

**REHABILITATION OF THE INTERNALLY DISPLACED PERSONS:  
A SOCIO-LEGAL STUDY WITH SPECIAL REFERENCE TO  
KASHMIRI DISPLACED PERSONS**

**ABSTRACT**

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## **ABSTRACT**

There is no legal definition of Internally Displaced Persons as there is for a refugee. However, a United Nations report, guiding principles on internal displacement Para 2 of Introduction uses the definition as:- “Internally displaced persons are persons or groups who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human made disasters and who have not crossed the internationally recognized State border”.

There are different causes which create Internally Displaced Persons (IDPs). Some of them are internal armed conflict, economic upheaval and natural disasters. Millions of men, women and children are uprooted by these forces. They are facing hardship in obtaining necessities of life such as food, water, clothing, etc. They are facing diseases. These people are also facing linguistic and cultural problems because IDPs may have the different language and culture than the locals were they were displaced. For example, Kashmiri Displaced Persons (KDPs) have totally different language (Kashmiri) and culture from the rest of India.

There is no clear legal framework for dealing with IDPs. People at risk of persecution who legitimately seek shelter by crossing international borders are protected (in theory at least) by the 1951 Refugee Convention and its principal guardian agency, the United Nations High Commissioner for Refugees (UNHCR). In contrast IDPs principal recourse for seeking legal protection and assistance remains their own governments, which may be unable or unwilling to offer assistance due to an ongoing civil conflict or other reasons.

For many years, international efforts to assist the internally displaced have been handicapped by two factors: the lack of a clear definition as to what

constitutes “internal displacement” and the absence of responsibility vested in any one international institution to provide for the displaced persons. The international community has sought to address the problem of displacement through a normative approach (providing legal framework for the redressal of IDPs) and an operational approach (providing protection and assistance through investigation).

The United Nations has consistently opted for the “collaborative approach” of agencies, despite the well-documented gaps in response to which this has led in such countries as Angola, Sudan and The Democratic Republic of Congo. The coordination of collaborating agencies is meant to be performed by the emergency relief coordinator of the United Nations Office for Coordination of humanitarian affairs (UNOCHA).

Many efforts have been made in recent years to address the issue of IDPs, much work remains to be done. Protecting IDPs is one of the most complicated issues the humanitarian agencies are facing today. This includes legal, ethical and practical difficulties.

Many countries however, has made legislations for the protection of internally displaced persons such as Angola, Burundi, Kenya, Liberia, Sierra Leone, Sudan, Uganda, Philippines, Sri Lanka, Colombia, Peru, Bosnia, Iraq, Turkey, etc. which is directly or indirectly deals with Internally displaced persons. But India has no such legislation which deals with internally displaced persons. However, India has ‘National Policy on Resettlement and Rehabilitation for Project Affected Families (2003)’ and has legislation such as ‘The Right to Fair Compensation and Transparency in Land Acquisition and Resettlement Act 2013’.

As of May 2013 Total population of India is 1,250,000,000. As of May 2014 at least 531,000 individuals were internally displaced by armed conflict and communal violence in the state of Jammu and Kashmir, Assam, Tripura, Chhattisgarh, Andhra Pradesh, Orissa, Gujarat and Uttar Pradesh. Newly

displaced in 2013 due to Disasters are 2,142,271. As of January 2014 there are 11,042 refugees originating from country.

Jammu and Kashmir is a big example of forced displacement. During 1990's lakhs of people displaced from the Kashmir Valley because of militant threats.

The militants in Kashmir have, with the solid and active support of Pakistan, tarnished the image of Kashmir and have depicted and painted ugly, gloomy and dark picture of Kashmir by repudiating and negating all that was marvelous about Kashmir. Pakistan had been exploiting Kashmiri's in general and the Militants in particular. Coupled with the sinister policies of the State and Central rulers, militancy caused mass exodus of the Hindus from the Valley.

