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ADDRESSING COMMUNAL VIOLENCE-INDUCED DISPLACEMENT IN INDIA: A CRITICAL LEGAL ANALYSIS

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Abstract

The issue of rights violation for internal displacement caused by communal violence is an under-researched yet crucial human rights issue in India. Though the uppers of the constitution guarantee equality, no discrimination and safeguard life, the country does not possess specific enactment that would address the vulnerability of internally displaced persons (IDPs). The present research article critically examines the adequacy of India's legal and administrative responses to the issue of displacement due to communal violence with reference to case studies on the Gujarat riots (2002) and Muzaffarnagar violence (2013). It captures the systemic failure to provide protection, relief, and sustainable rehabilitation to the displaced communities.

This study is based on doctrinal as well as comparative methodology at analyzing constitutional provisions, relevant statutes, judicial interventions, and international frameworks like United Nations Guiding Principles on Internal Displacement. The research finds that India's approach remains fragmented and reactive and does not provide enforceable rights for IDPs. On the contrary, international standards and practices in a jurisdiction like Colombia and even as far as Sri Lanka have offered more comprehensive rights-based models.

Concluding the article is a proposal for enacting a national law focusing on IDP recognizing them as a category, setting up institutional mechanisms for protection and align to international best practice. Strengthening legal response to internal displacement is humanitarian necessity and constitutional imperative.

1. Introduction

Internal displacement is a growing but under addressed humanitarian and legal issue in India.

¹Internally Displaced Persons (IDPs) are people who are forced to flee their homes within their country because of conflict, violence, or disasters. Displacement in India is largely driven by different forms of communal violence—violence between groups of different religious or ethnic backgrounds. Cases like the Gujarat riots of 2002 and Muzaffarnagar violence of 2013 illustrated not only the instant human costs of violence, but also the ongoing invisibility and marginalization of affected displaced communities in the aftermath of such violence.²

Even though the ³Indian Constitution guarantees fundamental rights of equality, non-discrimination, and protection of life and personal liberty, there is no dedicated domestic law for the rights, protection, and rehabilitation of internally displaced persons. For instance, relief efforts to support victims of communal violence have resulted in a fragmented response that is oftentimes informal and politically motivated.⁴ IDPs frequently exist without a legal identity or recognition, and remain dependent on public provision for accommodation and services, existing in limbo for prolonged periods, unable to access services or monetize their livelihoods.

The United Nations Guiding Principles on Internal Displacement, for example, delineate principles meant to safeguard IDPs within a defined international framework which was set out in 1998. These principles state that countries are primarily responsible for preventing and protecting displacement and providing sustainable recovery options which include return, resettlement, or local integration. In comparison, it is evident that India has no equivalent national framework or laws that seek to incorporate these international standards.⁵

Disregard of the legal status of IDPs is indeed alarming concerning cases of ethnical conflicts, where violence has crossed the line into systematic persecution of targeted minorities within a

¹ United Nations, *Guiding Principles on Internal Displacement* (1998) available at <https://www.ohchr.org/en/documents/tools-and-resources/guiding-principles-internal-displacement> (last visited Apr. 27, 2025).

² Tanushree Rao, *Protecting Internally Displaced Persons in India*, E-International Relations (2013) available at <https://www.e-ir.info/2013/07/16/protecting-internally-displaced-persons-in-india/> (last visited Apr. 27, 2025).

³ Constitution of India, Article. 14, 15, 19, 21.

⁴ Internal Displacement Monitoring Centre, *India: National and State Authorities Failing to Protect IDPs* (2010) available at <https://www.internal-displacement.org/publications/india-national-and-state-authorities-failing-to-protect-idps> (last visited Apr. 27, 2025).

⁵ Amnesty International, *Human Rights in India: Country Report 2023* available at <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/india/report-india/> (last visited Apr. 27, 2025).

region.⁶ State responses, ranging from the creation of relief camps to offering compensation packages, have been predominantly reactive and typically inadequate, devoid of a rights based approach that recognizes displacement s that seeks legal enforcement of constitutional protections.

