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Protecting Internally Displaced Persons in India

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TANUSHREE RAO, JUL 15 2013

Indian Government Responses to Protection Needs of Internally Displaced Persons in Two Regions: Jammu and Kashmir and the Northeast

This paper aims to explore the Indian government's responses to the protection needs of Internally Displaced Persons (IDPs) in two Indian regions: Jammu and Kashmir and the Northeast[1]. While refugees have attracted international attention and receive a formalised, institutionalised system for protection, IDPs fall into a largely unaddressed category where responsibility is arguably with the state in which they are displaced. In India, though the government's response mechanisms have been unsuccessful in addressing IDP needs, it has often rejected the aid of international organisations and attempted to address its IDP situation domestically at the state level.

In addition to the difference in origins and causes of displacement between the two regions, there has been a noticeable difference in how state governments have responded to the needs of their citizens. In Jammu and Kashmir and the Northeast, two distinct situations of conflict-induced displacement have arisen that differ drastically in causes, character of displacement, and groups involved in displacement. Although the many ethnic groups that constitute the Northeast can be compared with the ethnic and religious groups that comprise Jammu and Kashmir, insurgencies and rebel armed groups opposing Indian rule of the state in Jammu and Kashmir have formulated a different nature to the tribal, ethnicity-based conflict in the Northeast. Government responses have been more favourable to IDPs in Jammu and Kashmir than to those in the Northeast.

Beginning with a conceptual overview of IDPs, this paper presents two different cases of displacement and IDP response strategies by state governments, analysing differences in the responses to violence and displacement in the two regions. With reference to government roles in conflict and attitudes toward those affected by violence and displacement, it further investigates the nature of displacement in both regions and questions why the Indian government has responded in different ways. These attitudes and roles have shaped political interests that lend themselves to different responses to conflict-induced displacement. In Jammu and Kashmir, responses have been associated with government desires to combat Muslim militants seeking independence or accession to Pakistan. In the Northeast, there is a correlation between responses to IDPs and the government's high level of involvement in driving conflict and displacement, with discriminatory behaviour toward some groups and an unwillingness to contribute resources to protection.

IDPs: Concepts, Implications and Theories

Definitions and Concepts: A Theoretical Framework

The definition and conceptualisation of internal displacement and IDPs has not seen universal agreement. While many advocate a concise definition that stresses uprooting by conflict, violence or persecution, others regard internal displacement as a broader concept embodying any person or persons uprooted by these causes in addition to natural disasters and development (Mooney 2005: 9). Only two prominent features are universally accepted as characteristics of internal displacement: involuntary or coerced movement, and the occurrence of such movement within national borders (Cohen and Deng 1998a: 16; Mooney 2005: 10; OCHA 1999: 5).

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This essay adopts a modified version of the definition of IDPs presented in the Guiding Principles on Internal Displacement (GPID), focusing only on IDPs displaced by conflict:

Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an international border (OCHA 2004: 1).

The IDP concept is unique due to its political, social and humanitarian complexity and the conflicting nature of discourse surrounding IDP protection. While the circumstances that produce internal displacement are comparable to those that produce refugees, many of the needs of IDPs and of refugees are mutually exclusive. Refugees, having crossed an international border, are protected by International Humanitarian Law (IHL) and International Human Rights Law when states resist compulsion to act and reduce their suffering. IDPs, in contrast, are forced to rely on the protection of the state. Internal displacement is thus often conceived as a domestic issue; yet alongside the gross violation of human rights that occurs when IDP needs are unprotected, IDPs pose a threat to security and stability in a nation, region and the international system (Cohen and Deng 2008b: 1).

Legal Measures for Protection of the Internally Displaced

IDP protection ultimately falls under the responsibility of the state in which they are displaced (Cohen 2004: 1; OCHA 2004: 2; UNHCR 2007: 21). As a result, issues pertaining to the protection of IDPs lie in conflict with notions of state sovereignty. Under the shelter of sovereignty, states have violated human rights, denied protection to IDPs, and barred international assistance to IDPs in their territory (Cohen and Deng 1998a: 2; Weiss and Korn 2006: 5). Though the GPID states that offers of support from international actors should not be regarded as an unwelcome interference in a State's internal affairs (OCHA 2004: 12), India has expressed fear that such intervention would result in violation of state sovereignty and that 'humanitarian aid' would become a justification for the interference of powerful states in the affairs of weaker states (UNHCR 2006: 161).

