

NOTES AND COMMENTS

PROTECTION OF INTERNALLY DISPLACED PERSONS (IDPS) IN INDIA: ASSESSING LEGAL AND POLICY FRAMEWORKS AND ENHANCING PROTECTION MECHANISMS

Abstract

Internal displacement remains a pressing issue in India, affecting millions of individuals due to various factors such as armed conflict, development projects, and natural disasters. This research paper undertakes a comprehensive analysis of the legal and policy frameworks governing the protection of internally displaced persons (IDPs) in India. By examining national legislation, judicial decisions, and institutional mechanisms, this paper aims to identify gaps, challenges, and opportunities for enhancing protection and assistance for displaced populations. Through a critical assessment of existing frameworks, this paper provides insights into potential strategies for improving the lives and rights of IDPs in India.

I Introduction

INTERNAL DISPLACEMENT remains a pressing issue in India, affecting millions of individuals who are forced to leave their homes due to various factors such as armed conflict, development projects, and natural disasters. The protection and assistance of internally displaced persons (IDPs) are essential to ensure their safety, dignity, and well-being. This paper aims to analyse the legal and policy frameworks governing the protection of IDPs in India, with a focus on assessing existing mechanisms and identifying opportunities for enhancement. The protection of IDPs is a multifaceted issue that requires a comprehensive understanding of the legal, policy, and institutional landscape in India. By examining national legislation, judicial decisions, and institutional mechanisms, this paper seeks to identify gaps, challenges, and opportunities for improving the protection and assistance of displaced populations. Through a critical assessment of existing frameworks, this paper aims to provide insights into potential strategies for addressing the needs and rights of IDPs effectively.

The paper examines the legal framework governing the protection of IDPs in India, including relevant constitutional provisions, national legislation, and international conventions. The protection mechanisms will analyse key laws such as the National Disaster Management Act and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 assess their adequacy and effectiveness in safeguarding the rights of displaced persons. Subsequently, the paper will evaluate government policies and programs aimed at addressing internal

displacement in India. This section will review policy documents such as the National Policy on Disaster Management and the National Resettlement and Rehabilitation Policy, assessing their implementation and impact on the protection and assistance of IDPs. Additionally, the role of non-governmental organizations and civil society in complementing government efforts will be examined.

The paper will also analyse landmark judicial decisions and court rulings related to internal displacement in India and assess the judiciary's role in upholding the rights of IDPs and holding authorities accountable for displacement-related violations. Challenges in accessing justice and remedies for displaced populations will also be considered. Furthermore, this paper will evaluate the roles and responsibilities of government agencies and other stakeholders in addressing internal displacement. Further, examining coordination mechanisms, accountability frameworks, and the effectiveness of institutional responses to displacement crises. Opportunities for strengthening coordination and collaboration among relevant actors will be explored. This paper will summarize the key findings and present recommendations for enhancing the protection of internally displaced persons in India. It will emphasize the importance of strengthening legal and policy frameworks, improving implementation mechanisms, and promoting rights-based approaches to address the needs and vulnerabilities of displaced populations effectively. The paper calls for concerted efforts from government, civil society, and the international community to ensure the effective protection and assistance of IDPs in India.

Background

Internal displacement in India is a complex and multifaceted issue, with millions of individuals being uprooted from their homes due to various factors such as armed conflict, development projects, and natural disasters. The country's diverse socio-economic, cultural, and geographical landscape presents unique challenges in addressing the needs and rights of IDPs. Forced displacement occurs when individuals are compelled to leave their homes. The 1951 Refugee Convention and its 1967 Protocol form the foundation of international refugee law, defining refugees as individuals fleeing persecution based on specific grounds but excluding IDPs. To address internal displacement, the 1998 *Guiding Principles on Internal Displacement* define IDPs as those forced to flee due to conflict, human rights violations, or disasters without crossing international borders.

The Internal Displacement Monitoring Centre (IDMC) reported in their annual "Global Report on Internal Displacement" that, by the end of 2023, 75.9 million people were living in internal displacement worldwide. The report highlights that nearly 47 million new internal displacements, or movements, were registered in the same year. Of the 75.9 million, 68.3 million were displaced by conflict and violence, while 7.7 million

were displaced by disasters.¹ In 2023, floods, cyclones, earthquakes and other disasters triggered over half a million internal displacements in India. There was a sharp decline in internally displaced people in 2023 from 2.5 million internal displacements due to natural disasters in the country in 2022; internal displacements by natural disasters in 2023 was 528,000. Moreover, an additional 67,000 were displaced due to conflict and violence, mostly in the Northeast state of Manipur in 2023, a significant increase from 1,000 in 2022.² Of a total displacement of 69,000 people in South Asia, Manipur alone accounted for 67,000 people.³ The major internal displacement in India was caused by floods and severe tropical cyclone *Biparjoy* in June 2023, which displaced 105,000 people in Gujarat and Rajasthan.⁴

Armed conflict and insurgency have been significant drivers of internal displacement in several regions of India, including Jammu and Kashmir, Northeast India, and areas affected by Left-Wing Extremism (LWE). The protracted nature of these conflicts has resulted in prolonged displacement, exacerbating humanitarian needs and vulnerabilities among affected populations.⁵ Development projects, such as dams, highways, and industrial corridors, have also contributed to displacement, particularly among marginalized communities and indigenous populations. Land acquisition for infrastructure development often leads to involuntary displacement, with communities losing their homes, livelihoods, and social networks. Additionally, natural disasters such as floods, cyclones, earthquakes and droughts frequently displace populations across different parts of India. Climate change-induced events have intensified the frequency and severity of such disasters, further exacerbating displacement risks and humanitarian challenges.⁶

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- 1 IDMC - *Internal Displacement Monitoring Centre*, "2024 Global Report on Internal Displacement (GRID)," available at: <https://www.internal-displacement.org/global-report/grid2024> (last visited February 7, 2025).
 - 2 Express News Service, "Over half million displaced from natural disasters and violent conflict in India in 2023: IDMC report" *The New Indian Express*, 2024 available at: <https://www.newindianexpress.com/nation/2024/May/15/over-half-million-displaced-from-natural-disasters-and-violent-conflict-in-india-in-2023-idmc-report> (last visited January 27, 2025).
 - 3 Rajeev Bhattacharyya, "Of 69,000 South Asians Displaced Last Year, 67,000 Were From Manipur: IDMC Report," available at: <https://thedi diplomat.com/2024/05/of-69000-south-asians-displaced-last-year-67000-were-from-manipur-idmc-report/> (last visited February 4, 2025).
 - 4 Express News Service, "Over half million displaced from natural disasters and violent conflict in India in 2023: IDMC report" *The New Indian Express*, 2024, available at: <https://www.newindianexpress.com/nation/2024/May/15/over-half-million-displaced-from-natural-disasters-and-violent-conflict-in-india-in-2023-idmc-report> (last visited February 11, 2025).
 - 5 Mehta R. and Singh N., "Addressing Internal Displacement in India: A Comparative Study of North-Eastern and Jammu and Kashmir" 4 *J Stud Soc Sci Humanit.* 47 (2017).
 - 6 Mohanty R. K. and Das D. K., "Internal Displacement in India: A Geospatial Analysis" 9 *IJSS* 18-21 (2018).

The protection and assistance of IDPs are governed by a range of legal and policy frameworks at the national and state levels. However, gaps and challenges persist in the implementation and enforcement of these frameworks, limiting access to essential services, livelihood opportunities, and justice for displaced populations. Nonetheless, India has made significant strides in responding to internal displacement, with government agencies, civil society organizations, and other stakeholders working to address the needs of IDPs through humanitarian assistance, livelihood support, and rehabilitation programs. There is also growing recognition of the importance of adopting a rights-based approach to internal displacement, emphasizing the protection of human rights and dignity of affected populations.⁷

Despite these efforts, significant challenges remain in ensuring the effective protection and assistance of IDPs in India. Addressing the root causes of displacement, strengthening legal and policy frameworks, enhancing coordination among stakeholders, and promoting community participation are critical steps towards addressing the needs and vulnerabilities of internally displaced populations. Thus, this paper seeks to analyse the legal and policy frameworks governing the protection of IDPs in India, assess gaps and challenges in existing mechanisms, and identify opportunities for enhancing protection and assistance for displaced populations.

II Legal and policy framework

The legal framework governing the protection of IDPs in India is multifaceted and comprises various national legislation, constitutional provisions, and international conventions. These legal instruments aim to safeguard the rights and well-being of displaced populations and provide mechanisms for their protection and assistance. The Constitution of India contains several provisions that are pertinent to the protection of the rights of internally displaced persons. Fundamental rights such as the right to life and personal liberty⁸ and the right to equality⁹ are particularly relevant in ensuring the protection and dignity of IDPs.