This research article seeks to explore the central question:

“How effective India's legal structure is, in protecting and resettling those persons displaced internally by communal violence, and the changes that would reflect constitutional and international mandates.”

The study utilizes a doctrinal and comparative approach, considering constitutional protection, relevant statutory provisions, judicial intervention, and two important case studies, Gujarat (2002) and Muzaffarnagar (2013), and also considers relevant international frameworks, including the UN Guiding Principles and the practices of other jurisdiction such as Colombia and Sri Lanka.

The article considers the existing domestic legal and constitutional framework for internal displacement in India, critically analyses the Gujarat and Muzaffarnagar case studies, to highlight the practical realities on the ground, compares India's responses with international standards to identify gaps, and makes recommendations for law and policy reforms.

Displacement related to communal violence requires us to go beyond an exercise in providing humanitarian assistance. Displacement is, at its core, a constitutional requirement based upon India's commitment to secularism, human dignity, and equality. This article calls for a recognition that we need to move from the existing ad hoc relief-based framework, to one that has structure with a rights-based legal framework, which will ensure justice and sustainable rehabilitation of internally displaced persons in India.

2. Domestic Legal Framework for IDPs in India

The constitutional system of India embraces principles of equality, non-discrimination, and human dignity. Despite experiencing repeated situations of internal displacement resulting from communal violence, the Indian state has not created any legally binding parameters for the particular protection of internally displaced persons (IDPs). IDPs are frequently forced to

⁶ Jeffery Renée and Shivangi Seth, "Commissions of Inquiry and Transitional Justice in India" (2024) 30 Contemporary Politics 1

navigate the pieces of constitutional protections, vague statutory laws, judicial activism, and administrative acts of relief none of which protect them against their vulnerabilities in a systematic and comprehensive manner.

2.1 Constitutional Protections

The Indian Constitution provides several important protections that theoretically apply to IDPs:

- **Article 14:** guarantees equality before the law;⁷
- **Article 15:** prohibits discrimination on the basis of religion, race, caste, sex, or place of birth;⁸
- **Article 19(1)(d):** guarantees the right to move freely throughout India;⁹
- **Article 21:** protects the right to life and personal liberty (and judicial interpretation has included the right to live with dignity, right to shelter, right to livelihood);¹⁰

But although they are strong rights, the displacement caused by communal violence often means that rights are practically suspended. Displaced persons face social fulmination based on ethnicity, complete withdrawal of potential access to education, healthcare, housing, and employment and a huge range of other fields that can't be accessed. Thus making the gap between the constitutional promise and lived experience even more stark. Without specific recognition of IDPs as a distinct protected group, it is likely to be even more difficult to practically enforce those rights.

2.2 Statutory Provisions

Compared to refugees, whose rights are covered through international conventions, India has no specific statute for IDPs. The few laws that reference relevant issues are weak:

- **The Disaster Management Act, 2005¹¹** deals only with natural disasters and does not include communal violence in its definition as disaster.⁵ This means that victims of communal displacement may simply fall out of any systematic relief and rehabilitation process within the Act.
- **The Protection of Human Rights Act, 1993¹²** establishes the National Human Rights Commission (NHRC) to monitor violations, including displacement-related issues.⁶

⁷ Constitution of India, Art. 14.

⁸ Constitution of India, Art. 15.

⁹ Constitution of India, Art. 19(1)(d).

¹⁰ Constitution of India, Art. 21.

¹¹ Disaster Management Act, 2005, No. 53, Acts of Parliament, 2005 (India)

¹² Protection of Human Rights Act, 1993, No. 10, Acts of Parliament, 1993 (India).

However, as the NHRC's recommendations are not mandatory, and there is no strong enforcement mechanism, the basic protections it offers have also limited effectiveness. State governments sometimes remark on relief codes to offer emergency indemnity following the aftermath of specific incidents. But these are often ad hoc, widely variable, and most importantly, there is no guarantee of any rehabilitative action over the long term.