A notable lack of support networks and formalised protection systems results in a lack of basic human freedoms for IDPs when the state fails to provide protection. Instead, they fall into a gap unprotected by hard law and rely on state compliance with soft laws and international norms such as the GPID. While states are beginning to acknowledge the importance of the GPID, there is no legal obligation to do so and there is no formal international legal framework by which IDP rights are acknowledged and enforced. In 2006, no international agency had a formal mandate through which an obligation to aid IDPs was institutionalised (UNHCR 2006: 152). Incorporation into domestic law has been limited, with India containing no legal mandate in its Protection of Human Rights Act to protect the internally displaced (NHRC 2006). Worldwide, only seventeen countries have devised legislation or policies specifically aimed at addressing IDP needs (IDMC 2011: 8).

Frequently under threat of attack by their own governments, many states have provided minimal security to IDPs displaced by conflict and human rights violations (UNHCR 2006: 153). Further issues arise when states adapt their conception of IDPs to deny protection or to protect only a certain group of IDPs (Cohen and Deng 1998a: 6; Kalin 2005: 31; UNHCR 2006: 160). The prominence of rebel armed groups in many societies has also raised humanitarian concerns when these groups challenge state authority and are able to control certain groups of people or territories due to the weakness of the state. Though Guiding Principle 2 states that the GPID must be observed "by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction (OCHA 2004: 2), adherence to IHL in armed groups' treatment of such people has been extremely limited (UNHCR 2006: 164).

Domestic-Level Responses: The IDP Situation in India

Displacement in India has been primarily caused by armed conflict and ethnic violence, often targeting civilians and vulnerable groups. The Indian IDP situation contrasts others, such as in Colombia where the national government has incorporated the GPID into the legal system. In India, denial of displacement has overshadowed the creation of

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domestic legislation for IDPs. National responsibility has been accepted only for those displaced by the Kashmir conflict, although these people are identified as 'migrants' rather than IDPs in order for the government to avoid providing assistance on humanitarian grounds and deny state weakness in protecting citizens (Cohen 2004: 2). Though there are over 650,000 IDPs nationwide, there is no central government agency or policy for monitoring and implementing strategies for IDPs and the State Human Rights Commission (SHRC) in the semi-autonomous Jammu and Kashmir has no policy to manage issues of internal displacement (Dey and Chaudhury 2007: 6; IDMC 2010a: 6; Lama 2000: 25). India has denied the access of international agencies in several areas, believing that 'humanitarian assistance' is becoming a facade under which larger states can interfere in its affairs. Additionally, the government has placed restrictions on staff from humanitarian relief agencies in Assam, Nagaland and Manipur (IDMC 2010a: 19).

The lack of a federal agency to monitor displacement has caused significant coordination problems in responding to IDP needs. State governments have been delegated the role of responding to human rights issues pertaining to conflict and IDPs in their own territories, and responses are established at the state level. This has raised issues due to state laws such as the Armed Forces Special Powers Act (AFSPA) in the Northeast, and the parallel Armed Forces (Jammu and Kashmir) Special Powers Act[2], both of which permit the declaration of 'disturbed areas' whereby government security personnel are allowed unrestrained and unjustified use of excessive force. According to the United States Government:

Under the AFSPA the government can declare any state or union territory a "disturbed area," a declaration that allows security forces to fire on any person to "maintain law and order" and to arrest any person "against whom reasonable suspicion exists" without informing the detainee of the grounds for arrest (BDHRL 2010: 17).

This act has allowed much displacement to occur and continue, particularly in the Northeast where it has been used to target ethnic groups such as forest inhabitants in Assam (ACHR 2010b: 9) and has resulted in military operations that forced 1,500 villagers from their homes in Manipur in 2010 (IDMC 2011: 89). State involvement in the causes of displacement has resulted in a situation where response to IDP needs has been minimal. The lack of support networks for IDPs has led to protection being far from adequate when measured against international norms and standards for IDP protection and human rights, with a concerning difference between state government responses in Jammu and Kashmir and the Northeast.