In addition to constitutional provisions, national legislation plays a crucial role in addressing internal displacement in India. The National Disaster Management Act, 2005, provides the legal framework for disaster management in the country, including provisions for the protection and assistance of disaster-affected populations, including internally displaced persons. It establishes the legal basis for disaster response, relief, and rehabilitation efforts. Furthermore, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, regulates land acquisition and provides for compensation, rehabilitation, and resettlement of

7 Puri K. and Madiwal R., “Internal Displacement in India: Trends and Patterns” 4 *J. Political Sci.* 49 (2019).

8 The Constitution of India, art. 21.

9 The Constitution of India, art. 14.

displaced persons affected by land acquisition for public purposes. This law aims to ensure fair treatment and adequate compensation for displaced populations, thereby addressing some of the challenges faced by IDPs.

India is also party to various international conventions and treaties that address the protection of individuals affected by armed conflict and internal displacement. While these treaties are not directly applicable in domestic law, they provide important guiding principles and standards for the protection of IDPs. For instance, the Guiding Principles on Internal Displacement, developed by the United Nations, provide an authoritative framework for the protection and assistance of internally displaced persons. India, as a member of the United Nations, has endorsed these principles and is expected to adhere to them in addressing internal displacement.¹⁰ Additionally, various International Humanitarian Law (IHL) and International Human Rights Law (IHRL) treaties ratified by India, such as the Geneva Conventions and their Additional Protocols, as well as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), provide protections for individuals affected by armed conflict, including internally displaced persons.¹¹

Landmark judicial decisions and court rulings by Indian courts play a crucial role in interpreting and enforcing the legal rights of internally displaced persons. These decisions may address issues such as forced evictions, land acquisition, and rehabilitation, and contribute to the jurisprudence on the protection of IDPs in India. Overall, while the legal framework governing internal displacement in India provides a foundation for the protection and assistance of internally displaced persons, challenges remain in ensuring the effective implementation and enforcement of these legal provisions, particularly in addressing the needs and vulnerabilities of displaced populations in practice.

Constitutional provisions

The Constitution of India, as the supreme law of the land, contains several provisions that are pertinent to the protection of the rights of IDPs. These constitutional provisions serve as foundational principles guiding the legal framework governing internal displacement in the country. Key constitutional provisions relevant to the protection of IDPs include:

- i. **Right to Life and Personal Liberty:** Article 21 of the Constitution guarantees the right to life and personal liberty, which encompasses the protection of the dignity and well-being of all individuals, including internally displaced persons.

10 United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), “Guiding Principles on Internal Displacement” (2019).

11 United Nations High Commissioner for Refugees (UNHCR), “Global Compact on Refugees: A Model for Greater Solidarity and Cooperation” (2020).

12 The Constitution of India, art. 21.

This fundamental right ensures that IDPs are entitled to live with dignity and security, free from arbitrary displacement or threats to their life and liberty.¹²

- ii. **Right to Equality:** Article 14 of the Constitution enshrines the right to equality before the law and equal protection of the laws. This provision prohibits discrimination on various grounds, including race, religion, caste, sex, or place of birth. It ensures that internally displaced persons are treated equally and are not subjected to discrimination or marginalization based on their displacement status.¹³
- iii. **Directive Principles of State Policy:** Part IV of the Constitution contains Directive Principles of State Policy, which provide guidelines for the state in formulating laws and policies for the welfare of the people. Several Directive Principles are relevant to the protection of IDPs, including:
 - i. **Article 39(e):** Directs the state to ensure that the health and strength of workers, men, and women, and the tender age of children are not abused.
 - ii. **Article 39(f):** Obliges the state to ensure that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity.
 - iii. **Article 41:** Mandates the state to secure the right to work, education, and public assistance in case of unemployment, old age, sickness, and disablement.
 - iv. **Article 47:** Directs the state to raise the level of nutrition and the standard of living and to improve public health.¹⁴
- iv. **Fundamental Duties:** Article 51A of the Constitution outlines the fundamental duties of citizens towards the state and society. While not enforceable by law, these duties emphasize the importance of promoting harmony and the spirit of common brotherhood among all the people of India. This includes fostering a sense of empathy and solidarity towards internally displaced persons and advocating for their rights and well-being.¹⁵

Overall, constitutional provisions play a crucial role in shaping the legal framework governing internal displacement in India. They provide the foundational principles and values that guide legislative and policy measures aimed at protecting the rights and dignity of internally displaced persons. Additionally, they serve as a basis for

13 The Constitution of India, art. 14.

14 The Constitution of India, art. 39(e), 39(f), 41, 47.

15 The Constitution of India, art. 51A.

judicial interpretation and enforcement of laws related to internal displacement, ensuring that IDPs are afforded adequate protection and assistance under the law.

National legislation

National legislation forms a significant part of the legal framework concerning the protection of internally displaced persons (IDPs) in India. Various laws have been enacted to address the diverse causes and consequences of internal displacement and to provide legal safeguards and assistance to affected populations. Key national legislation relevant to the protection of IDPs includes:¹⁶

National Disaster Management Act, 2005: The National Disaster Management Act, 2005 (NDMA), serves as the primary legislation governing disaster management in India. It provides the legal framework for disaster preparedness, response, relief, and rehabilitation efforts across the country. Under the NDMA, provisions are made for the protection and assistance of disaster-affected populations, including internally displaced persons. The Act mandates the establishment of national, state, and district-level disaster management authorities to coordinate and implement disaster response measures. Additionally, it outlines the roles and responsibilities of various government agencies, non-governmental organizations, and other stakeholders in disaster management activities.

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013: The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR Act) regulates land acquisition for public purposes and provides for compensation, rehabilitation, and resettlement of displaced persons. The Act aims to ensure fair treatment and adequate compensation for persons affected by land acquisition, including those who are internally displaced as a result of development projects. It lays down procedures for conducting social impact assessments, determining compensation, and providing rehabilitation and resettlement assistance to affected persons. The RFCTLARR Act also mandates the establishment of grievance redressal mechanisms to address grievances and disputes related to land acquisition and resettlement.¹⁷

These national legislations provide important legal frameworks for addressing internal displacement in India. They establish mechanisms for disaster management, including

¹⁶ National Disaster Management Act, 2005.

¹⁷ The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

the protection and assistance of disaster-affected populations, and provide safeguards for persons affected by land acquisition and development projects. However, challenges remain in the effective implementation and enforcement of these laws, particularly in ensuring the protection and assistance of internally displaced persons in practice. Efforts are ongoing to strengthen these legal frameworks and improve the response to internal displacement in India.

International conventions and treaties

India is also party to various international conventions and treaties that address the protection of IDPs and their rights. These international instruments provide important standards and guidelines for the protection and assistance of IDPs, complementing the domestic legal framework. Key international conventions and treaties relevant to internal displacement include:¹⁹

Guiding Principles on Internal Displacement (GPID): The Guiding Principles on Internal Displacement are a set of non-binding principles developed by the United Nations (UN) to address the protection and assistance needs of internally displaced persons worldwide. Endorsed by the UN General Assembly in 1998, the Guiding Principles provide a comprehensive framework for addressing the rights and needs of IDPs, including provisions related to protection from arbitrary displacement, access to humanitarian assistance, durable solutions, and the role of states and other actors in responding to internal displacement. According to the United Nations Guiding Principles on Internal Displacement (1998), internally displaced persons are 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 effects of armed conflict, situations of generalized violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.”¹⁸ While not legally binding, the Guiding Principles serve as an authoritative reference for governments, humanitarian organizations, and other stakeholders in their efforts to address internal displacement.

The GPID are structured around the different phases of displacement. They emphasize the right to protection against arbitrary displacement (Principles 5-9), ensuring that displacement only occurs in exceptional circumstances and with adequate safeguards. During displacement (Principles 10-23), IDPs are entitled to protection and assistance,

18 UN ECOSOC Commission on Human Rights. Guiding Principles on Internal Displacement, 1998 Principle 2 (E/CN.4/1998/53/Add.2. 11 Feb. 1998).

19 United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), “Guiding Principles on Internal Displacement” (2019).

including access to essential services such as food, water, shelter, and medical care. Principles 24-27 outline the framework for humanitarian assistance, highlighting the need for impartial aid delivery and the protection of humanitarian workers. Finally, Principles 28-30 focus on durable solutions, emphasizing the right of IDPs to return voluntarily and safely to their homes or to resettle or integrate locally. The principles of the GPID are synonymous with the fundamental rights guaranteed under Part III of the Constitution. These rights extend to IDPs, irrespective of their displacement, ensuring equal treatment (article 14) and freedom of speech, expression, assembly, and movement. India, however, lacks a specific legal or policy framework dedicated to IDPs, which creates gaps in the implementation of these principles. While the Indian Constitution guarantees fundamental rights, the absence of a specific IDP law hinders the effective protection and assistance of displaced populations.