It is the duty of the Government of India as well as the Government of Jammu and Kashmir to protect and rehabilitate the Kashmiri Displaced Persons. Clause 1 of Principle 3 of Guiding Principles on Internal Displacement provides that- National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction. But the government of India as well as Government of Jammu and Kashmir had done nothing to stop the then mass exodus. Both the governments failed to find a permanent solution to rehabilitate the Kashmiri Displaced Persons. Even after 25 years of exodus they are still living in Camps at Jammu and various other parts of India.

Internally displaced persons are entitled to enjoy same rights and duties under international and national laws equally along with other persons without any discrimination. International law does not specifically address the plight of IDPs, but this does not mean that they are not protected under the law. There are various international Covenants, conventions, treaties, etc. at the international level for the protection of IDPs along with others.

National authorities have an obligation to criminalize violations of international and international humanitarian law in national legislation and to prosecute and punish those responsible before national courts and tribunals. In some cases, individuals can be brought to justice under international criminal law.

The Guiding Principles on Internal Displacement bring together and give an overview of the rights of IDPs and responsibilities of national authorities and non-state actors towards them. Although not a binding document, like a treaty, the guiding Principles on Internal Displacement are based on and reflect existing standards of international law, which are binding. The Guiding Principles authority is reinforced by wide international acceptance that they have received. They are recognized by States as an important international framework for the protection of internally displaced persons as well as serving as a tool and standard to guide governments, international organizations and all other actors in situations of international displacement. The guiding Principles provide a definition of an IDP and a comprehensive statement of what protection should mean during displacement. It covers all phases of displacement such as the pre-displacement phase, providing protection from unlawful displacement; Protection and assistance during displacement, and Durable solutions, namely return, local integration at the place of displacement or resettlement in another part of the country and reintegration. The Guiding Principles covers rights relating to Physical security and integrity (such as the right to life, protection from torture and rape); Basic necessities of life (such as the right to food, water, shelter, health and sanitation); Other economic, social and cultural protection needs (such as access to education, property restitution or compensation) and Other civil and political protection issues (such as the right to personal documentation and to political participation).

Other Organizations and Institutions which are also working directly or indirectly for the and IDPs are United Nations relief and Rehabilitation Administration (UNRRA) 1943; International Refugee Organization [IRO]

1946; United Nations High Commissioner for Refugee (UNHCR) 1950; International Committee of Red Cross (ICRC)

India has ratified many of these Covenants, Conventions, instruments, etc. but failed to protect the cultural and other rights along with the freedom of residence of these Kashmiri Displaced Persons.

Constitution of India guarantees in Part III, right to live with dignity (Art. 21), prohibition of discrimination on the grounds of religion etc. (Art. 15), right to practice any profession, or to carry on any occupation, trade or business {Art. 19 (1) (f)}, right against exploitation (Art.23 and 24), right to freedom of religion (Art. 25 to 28). All these guarantees are available to the permanent resident of the State of Jammu and Kashmir through section 10 of the Constitution of Jammu and Kashmir. Under article 47 of Part IV of the Constitution of India it is the duty of the State to raise the level of nutrition and the standard of living and to improve public health but the State is failed to provide such facilities to Kashmiri Displaced persons.

There is also the Protection of Human Rights Act 1993 which provides recommendations relating to human rights violations in India, but this institution does not seem fruitful as it has no enforcement power.

Constitution of Jammu and Kashmir, Jammu and Kashmir The Ranbir Penal Code, The Jammu and Kashmir Criminal Procedure Code which not only provides for protection of persons but also provides for punishment for those who violates human rights of others. But it is the matter of shame for our Government which had not provided protection to the Kashmiri's from atrocities of the terrorists which ultimately led to mass exodus in 1990 and onward in-spite of all these laws and Acts.

The Kashmiri displaced persons need to be rehabilitated and resettled with their return to the Valley, their birth place, compensation for the property which they lost during and after displacement and with the promise of

security from human rights violence against them. It is required that Government should rehabilitate the Kashmiri displaced persons as early as possible so that they can live with dignity which is the prime objective of our Constitution.