Methods

This paper uses a combination of analytical strategies and methods to understand why state governments respond to IDP needs in different manners. For the purpose of data analysis, it uses grounded theory to establish instruments of analysis that can be used to examine data and formulate theories following data collection (Sarantakos 2005: 347). This involves, in this paper, searching for patterns in both primary and secondary sources by assessing security and safety provisions and selecting four basic rights that can be examined: housing, food, health and education. These categories will be used as instruments of analysis and cross-examined across the two case studies to identify indicators and establish the difference between state government responses in the Jammu and Kashmir and the north-eastern regions. Additionally, the AFSPA is used as an indicator to identify recurrent behaviour by state governments and government-allied militia toward IDPs. Through analytic comparison, this paper will identify factors and compare them across the two cases to discover the causal factors affecting the various outcomes (Neuman 2006: 471). It draws from Mill's method of difference to compare characteristics of the two different situations of conflict and internal displacement, focusing on differences that highlight potential reasons for the strong contrast in state government responses.

To further contrast the two contexts of internal displacement, this paper applies Weber's concept of ideal types to an examination of the two case studies in order to explore how protection measures compare to international norms and standards. Through this, the different characteristics of the two cases and the ways in which contexts influence government responses become apparent. In turn, the use of the ideal type can demonstrate how different circumstances can generate different social processes and outcomes (Neuman 2006: 468). In addition, this paper adopts elements of the negative case method in examining the absence in Indian government responses of what is

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expected by international norms and standards. As a combination of the method of difference and deviant case analysis, such a strategy focuses on what is not explicit in data (Neuman 2006: 478). In turn, this method is used to determine whether Indian state governments deny the existence of IDPs in their territories, or alter their definition in order to elude responsibility to implement protection measures, in order to evade international norms and standards. Consequently, reasons for denial in the two cases can be further investigated.

Case Study 1: Jammu and Kashmir

Conflict in Jammu and Kashmir can be traced back to Indian and Pakistani accessions of independence in 1947. Beginning as a territorial dispute, small groups mobilised in conflict as their interests began to conflict with others' perceptions of power in the region. A region with a multitude of cultural, racial and religious groups, the diversity of identities is notable across the Indian-administered provinces of Jammu and the Kashmir Valley[3]. Armed rebel forces have arisen among Muslim groups who seek one of three outcomes: independence, accession to Pakistan, or bilaterally recognised autonomy for Kashmir. Consequently, a vast majority of the conflict in the region has arisen between Muslim militants and Indian security forces (Cloughley 1999: 226; IDMC 2008: 3).

The strong targeting of civilians in the conflict has caused many inhabitants to seek refuge elsewhere (IDMC 2010a: 88). The majority of displaced persons who forcefully fled their homes due to violence and armed conflict threatening personal safety, infrastructure, socio-cultural identities and livelihoods in the region identify as Hindu and are known to a wider audience as Kashmiri Pandits (Saha 2000: 26; Shekhawat 2009: 32). In 1990, the Pandits received an ultimatum from Hizbul Mujahideen, a Kashmiri Islamic militant group, requesting that they leave in two days or face further threats, violence and killings (IDMC 2010a: 23; Shekhawat 2009: 32). Terrorist violence continued to be a powerful threat to residents of the Kashmir region in the following years; by 1996, 250,000 Pandits had fled to Jammu, Delhi, and various other Indian cities following an inability of authorities to provide safety from threats and violence by extremists.

Despite such evidence suggesting that the Kashmiri Pandits were coerced into leaving the Valley, the Indian government does not consider them to be IDPs (Bhaduri 2010: 2; IDMC 2010a: 68; Saha 2000: 26). Rather, they are treated as 'migrants', a label often given to IDPs in order for a government to deny and elude responsibility for protection by implying that their movement was voluntary (UNHCR 2006: 160). Furthermore, the state has invoked its Special Status under Article 370 of the Constitution of India, granting it a certain degree of autonomy, to evade review by the National Human Rights Commission (NHRC)(ACHR 2010b: 2). The UN asserts that both the SHRC and NHRC are unsupported by sufficient financial and other resources to effectively carry out human rights mechanisms, leaving both organisations unaccountable to IDPs (CESCR 2008: 3). There is a distinct lack of independent investigation agencies or measures able to scrutinise IDP circumstances in Jammu and Kashmir, furthering the problems that arise with the absence of a federal government institution that can effectively monitor, implement and acknowledge the need for provision of rights to IDPs.