To better align with the GPID, India can draw inspiration from international best practices. This includes enacting national legislation on internal displacement, developing comprehensive national policies, and establishing institutional mechanisms for coordination and monitoring. Furthermore, India can strengthen its data collection and analysis on internal displacement to inform evidence-based policies and programs. Greater emphasis on community participation and consultation with IDPs is also essential to ensure that solutions are tailored to their specific needs and preferences.²⁰ By adopting these measures, India can enhance its response to internal displacement and uphold the rights and dignity of its displaced populations.

Two regional treaties—the 2006 Protocol on Protection and Assistance to IDPs and the 2009 Kampala Convention—were established based on the *Guiding Principles*, but they remain region-specific. As a result, international protection for IDPs remains limited. However, the issue is gaining global recognition as a major humanitarian concern. While not legally binding, the *Guiding Principles* align with existing international treaties and customary law. In some cases, the Refugee Convention and its 1967 Protocol may apply to IDPs (where they can be equated to refugees). The ICRC recognizes these principles as part of international law, ensuring protection throughout displacement, return, and reintegration.²¹

International Humanitarian Law (IHL): Various treaties and conventions under IHL provide protections for individuals affected by armed conflict, including internally displaced persons. Key instruments include the Geneva Conventions of 1949 and their additional protocols, which establish rules and standards for the protection of

20 Commentary Introduction to the Guiding Principles on Internal Displacement, *available at*: <https://www.brookings.edu/articles/introduction-to-the-guiding-principles-on-internal-displacement-2/> (last visited on Feb. 2, 2025).

21 Eveline Vieira Brigido *et. al.*, “The impact of internal displacement on the refugee migration crisis”, 33 *JDD* 245, 250 (2019).

civilians during armed conflict. The 1949 Geneva Conventions serve as the cornerstone of IHL, providing essential protections for civilians during armed conflicts. The Fourth Geneva Convention, specifically focused on the protection of civilians in times of war, along with its Additional Protocols, extends safeguards to vulnerable groups, including refugees and IDPs. Common Article 3 of the Conventions applies to non-international armed conflicts, mandating humane treatment for all individuals not actively engaged in hostilities. It strictly prohibits violence, torture, and degrading treatment. Additionally, Article 49 of the Fourth Geneva Convention explicitly forbids the forced transfer or deportation of protected individuals from occupied territories, ensuring civilians are not arbitrarily displaced.²²

The Additional Protocols I and II, adopted in 1977, further reinforce these protections. They prohibit indiscriminate attacks on civilian populations and emphasize the need for humanitarian relief, including food, medical supplies, and other essential resources for displaced communities. “*In no circumstances shall a protected person be transferred to a country where he or she may have reason to fear persecution for his or her political opinions or religious beliefs*”²³, this principle of *non-refoulement*, preventing the return of individuals to places where they may face persecution, was first established in the Geneva Conventions before being incorporated into the 1951 Refugee Convention. Article 17 of Protocol II places strict conditions on civilian displacement, allowing it only for security reasons or imperative military necessity. When displacement is unavoidable, states must ensure civilians receive adequate shelter, healthcare, and nutrition. Furthermore, civilians cannot be forced to leave their own country due to conflict-related reasons.

These provisions apply to the territories of the conflicting parties, whether in an international or non-international conflict. However, they generally do not extend to refugees who have sought asylum in states not directly involved in the conflict. This distinction underscores the need for separate legal frameworks to address the rights and protection of displaced populations in different contexts. These instruments prohibit arbitrary displacement of civilians and provide safeguards against displacement-related violations, such as forced displacement, attacks on civilian populations, and denial of humanitarian assistance. India is a party to the Geneva Conventions and their Additional Protocols, thereby committing to uphold these principles in situations of armed conflict.²⁴

22 Convention (IV) relative to the Protection of Civilian Persons in Time of War. Geneva, Aug 12, 1949, *available at*: <https://ihl-databases.icrc.org/en/ihl-treaties/gciv-1949> (last visited on Feb. 25, 2025).

23 Fourth Convention, art. 45, para. 4.

24 Verdirame G. and Harrell-Bond B. E., “Rights in Exile: Janus-Faced Humanitarianism” 24 *Refug. Surv. Q.* 88-90 (2005).

International Human Rights Law (IHRL): International human rights law (IHRL) treaties and conventions also provide protections for internally displaced persons. Treaties such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantee fundamental rights and freedoms to all individuals, including the right to life, liberty, and security of person, the right to adequate housing, and the right to an adequate standard of living. These rights are relevant to the protection and assistance of IDPs and impose obligations on states parties to ensure the enjoyment of these rights by all individuals within their jurisdiction, including internally displaced persons. India is a party to several international human rights treaties and is bound by the obligations outlined therein.²⁵

Hence, international conventions and treaties provide important standards and norms for the protection of internally displaced persons, complementing the domestic legal framework in India. By adhering to these international instruments, India reaffirms its commitment to upholding the rights and dignity of IDPs and to promoting respect for international humanitarian and human rights law in situations of internal displacement.

Policy framework

The policy framework surrounding the protection and assistance of IDPs in India is multifaceted, involving a combination of national policies, guidelines, and institutional mechanisms. At the core of this framework is the National Policy on Disaster Management, which provides the overarching framework for disaster response and management in the country. While this policy primarily focuses on natural disasters, it also encompasses provisions for addressing displacement resulting from conflict and other man-made disasters. However, there is a need to further integrate specific measures for the protection and assistance of IDPs within this policy framework to ensure comprehensive coverage.

India has a National Resettlement and Rehabilitation Policy aimed at addressing the needs of displaced populations, including IDPs. This policy outlines principles and guidelines for resettlement and rehabilitation efforts, emphasizing the importance of ensuring the rights, dignity, and well-being of affected populations. However, its application to IDPs may be limited, as it primarily focuses on displacement resulting from development projects rather than conflict or other emergencies.²⁶ Nonetheless, the policy framework for addressing internal displacement in India also involves the active participation of non-governmental organizations (NGOs) and civil society.

25 Human Rights Law Network, “The Right to Internally Displaced Persons: A Legal Framework for India” *HRLN* (2020).

26 Agarwal B., “Internal Displacement in India: Causes, Challenges, and Policy Responses” 54 *EPW* 23-27 (2019).

These entities play a crucial role in complementing government efforts, providing humanitarian assistance, advocacy, and support services to IDPs. Their involvement helps fill gaps in the existing policy framework and ensures a more comprehensive response to the protection and assistance needs of IDPs.²⁷

The government has approved the continuation of seven existing sub-schemes under the umbrella scheme “Relief and Rehabilitation of Migrants and Repatriates” for the period 2021-22 to 2025-26, with a total outlay of Rs. 1,452 crore. This approval ensures continued assistance to beneficiaries through the Ministry of Home Affairs (MHA). The scheme aims to enable migrants and repatriates, who have experienced displacement, to earn a reasonable income and integrate into mainstream economic activities. The government initiated these seven sub-schemes at different times to provide assistance for various categories of beneficiaries. These schemes include relief and rehabilitation for displaced families of Pakistan Occupied Areas of Jammu and Kashmir and Chhamb; relief assistance to Sri Lankan Tamil refugees; relief assistance to Brus lodged in relief camps in Tripura; enhanced relief to 1984 Anti-Sikh Riot Victims; and financial assistance to families affected by terrorist violence, militancy, insurgency, communal/Left Wing Extremism violence, cross border firing, and mine/IED blasts. Additionally, the schemes provide grants-in-aid to the Central Tibetan Relief Committee (CTRC) and to the Government of West Bengal for infrastructure development in erstwhile Bangladeshi enclaves and for the resettlement of returnees from former Indian enclaves in Bangladesh.²⁸

While India lacks specific legislation on internal displacement, existing laws and policies provide some level of protection to IDPs. For example, provisions within the Indian Constitution and various national laws guarantee fundamental rights such as the right to life, liberty, and equality before the law, which are relevant to IDPs. Additionally, certain laws related to land acquisition, rehabilitation, and resettlement may indirectly impact IDPs and their rights, *albeit* to varying extents.²⁹ Therefore, while India’s policy framework addresses aspects of internal displacement through various national policies, guidelines, and legal provisions, there remains a need for more targeted and

27 De Haas, H., “International Migration and National Development: Viewpoints and Policy Initiatives in Countries of Origin.” 20 *Popul. Space Place* 3-14 (2014).

28 Press Information Bureau Government of India, “Modi Government has approved proposal for continuation of seven existing sub-schemes under Umbrella Scheme “Relief and Rehabilitation of Migrants and Repatriates” for the period 2021-22 to 2025-26” (March, 2022); Modi Government approves continuation of seven sub-schemes under Relief and Rehabilitation of Migrants and Repatriates for 2021-22 to 2025-26, *available at*: <https://www.thestatesman.com/india/modi-government-approves-continuation-seven-sub-schemes-relief-rehabilitation-migrants-repatriates-2021-22-2025-26-1503049542.html> (last visited on Dec. 20, 2024).

