

**Stakeholder report by the Internal Displacement Monitoring Centre (IDMC) of the
Norwegian Refugee Council (NRC)
to the Universal Periodic Review mechanism established by the Human Rights Council in
Resolution 5/1 of 18 June 2007**

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Internal displacement in India

November 2011

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I. Executive summary

People internally displaced by conflict or violence in India have seen their enjoyment of human rights compromised on account of their displacement, including their rights to an adequate standard of living, to education, and to work. Government authorities have responded to their needs in an ad hoc, inconsistent and often inadequate manner. An IDP law or policy would be needed to ensure that the rights of internally displaced people (IDPs) in all affected regions of India are being fulfilled.

II. Internal displacement in India

More than 500,000 people are living in displacement in India due to armed conflict or generalised violence as of 2011.¹ Most have been living in displacement for years, which means that they continue not to enjoy a number of rights.² Many more are likely to live in displacement outside of camps, including in urban areas.

III. Internal displacement by region

Jammu and Kashmir

Due to armed conflict in Jammu and Kashmir between Indian security forces and militants seeking independence or accession to Pakistan, large numbers of Kashmiri Pandits fled the Kashmir Valley from 1990 onwards. 250,000 of them remain displaced, mainly in camps in Jammu and Delhi. In 2011, their return remained unlikely due to the volatile situation in Jammu and Kashmir. Fewer than 3,000 Kashmiri Pandits still lived in the Kashmir Valley in mid-2010.³

North-east

More than 76,000 people remain displaced due to inter-ethnic violence in India's north-eastern states of Assam, Meghalaya, and Mizoram/Tripura.

¹ This figure is based on conservative estimates. Millions of people have also been displaced as a result of development projects and natural disasters in India. However, this report focuses exclusively on internal displacement due to armed conflict or generalized violence. For a definition of “internally displaced person”, see the Guiding Principles on Internal Displacement.

² United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA), Guiding Principles on Internal Displacement, 1998; United Nations General Assembly (UN GA), Framework on Durable Solutions for Internally Displaced Persons, 9 February 2010.

³ In 2009, another 15,000 people in Poonch District in Jammu and Kashmir were separated from their agricultural land, schools and livelihoods by a fence that the Indian army was erecting five kilometres from the Line of Control (LoC) inside Indian-controlled territory.

Over 46,000 among them are Adivasis⁴, Bodos, and Muslims of Bengali descent who live in camps or in camp-like situations in Western Assam. They had to flee their homes due to episodes of inter-ethnic violence between 1993 and 2008.

In late 2010 and early 2011, about 50,000 people were displaced by violence between Rabha and Garo people along the Assam-Meghalaya state border. The official camps hosting them were closed in February and March 2011, but it is unknown how many have been able to rebuild their lives and now enjoy their rights to same the extent as non-displaced people.

In Tripura state, over 30,000 Bru people from Mizoram, displaced by Mizo-Bru violence in 1997 and 2009, remain in camps. A return process has been under way since May 2010, but it has been slow and stalled several times.

Central India

In central India, armed conflict over land and mineral resources in tribal forest areas between Naxalite-Maoist insurgents and government security forces supported by Salwa Judum militia and Special Police Officers has affected more than 200 of India's 626 districts in 20 of its 29 states.

At the end of 2009, 20,000 people displaced since 2005 were living in camps in Chhattisgarh, and another 20,000 were dispersed in Andhra Pradesh. A further 8,000 people were displaced within West Bengal state. In 2009, government security forces launched "Operation Green Hunt" against Naxalite insurgents, and more than 100,000 tribal people from Chhattisgarh state were newly displaced to Andhra Pradesh state.

Gujarat

Violence between Hindus and Muslims in Gujarat in 2002 led to the deaths of more than 2,000 people and the displacement of up to 250,000. As of December 2009, just over 19,000 IDPs were still living in 86 "relief colonies", but the total number could be higher since it is unknown whether displaced people living outside these "colonies" have been able to rebuild their lives.

Orissa

Communal violence between Hindus and Christians in Kandhamal district in Orissa state displaced thousands of people in 2007 and 2008. Estimates of the number of people displaced by the violence range from over 20,000 to at least 50,000, with over 20,000 taking shelter in camps and thousands fleeing into the jungle.

⁴ Members of the Santhal, Oaron, Munda, Kharia, Shawra, Bhumij, Bhil and Ho ethnic groups with origins in central India. The term "Adivasi" literally means "indigenous" and is used by indigenous people in central India to refer to themselves. During colonial times, the British brought Adivasis from central India to north-east India as workers. In the context of north-east India, the term therefore paradoxically refers to people with ancestral roots outside the region, who are not regarded as indigenous and do not have Scheduled Tribe status in the north-east. In central India it is used to refer to indigenous people.