Exploitation of the AFSPA, which permits the use of excessive force or violence in controlling insurgents and extremists, has led to governmental abuse of human rights. Indian security forces have used excessive violence in Jammu and Kashmir (Human Rights Watch 2010: 1), contributing to the volatile circumstances in the region by preventing IDPs from returning safely and lessening government focus on the needs of IDPs. Legal protection has been provided to government security personnel rather than victims of conflict and displacement, leading to an environment in which police are able to act on their own interests rather than those of IDPs. Furthermore, security forces have engaged in unlawful extrajudicial killings as well as arbitrary arrests, illegal detention and torture of IDPs perceived to be pursuing violent causes (ACHR 2010a: 51). The government has also failed to adequately protect children, who have in turn been severely injured or killed by insurgent forces (Human Rights Watch 2010: 4).

Though the government has been planning resettlement since 1996, violence has been perpetrated against IDPs attempting to return, and continuing terrorist attacks in the region has affected the government's ability to ensure personal security (Lama 2000: 24; Saha 2000: 27). Pandits, while strongly desiring return to the Valley, have maintained that the security situation remains unsupportive. Furthermore, the property of IDPs remains a significant hurdle to economic independence upon repatriation. Despite the Jammu and Kashmir Migrants Immovable Property

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(Preservation, Protection and Restraint of Distress Sales) Act and the Jammu and Kashmir Migrants (Stay of Proceedings) Act enacted by the State Government in 1997, distress sales have continued at low prices and have caused an economic loss that could have supported IDP's return to the Kashmir Valley (Shekhawat 2009: 34).

The provisions given to Pandit IDPs living in camps are extremely meagre (Shekhawat 2006: 33). In comparison with international standards for IDP protection, the monthly assistance of Indian Rupees (Rs.) 1,500 (US \$34) per family that the Indian government provided in 2000 was unsatisfactory (Saha 2000: 27). Yet this has progressed to a maximum of Rs. 5,000 (US \$107) cash relief per family by 2010, with individual cash relief provisions reaching Rs. 1,250 (US \$27) (IDMC 2010a: 43). This indicates government progress and a growing awareness of IDP needs in Jammu and Kashmir, supporting IDMC perceptions that Kashmiri Pandit IDPs receive far better treatment than those displaced in the Northeast (IDMC 2008: 4).

Housing is an important problem faced by IDPs in Jammu and Kashmir, with those residing in camps in Jammu living in crowded tents or rooms with minimal facilities (Shekhawat 2006: 33). However, conflicting accounts of circumstances in Jammu have provided different perceptions. While the IDMC (2008: 4) maintains that IDPs in Jammu receive accommodation, electricity, water and sanitation, personal narratives acquired by the Calcutta Research Group (MCRG) evidence a lack of adequate living circumstances in such camps. An IDP, aged 72, told the MCRG that "The tents were hoisted here [in Jammu] and we were sent, many families in each tent, no space, no privacy. We put up with everything, thinking all this was temporary and soon things will be normal in Kashmir and we will return home. But days turned into months and months into years. The tents have now become concrete rooms" (Bhaduri 2010: 5). Similarly, the IDMC in 2010 contended that regardless of size, each family in Jammu resided in a one-room brick tenement, deteriorating due to unsatisfactory quality of building materials (IDMC 2010a: 43; Shekhawat 2006: 37).

Although the state government provides basic dry rations, their nutritional adequacy is low. A Kashmiri Pandit living in Mutthi Camp in Jammu claimed that the difference between the food provided in the camps and that which she was used to prior to displacement was solely in the quality (Bhaduri 2010: 11). The quantitative provisions of the State, however, have meant that over 16,000 Pandit families in Jammu and over 3,600 Pandit families in Delhi were able to receive food aid. The State Government of Jammu and Kashmir has worked alongside the government in New Delhi to provide each Kashmiri Pandit IDP with 9kg rice and 2kg wheat flour, in addition to 1kg sugar per family per month (IDMC 2010a: 43).