29 The Internal Displacement Monitoring Centre (IDMC), “India: The Hidden Challenge of Internal Displacement” (2020).

comprehensive measures specifically tailored to the protection and assistance of IDPs. Strengthening coordination mechanisms, enhancing the integration of IDP-specific measures within existing policies, and considering the enactment of dedicated legislation on internal displacement are crucial steps to ensure a more effective and rights-based response to internal displacement crises in India.

In India, policy frameworks play a crucial role in addressing the protection and assistance needs of IDPs. These policies provide strategic guidelines for government agencies, humanitarian organizations, and other stakeholders responding to internal displacement. The National Disaster Management Policy serves as the primary framework for disaster management, outlining strategies for preparedness, response, recovery, and risk reduction. It emphasizes a multi-sectoral approach, coordination among government and non-governmental agencies, and mainstreaming disaster risk reduction efforts to minimize the impact of disasters on vulnerable communities, including IDPs. By integrating resilience-building measures across sectors, the policy seeks to enhance the country's capacity to mitigate and respond to displacement caused by natural disasters.

The National Policy on Rehabilitation and Resettlement provides principles for the rehabilitation of individuals affected by land acquisition and development projects, including internally displaced populations. It ensures fair compensation, transparent decision-making, and adequate resettlement support to restore livelihoods. The policy mandates consultation with affected communities and highlights the importance of sustainable rehabilitation to reduce the long-term impact of displacement. At the state level, many Indian states have developed their own policies and action plans tailored to regional needs. These frameworks complement national policies by incorporating measures for early warning systems, emergency response, rehabilitation, and long-term recovery. They focus on community resilience, capacity-building initiatives, and enhanced coordination among stakeholders for a more effective response to displacement. Additionally, sector-specific policies and programs address the needs of IDPs in areas such as health, education, housing, and livelihoods. These policies ensure displaced populations receive essential services and support while promoting inclusive, rights-based service delivery. Top of Form

III Judicial decisions

Judicial decisions significantly shape the legal framework for protecting IDPs in India. While rulings did not focus solely on IDPs, courts frequently address displacement-related issues such as land acquisition, forced evictions, and access to essential services. Key aspects of judicial interventions include safeguarding the right to livelihood and housing by ensuring fair compensation, resettlement, and alternative livelihood opportunities for displaced persons. Courts have also played a vital role in protecting vulnerable populations from forced evictions, emphasizing due process, consultation,

and the right to shelter. Additionally, judicial rulings have upheld IDPs' access to essential services like healthcare, education, water, and sanitation, directing authorities to provide necessary support, especially during crises. By affirming constitutional and human rights principles, courts ensure the dignity, equality, and legal protection of IDPs. They offer remedies such as compensation, rehabilitation measures, and legal redress for violations. Through these interventions, the judiciary upholds justice, strengthens legal protections, and reinforces state accountability in addressing internal displacement.

Landmark judgments related to internal displacement

Landmark judgments related to internal displacement in India have significantly shaped the legal landscape concerning displacement, land acquisition, resettlement, and rehabilitation. While there may not be specific judgments exclusively focused on internal displacement, several judicial decisions have established important principles and precedents for the protection of IDPs. These cases underscore the judiciary's role in safeguarding the rights and interests of affected populations and ensuring social justice.

One of the earliest landmark cases in this domain is *Olga Tellis v. Bombay Municipal Corporation*,³⁰ where the Supreme Court of India recognized the right to livelihood as a fundamental right under Article 21 of the Constitution. The judgment affirmed the importance of protecting the rights of pavement dwellers facing eviction and displacement, highlighting the need for due process, consultation, and adequate resettlement and rehabilitation measures to safeguard the dignity and well-being of affected persons. Similarly, in *Indra Sawhney v. Union of India*,³¹ commonly known as the Mandal Commission case, the Supreme Court addressed issues related to reservation policies and quotas for socially and economically disadvantaged groups, including displaced communities. The judgment underscored the importance of affirmative action and social justice measures to address historical injustices and promote inclusive development, particularly for internally displaced persons.

Another crucial case, *Chameli Singh v. State of U.P.*,³² dealt with the rights of pavement dwellers facing eviction in Uttar Pradesh. The Supreme Court upheld the right to shelter as a fundamental right under article 21 and emphasized the duty of the state to provide alternative accommodation and basic amenities to displaced persons, ensuring their protection and dignity. The principle of adequate housing and protection for displaced persons was reinforced in *Almitra H. Patel v. Union of India*,³³ where the Supreme Court addressed issues related to waste management and the relocation of

30 (1985) 3 SCC 545.

31 (1993) 1 SCJ 353.

32 (1996)2 SCC 549.

33 AIR 2000 SC 1256.

slum dwellers living near garbage dumps in Delhi. The judgment emphasized the rights of slum dwellers to adequate housing and livelihoods and directed government authorities to implement resettlement and rehabilitation measures in consultation with affected communities, ensuring their protection and well-being.

The case of *Narmada Bachao Andolan v. Union of India*³⁴ further expanded the jurisprudence on displacement, as it pertained to the Sardar Sarovar Dam project on the Narmada River and its impact on communities facing displacement. The Supreme Court emphasized the need for comprehensive rehabilitation and resettlement measures for affected populations, including landless labourers and tribal communities, to mitigate the adverse impacts of displacement and ensure their socio-economic well-being. This judgment reinforced the principle that development projects must include comprehensive mechanisms for rehabilitation and safeguard the rights of displaced communities.

A significant judgment concerning the rights of displaced Kashmiri Pandits is *P.K. Koul v. Estate Officer*.³⁵ In a decision on November 30, 2010, the High Court of Delhi upheld the right to shelter for Kashmiri Pandits who were transferred from Jammu and Kashmir to Delhi and posted in local offices of central organizations. The petitioners, Central Government employees, sought protection against forcible eviction from government quarters, arguing it was their only available shelter. The court recognized that the threat of forcible eviction would violate the fundamental human rights of the petitioners and referenced the UN Commission on Human Rights, stating that forced evictions are a gross violation of human rights. The high court concluded that international human rights law imposes a legal responsibility to ensure minimal welfare guarantees. Similarly, in *All India Kashmiri Samaj v. Union of India*,³⁶ the Supreme Court directed the government to consider the plight of Kashmiri Pandits and involve displaced Kashmiris in meetings and agreements concerning the Kashmir Valley. The petition requested that Kashmiri Pandits be declared internally displaced persons according to the principles laid down by the United Nations General Assembly. The chief justice asked the additional solicitor-general to associate leaders of the Kashmiri migrants and file an action taken report.

Another important case in the context of displacement and environmental concerns is *N.D. Jayal v. Union of India*,³⁷ in which the Supreme Court primarily addressed the issue of environmental concerns related to the Tehri Dam project. The court emphasized the principle of “sustainable development” and held that the government must ensure proper rehabilitation of those displaced by the dam construction before

34 AIR 2000 SC 3751.

35 W.P.(C) No.15239/2004, single judge bench.

36 Writ petition (civil) NO.534 of 2006.

37 AIR 2004 SC 867.

impounding the reservoir, while also strictly adhering to all environmental clearance conditions before proceeding with the project. This judgment highlights the judiciary's role in balancing development with the rights of displaced communities and environmental considerations.

However, in recent times, the Supreme Court of India has declined to entertain Public Interest Litigations (PILs) concerning the displacement crisis in Manipur. One notable instance occurred in April 2024, when the court refused a plea seeking voting facilities for approximately 18,000 individuals displaced due to ethnic violence in the state. The bench, led by Chief Justice D.Y. Chandrachud, emphasized that intervening at such a late stage would significantly impede the conduct of the impending Lok Sabha elections in Manipur.³⁸ In another case, the Supreme Court dismissed a petition seeking contempt action against authorities for failing to prevent violence in Manipur. The court stated that decisions must be based on law rather than sentiment, underscoring the judiciary's role in adhering to legal principles.³⁹ The Supreme Court's refusal to hear Manipur displacement-related PILs reflects an overly cautious approach that prioritizes procedural constraints over substantive justice. While logistical and legal challenges exist, the judiciary's primary role is to uphold fundamental rights, particularly in crisis situations. By choosing restraint over intervention, the court has failed to extend constitutional protections to a vulnerable population. A more balanced approach—ensuring both legal compliance and humanitarian relief—would have been more appropriate in safeguarding the rights of displaced citizens.

Challenges in accessing justice for IDPs

Accessing justice for IDPs in India is fraught with challenges stemming from a multitude of factors. One significant hurdle lies in the lack of legal awareness among IDPs regarding their rights and the available avenues for seeking redress. Many IDPs, particularly those from marginalized communities, lack access to information and legal assistance, making it difficult for them to navigate the complex legal system effectively. Moreover, procedural hurdles, such as filing petitions, gathering evidence, and attending court hearings, pose significant challenges for IDPs, often leading to delays and difficulties in accessing justice.