Internally displaced persons are entitled to enjoy same rights and duties under international law equally along with other persons without any discrimination. International law does not specifically address the plight of IDPs, but this does not mean that they are not protected under the law. At the international level there are three bodies of law which provide comprehensive legal framework for the protection of internally displaced persons such as International human rights law, International humanitarian law and International criminal law.

As a citizen of their country, IDPs remain entitled to full and equal protection under the state's national laws, which should be compatible with state's obligations under international law. To secure the human rights and guarantees dispersed in the international law that respond to protection risks that arise during displacement is challenge for international agencies, NGOs, and States.

The *guiding principles on internal displacement* bring together in one document the main rules of international law, drawn from international human rights law and international humanitarian law that are relevant to protection in situations of internal displacement. The guiding principles set out the rights of IDPs and the responsibilities of states and other authorities towards them. The guiding principles are comprehensive and cover protection from displacement, protection during displacement, principles of humanitarian assistance and issues relating to return, resettlement and reintegration. Although guiding principles are not binding but they are consistent with international human rights law and international humanitarian law and international refugee law.

***International human rights law***, consists of both customary law, treaty law, guarantees rights and obliges states to respect, protect and fulfill the human rights of all persons without any discrimination such as on grounds of age,

gender, ethnic origin, language, religion, political or other opinion, national or social origin, property, birth or other status, including on the grounds of being or having been internally displaced. In situations of armed conflict, *International Humanitarian Law* comes into effect and applies together with human rights law. Also known as the law of armed conflict or the law of war, international law aims to limit human suffering in times of armed conflict. This body of law:

- a) Protect persons who do not, or no longer, take part in hostilities, namely civilians, prisoners of war, and sick, wounded or shipwrecked combatants; and
- b) Regulate the methods and means of warfare between parties to a conflict, such as by prohibiting particularly barbarous weapons and tactics, including the use of chemical and biological weapons, military objects on civilian targets and indiscriminate attacks that strike military objects and civilian without distinction.

International humanitarian law applies in all situations of armed conflict, both international conflict (between States) and non-international conflict (between a State and a non-State actor, or between two or more such actors). It is binding on all parties to an armed conflict: States, their armed forces and non-State armed groups, whether these are insurgent groups opposing the State or groups such as paramilitary groups supported by the state.

Because some human rights can be temporarily limited or suspended during armed conflict, the protection provided by international humanitarian law is particularly important. The more specific rules of international humanitarian law also assist in interpreting applicable human rights principles in situations of conflict. For example, evacuations of civilians on grounds of military necessity that are permissible under international humanitarian law are legitimate limitation of the right to freedom of movement under human rights law. National authorities have an obligation to criminalize violations of international human rights law and international humanitarian law in national

legislation and to prosecute and punish those responsible before national courts and tribunals. In some cases, individuals can be brought to justice under *International Criminal Law*.

The statute of international criminal court (ICC) defines a number of crimes that are considered to be of international concern and which can be investigated and prosecuted by Court has jurisdiction over the act. These include: war crimes, crimes against humanity and crime of genocide.

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The guiding Principles provide a definition of an IDP and a comprehensive statement of what protection should mean during displacement. It covers all phases of displacement such as

- The pre-displacement phase, providing protection from unlawful displacement,
- Protection and assistance during displacement, and
- Durable solutions, namely return, local integration at the place of displacement or resettlement in another part of the country and reintegration.

The Guiding Principles address a range of particular needs and protection risks that typically arise in situations of internal displacement, such as family separation, loss of documentation, freedom of movement in and out of camps, and loss of property. They also identify the corresponding rights and guarantees to address these concerns. Incorporating civil and political rights as well as economic, social and cultural rights, the Guiding Principles cover the broad spectrum of rights, including those not typically at the forefront of humanitarian action. It covers rights relating to:

- Physical security and integrity (such as the right to life, protection from torture and rape),
- Basic necessities of life (such as the right to food, water, shelter, health and sanitation),
- Other economic, social and cultural protection needs (such as access to education, property restitution or compensation) and
- Other civil and political protection issues (such as the right to personal documentation and to political participation).

