills.

The researcher had learnt that sexual and gender-based violence is most prevalent in environments where there is a general lack of respect for human rights. Sexual and gender-based violence is, of course, itself a human rights violation. Women and children, who are often most vulnerable to human rights abuses, are also the ones who suffer most from sexual and gender-based violence.

Bringing up the rear in the social hierarchy of a predominantly patriarchal world, however, more women and girls experience gender violence than do men or sexual minorities. Therefore, the slippage between gender violence and violence

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<sup>9</sup> Speech at the Constituent Assembly, on 14-15<sup>th</sup> August, 1947.

<sup>10</sup> UNHCR, *Global Trends 2010: 60 years and still counting* (2011), Internal Displacement Monitoring Centre (IDMC), *Global Overview 2014*, <http://www.internal-displacement.org/publications/2014/global-overview-2014-people-internally-displaced-by-conflict-and-violence> ; IDMC "Girl Disrupted," March 2014, <http://www.internal-displacement.org/assets/publications/2014/201403-global-girl-disrupted-pic-brief-en.pdf>, Pg. 33.

against women in everyday parlance as well as in academic and political writing is largely a reflection of the world as it is.

This brief concept paper identifies the main issues concerning the rights of displaced women and children. It aims to sharpen awareness of the gender dimensions to internal displacement and to provide initial guidance to UNICEF and other agencies on the appropriate gender response to the urgent and growing needs of internally displaced women. The subject clearly deserves in-depth analysis and further research, which this concept paper seeks to stimulate.

Gender concerns for internally displaced women and children primarily relate to two core issues of protection for safeguarding these people from rape, abduction, forced sexual slavery, genital mutilation, torture and murder; and upholding their rights to equal access and full participation in assistance programs. Gender violence is a common feature of displacement. Chronic physical and mental trauma persists because responsible parties fail to concern themselves with or to publicize the lasting effects of physical abuse. Agencies rarely examine protection issues in depth, much less initiate or support investigative research on gender violence in IDP populations.

In refugee work, the dedication and hard work of concerned international assistance organizations over the past decade are beginning to yield positive results on gender issues. But if we analyse the case of IDPs, such mechanisms do not yet exist. The Guiding Principles on Internal Displacement identify the rights and guarantees relevant to the protection of the internally displaced and offer a basis for protection and assistance. Although not a binding legal instrument, the Principles provide practical guidance to governments, NGOs and other agencies working on behalf of the internally displaced. The Guiding Principles are derived from extant human rights and humanitarian law, as well as refugee law by analogy.

The present work also intends to highlight the position of the persons with internally displacement in the six districts of North Bengal namely, Darjeeling, Jalpaiguri, Coochbehar, Uttar Dinajpur, Dakhin Dinajpur and Malda. The attitude of the people to the issue of displacement and their knowledge towards this growing problem, an opinion survey has been taken. The opinion survey, as a matter of fact,

is also conducted to examine the 'legal awareness regarding internally displaced women and children' in the districts of North Bengal.

The aforesaid discussion appears to indicate that the human rights of the persons with internally displacement have not been adequately and satisfactorily redressed by the legislature. As absence of proper law there is weak implementation of machinery and failure of existing protective machinery. The problem is therefore of grave concern and is to be investigate from various angles including legal, sociological, psychological and judicial point of view to find out whether the concept of women and child internally displaced in the context of protection of human rights have been adequately dealt with by the present laws, whether there is defect in the law/ laws and whether new law is required to cope with the changing facets of the concept of internal displacement in the changing social order. A humble attempt would be made to bring out an appropriate suggestion. The proposed study is expected to contribute in this area.

The study of human rights is an emerging concept; the human right of the internally displaced women and children is an even more new impression in juristic thought. Some books are available covering the relevant aspect of internally displaced people where the right of the women and children has included. But there are very few books that solely concentrate on the rights of these types of vulnerable people. In fact there has hardly been any research concentrating upon the rights conferred and benefits assured to this section of people by any kind of legislative machinery, as well as the judicial behaviour in this respect. Hence, this research will examine the problem not only from legal point of view but would also include the sociological and judicial approach. The deprivation and lack of proper implementation of the basic rights of this special class of people has attracted the attention of the legislators, jurists, policy makers, journalists and media persons, consequently this situation necessitates a comprehensive research in this field. The present study is therefore likely to contribute to the protection and enhancement of the human rights of internally displaced women and children.

Internal displacement consists of around 26,000,000 of displaced persons and refugees around the world. The Internal Displacement is the forcing of communities and individuals out of their homes, often also their homelands, for the purposes of economic development; it is a subset of forced migration. This above

text usually focuses on the gender dimensions of internal displacement. It is said that women outnumber men in internal displacement populations and that the needs of women and men differ, the absence of a gender perspective in the assistance community and that gender is either being ignored or is not properly understood. Thus the proposed research work intends to find out the problems of internally displaced women and children in the six districts of North Bengal Region, including their rights, judicial responses, legislative and regulatory measures which is necessary to be taken.