Financial constraints present another major barrier to justice for IDPs. The cost associated with legal representation and court proceedings is often prohibitive for

38 PTI, "Can't Go By Sentiment": Supreme Court Junks Manipur Violence Petition, *available at*: https://www.ndtv.com/india-news/cant-go-by-sentiment-supreme-court-junks-manipur-violence-petition-5735886?utm_source=chatgpt.com (last visited on Feb. 23, 2025).

39 PTI, Supreme Court Refuses Petition For Voting Facilities To Displaced Residents In Manipur Polls, *available at*: https://www.ndtv.com/india-news/supreme-court-refuses-petition-for-voting-facilities-to-displaced-residents-in-manipur-lok-sabha-polls-5447375?utm_source=chatgpt.com (last visited on Feb. 19, 2025).

IDPs, who may struggle to afford legal services, including court fees and lawyer fees. This financial burden further marginalizes IDPs and limits their ability to pursue legal remedies for displacement-related grievances. Additionally, geographic barriers exacerbate the challenges faced by IDPs in accessing justice, particularly those living in remote or conflict-affected areas. Limited availability of legal services and court facilities in inaccessible or insecure locations makes it challenging for IDPs to access legal aid, attend court hearings, or engage with the formal justice system effectively.⁴⁰

Discrimination and stigmatization also hinder IDPs' access to justice. IDPs, especially those from marginalized communities or vulnerable groups, often face discrimination and social stigma, which may deter them from seeking legal recourse. Fear of reprisals, social ostracization, and discrimination based on ethnicity, religion, or socio-economic status further marginalize IDPs and impede their access to justice. Additionally, inadequacies in the legal framework and institutional capacity pose significant challenges to accessing justice for IDPs. Despite existing laws and policies aimed at protecting IDP rights, gaps, inconsistencies, and limited implementation undermine their effectiveness.⁴¹

Weaknesses in the institutional capacity of the justice system, including courts, legal aid organizations, and administrative bodies, contribute to delays and obstacles in resolving IDP-related disputes. Backlogs, inefficiencies, and lack of resources within the justice system further compound the challenges faced by IDPs in accessing timely and effective justice. Addressing these challenges requires concerted efforts by government authorities, civil society organizations, and the legal community to enhance legal awareness, improve access to legal aid, strengthen institutional capacity, and address systemic barriers to justice for IDPs.

IV Institutional mechanisms

In India, several institutional mechanisms are in place to address the needs and concerns of IDPs and ensure their protection, assistance, and rights. These mechanisms encompass government agencies, non-governmental organizations (NGOs), civil society groups, and international organizations, all working collaboratively to respond to internal displacement crises and support affected populations.

The National Disaster Management Authority (NDMA) serves as the apex body responsible for disaster management in India. It formulates policies, plans, and guidelines for disaster management, including measures to address internal displacement caused by natural disasters, conflicts, or other emergencies. Working in coordination

40 Chakraborty D. and Mukherjee D., "Internal Displacement in India: A Complex Web of Challenges" 52 *EPW* 55-57 (2017).

41 Sahni P. and Kumar A., "Internal Displacement in India: Challenges and Strategies" 34 *IJSSL* 85-87 (2017).

with state disaster management authorities, the NDMA ensures a cohesive and effective response to internal displacement crises. At the state level, State Disaster Management Authorities (SDMAs) are tasked with implementing disaster management policies and programs, including those related to internal displacement. These authorities coordinate disaster response efforts, mobilize resources, and provide assistance and support to affected populations, including IDPs. Collaborating with district authorities and local government bodies, SDMAs play a crucial role in addressing the needs of IDPs during emergencies.⁴²

The Protection of Human Rights Act, 1993 provides a legal framework for enforcing human rights in India, covering life, liberty, equality, and dignity as guaranteed by the Constitution and international covenants. It is crucial for protecting IDPs, aligning with the Guiding Principles on Internal Displacement and Part III of the Constitution, ensuring equal treatment (Article 14) and fundamental freedoms (Article 19). IDPs can seek redress through the Supreme Court or high courts under articles 32 and 226. The Act also establishes the National Human Rights Commission (NHRC) to safeguard human rights, though its jurisdiction is limited regarding paramilitary forces, restricting its role in conflict-induced displacement cases. The NHRC is an independent statutory body responsible for promoting and protecting human rights in India. It investigates complaints of human rights violations, including those affecting IDPs, and takes appropriate action to address grievances and ensure accountability. By monitoring the implementation of laws and policies related to internal displacement, the NHRC advocates for the rights and welfare of IDPs.

NGOs and civil society organizations are essential actors in providing humanitarian assistance, protection, and advocacy for IDPs in India. They operate shelters, provide essential services, advocate for policy changes, and raise awareness about the needs and rights of IDPs. Working closely with government agencies and international partners, NGOs contribute to a comprehensive and sustainable response to internal displacement. International organizations and donors also play a significant role in addressing internal displacement in India. United Nations agencies, international NGOs, and donor countries provide technical assistance, humanitarian aid and funding support for IDP-related programs and initiatives.⁴³ By collaborating with the Indian government, NGOs and civil society organizations, international partners strengthen institutional capacities, build resilience and promote the rights and well-being of IDPs across the country.

42 Meghalaya State Disaster Management Plan, "State Disaster Management Plan," vol. 2 (Government of Meghalaya, 2006).

43 Puri K. and Madiwal R., "Internal Displacement in India: Trends and Patterns" 4 *J. Political Sci.* 49 (2019).

These institutional mechanisms work together to respond to internal displacement crises, provide assistance and protection to affected populations, and promote durable solutions for IDPs in India. Through coordinated efforts and collaboration, government agencies, NGOs, civil society organizations, and international partners contribute to a comprehensive and effective response to internal displacement, supporting the rights and dignity of IDPs throughout the country.

Government agencies and responsibilities

Government agencies in India have specific responsibilities concerning the protection, assistance, and rights of IDPs. These agencies play crucial roles in responding to internal displacement crises, implementing relevant policies and programs, and ensuring the well-being of affected populations. The MHA plays a central role in coordinating responses to internal displacement crises, particularly those arising from conflicts or security-related incidents. It oversees law enforcement agencies, paramilitary forces, and other security personnel involved in providing assistance and protection to IDPs. The MHA collaborates with state governments and other stakeholders to address the root causes of internal displacement, promote peace and stability, and ensure the security of affected populations.

The Ministry of Rural Development is responsible for implementing rural development programs and initiatives, including those related to resettlement and rehabilitation of displaced populations in rural areas. It provides support for livelihoods, infrastructure development, and social welfare schemes aimed at improving the socio-economic conditions of IDPs and facilitating their integration into host communities.⁴⁴ The Ministry of Housing and Urban Affairs oversees urban development policies and programs, including those related to housing and shelter for displaced populations in urban areas. It promotes affordable housing, slum redevelopment, and urban planning initiatives aimed at addressing the housing needs of IDPs and improving living conditions in informal settlements and urban areas.⁴⁵ These government agencies work collaboratively to address the needs and concerns of internally displaced persons, ensure the effective implementation of relevant policies and programs, and promote the rights and well-being of affected populations across the country.

Accountability frameworks

Accountability frameworks are essential for ensuring transparency, oversight, and accountability in the response to internal displacement crises. These frameworks establish mechanisms for monitoring, reporting, and addressing violations of rights, standards, and obligations related to the protection and assistance of IDPs.

44 Singh R. and Singh M., “Protecting the Rights of Internally Displaced Persons (IDPs) in India: A Policy Framework” 7 *J. South Asian Stud.* 76 (2019).

45 *Id.* at 79.

Legal and policy frameworks establish the legal basis and standards for accountability in the response to internal displacement. National laws, regulations, and policies should uphold the rights and dignity of IDPs and define the responsibilities of government agencies, humanitarian actors, and other stakeholders in addressing internal displacement crises. These frameworks should be consistent with international human rights law, humanitarian law, and relevant conventions and treaties.⁴⁶ Monitoring and reporting mechanisms facilitate the systematic collection, analysis, and dissemination of data on internal displacement and the response efforts. These mechanisms involve regular monitoring of displacement trends, needs assessments, and evaluations of response activities to ensure accountability and inform decision-making. Reporting mechanisms enable stakeholders to document violations, gaps, and challenges in the protection and assistance of IDPs and to advocate for corrective actions.