IV. Main subjects of concern

Ethnic and descent-based discrimination⁵ as a cause of conflicts resulting in internal displacement

Armed conflict and generalised violence leading to internal displacement in India have often been driven by ethnic divisions.

In north-east India, ethnic tensions between indigenous people (for example Bodos) and those they regard as “outsiders” (for example Muslims or Adivasis) have led to violence and displacement. In the 1990s Bodo groups orchestrated “ethnic cleansing” of areas they wanted to include in the territory that would become the autonomous Bodoland Territorial Council.

In providing for the establishment of “Autonomous Councils”, the Sixth Schedule of the Constitution of India gives some of the hundreds of indigenous groups in the north-east greater control over the areas they live in. However, the autonomy which it offers has encouraged waves of inter-ethnic violence and displacement as groups seek to establish a local majority in order to qualify. Both indigenous and non-indigenous groups have been affected.

In Central India, the causes of the conflict are linked to discrimination against the indigenous population (or Adivasis⁶) living in areas with large mineral deposits that are being exploited by mining companies, threatening their ancestral lands and traditional ways of life. The Adivasis have little share in the benefits of such development, continue to suffer from chronic food insecurity, and have limited access to health care, education or judicial mechanisms,.

In Gujarat, Hindu-Muslim violence was allegedly planned and instigated by state authorities and officials from the extremist Hindu Bharatiya Janata Party, further marginalising the Muslim minority in the state.

In Orissa, Hindu groups reportedly put pressure on displaced Christians to convert to Hinduism as a condition of return to their villages.

IDPs have also faced discrimination linked to their ethnicity when displaced to another state. For example, Gothi Koya tribal people displaced from Chhattisgarh to Andhra Pradesh who cannot to return due to ongoing conflict have not been able to integrate there, as the state authorities have denied them rights accessible to regular residents.

⁵ UDHR Article 2 and ICERD Article 1.1 as well as other non-discrimination provisions such as ICCPR Article 2.1, ICESCR Article 2.2

⁶ See footnote 3.

Economic and social rights, in particular the right to an adequate standard of living, the right to health, the right to education and the right to work

The fulfilment of the right to an adequate standard of living depends on people's access to basic necessities such as food, water and housing. However, IDPs in India have faced difficulties ensuring such access due to their displacement. In addition, their enjoyment of the rights to health, education, and work has often been compromised.

a) The right to adequate food⁷

Many IDPs have difficulty accessing adequate food on account of their displacement, and therefore need food assistance.

In western Assam, IDPs had to stretch ten-day rations over the whole month, and supplementary nutrition for children and pregnant and breast-feeding women was often not available. In Tripura, IDPs from Mizoram received food rations, but more than 470 displaced families who were not listed in the state government's database dating back to 1999 did not have ration cards.

In Chhattisgarh food rations to IDPs had either been reduced or were no longer distributed at all, including due to insecurity. During displacement, many people had lost their ration cards, which they needed in order to buy subsidised food, and the government had not replaced the lost cards. Lentil and rice rations that government authorities did distribute did not correspond to the IDPs' habitual diet, which is based on meat, fish and forest plants.

b) The right to water and access to sanitation⁸

IDPs have lacked the assistance they need to access clean drinking water and sanitation facilities.

In western Assam, many IDPs practised open defaecation, as camps lacked toilets. In one camp, more than 6,500 people had to share 40 latrines.⁹ Sources for drinking water were located close to latrines, and the bad hygiene and sanitation conditions led to the spread of chicken pox, malaria, diarrhoea and jaundice.

Many wells and hand pumps in camps in western Assam were either broken or their water was contaminated. In one camp, more than 13,000 people had to share five tube wells. In Tripura, IDPs in a camp with several thousand residents had to manage with only two wells located a considerable distance away from the camp.

People displaced from Chhattisgarh to Andhra Pradesh had problems accessing drinking water as well. Many of them had to walk between one and five kilometres to access bore water or stream water, the only water accessible to them, the consumption of which led to water-borne

⁷ UDHR Article 25.1; ICESCR Article 11; CRC Article 24 (2c) and (2e); see also Guiding Principles on Internal Displacement (GP) 18 (1) and 18 (2a).

⁸ UDHR Article 25.1; ICESCR Articles 11(1) and 12(1); CRC Article 24 (2c); CEDAW Article 14 (2h); see also Guiding Principles on Internal Displacement (GP) 18 (1) and 18 (2a).