The physical and mental health of many Kashmiri Pandits is deteriorating following years of trauma and adjustment to unfamiliar circumstances, resulting in stress-related disorders and health problems (IDMC 2008: 5; Shekhawat 2006: 36). Health facilities in the Jammu area have been more available than those in the Kashmir Valley; 276 health centres in Jammu received government support under the 'difficult area' category, while only 35 in the Kashmir Valley received similar benefits (ACHR 2010b: 34). However, hospitals in smaller cities such as Doda have faced a shortage of medical staff, accommodation and infrastructure, and patients have had to visit tertiary hospitals in Jammu City and Srinagar. In camps, uncomfortable and unhygienic conditions due to facilities such as shared toilets between up to 75 women in Mishriwalla and Mutthi camps, for example, have caused infectious environments that transmit urinary tract infection and other diseases (Bhaduri 2010: 9). Limited health provisions for pregnant women in camps have led a woman to trip and miscarry after attempting to walk almost a kilometre in the dark to the nearest toilet (Bhaduri 2010: 9). Another woman's stitches became septic following caesarean delivery. While camps closer to Jammu have seen some progress in immunisation of children against infectious diseases, other camps such as Talwara and Khanpur have not, leading to gender disparities and a low percentage of immunisations (Sudan 2010: 10). In Khanpur camp, just 30.76% of female babies were immunised in comparison with 72.72% of male babies.

Education in Jammu and Kashmir has been severely affected by militant targeting and occupation of buildings in schools (IDMC 2008: 6; Sudan 2010: 3). A lack of facilities and difficult environments in camps has impeded the government's ability to provide educational opportunities for women and children. Facilities and resources in institutions operating from camps are unsatisfactory to provide an appropriate education, and many Pandit IDPs during the initial stages of displacement lost several years while the government's indifference toward compensating for the loss of educational opportunities led many to need to seek paid employment (Shekhawat 2006: 35). While

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some Kashmiri Pandit IDPs in other areas receive a certain degree of preferential admission to educational institutions (Saha 2000: 28), hostile circumstances in the region affect the ability of schools and other educational institutions to operate.

Despite the failure to acknowledge the presence of IDPs, the state government has implemented certain measures to protect the basic needs of Kashmiri Pandits. Parallel interests between the government and the Hindu IDPs are evident, as both face tensions with Muslim militants who have often aligned themselves with Pakistani interests. While actions such as construction of accommodation demonstrate attempts to provide compensation to Pandits, the state government has failed to ensure that basic needs are of acceptable standards. Furthermore, government involvement in conflict and abuse of the AFSPA law has affected plans for allowing safe return of IDPs. However, in addition to resolving the security situation in the Kashmir Valley, a growing amount of monetary relief and awareness of IDP rights depicts that protecting IDPs is in the interests of the state government.

Case Study 2: Assam and the Northeast

The multi-racial, multi-religious and multi-ethnic nature of Assam closely parallels the character of the other states in the geographically isolated North-Eastern region of India. Conflict in the Northeast has occurred predominantly in the form of warring tribes and insurgents causing a highly volatile and unstable situation. Much of this conflict takes the form of ethnic warfare which developed in the region since the beginning of the postcolonial era between tribes such as the Boro[4] and the Santhal in Assam, since the former used strategies of 'ethnic cleansing' in their move towards autonomy (Hussain 2000: 4521; IDMC 2007b: 2; IDMC 2008: 3; Lama 2000: 24). Fighting has also occurred between Assamese armed groups of the Karbi, Kuki, Khasi, Hmar and Dimasa tribes, resulting in part from uneven migration and demographic shifts that have caused identity and ethnic backgrounds to be highly politicised (Goswami 2006: 60). In Tripura, strong violence between tribal and non-tribal Bengalis has taken place since the 1980s (Saha 2002: 50), with deep-seated roots in the mass influx of displaced Bengalis from Bangladesh from the 1950s.

Armed tribal organisations such as the Tripura Upajati Juba Samity (TUJS), the Army of Tripura People's Liberation Organisation (ATPLO) and the Tripura National Volunteers (TNV) have rapidly grown in membership and attempted to serve the interests of tribal peoples in Tripura state through armed struggle. In turn, violence broke out between tribals and non-tribals with the state government intervening in an attempt to control the conflict. Consequently, three major types of conflict currently characterise the Northeast: tribal groups against the state, tribal groups against each other, and tribal groups against non-tribal groups (IDMC 2006: 25). Fatalities from armed clashes between groups have occurred alongside 1,051 fatalities that occurred as a result of terrorist attacks in the Northeast in 2008, comprised of civilians, terrorists and security force personnel (SATP 2011). Though this figure reduced somewhat in the following years, figures remain in the hundreds and civilian casualties are a significant concern. In Assam alone, an estimated total of 250,000 people have been displaced by ethnic conflict, both armed clashes and terrorist attacks, between the Boros and Santhals (IDMC 2007b: 1; MCRG 2006a: 85).