Grievance mechanisms provide channels for IDPs and affected communities to voice their concerns, complaints, and grievances regarding the response to internal displacement. These mechanisms should be accessible, transparent, and responsive, allowing IDPs to seek redressal for violations of their rights and to hold responsible parties accountable for their actions or inactions. Grievance mechanisms may include hotlines, complaint desks, community feedback mechanisms and legal aid services.⁴⁷ Effective coordination and collaboration among government agencies, humanitarian actors, civil society organizations, and affected communities are essential for accountability in the response to internal displacement. Coordination mechanisms, such as inter-agency coordination forums, working groups, and coordination committees, facilitate information-sharing, joint planning and collective decision-making, ensuring that response efforts are coherent, complementary, and aligned with the needs and rights of IDPs.⁴⁸

Independent oversight and review mechanisms play a critical role in ensuring accountability and addressing gaps and challenges in the response to internal displacement. Independent bodies, such as national human rights institutions, ombudsperson offices, and oversight committees, conduct impartial investigations, audits and reviews of response activities, identifying shortcomings, recommending corrective measures, and holding responsible parties accountable for their actions or omissions. Meaningful participation and empowerment of IDPs and affected communities are central to accountability in the response to internal displacement. IDPs should be actively involved in decision-making processes, planning, implementation, and monitoring of response activities, ensuring that their voices are

46 Mathur A., "Internal Displacement in India: Challenges and Policy Response" 4 *J. Displ. Stud.* 73 (2019).

47 *Ibid.*

48 Bose S. and Chakraborty P., "Socio-Economic Impact of Internal Displacement in India: A Case Study of Assam" 5 *J. Soc. Sci.* 35 (2017).

heard, their rights respected, and their needs addressed. Empowering IDPs to advocate for their rights and participate in shaping the response efforts strengthens accountability and promotes ownership and sustainability.⁴⁹ Thus, accountability frameworks are essential for promoting transparency, oversight, and accountability in the response to internal displacement crises.

Role of civil society and other stakeholders

Civil society organizations (CSOs) and other stakeholders play crucial roles in responding to internal displacement crises and advocating for the rights and needs of IDPs. Their diverse expertise, grassroots presence, and advocacy efforts complement government responses and contribute to a more comprehensive and effective approach to addressing internal displacement.

CSOs advocate for the rights and needs of IDPs, raise awareness about internal displacement issues, and mobilize public support for effective response and protection measures. Through campaigns, media engagement, and public events, CSOs amplify the voices of IDPs, highlight their experiences and advocate for policy changes, legal reforms and resource allocation to address displacement-related challenges. CSOs and community-based organizations (CBOs) provide essential services and support to IDPs, including shelter, food, water, health care, education and psychosocial support. They operate shelters, community centres and mobile clinics to meet the immediate and long-term needs of displaced populations, complementing government efforts and filling gaps in service delivery.⁵⁰

CSOs also play a critical role in monitoring and documenting displacement trends, human rights violations, and humanitarian needs, providing valuable data and evidence to inform policy advocacy, program planning and accountability efforts. They conduct field assessments, interviews with IDPs, and documentation of displacement-related incidents to identify gaps, challenges and protection risks affecting IDPs and to advocate for appropriate responses. Furthermore, legal aid organizations provide free legal assistance, advice, and representation to IDPs, helping them access justice, assert their rights, and seek remedies for displacement-related grievances. They assist IDPs in navigating the legal system, filing complaints, and advocating for legal reforms to address gaps in protection and ensure accountability for violations of IDP rights.⁵¹

CSOs participate in decision-making processes, advocate for their rights, and engage with government authorities and humanitarian actors. They provide training, workshops and resource materials on topics such as human rights, humanitarian

49 *Id.* at 38.

50 Chaudhuri S. and Deb D., “Assessing the Livelihood Challenges of Internally Displaced Persons (IDPs) in India: A Study of Vulnerable Communities in Bihar” 45 *J Dev Stud* 188-201 (2018).

51 Bose S. and Chakraborty P., “Socio-Economic Impact of Internal Displacement in India: A Case Study of Assam” 5 *J. Soc. Sci.* 35 (2017).

principles, conflict resolution and community-based response mechanisms, empowering IDPs to take control of their lives and shape their futures.⁵² Moreover, CSOs conduct research, policy analysis, and advocacy campaigns to generate evidence-based recommendations for addressing internal displacement challenges, promoting durable solutions, and strengthening legal and policy frameworks. They produce reports, policy briefs, and position papers on topics such as displacement trends, protection gaps and best practices in response to internal displacement, informing government policies, donor strategies and humanitarian interventions.⁵³

Lastly, CSOs facilitate coordination and networking among stakeholders involved in responding to internal displacement, including government agencies, UN agencies, NGOs, donors and affected communities. They participate in coordination forums, working groups and task forces, sharing information, best practices and lessons learned to improve collaboration and coordination in the response to internal displacement crises. Overall, the role of civil society and other stakeholders is essential in complementing government efforts, advocating for the rights and needs of IDPs, providing essential services and support, monitoring and documenting displacement trends, empowering affected communities, conducting research and policy analysis, and facilitating coordination and networking among stakeholders.

V Gaps, challenges, and opportunities

The international community has developed frameworks like the GPID to protect IDPs, but India has been slow to incorporate these principles into its legal system. Unlike Uganda, which adopted a National Policy for IDPs in 2004 drawing on the GPID, India lacks a similar comprehensive framework. Uganda's policy commits the government to protecting citizens against arbitrary displacement, guaranteeing rights during displacement, and promoting durable solutions through voluntary return, resettlement, integration, and reintegration.⁵⁴ The Ugandan policy also includes specific programs and plans to address various aspects of displacement, such as the National IDP Return, Resettlement and Reintegration Strategic Plan. Uganda is also a signatory to the Pact on Security, Stability and Development in the Great Lakes Region, obliging member states to protect and support IDPs and respect their property rights. Since December 6, 2012, the African Union Convention on Internal Displacement, also called the "Kampala Convention" is in force and binding for Uganda, as it was one of the first countries to ratify it. Similarly, Colombia has a comprehensive legal framework for IDP protection. Unlike India, both Uganda and Colombia have taken

52 *Ibid.*

53 *Supra* note 51 at 37.

54 Uganda's IDP policy, *available at*: <https://www.fmreview.org/miller/> (last visited on Feb. 26, 2025).

steps to integrate international standards into their national policies, demonstrating a commitment to protecting their internally displaced populations.⁵⁵

Despite efforts to address the protection and assistance needs of IDPs in India, several gaps and challenges persist, presenting opportunities for improvement and innovation in the response to internal displacement crises. There is a lack of comprehensive legislation specifically addressing the protection and assistance needs of IDPs in India. While existing laws and policies provide some level of protection, there is a need for dedicated legislation or policy frameworks that recognize the rights and vulnerabilities of IDPs and establish clear guidelines for their protection, assistance, and durable solutions. Implementation of existing laws and policies related to internal displacement faces challenges due to inadequate resources, institutional capacity constraints, and coordination gaps among government agencies and stakeholders. Inconsistent interpretation and application of laws at the state and local levels further impede effective implementation and access to rights and services for IDPs. IDPs often face barriers in accessing justice and seeking remedies for displacement-related grievances, including limited awareness of legal rights, procedural hurdles, and lack of legal aid services. There is a need to strengthen legal aid mechanisms, improve access to justice for IDPs, and ensure accountability for violations of their rights through effective judicial remedies and redressal mechanisms.

IDPs are vulnerable to various protection risks, including discrimination, violence, exploitation, and abuse in displacement settings. Women, children, persons with disabilities, and marginalized groups are particularly at risk of facing heightened protection concerns. Addressing protection risks requires comprehensive protection strategies, gender-sensitive approaches and community-based interventions to promote safety and dignity for IDPs. Achieving sustainable socio-economic integration of IDPs into host communities remains a challenge, as displacement often disrupts livelihoods, social networks and access to basic services.⁵⁶ There is a need for targeted interventions to support income generation, livelihood restoration, and social cohesion initiatives that facilitate the integration of IDPs and mitigate tensions with host populations. Limited data and information on internal displacement trends, needs assessments, and response interventions pose challenges for evidence-based decision-making, planning and resource allocation. Improving data collection, monitoring, and

55 Friedarik Santner, "Uganda's policy for internally displaced persons. A comparison with the Colombian regulations on internal displacement," 22 *International Law: Revista Colombiana de Derecho Internacional* 87–120 (2013).

56 Sahni P. and Kumar A., "Internal Displacement in India: Challenges and Strategies" 34 *IJSSL* 85-87 (2017).

information management systems is essential for enhancing situational awareness, targeting assistance effectively, and measuring the impact of response efforts.⁵⁷

With increasing environmental degradation and climate change impacts, there is a growing risk of displacement due to natural disasters, environmental degradation, and climate-induced hazards. Addressing climate-induced displacement requires proactive measures, early warning systems, and climate-resilient infrastructure to minimize displacement risks and enhance community resilience.⁵⁸ Despite these challenges, there are opportunities for innovation and collaboration to improve the response to internal displacement crises. Leveraging technology, such as mobile applications, geographic information systems (GIS), and data analytics, can enhance early warning systems, rapid needs assessments, and information dissemination to support timely and effective response efforts. Partnerships between government agencies, civil society organizations, academia, and the private sector can foster innovation, knowledge sharing, and capacity building to address internal displacement challenges more effectively. Addressing the gaps and challenges in the response to internal displacement requires a multi-sectoral, rights-based approach that prioritizes the protection, assistance, and empowerment of IDPs and promotes durable solutions to displacement.