⁹ By Sphere standards, there should be one toilet available for every 20 people.

diseases.¹⁰

c) The right to adequate housing and protection against forced evictions¹¹

In north-east India, compensation offered to IDPs whose homes were destroyed was mostly insufficient for rebuilding adequate homes. While the cost of a small cottage was estimated at Rs. 100,000 (\$2,000), families displaced in Assam and Meghalaya only received Rs. 10,000 (\$200). Compensation for displaced families in western Assam varied from zero to Rs. 10,000 to Rs. 50,000 (\$1,000). Returning Bru families displaced from Mizoram to Tripura were promised Rs. 38,500 (\$770) as housing assistance and Rs. 41,500 (\$820) in cash.

In 2010, Adivasis displaced by violence in 1996 who had returned to their homes in Lungsung in Assam were forcibly evicted by the Assam Forest Department, in violation of international law and guidance preventing forced evictions.

d) The right to the highest attainable standard of physical and mental health¹²

The provision of adequate health care services is necessary in order for IDPs to enjoy their right to health.

In camps in western Assam, malnutrition and mineral deficiencies were common, including iodine deficiency. IDPs at some camps had access to the nearby hospital, but faced discrimination in the delivery of health services as compared to the local population.

In camps in Chhattisgarh, IDPs had limited access to health care services. Most reported medical facilities did not actually exist. Health workers visited camps only irregularly, and there were insufficient supplies of medicines. Many health care staff positions, including doctors and nurses, were vacant. IDPs also lacked mosquito nets to protect themselves against malaria.

In Andhra Pradesh, many children displaced from Chhattisgarh lacked immunisation. *Anganwadi* centres (government-run crèches) were accessible to IDPs, but there were not enough *anganwadi* workers, their salary was insufficient, and they were in need of training, including in the language of the displaced Gothi Koya people.

IDPs in Orissa did not have access to free hospital treatment, nor were they provided with free medicine. Several families had to share one mosquito net, and there were outbreaks of malaria. Diarrhoea, measles, chicken pox, flu and thyroid diseases were also common, as were gastroenteritis and fever.

e) The right to education¹³

¹⁰ IDMC interview, November 2011.

¹¹ UDHR Article 25.1; ICESCR Article 11(1) and the CESCR's 2008 recommendations to India; ICCPR Article 17; CRC Article 27(3); CEDAW Article 14(2h); CERD Article 5(e)(iii); see also GP 18 (2b); Principle 8 of the Principles on Housing and Property Restitution for Refugees and Displaced Persons ("Pinheiro Principles"); and the Basic Principles and Guidelines on development-Based Evictions and Displacement.

¹² UDHR Article 25.1; ICESCR Article 12; CRC Article 24(1); CEDAW Article 12; see also GP 18 (2d) and 19.

¹³ UDHR Article 26; ICESCR Article 13; CRC Article 28(1); CEDAW Article 10; CERD Article 5(e)(v); see also GP 23.

Many internally displaced children and youth in India have not enjoyed their right to education on account of their displacement.

Displacement interrupted the education of many Kashmiri Pandits. Although the Ministry of Human Resource Development instructed all universities to implement preferential conditions, displaced Kashmiri Pandit students had difficulties gaining admission to mainstream schools and universities. Most of them had to attend educational institutions in camps, which lacked facilities and infrastructure.

In western Assam, most displaced children who did have access to primary education under the Sarva Shiksha Abhiyan (SSA) programme for universal free primary education were unable to pursue secondary education, since they had to help their parents with providing livelihoods. There were only a few teachers for many displaced students, midday meals were not provided everywhere. Displaced children were also often denied access to local schools.

Displaced children in Chhattisgarh did not receive proper education. Facilities were inadequate, as there were not enough teachers and basic infrastructure was lacking. Residential Bridge Courses (RBCs) had been set up for conflict-affected children, but the transfer from RBCs to regular schools was not functioning smoothly.

Residential Ashram schools were preferred by IDP families as they provided food, clothing and shelter and, located in areas less affected by the armed conflict, were safer than non-residential schools. Teachers as well as pupils thus attended ashram schools more regularly. Nevertheless, some ashram schools were occupied by members of the Central Reserve Police Force (CRPF), which led to increased bombing of these schools by Naxalite insurgents.

f) The right to work¹⁴

IDPs have had difficulties accessing livelihoods on account of their displacement. If they received adequate livelihood assistance, this would also impact positively on the fulfilment of their right to food and water, and their children's right to education, and would make them less dependent on assistance in the long term.

In western Assam, IDPs had difficulties finding sustainable livelihoods, including due to the hostility of the local population. Many had been self-sufficient farmers prior to their displacement and had either lost their land or had to sell it cheaply as they remained unable to return for security reasons. They worked as agricultural labourers or as day labourers, or had been hired as domestic workers by locals.