In Majority of development projects have lack of proper planning on rehabilitation which leads to violate the basic human rights of the population which is insufficient and inadequate to address the present situation, and there is an urgent need to protect the human rights of the women and children victim and it requires rethinking of the legislative policy to change the existing laws relating to internally displacement.

The present study involves the following basic questions:-

1. What types of displacement are prohibited by the guiding principles?
2. What rights do persons i.e., women and children have once displaced?
3. What rights and obligations do humanitarian organisations have?
4. What help should displaced person expect with return, reintegration and resettlement?
5. What has been the role of the Executive organs and the judiciary in securing the rights of the internally displaced women and children?
6. What is the position of the internally displaced women and children in North Bengal Region?

Apart from these, the significant question is how to make the law relating to the internally displaced women and children more effectively? An attempt would be made in the present research work to find out an appropriate solution to the aforesaid problem.

Considering the seriousness and harmful effect of internally displaced women and children in and around the six districts of North Bengal region and other countries adjacent to it, it is proposed that during the course of the research work both doctrinal as well as empirical study shall be done to find out the gaps and also to provide suggestive measures to fill up the gap.

On the doctrinal part, the research work is based upon the survey of government reports, relevant statutes, judicial pronouncements, books and articles written by eminent scholars on the subject. The methodology adopted in this regard is a critical analysis of the various legal provisions and judicial decisions. Conclusion shall be drawn either by way of deducing the extract of the analysis or inducing certain suggestive measures, to be incorporated, where there is a lacuna in the provision itself.

Since the women outnumber men in internal displaced populations and that the needs of women and men differ, the absence of a gender perspective in the assistance community and that gender is either being ignored or is not properly understood. Within a short period of time it should motivate immediate and deliberate action to promote a focus on gender. The gender would be focused primarily to the women and children who are in flight, adapting to life in camps, or are directly caught up in the midst of conflict. This effect of displacement includes family separations, exposure of gender violence, trauma, and impaired health, loss of property, depression and most important, physical deterioration. Under this scenario a critical analysis is to be made on the international treaties entered into between India and other countries of the world for the protection of the wholesome development. Alongside, an appraisal shall be made on the international commitments made by India in different conferences and conventions held in different period to protect these women and children from any kind of degradation.

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Since the women outnumber men in internal displaced populations and that the needs of women and men differ, the absence of a gender perspective in the assistance community and that gender is either being ignored or is not properly understood. Within a short period of time it should motivate immediate and deliberate action to promote a focus on gender. The gender would be focused primarily to the women and children who are in flight, adapting to life in camps, or are directly caught up in the midst of conflict. This effect of displacement includes family separations, exposure of gender violence, trauma, and impaired health, loss of property, depression and most important, physical deterioration. Under this scenario a critical analysis is to be made on the international treaties entered into between India and other countries of the world for the protection of the wholesome development. Alongside, an appraisal shall be made on the international commitments made by India in different conferences and conventions held in different period to protect these women and children from any kind of degradation.

To give legal backing to the policy, the Cabinet also decided to bring legislation on the lines of Resettlement and Rehabilitation Policy and to suitably amend the Land Acquisition Act 1894. In this direction, Government has introduced two bills on similar lines in Lok Sabha in 2009 named as the Land Acquisition (Amendment) Bill 2007 and the Rehabilitation and Resettlement Bill, 2007. Both of the Bills lapsed with the dissolution of the 14th Lok Sabha. The Government of India believed there was a heightened public concern on land acquisition issues in India **and therefore it is needed to follow a proper law for the** acquisition of land for public purposes **which enacted with *The Right To Fair Compensation And Transparency In Land Acquisition, Rehabilitation And Resettlement Act, 2013.***

There are some Acts like the Indian Penal Code, 1860, Criminal Procedure Code, 1973 which has been enacted by the legislature for the purpose of providing punishment to those who have violated the provisions of such Acts. An evaluative study shall also be made to find out that whether the occupier of the land can be made criminally liable under such Acts for violating the Bill or Policy?

Comparative study has made in this research work to study the different laws relating to internally displacement of some of the developed countries like USA, UK, AFRICA to see how these countries are tackling the internally displaced Women and Children's from exploitation and the various policies and guidance

adopted by them. This will help in providing suggestive measures to be adopted to cope up with the internally displaced women and children. The study of the laws on internal displacement of such countries definitely will supply information regarding the rights of the internally displaced women and children, the application of which will help in minimizing the harmful effect of such displacement.