2.3 Judicial Interventions

In several instances, Indian courts have intervened through Public Interest Litigations (PILs) protects the basic rights of people displacement with as noted earlier is the Supreme Court's intervention in *People's Union for Civil Liberties (PUCL) v. Union of India*,¹³ when the Court stated that it is the duty of the state to ensure food security and ensure dignified living in times of crisis.

Post-Gujarat riots incident, the court was able to coordinate the re-investigation¹⁴ of riot cases, oversee witness protection, and mandate retrials fuera Gujarat; however, judicial approaches and responses have not been systematic but case specific; indeed, courts have not established a coherent, comprehensive jurisprudence specifically addressing IDPs rights to protection, return or sustainable rehabilitation.

Whereas judicial relief has also largely been dependent on the activism of petitioners and civil society rather than arising from an automatic constitutional guarantee from which all displaced persons can derive enforceable rights.

2.4 Administrative Responses

Governmental responses to displacement resulting from communal violence are inconsistent and politicized. After both the Gujarat and Muzaffarnagar tragedies, state governments established relief camps, as well as compensation packages for IDPs. However:

- For relief camps, sanitation, medical care, security, and education were often inadequate.¹⁵

¹³ *People's Union for Civil Liberties v. Union of India*, Writ Petition (Civil) No. 196 of 2001 (Supreme Court of India).

¹⁴ Justice G.T. Nanavati and Justice Akshay H. Mehta, *Nanavati-Mehta Commission Report on Gujarat Riots* (2014)

¹⁵ Internal Displacement Monitoring Centre, *India: National and State Authorities Failing to Protect IDPs* (2010).

- For compensation schemes, there was extreme variation — such as the Muzaffarnagar local authorities controversially offering cash compensation if displaced persons committed to resettling permanently, and not returning to their original homes.
- There was no uniform standard policy for the restoration of lost documents (identity cards, ration cards), and de facto disenfranchising IDPs of services and political rights for those lacks.

There is also not systematic data collected on IDPs. The lack of any centralized registry makes it impossible to make sound policy decisions, or track populations of displaced people over a period of time.

2.5 Critical Gaps

Importantly, India's current constitutional and legal framework is deficient in a number of significant ways:

- **No Legal Definition or Recognition:** IDPs are not defined or recognized by law, making interventions difficult.
- **No National Policy or Law:** Displacement caused by communal violence, for example, is governed and dealt with administratively rather than rights enforceable in a court of law.
- **Relief is ad hoc:** Relief and rehabilitation are respondent, discretionary and politicized.
- **Judicial Constraints:** Courts have intervened in a few cases, but there is a lack of consistent jurisprudence on the rights of IDPs.
- **No Accountability:** There is rarely any legal accountability for public servants who have failed to assist, protect or enforce application of the law for displaced persons.

These issues present new and acute challenges for India to develop a national rights framework that not only prohibits displacement, but also ensures the protection, rehabilitation, and reintegration of displaced persons, in accordance with its obligations in constitutional and international law.

3. Case Studies: Gujarat Riots (2002) and Muzaffarnagar Violence (2013)

These two important episodes illustrate the operational shortcomings of India's laws and administrative responses to internal displacement as a result of communal violence: the Gujarat riots of 2002, and the Muzaffarnagar violence of 2013. As case studies, they demonstrate repeated failures of indifference, partisanship, and inherent inadequacy in addressing the rights

and needs of displaced persons.

3.1 Gujarat Riots, 2002

The Gujarat riots were sparked by the burning of the Godhra train in February 2002, leading to violence primarily directed against the Muslim population. The Nanavati-Mehta Commission reported that more than 200,000 people became displaced because of the riots.¹⁶ Relief camps were quickly set up, but relief conditions were deplorable - overcrowded, unsanitary, a lack of health care, and unsafe.

The state's response prompted both national and international condemnation. The National Human Rights Commission (NHRC)¹⁷ and Amnesty International published reports condemning complicity from the administration, police inaction, and a systemic failure to protect minorities. While the state government made statements announcing compensation packages and rehabilitation plans, delivery was sporadic, subject to political office holders, and far from sufficient to support long-term recovery.