The National Rural Employment Guarantee Act (NREGA) was not implemented in all IDP camps in western Assam. Some IDPs received job cards under NREGA, but were unable to access jobs. In one camp under the Bodoland Territorial Council, many of the IDPs listed as having received job cards had not actually received them. This may have been due to discrimination against displaced Adivasis by Bodo-dominated local authorities.

IDPs from Chhattisgarh who fled to Andhra Pradesh received job cards under NREGA, but

¹⁴ UDHR Article 23; ICCPR Article 8(3a); ICESCR Article 6 and 7; CRC Article 32; CEDAW Article 11 (1a); CERD Article 5(e)(i); see also GP 22 (1b).

many were not offered jobs. In 2010, some who did work had not received a salary for two months. Agricultural workers among the IDPs were paid only half the salary of locals.¹⁵

IDPs in Orissa also had limited livelihood opportunities. Daily labourers' mobility was restricted, and farmers were not able to sell their products because of curfews. IDPs living in camps did not find work because they were being discriminated against by the communities near their shelters.

National response

The Indian government has no national policy or legislation to respond to internal displacement caused by armed conflict and ethnic or communal violence. The responsibility for assisting and protecting the displaced has frequently been delegated to state governments and district authorities. Responses have been ad hoc, inconsistent, and often inadequate, and generally not in line with the Guiding Principles on Internal Displacement and international human rights standards. The government's pro-poor programmes such as the SSA programme for universal free primary education or programmes under the NREGA have often not been made accessible to IDPs.

National non-governmental organisations (NGOs) have been able to fill some of the gaps, but have lacked the capacity for long-term support to IDPs. International NGOs have played a limited role in the displacement response, as the government restricts their access.

The National Human Rights Commission (NHRC) has intervened on issues concerning violence- and conflict-related displacement in Gujarat, and Jammu and Kashmir. It has recommended that in order to protect the basic human rights of displaced people, human rights guarantees for the IDPs in India should be incorporated in appropriate legislation. The National Commission for Protection of Children's Rights (NCPCR) has made visits to IDP camps and has advocated on behalf of internally displaced children and IDPs in general.

V. Recommendations

- Develop a national IDP legislation and policy in accordance with the Guiding Principles on Internal Displacement in order to ensure IDPs have access to their rights.
- Provide oversight bodies such as the National Human Rights Commission (NHRC), the national Commission for Protection of Child Rights (NCPCR), the National Commission for Scheduled Tribes (NCST), the National Commission for Women (NCW), and the national Commission for Minorities (NCM) with sufficient capacity to regularly assess the situation and needs of IDPs.
- Ensure that state governments have the capacity to respond to internal displacement situations, and hold them accountable to the recommendations of the oversight bodies

¹⁵ IDMC interview, November 2011.

above.

- When assessing the needs of IDPs, focus on those who are particularly vulnerable, including women, children, older and disabled people, and members of local minorities.
- Ensure that IDPs receive adequate protection, assistance and compensation in accordance with India's commitments under international human rights treaties, including as summarised in the Guiding Principles on Internal Displacement and the Framework on Durable Solutions.
- Target IDPs when implementing pro-poor legislation and programmes such as the National Rural Employment Guarantee Act (NREGA) or the Sarva Shiksha Abhiyan (SSA) programme for universal free primary education.
- Work with the authorities of states affected by internal displacement to develop programmes enabling the IDPs in and from those states to rebuild their lives and enjoy their rights.

VI. Attachments

Unless otherwise indicated, the information in this report is drawn from the following attached sources (where it is fully referenced):

- India: National and state authorities failing to protect IDPs, IDMC, 2 September 2010
- India country profile in IDMC's online database
- "This is our land": Ethnic violence and internal displacement in north-east India, IDMC, 28 November 2011

This information, and more, is accessible at <http://www.internal-displacement.org>

About the Internal Displacement Monitoring Centre

The Internal Displacement Monitoring Centre (IDMC) was established by the Norwegian Refugee Council in 1998, upon the request of the United Nations Inter-Agency Standing Committee, to set up a global database on internal displacement. A decade later, IDMC remains the leading source of information and analysis on internal displacement caused by conflict and violence worldwide.

IDMC aims to support better international and national responses to situations of internal displacement and respect for the rights of internally displaced people (IDPs), who are often among the world's most vulnerable people. It also aims to promote durable solutions for IDPs, through return, local integration or settlement elsewhere in the country.

IDMC's main activities include:

- Monitoring and reporting on internal displacement;
- Researching, analysing and advocating for the rights of IDPs;
- Training and strengthening capacities on the protection of IDPs;
- Contributing to the development of standards and guidance on protecting and assisting IDPs.

For more information, visit the Internal Displacement Monitoring Centre website and the database at www.internal-displacement.org

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