It is hard to predict when the Guiding Principles will acquire a binding character through the adoption and ratifications by the governments. Then Guiding Principles will help IDPs make their demands on their national governments. It is this hope which is at the heart of the demands of the Displaced Kashmiris to be regarded as IDPs and be accorded the rights associated with IDPs status.

*National Laws* form the primary legal basis for IDPs protection activities. However, all States have a responsibility to ensure that their national laws and policies respect and reflect their obligation under international law, including those contained international human rights and international humanitarian law. States, therefore, must take action, by all appropriate means, to give effect to their international legal obligations at the national level.

National governments should take legislative and policy initiatives to respect rights and guarantees to which IDPs are entitled under international law and they should be consistent with the States international legal obligations. Protection strategies and activities should also take into account relevant traditional, customary or religious dispute resolution mechanisms at the national level.

*States* are generally encouraged to strengthen the legal framework for the protection of IDPs and to promote the *Guiding Principles on Internal Displacement* through national legislations. This does not mean that it is necessary or even appropriate in all contexts to adopt IDP-specific Legislation. IDPs are citizens or habitual residents of the country in which they live, and as such, are entitled to the same rights and freedoms as other persons in the country. Therefore, Kashmiri Displaced Persons are also entitled to the same rights and freedoms as other citizens in India.

However, international displacement can create specific problems and obstacles for IDPs and thus, action may be required to ensure that they can exercise their rights on a full and equal basis with others.

Two distinct types of national legislation should be considered in any given situation of internal displacement such as

- i) Generally applicable norms and laws,
- ii) Laws specifically focused on addressing situations of internal displacement

Since the publication of *Guiding Principles on Internal Displacement* in 1998 various countries have begun to express their commitment to addressing internal displacement, protecting the rights of internally displaced persons and implementing the guiding Principles through national legislation and policy. Group of countries that adopted various laws and policies on IDPs are as follows;

AFRICA (Angola, Burundi, Kenya, Liberia, Sierra Leone, Sudan, Uganda, etc.), ASIA (Afghanistan, India, Nepal, Pakistan, Philippines, Sri Lanka, Tajikistan, etc.), AMERICA (Colombia, Guatemala, Mexico, Peru, United States), EUROPE (Armenia, Azerbaijan), MIDDLE EAST (Iraq, Turkey), REGIONAL POLICIES (Commonwealth of Independent States, Europe, Great Lake Regions, Latin America, Organization of American States, Africa), COUNTRIES IN PROGRESS (Georgia, Nigeria, Somalia, Yemen, etc. )

All these laws and polies adopted by various countries does not necessarily be in conformity with the guiding principles on internal displacement or with international human rights and international humanitarian law generally. But it is good practice for the protection of internally displaced persons.

**Important Legislations in India for The Protection Of Kashmiri Displaced Persons are as follows:-**

- CONSTITUTION OF INDIA,
- THE PROTECTION OF HUMAN RIGHTS ACT, 1993
- THE CONSTITUTION OF JAMMU AND KASHMIR
- JAMMU AND KASHMIR THE RANBIR PENAL CODE
- JAMMU AND KASHMIR CRIMINAL PROCEDURE CODE
- THE JAMMU AND KASHMIR MIGRANT IMMOVEABLE PROPERTY (PRESERVATION, PROTECTION AND RESTRICTION ON DISTRESS SALE) ACT, 1997
- ARMED FORCES SPECIAL POWERS (JAMMU AND KASHMIR) ACT, 1990
- SRO 364 OF GOVERNMENT JAMMU AND KASHMIR

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At present, a total of 60,452 families of Kashmiri migrants are registered in the country, of which 38,119 are in Jammu, 19,338 in Delhi and 1,995 in other states. An estimated 77,000 people are also currently displaced in north-eastern state of Assam. In 2012, communal violence in Assam displaced 500,000 people. In addition 30,000 Brus from Mizoram in north –eastern Tripura state remain in displacement since 1997. Approximately 148,000 people are displaced in central India. In May 2013, 10,000 mostly tribal but also middle class traders fled Chhattisgarh in the direction of Andhra Pradesh. 8,000 people in West Bengal displaced as of 2007 and more than 100,000 people displaced from Chhattisgarh since 2005. National Human Rights Commission reported that 51,000 people had been displaced in Uttar Pradesh due to the violence broke out in 7, September 2013.