Some relief for the riot victims came from judicial interventions. The Supreme Court ordered fresh inquiries into the riot cases and the shifting of trials out of Gujarat due to the local prosecutions having a fundamental bias. However, the judicial focus appears to have been largely on providing remedial action through the criminal justice system towards victims of the riot as opposed to crafting any actionable plan to guide the protection and rehabilitation of the displaced persons.

The majority of the displaced people on account of the Gujarat riots did not go back to their homes.¹⁸ Rather, they became trapped in informal ghettoized, segregated colonies where they remained locked out from the opportunities to fully participate in society. This self-sustaining form of ghettoization for extended periods of time without significant state efforts demonstrates an abject systemic failure in upholding the guarantee of constitutional equality and dignity to all citizens

¹⁶ Justice G.T. Nanavati and Justice Akshay H. Mehta, *Nanavati-Mehta Commission Report on Gujarat Riots* (2014).

¹⁷ National Human Rights Commission, *NHRC Reports on Gujarat Riots 2002* available at <https://nhrc.nic.in/> (last visited Apr. 27, 2025).

¹⁸ Centre for Social Justice, *A Study on Internally Displaced Persons of India* (2015) available at https://www.centreforsocialjustice.net/wp-content/uploads/2015/12/A_Study_on_Internally_Displaced_Persons_of_India.pdf (last visited Apr. 27, 2025).

3.2 Muzaffarnagar Violence, 2013

More than 50,000 people, mostly Muslims, were displaced after sectarian violence broke out in Muzaffarnagar and the surrounding regions of Uttar Pradesh in September 2013. More than 60 people were killed. During the severe winter months, displaced families sought shelter in temporary tents at relief camps set up on public areas and farmlands.

The state administration's response echoed some of the failures of Gujarat. The camps were all but unlivable, with inadequate provisions for food, health care, education, or sanitation facilities. Government relief efforts remained grossly insufficient and terribly uncoordinated, despite all attempts by the media and civil society.

Controversial was the act of the Uttar Pradesh Government, which offered cash compensation to some displaced families on the condition that they would permanently relocate and relinquish return to villages of origin.⁹ This scheme not only denied the displaced their right to voluntary return, but also essentially legitimized permanent congregation, violating constitutional guarantees of free movement and residence.

By the time the Allahabad High Court took suo motu cognizance of the humanitarian crisis, judicial interventions were again limited to immediate relief measures without the development of any wider legal doctrine on IDP rights. Criminal prosecutions related to the violence lagged behind, further alienating the victims from the justice system.

Long after the violence, many displaced persons remain in unofficial colonies suffering from legal invisibility, unemployment, lack of education, and social ostracism-conditions alarmingly akin to the Gujarat's IDPs.

3.3 Comparative Observations

Quite unlike, but a decade apart, the Gujarat and Muzaffarnagar incidences reveal similarities in dysfunction at the level of the state:

- Not acknowledging IDPs: In both situations, displaced persons treated as passive victims meriting charity rather than rights-holders entitled to legal protection and rehabilitation.
- Ad-hoc measures for relief: Relief camps were temporary, badly equipped, and swept away without durable solutions for return or resettlement.

- Inconsistent compensation schemes: Conditionalities of who received and what same assistance would be accorded was determined by political biases.
- Absence of institutional mechanisms: Lack of governance, no dedicated authority for displacement management, no national nor state IDP database, no sustainable reintegration strategy.
- Ghettoization and marginalization: Displaced populations were forced to build ghetto colonies rather than conditioned for safe return to homes.

Despite constitutional guarantees and sporadic court concerns, neither Gujarat nor Uttar Pradesh developed a systematic legal framework for addressing the rights and needs of displaced persons. The consequence has been prolonged suffering, legal invisibility, and socio-economic disinvestment for tens of thousands of citizens.