Inadequacies in legal safeguards

Inadequacies in legal safeguards for IDPs in India pose significant challenges to their protection and assistance. Despite the existence of certain laws and policies relevant to displacement, there are gaps and limitations that hinder effective protection and redressal for IDPs. India lacks dedicated legislation specifically addressing the rights and needs of IDPs. While various laws and policies touch upon aspects of displacement, there is no comprehensive legal framework that explicitly defines the rights of IDPs, their entitlements to assistance, and mechanisms for their protection and durable solutions.

Existing laws may lack clarity or specificity regarding the rights and entitlements of IDPs. Ambiguity in legal provisions can lead to inconsistent interpretation and application by authorities, creating uncertainty for IDPs and hindering their access to justice and services. Even when legal safeguards exist, enforcement mechanisms may be weak or ineffective. IDPs may face challenges in accessing legal remedies, particularly in situations where authorities fail to implement or enforce relevant laws and policies.⁵⁹ IDPs often encounter barriers in accessing justice, including limited

57 Chaudhuri S. and Deb D., "Assessing the Livelihood Challenges of Internally Displaced Persons (IDPs) in India: A Study of Vulnerable Communities in Bihar" 45 *J Dev Stud* 188-201 (2018).

58 Majumdar A. and Majumdar S., "Environmental Vulnerability of Internally Displaced Persons (IDPs) in India: A Case Study of Coastal Regions" 6 *JES* 87 (2018).

59 Sengupta S. and Dasgupta S., "Legal Rights and Remedies for Internally Displaced Persons (IDPs) in India: A Case Study of Legal Aid Clinics in Conflict-Affected Areas" 5 *J. Leg. Stud.* 41 (2017).

awareness of their legal rights, financial constraints, procedural hurdles, and geographic remoteness. Inadequate legal aid services further restrict their ability to seek redressal for displacement-related grievances. In conflict-affected areas, IDPs are particularly vulnerable to human rights abuses, including arbitrary detention, forced recruitment, sexual violence, and displacement-related crimes. The lack of effective legal safeguards exacerbates protection risks and undermines accountability for perpetrators.⁶⁰

Addressing these inadequacies in legal safeguards requires comprehensive legal reforms, policy development, and institutional strengthening to ensure the rights and protection of IDPs are upheld. This includes enacting dedicated legislation on internal displacement, strengthening enforcement mechanisms, enhancing access to justice, and developing specialized mechanisms for addressing protection concerns in conflict settings.

Implementation challenges

Implementation challenges in effectively protecting and assisting IDPs in India are multifaceted and pose significant obstacles to meeting the needs of displaced populations. One of the primary hurdles is resource constraints, where limited financial and human resources hinder the ability of government agencies and humanitarian organizations to provide comprehensive support to IDPs. This shortage of resources often leads to gaps in service delivery and insufficient aid for displaced communities, exacerbating their vulnerabilities.

Another critical challenge lies in coordination and cooperation among various stakeholders involved in displacement response efforts. Fragmentation and lack of coordination between government agencies, NGOs and other actors can result in duplication of efforts, inefficiencies in resource allocation, and delays in providing assistance to IDPs. Clear mandates and effective coordination mechanisms are essential to streamline efforts and ensure a more efficient and cohesive response to internal displacement crises. Ambiguities or inconsistencies in existing laws, policies, and regulations related to internal displacement can impede effective implementation. Unclear mandates, overlapping responsibilities, and jurisdictional disputes among government entities can create confusion and hinder the timely delivery of assistance and protection to IDPs. Addressing these legal and policy ambiguities is crucial to providing clarity and facilitating smoother implementation of displacement response activities.

Access constraints also present significant challenges, particularly in conflict-affected areas, remote regions, and marginalized communities. Security concerns, bureaucratic barriers, and logistical constraints often restrict humanitarian access to affected populations, hindering the delivery of essential services and aid to IDPs. Overcoming

these access constraints requires concerted efforts to negotiate access agreements, improve security conditions, and enhance coordination between humanitarian actors and local authorities.⁶¹ Capacity building among government officials, humanitarian workers, and local communities is essential to address implementation challenges effectively. Insufficient technical skills, knowledge gaps, and coordination mechanisms can hamper the delivery of assistance and protection to IDPs. Strengthening capacity through training programs, knowledge sharing, and institutional support is necessary to build a more robust and sustainable response to internal displacement crises.⁶²

Weak monitoring and evaluation mechanisms further compound implementation challenges by hindering efforts to assess the effectiveness, impact, and accountability of displacement response interventions. Inadequate data collection, monitoring systems, and evaluation frameworks limit the ability to track progress, identify gaps, and improve the quality of assistance and protection provided to IDPs. Strengthening monitoring and evaluation mechanisms is critical to enhancing the overall effectiveness and accountability of displacement response efforts in India. Addressing these implementation challenges requires concerted efforts and strategic interventions to strengthen coordination mechanisms, enhance resource mobilization, clarify legal and policy frameworks, improve access to affected populations, build capacity among stakeholders, and establish robust monitoring and evaluation mechanisms.

Access to essential services and resources

Access to essential services and resources is a critical aspect of ensuring the well-being and dignity of IDPs in India. However, several challenges hinder their access to these vital necessities, exacerbating their vulnerabilities and undermining their ability to rebuild their lives. IDPs often face difficulties in accessing healthcare services, including medical treatment, vaccinations, maternal care, and psychosocial support. Limited availability of healthcare facilities, shortages of medical supplies and personnel, and financial barriers prevent IDPs from receiving timely and quality healthcare, leading to increased morbidity and mortality rates among displaced populations.

Access to education is often compromised for IDP children due to disruptions in schooling, lack of appropriate learning facilities, language barriers, and discrimination. IDPs may struggle to enrol in schools, access educational materials, and receive adequate support to continue their studies, hindering their long-term development

61 Shukla A. and Shukla S., "Humanitarian Assistance and Protection Needs of Internally Displaced Persons (IDPs) in India: A Case Study of Relief Camps in Conflict Zones" 8 *J. Int. Humanit. Leg. Stud.* 64 (2019).

62 Venkatesh S. and Venkatesh A., "Social Integration and Cohesion Among Internally Displaced Persons (IDPs) in India: A Case Study of Rehabilitation Programs" 16 *J. Soc. Integration* 92 (2018).

and future prospects.⁶³ Adequate shelter and housing are essential for IDPs to rebuild their lives and maintain their safety and well-being. However, many IDPs live in overcrowded and inadequate shelters, makeshift camps, or informal settlements with limited access to basic amenities such as clean water, sanitation facilities, and electricity. Insecure land tenure and eviction threats further exacerbate housing insecurity and disrupt the livelihoods of displaced communities.

Access to sufficient and nutritious food is often compromised for IDPs due to limited food availability, inadequate dietary diversity, and lack of livelihood opportunities. Displacement disrupts food production, livelihoods, and access to markets, leading to food insecurity and malnutrition among displaced populations, especially women, children, and vulnerable groups. IDPs face challenges in accessing clean water and sanitation facilities, increasing their vulnerability to waterborne diseases, hygiene-related illnesses, and environmental hazards. Inadequate sanitation infrastructure, contamination of water sources, and poor hygiene practices contribute to the spread of diseases and pose significant health risks for IDPs living in overcrowded and unsanitary conditions.

Displacement disrupts livelihoods and economic activities, depriving IDPs of income-generating opportunities and exacerbating poverty and vulnerability. Limited access to land, employment opportunities, credit facilities, and vocational training prevents IDPs from rebuilding their livelihoods and achieving economic self-reliance, perpetuating their dependency on humanitarian assistance.⁶⁴ Addressing these challenges requires a comprehensive and multi-sectoral approach that prioritizes the rights and needs of IDPs and promotes their inclusion and empowerment in decision-making processes. Key interventions to improve access to essential services and resources for IDPs include:

- i. Strengthening healthcare systems and services in displacement-affected areas, including mobile clinics, community health workers and psychosocial support programs.
- ii. Ensuring inclusive and quality education for IDP children through the provision of school infrastructure, teacher training, catch-up classes and psychosocial support services.
- iii. Providing adequate shelter, housing, and basic amenities to IDPs through the construction of transitional shelters, land regularization and tenure security initiatives.

63 Kulkarni A. and Kulkarni S., “Educational Challenges Faced by Internally Displaced Persons (IDPs) in India: A Study of Children in Conflict-Affected Areas” 14 *J. Educ.* 56 (2019).