At least 600,000 are internally displaced in India as of January 2006. The figure of 600,000 comprises groups residing in camps. The figure represents the camp population only and not internally displaced persons who largely live unassisted with friends, relatives or blend with other slum residents in the outskirts of the urban areas. The actual internally displaced persons in India is far higher than 600,000.

In 2008 in Orissa 20000 to 50000 people were displaced by communal violence. India's largest IDP group, of over 250000 Kashmiri Displaced Persons (KDPs) fled the Kashmir Valley from 1990 and onward. Most of these are living in situations of protected displacement. Most the KDPs continue to live in camps in Jammu and Delhi. This group is perhaps the most vulnerable in India amongst IDPs. In Gujarat state, over 21000 Muslim were displaced in 2002 due to communal riots. Brus displaced from Mizoram state in 1997 were living in deplorable conditions in relief camps. Total number of conflict-induced IDPs in India is difficult to estimate as there is no central agency responsible for monitoring the numbers displaced and the humanitarian and human rights agencies have limited access to them.

Conservative estimates of India's current conflict induced displacement would be at least 500,000, but could be significantly higher.

33 million people are estimated to be displaced by development projects in India most of them are tribal.

Over 5000 years of record history indicted that *Kashmir* has been an *integral part of India*. In middle of 12<sup>th</sup> A.D. Muslim invaded Kashmir. During 1394-1416: Central Asian ruler, Sikander invades Kashmir and brings about mass conversion to Islam. After the tyranny of Sikander was over, only eleven Kashmir Hindu families survive. During 1540; Mirz Haider, a relative of Humayun (a Maghul invader dynasty) conquer Kashmir. Kashmir gradually absorbed into Maghul Empire. Maharajah Ranjit Singh, freed Kashmir from brutal Central Asian invaders who occupied it since 13<sup>th</sup> century. He appointed Dogra feudatory Gulab Singh to rule the state. In March 16, 1846; the present state is created by a treaty between the British East India Company acting on behalf of British Government and Maharajah Gulab Singh in Amritsar.

On August 15, 1947; India gains independence. The ruler of Kashmir, Maharajah Hari Singh yet to make up his mind regarding accession to India. Kashmir was attacked and looted by the Pakistani army in October 22, 1947, several thousand innocent Kashmiri's died in aggression. On October 26, 1947, the ruler of Kashmir, **Hari Singh** requested Kashmir's **accession to India** just like other principalities (560). This accession to India was full, final, unconditional and irrevocable. The accession of Kashmir was accepted by the Governor General of India .On the next day (Oct.27, 1947) the first Indian forces arrived in Kashmir to defend against Pakistani troops. On December 31, 1947, a highly, unconstitutional offer of plebiscite was made by Prime Minister Nehru in the U.N. According to U.N. resolution of 1948 the precondition for plebiscite in Kashmir was immediate withdrawal of invading Pakistani troops from Jammu and Kashmir, a condition Pakistan has yet to fulfill. In spite of U.N. resolution, today 2/5 of Kashmir remains Pakistan

occupied territory. In addition, Pakistan has now dramatically altered the demographic composition of the State. India under Nehru declared a unilateral cease-fire and under Article 35 of the U.N. Charter, India files a complaint with U.N. Security Council. U.N. Security Council in its resolution establishes the United Nations Commission for India and Pakistan (UNCIP). A delegate of Pakistan in the U.N. admits to UNCIP that the Pakistani Army had been in Kashmir. UNCIP adopted a resolution on Kashmir accepted by both India and Pakistan. Pakistan is blamed for invasion of Kashmir and is instructed to withdraw; its forces from Kashmir. Amidst great tension, one minute before midnight, India and Pakistan concluded a formal ceasefire agreement on Jan. 5, 1949; the UNCIP passes a resolution that states that “the question of accession of the state of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of free and impartial plebiscite”. However, Pakistan has yet to comply with the earlier resolution and withdraw from the state.