The Riots that took place in Gujarat and the Violence that was witnessed in Muzaffarnagar make clear that Internal Displacement through Riots and Communal Violence in India is not just a Humanitarian Crisis; it signifies a serious failing under the Constitution. Such systematic failure includes the lack of recognition, protection, and rehabilitation measures for IDPs. Such issues call for establishing a robust national legislation that correctly sees displaced persons as citizens entitled to enforceable rights instead of short-term relief recipients.

4. Comparative Perspective with International Standards

An unfavorable comparison with established international frameworks and the practices of other jurisdictions only lays bare the deficiencies in India's domestic legal response to internal displacement arising from communal violence. Internationally acknowledged standards, while they remain non-binding, offer a body of principles governing the treatment, aid, and rehabilitation of internally displaced persons (IDPs). The apparent divergence of India from these norms further insists on immediate systemic reforms.

4.1 UN Guiding Principles on Internal Displacement

The United Nations Guiding Principles on Internal Displacement (1998) typify the most authoritative international framework in IDP protection. These principles are not binding but have generally been adopted as normative standards regulating state behavior. They prespecify three crucial moments of displacement: prevention, protection during displacement, and durable solutions through voluntary return, local integration, or resettlement. The essential obligations include:

- Forbidding arbitrary displacement.
- Rights of IDPs to food, shelter, health care, and education during displacement.
- Ensure voluntary, safe, and dignified return or resettlement.
- Involvement of displaced persons in decision-making about their future.

India does not adopt the United Nations' Guiding Principle into domestic legislation formally.² Hence, in incidents like Gujarat and Muzaffarnagar, the displaced persons did not have a clearly defined legal status or enforceable rights, or even guaranteed protective measures. Relief measures were no more than administrative favours, not enforceable rights, contrary to the spirit of the above international principles.

4.2 African Union's Kampala Convention

The first legally binding regional instrument for IDP protection, the ¹⁹Kampala Convention, was adopted by the African Union in 2009. It obligates the state parties not only to prevent displacement but also to institute laws to protect and assist IDPs and provide durable solutions while holding the perpetrators accountable.

The Kampala Convention indicates that the displacement arising out of inter-communal violence, in sync with the Indian context, is to be viewed as a violation of rights rather than an unfortunate consequence of conflict. It lays down the obligations on the part of the government to ensure the criminalization of forced displacement, which must integrate IDP rights into national policies and long-term rehabilitation mechanisms. Even if India is not a party to the Kampala Convention, its model suggests that a comprehensive and enforceable framework is achievable and should be put in place across different politically and socially diverse contexts.

4.3 Colombia's law 387 of 1997

The Colombian framework for IDPs is arguably among the most sophisticated in the world.²⁰ Law 387 of 1997 recognizes internal displacement as a humanitarian crisis, the government being required to take preventive measures against such displacement, to protect individuals displaced, and provide them with various comprehensive rehabilitation programs.

¹⁹ African Union, *Kampala Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (2009).

²⁰ Law 387 of 1997 (Colombia) available at <https://www.internal-displacement.org/sites/default/files/publications/documents/200404-am-colombia-overview-en.pdf> (last visited Apr. 27, 2025).

The Colombian Constitutional Court's most highly publicized ruling, T-025 of 2004, declared an unconstitutional state of affairs with respect to IDPs, thereby obliging the state to act immediately to redress the situation under judicial control. It is noteworthy that displaced people in Colombia have enforceable rights enforced under a monitoring mechanism to ensure compliance by the state in relation to housing, education, health, and livelihood.

India has a diametrically opposite scenario to that of Colombia's rights-based, judicially monitored system. Unlike in Colombia, where legislation on rights and judicial mechanisms were provided to guarantee recognition to displaced persons, in India, these groups of displaced persons are rendered invisible by law and policy.

4.4 Sri Lanka's Rehabilitation Practices

During these years of civil conflict, overseas support enabled Sri Lanka to organize systematic resettlement programs for internally displaced persons. Developing IDP databases; providing ID documentation; restoring property rights; creating targeted livelihood support portals for displaced families.