Doctrinal research had been applied by following various constitutional provisions such as Art. 21 which deals with the fundamental right to wholesome displaced people and also the judicial activism under Article 32 and 226; and the Directive Principles of State Policy under Part IV to focus on the duty of the State to protect and preserve the displaced people under various policies adopted to achieve social justice.

The purpose of empirical research under this work has to observe the awareness among the personnel of various NGOs in the Six Districts of North Bengal Region regarding the disposal of problems of internally displaced women and children's rights relating to exploitation. A survey from different personnel like Sanlaap, NGOs, Gana Unnayan Parshad and Human Development Centre etc. shall have to be selected from amongst the Public Officials, Auxiliary staff, Nurses; Guards shall be interviewed on the basis of questionnaire for the purpose of collection of data. The respondents will be asked to indicate their views on the policies of rehabilitation and resettlement, practices and their attitude relating to the issue. Data so collected shall be analysed and utilised for ascertaining the real position of the internally displaced women and children regarding physical integrity, psychosocial well being and development.

Introduction apart, the total attempt in the shape of the present work has been divided into seven chapters, namely, Economic and Social Rights of Internally Displaced Women and children - Conceptual and Historical Perspective (Chapter 1), Protection of Human Rights of the Internally Displaced Women and Children under International Arena (Chapter 2), Protection of Human Rights of the Internally Displaced Women and Children under National Legal Regime (Chapter 3), Protection of Economic and Social Rights of Internally Displaced Women and Children under Different Statutory Bodies (Chapter 4), Role of the Judiciary in Protection of the Rights of the Internally Displaced Women and Children (Chapter 5), Unnatural Offences under Criminal Law against Internally Displaced Women

and Children: Contemporary Legal Issues and Recent Judicial Trend in Indian Perspective (Chapter6), Situation of Internally Displaced Women and Children in North Bengal Region: An Empirical Study in Socio-Legal Perspective (Chapter7) and last Conclusions and Suggestions.

Chapter 1 Economic and Social Rights of Internally Displaced Women and children - Conceptual and Historical Perspective gives the historical evolution of the internally displaced women and children throughout the world. Their human right position and development in this globalised universe.

Under the caption, Economic and Social Rights of Internally Displaced Women and children - Conceptual and Historical Perspective, in Chapter 2 some of the most emerging issues with reference to the human rights protection of the Internally Displaced Women and Children through international and regional instruments and rights protection scenario in developed and developing countries through discussing the issues like rights and duties of State with regard to displaced women and children, role of UN in protection of the rights of internally displaced women and children –some basic principles, conceptual and legal position of the rights of internally displaced women and children in International human rights and practical impact of these instruments, rights of the displaced women and children and its position and situation in USA, Africa and Asian Countries.

In Chapter 3 the researcher has pointed out the phenomenon like Genesis of human rights in India, glimpses of internally displaced women and children in India, Protection of Human Rights of the Internally Displaced Women and Children under National Legal Regime.

Aspects like, the conceptual and legal position of the human rights of internally displaced women and children in India. The role of national laws on internally displaced women and children in India. The nature and dynamics of events leading to internal displacement has been varying from state to state depending upon the composition of the population and the related context of conflict. For instance, Gujarat and Kashmir have seen waves of religious intolerance in the post-independence period. The manifestations have included Hindu- Muslim violence, retaliation attack by Muslims, and Hindu Nationalist groups' attack on Christian communities and so on are discussed in Chapter 4.

In Chapter 5 the role of the State’s legislative and executive organs in developing and implementing economic and social rights of internally displaced women and children in Indian context. The entire discussion on these issues may take place in two phases. In the first phase I shall try to discuss the role of State’s legislative and executive organs in developing economic and social rights of internally displaced women and children and will also try to dedicate to the implementation scenario of these economic and social rights. Second phase an attempt would be made to study the role of higher judiciary and National Human Rights Commission (NHRC) in developing and protecting human rights of the internally displaced women and children in India. A special reference may also be made in this chapter to discuss the particular initiative of the Supreme Court, High Courts and the NHRC in protection of the human rights of the internally displaced women and children accused and convicts.

In Chapter 6, seeks to focus on the key issues related to the offences against internally displaced women and children. Displacement highlighted the systematic and specific targeting of women and children for sexual violence. Rape, sexual assault, forced prostitution, sexual slavery, forced pregnancy and other forms of sexual violence are used as a method of displacement.

In Chapter 7 makes an effort to study the scenario of internally displaced Women and Children in North Bengal Region, i.e., whether there are any internally displaced women and children in North Bengal and if yes, what is the role played by the Government in protecting them.

Lastly the researcher has been dedicated to conclusions and suggestions is rounded –off with a note of overall re-evaluation of the present scenario of human rights of the internally displaced women and children under International and Indian Legal system. Accordingly few humble suggestions have been provided for reformation of existing laws and effective implementation of the international instruments for the protection of internally displaced women and children within our nation.

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