Under the leadership of Bakshi Gulam Mohamad *Democratically Elected* constituent Assembly of the state of Jammu and Kashmir ratified the States accession to India in Feb. 1954. On May, 1954, the President of India promulgates the constitution (application to Jammu and Kashmir) order placing on a final footing the applicability of the other provisions of the Indian Constitution to Jammu and Kashmir.

Constitution (*seventh Amendment*) Act, 1956, the category of part B states was abolished and Jammu and Kashmir was included as one of the states under Article 1. However, Art.370 of the Indian Constitution of India is still retained.

Art. 249 of the constitution of India extended Jammu and Kashmir (on March 30, 1965) whereby the Centre could legislate on any matter enumerated in the state list (just like in any other State in the Union). Designation like Prime Minister and President of State are replaced by Chief Minister and Governor.

On Feb.24-25, 1975; following an accord signed by Prime Minister Indira Gandhi and Sheikh Abdullah on Feb. 24, 1975, Jammu and Kashmir is made a “constituent unit” of India on Feb. 25, 1975. Through this accord, Indian Parliament reaffirms its right to legislate on any matter concerning the territory of the State.

In one of the most shameful acts of religious massacre in 1986, several ancient historical Hindu Temples were destroyed and scores of Hindus were killed in the city of Anantnag.

Kashmiri Pandits were forced to flee their homes in the Valley from 1990 onwards. They have settled elsewhere, with large numbers relocating to Jammu and New Delhi. Only about 3,000 remain in the Valley.

The secessionist violence on an unprecedented scale erupted in the Kashmir Valley in 1989. It was engineered by Pakistani Inter Service Intelligence saboteurs and the ardent champions of “Nizam -e- Mustafa” (Islamic rule) in Kashmir. It is to avoid conclusion that one of their immediate targets was the miniscule minority of Kashmir Hindus, popularly known as Pundits.

Determined as they were to preserve their 5000- year- old identity and culture, the Kashmiri Pundits resisted the “Islamic onslaught” for some time. In the process they suffered humiliation at the hands of the “zealots” who strove to the hilt to denigrate their history and culture. Their business establishments, temples and residential quarters were attacked. Their women were raped and dishonoured. Several hundreds of them were brutally tortured and murdered. In fact, the terrorists perpetrated all kinds of crimes. Torture deaths were brought about by inhuman practices which included “stitching the lips of victim before killing him and nailing the chest and feet of the poor man till he bled to death, Strangulation by using steel wires, hanging, impaling, branding, with hot irons, burning alive, lynching, gouging of eyes before assassination, slicing, dismemberment of limbs, drowning, garaging to death, draining of blood and slaughter.”

The victim of militancy did wait and wait and wait for the Government to come to their rescue and perform its legitimate duty. But the authorities remained totally indifferent. Unable to withstand the April 14, 1990 terrorist “threat to leave the valley within 48 hours or face death,” the minority ultimately decided to quit the Valley, leaving behind property and everything worth thousands of crores. The Pundits, plight from the valley was sequel to a plan hatched well in advance from outside the State.

The saddest aspect of the whole of the situation was the Centre’s failure to check the process of religious cleansing. Not only that the conditions were created such as to cause mass exodus of Hindus from the Valley, but they were openly asked to vacate Kashmir through a press statement issued by terrorist outfits Hizbul Muzahideen. It is not wrong if we say that the uncontrolled militancy and Displacement of Kashmiri Hindus, Muslims and Sikhs from the Kashmir Valley is the result of lack of leadership in the Valley and negligence on the part of the Central Government.