Although there were implementation hurdles, Sri Lanka's approach to seeking permanent solutions particularly restoration of legal identity and property rights offers crucial lessons for India. In contrast, the condition of internally displaced persons in India is often one of disenfranchisement and economic marginalization long after the point of dislocation.

4.5 Critical Observations

The comparison drawn with the international standards reveals certain inadequacies in the Indian approach:

- **Absence of Legal Status:** The IDPs are not recognized in law in India, thus depriving them of a distinct set of rights and entitlements.
- **Absence of Durable Solutions:** The Indian authorities essentially provide only temporary relief while information and support for return, resettlement, or integration remain largely absent.
- **Weak Mechanisms of Accountability:** There appear to be no avenues for accountability contrary to situations in Colombia or those enshrined in the Kampala Convention.

- **Non-Participatory Approach:** The displaced do seldom get consulted on issues and decisions that affect their resettlement, unlike what is accepted as best practice internationally.

While India constitutes principles in her Constitution that are compatible with the objectives of the UN Guiding Principles, the apparent absence of codification and any mechanism for enforcement inevitably results, in practice, in systemic failure.

5. Conclusions and Recommendations

This internal displacement as a result of socio-communal violence in India is not merely a humanitarian issue, but rather a serious constitutional failure. It is clear in the Constitution of India, which envelopes a very robust framework assuring equality and dignity, in having the right to life, but this India did not recognize or protect IDPs as a legal category. The study of Gujarat riots (2002) and Muzaffarnagar violence (2013) reminds one of the repeat failures of the state: prevention of displacement, adequate relief and dignified rehabilitation and reintegration.

Legal response in India to internal displacement is quite fragmented and reactive. This is the fact that these provisions hardly foresee enforceable legal rights rather at the mercy of administrative discretion. Thus, without a law at the national level specific on the status and rights of internal displaced persons, no institutionalized mechanisms exist for their protection and rehabilitation, leading them into prolonged conditions of marginalization and vulnerability. Indeed, judicial interventions have been specific and case-by-case and have therefore failed to evolve into a coherent jurisprudence on the issue of internal displacement. Measures for administration relief have been random, differing from one state to another, and in many cases, they are tainted with political influence.

When compared with global standards, such as the United Nations Guiding Principles on Internal Displacement, the Kampala Convention, and practices in Colombia and Sri Lanka, India reveals its own gaps. International frameworks uphold rights-based protection, durable solutions, community involvement, and accountability-issues much lacking in India's internal response. In order to bridge these gaps, the following reforms are necessary:

- **National Law on Internal Displacement:** A national law must be made to define and recognize IDPs as a protected category, to define their rights, to place obligations on

state authorities, and to create mechanisms for fundamental protection, assistance, and durable solutions such as voluntary return, resettlement, or reintegration.

- **National Authority for IDPs:** An established institution must act independently and be well-resourced to monitor the trends of displacement and coordinate relief, maintain a database of IDPs, and monitor rehabilitation programs.
- **Incorporation of International Guidelines:** Internationally recognized principles as set forth in the UN Guiding Principles should be accepted formally in India, including good practices of international and regional frameworks with incorporation into domestic laws.
- **Role of the Judiciary:** As involving in protecting the rights of displaced persons, courts should build a clear jurisprudence and watch for the enforcement of constitutional and statutory obligations.
- **Program for Restoration of Legal Identity and Livelihoods:** Development should be made to formulate programs that will assist displaced persons in reinstating lost identity documents, property titles, and access to welfare schemes.
- **Encouraging Safe and Voluntary Returns:** Policies pursued by the State should explore safe, voluntary, and dignified returns to original homes wherever possible, rather than promoting permanent displacement.

Protection of internally displaced persons is surely not an administrative responsibility but constitutes a constitutional duty and a litmus test for India in upholding human dignity, secularism, and justice. There is an urgent need for a rights-based legal framework to transform the state response from one of ad hoc charity to being accountable under law, thereby ensuring that displacement does not remain an ever-present condition of exclusion and injustice for thousands of citizens.

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