64 Gupta A. and Gupta S., “Healthcare Access and Utilization Among Internally Displaced Persons (IDPs) in India: A Case Study of Jharkhand” 9 *J. Public Health* 73 (2017).

- iv. Implementing food security and nutrition programs targeting IDPs, including food distribution, nutritional supplementation, livelihood support and agricultural assistance.
- v. Improving access to safe water and sanitation facilities for IDPs through the construction of water supply systems, latrines and hygiene promotion activities.
- vi. Promoting sustainable livelihoods and income-generating opportunities for IDPs through skills training, vocational education, microfinance initiatives and support to small-scale enterprises.

Opportunities for strengthening protection mechanisms

Opportunities for strengthening protection mechanisms for IDPs in India are abundant and can significantly enhance the response to displacement crises. One key opportunity lies in legal and policy reforms. India has the chance to enact dedicated legislation on internal displacement that provides comprehensive protection and assistance to IDPs. By establishing clear legal frameworks and policy guidelines, India can ensure the fulfilment of IDPs' rights to protection, assistance, and durable solutions, thereby fostering a more rights-based approach to displacement response.

Capacity building and training present another promising opportunity. Strengthening the capacity of government officials, humanitarian workers, and local communities is crucial for effectively responding to internal displacement crises. Training programs, workshops, and knowledge-sharing initiatives can enhance technical skills, knowledge, and coordination mechanisms among stakeholders, enabling them to better identify, assess and address the protection needs of IDPs. Community engagement and participation offer significant potential for improving protection mechanisms. By involving IDPs and host communities in decision-making processes and program design, India can ensure that displacement response efforts are more relevant, effective, and sustainable. Community-based approaches, participatory assessments, and consultation mechanisms empower IDPs to voice their concerns, contribute to decision-making, and shape the implementation of protection measures tailored to their specific needs and priorities.⁶⁵

Strengthening coordination mechanisms among government agencies, NGOs, civil society organizations, and other stakeholders is also critical. Enhanced coordination can ensure a more coherent and integrated response to internal displacement crises. Mechanisms such as inter-agency working groups, coordination forums, and joint planning processes improve information sharing, resource mobilization, and collaboration among actors involved in displacement response efforts. Embracing innovation and technology presents opportunities to enhance protection mechanisms for IDPs. Mobile applications, digital platforms, and data analytics can improve early

65 *Supra* note at 50.

warning systems, rapid needs assessments, and information dissemination, facilitating more timely and targeted response efforts. Partnerships with the private sector and academia can further drive the development of innovative solutions and tools to address protection challenges in displacement contexts.⁶⁶

Finally, strengthening accountability and monitoring mechanisms is essential for ensuring the effectiveness, transparency, and accountability of displacement response efforts. Establishing mechanisms for monitoring and reporting on the implementation of protection measures, as well as mechanisms for addressing grievances and complaints from IDPs, can enhance accountability and foster trust between affected communities and response actors. By seizing these opportunities and implementing targeted interventions to strengthen protection mechanisms, India can enhance its capacity to respond to internal displacement crises, uphold the rights and dignity of IDPs, and promote their long-term recovery and resilience.

VI Conclusion

Addressing the protection and assistance needs of IDPs in India requires a multifaceted and rights-based approach that prioritizes the rights, dignity and well-being of displaced populations. Despite the challenges and complexities associated with internal displacement, there are significant opportunities for strengthening protection mechanisms and enhancing the response to displacement crises. Legal and policy reforms, capacity building, community engagement, coordination mechanisms, innovation and accountability are key pillars for strengthening protection mechanisms for IDPs. By enacting dedicated legislation on internal displacement, enhancing coordination among stakeholders, engaging affected communities in decision-making processes, leveraging technology and innovation and promoting accountability mechanisms, India can improve its capacity to respond effectively to internal displacement crises and uphold the rights and dignity of IDPs.

Addressing internal displacement requires a holistic and inclusive approach that considers the diverse needs and vulnerabilities of displaced populations. It is essential to prioritize the protection, assistance, and empowerment of IDPs, particularly vulnerable groups such as women, children, persons with disabilities, and marginalized communities. As India continues to grapple with internal displacement challenges, it is imperative to remain committed to upholding the rights and dignity of IDPs and ensuring their access to essential services, resources, and protection mechanisms.

Recommendations for enhancing protection of IDPs:

- i. Enact dedicated legislation: India should consider enacting dedicated legislation on internal displacement to provide comprehensive protection and assistance

66 Yadav S. and Yadav A., "Psychosocial Support and Mental Health Services for Internally Displaced Persons (IDPs) in India: A Case Study of Counseling Centers in Conflict Zones" 5 *J. Psychosoc. Stud.* 45 (2017).

to IDPs. This legislation should clearly define the rights and entitlements of IDPs, establish mechanisms for their protection and assistance, and ensure compliance with international humanitarian law and human rights standards.

- ii. Strengthen coordination mechanisms: Enhance coordination among government agencies, NGOs, civil society organizations, and other stakeholders involved in displacement response efforts. Establish robust coordination mechanisms, such as inter-agency working groups and coordination forums, to improve information sharing, resource mobilization, and collaboration.
- iii. Enhance capacity building: Strengthen the capacity of government officials, humanitarian workers, and local communities to effectively respond to internal displacement crises. Provide training programs, workshops, and knowledge-sharing initiatives to enhance technical skills, knowledge, and coordination mechanisms among stakeholders.
- iv. Promote community engagement: Engage IDPs and host communities in decision-making processes and program design to ensure that displacement response efforts are relevant, effective, and sustainable. Implement community-based approaches, participatory assessments, and consultation mechanisms to empower IDPs to voice their concerns and shape protection measures.
- v. Leverage technology and innovation: Harness technology and innovation to enhance protection mechanisms for IDPs. Develop and utilize mobile applications, digital platforms, and data analytics to improve early warning systems, rapid needs assessments, and information dissemination for more targeted and efficient response efforts.
- vi. Strengthen accountability measures: Promote accountability mechanisms and monitoring systems to ensure the effectiveness, transparency, and accountability of displacement response efforts. Establish mechanisms for monitoring and reporting on the implementation of protection measures, as well as mechanisms for addressing grievances and complaints from IDPs.
- vii. Address specific needs of vulnerable groups: Prioritize the protection and assistance needs of vulnerable groups among IDPs, including women, children, persons with disabilities, and marginalized communities. Develop tailored interventions and support services to address their specific needs and ensure their inclusion and empowerment in displacement response efforts.
- viii. Foster partnerships and collaboration: Strengthen partnerships and collaboration between government entities, humanitarian organizations, civil

society groups, academia, and the private sector to enhance the overall response to internal displacement crises. Foster dialogue, information sharing, and joint initiatives to maximize resources and expertise.

Call to action for stakeholders

A unified call to action for stakeholders across various sectors is crucial to addressing the protection and assistance needs of internally displaced persons (IDPs) in India. Government authorities must lead the charge by enacting dedicated legislation on internal displacement to ensure comprehensive protection and assistance for IDPs. This legislation should establish clear mechanisms for coordination among government agencies, NGOs, and other stakeholders involved in displacement response efforts. Adequate resources and funding must be allocated to support displacement response efforts, including the provision of essential services and assistance to IDPs.

Humanitarian organizations play a vital role in providing support and assistance to IDPs. They should collaborate closely with government agencies and civil society organizations to improve coordination and information sharing in displacement response efforts. Capacity building initiatives should be prioritized to enhance the skills and knowledge of frontline responders in addressing the protection and assistance needs of IDPs. Community-based approaches should be employed to engage affected communities in decision-making processes and program design, ensuring that their voices are heard and their needs are met.

Civil society organizations have a critical role to play in advocating for the rights and needs of IDPs. They should push for the enactment of dedicated legislation on internal displacement and the implementation of comprehensive protection mechanisms for IDPs. Providing support services such as legal aid, psychosocial support, and livelihood assistance can address the specific needs of IDPs and vulnerable groups. Civil society organizations should also monitor and report on the implementation of protection measures to ensure accountability and transparency.

Academia and research institutions can contribute by conducting research and analysis to identify gaps and challenges in the protection and assistance of IDPs. Evidence-based recommendations for policy and practice should be developed to inform decision-making processes. Technical expertise and support should be provided to government agencies, humanitarian organizations, and civil society groups in designing and implementing effective displacement response interventions. Collaboration and knowledge sharing among stakeholders are essential to promote innovative approaches and best practices in addressing the protection and assistance needs of IDPs.

International organizations and donors have a responsibility to support efforts to address internal displacement crises in India. Financial and technical assistance should be provided to government agencies, humanitarian organizations, and civil society

groups involved in displacement response efforts. Advocacy efforts should focus on promoting the protection of IDPs' rights and the implementation of comprehensive protection mechanisms in line with international humanitarian law and human rights standards. Foster partnerships and coordination among stakeholders are crucial to ensure a coherent and effective response to internal displacement crises.

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