Some migration in fact, took place in 1986 in the wake of communal disturbances and desecration of Hindu temples in Anantnag district and some other places in Kashmir Valley. A large number of the Kashmiri Hindus had decided then to leave Kashmir and preparation for it were under foot. The mass migration of Hindus from Kashmir in 1986 was, however, stopped by the Central Government. Exodus of Kashmir Hindus from the Valley of Kashmir (during 1990) is the largest ever exodus from Kashmir.

Armed and organized terrorism was unleashed on a large scale in the Valley particularly since 1989. A large number of peoples fell to the militants’ bullets.

Militants had spared none whether the victims were Hindus, Muslims or belong to any other religion. Also the militants targeted political leaders’ businessmen, Professors, Police Personnel’s, army personnel’s, traders, school teachers, doctors, civil servants, etc. sparing none. In such situations can

anybody want to live in an atmosphere where their lives are in danger? I think no one can put his or her life in danger. These were the reasons for the displacement of the people from the Kashmir during 1990's and onwards. Even the children and women were also becomes victims of terrorism.

Under threats of violence from the terrorists, the circulation of national newspapers was banned. Frequently, such bans are also imposed on local newspapers that are not seen to the line. The terrorists have thus tried to ensure that the press in the Valley is effectively gagged.

Ever since April 1990, the Kashmiri Displaced Persons (KDPs) have been leading a nightmarish existence in exile. Crowded in tents and one room tenements under insanity conditions, dependent on doles for survival and without any prospect of returning to their beautiful Valley, they have been living a life of misery ever since the Pakistan- sponsored insurgency took a turn for the worse in the Valley.

More than 90 per cent of the Hindu population in the Kashmir Valley, the Kashmiri Pandits, had remains internally displaced as a result of this armed conflict. Militants continue to reject any discussion of a return and one group stated publicly in July 2005: "We impose a ban on the return of Kashmiri Pandit migrants to the Valley"

Some of the Displaced Kashmiri's supported return if the government would settle them in a secure zone and ensure property compensation, while others continuing to maintain that no return could take place until a homeland is carved in Kashmir where Pandits are settled and have their government representatives (Indian Express, 17 June 2008). IDPs also want equal employment opportunities guaranteed with their Muslim counterparts as a condition for return. In order to avoid being marginalized in the political arena, the Kashmiri Pandits have called for reservation of three assembly seats for their community in the state legislature and the establishment of three townships in the Valley for their resettlement.

The Government has utterly failed to normalize the situation in Kashmir. As such, the migrants cannot be expected to go back under the prevailing circumstances. They can be again made targets of militancy at any time in case they return to Valley.

Lakhs of Kashmiri's were displaced in January 1990 from Kashmir to Jammu and various other parts of India. According to K.K Khosa President Kashmiri Pandit Sabha (KPS) Ambphala, Jammu 95 to 97% of the displaced Kashmiri's were Hindu's. He said, "About 3 to 4 lakh people were displaced from the Valley during 1990 to onward". According to him Government provided tents to few families (about 15%); other families were accommodated in School and vacant government buildings at Jammu. At that time they were provided one tent per family sometimes one tent for two families without any light, fan, sanitation, etc. Few years later they were provided in one room per family without any kitchen or bathroom at Misriwala, Purkhoo, Muthi and Nagrota. The length and breadth of the room is about 10 feet x10 feet. They lived there for many years just like animal living. Even the farmers built sheds better than that for their cattle's. All the activities had done in the 10x10 room from kitchen to procreation. There is no branda, no playground for children no community hall.

Even after 25 years of exile they are not able to go back to Kashmir and till now no permanent solution for their rehabilitation. Majority of KDPs willing to go back to Kashmir Valley, if the government assures them security and proper compensation for the property they lost during militancy. No one from the Kashmir Valley extend their hand for the rehabilitation of the KDPs. Even some fundamentalist groups in the Valley is against the return and rehabilitation of KDPs.

At present only few registered Kashmiri displaced families are living in one room set (1BHK) of which government claims to be TRT (two room tenements).

For providing various facilities to migrant the Govt. created *Relief Organization* in 1990 (i.e. **Office of Relief and Rehabilitation Commissioner, (Migrants) {RRC (M)}, Jammu**). The Relief Organization continues to provide facilities to the migrants since 1990 and has established field offices at various places for the convenience of the migrants.

As per the data provided by the Planning section of the Office of the Relief and Rehabilitation Commissioner (Migrants) Jammu, there are -

Total number of registered Kashmiri families = **41117**

Total number of registered souls = **149136**

Number of registered families under relief category = **18589**

Number of registered Souls under relief category = **63371**

Number of registered families under non-relief category = **22528**

Number of registered Souls under non-relief category = **85765**

The Indian government has been accused of failing to adhere to the UN Guiding Principles on Internal Displacement and other international human rights standards in its response to displacement in Kashmir and Gujarat.

One survey conducted among different displaced communities in India reveals that over 55 per cent of the internally displaced do not receive any support at all and only 13 per cent receive any assistance from the authorities. The report also reveals that more than 70 per cent of the surveyed population believe that return will be impossible, a fact that underlines the need for the government to work out sustainable solutions.

The international community has largely failed to address issues of internal displacement in India. *Amnesty International* accused UN and other international aid agencies of failing to put sufficient pressure on the State authorities to provide relief to thousands of internally displaced victims, many of them women and children.

What they (KDPs) need is their immediate return and rehabilitation in the Valley and a political instrument which saves them in future also against all odds and fundamentalists and defends and promotes their political, cultural and economic rights. Their rehabilitation in the Valley has become all the more imperative in view of the fact that their population is declining very fast because of the low birth and high mortality rate among them.

It needs to be mention here that as per Guiding Principles of Internal Displacement it is duty of the Government of India to identify rights and guarantees relevant to the protection of Kashmiri Displaced Persons from further forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration.

The helpless Kashmiri displaced persons are passionately waiting for return to their home. Till now government has no clear policy for their return and rehabilitation in Kashmir Valley their place of origin. The government must formulate a Policy and come up with durable solutions for their return and rehabilitation in the valley with adequate security.

Prior to 2008, no policy or package was available for return and rehabilitation of Kashmiri displaced persons. However, in view of the improved situation the Govt. of India sanctioned a package called the Hon'ble Prime Minister's package of Rs. 1618.40 crores for their return and rehabilitation.

So far no family has returned to valley. However, providing of employment to unemployed Kashmiri youth is expected to be the beginning of the return of Kashmiri migrants to Valley.

According to K. K. Khosa (President of Kashmiri Pandit Sabha) till now (i.e. 28-01-2015) not more than 3 to 4 per cent of the PM's Relief package of 2008 has been implemented.

Twenty five years have been passed of exodus, still there is no clear cut policy of the Government for the return and rehabilitation of the KDPs. KDPs are facing many difficulties in the camps.

KDPs are still living in Camps of small tenements without any title or ownership. Government simply allotted them accommodation with the fact in mind that one day they should return to the Valley. If this is not the situation than why not the government should provide then permanent housing? How long they will live in Camps? When will the government take steps for return to the Valley with dignity and Physical and economic security?

Both the Central and the State Governments are keen on the return of migrants to their homes and the State Government is engaged in the preparation of a detailed action plan in this regard. The matter of safe and honourable return of migrants to their native places in the Valley has been assigned the topmost priority by the State Government. But a comprehensive policy for the return and rehabilitation of Kashmiri migrants is still pending.

There is lack of policy formulation on the part of the government for the return and rehabilitation of the Kashmiri Displaced Persons. In-spite of demands made by the KDPs and their Organizations for their return and rehabilitation in the Kashmir Valley no steps has been taken by the Government for finding permanent solution on the issue of rehabilitation of the Kashmiri displaced Persons.

Kashmiri Displaced Persons have much hope from government concerning their rehabilitation and finding durable solutions for their rehabilitation. It is also desirable that government should not delay in order to find permanent solution to the issue of rehabilitation of Kashmiri displaced Persons.

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