Hussain (2000: 4519) argues that the primary reasons for Assam's vulnerability to violent conflict and displacement are its peripheral location alongside the other Northeastern states, its resultant under-development, and a distorted political response to its underdevelopment. Though return has been encouraged by the government and attempted by many IDPs, it has been unsuccessful due to the threatening environment and continued acts of violence. In the Kokrajhar district, many of the indigenous persons and others displaced in 1996 attempted return shortly afterwards; however, they were targeted again in 1998 and the population was again displaced (Goswami 2006: 63).

In addition to armed conflict and terrorist activity, the state governments' heavily militarised responses have been a key driving factor of displacement in the Northeast. The added threat of violence from government-allied security personnel able to abuse laws such as the AFSPA, permitting the use of excessive force in order to control insurgents and perpetrators of violence, has led to an extremely hostile environment. Police have used firearms in circumstances that are highly disproportionate, such as in handling protests by unarmed civilians in Kamrup district in 2010 (ACHR 2010b: 19; NCHRTM 2008: 24). Tactics of explosives, hostage-taking and extortions are also common (IDMC 2007b: 3). The unsafe nature of even peaceful protest is highly conducive to a situation in which

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residents fear for their safety and flee their homes. Government involvement in causing displacement in the Northeast has led to denial of the problem at hand and a lesser inclination to implement adequate measures through which to protect and provide for the needs of IDPs (Orchard 2010: 281; UNHCR 2006: 156). Additionally, the government has provided relief to IDPs on an ethnic or religious basis and has associated many IDPs with insurgents to avoid responsibility.

The immediate needs of IDPs have been compromised in light of the government's unwillingness to provide compensation. The loss of land and livelihood to conflict in the Northeast has left IDPs vulnerable to food insecurity, particularly in Assam (Hussain 2004: 4516). Adequate relief has not been provided to IDPs living in camps; in the Kokrajhar district of Assam, the government has provided only rice 10 days a month, with limited utensils that have led several IDPs to share a single plate (Hussain 2004: 4516; MCRG 2006b: 3; IDMC 2007b: 5). The government has allegedly tried to force people from these camps, which tribal leaders have cited as the reason for the cessation of rations (Mandal 2009: 35). In the Karbi Anglong district, the government has provided only rice and lentils and a lack of firewood to prepare food. Malnutrition is common among children.

Accommodation is extremely scarce, and a lack of sufficient room in various camps around Assam has led several IDPs to take refuge alongside other families in government buildings, overcrowded schools and community halls (IDMC 2007b: 4). In the 78 IDP camps in Kokrajhar and Bongaigaon, shelters have been constructed from polythene and aluminium sheets, with makeshift beds of bamboo. These shelters are extremely susceptible to extreme weather conditions that can greatly affect structural stability, comfort and hygiene. The monsoon season has seen rainwater flowing through these shelters, affecting the mud floors on which many IDPs are forced to sleep (IDMC 2010a: 48). Bru IDPs living in bamboo huts within camps in Tripura have not been provided with funds to repair their huts following damage (NCHRTM 2006: 26).

The nature of these relief camps has also led to unhygienic living conditions in which IDPs' right to health is severely violated. As a result of psychological stress caused by insecurity, hunger, frustration, alienation and unemployment, conflict has erupted between IDPs living in camps. Health facilities are virtually nonexistent, and diseases such as malaria, jaundice, influenza and dysentery are widespread (IDMC 2007b: 5). A lack of sufficient water facilities has led to waterborne diseases such as diarrhoea (MCRG 2006a: 86). Furthermore, food shortages prominent in Assamese camps have led to disease resulting from malnutrition, particularly in children. Services provided by government hospitals and centres are particularly inadequate, with a shortage of medical staff and beds for patients (ACHR 2010b: 21).

The education of thousands of children in the Northeast has been abandoned due to conflict causing closure of schools, violating Guiding Principle 23 and IHL pertaining to a right to education in any circumstance (IDMC 2007b: 5; IDMC 2010b: 6; MCRG 2006b: 9). IDP camps lack educational programs and, in Assam, schools lack infrastructure, teachers, sanitation and drinking water. Throughout the Northeast, students are often forced to learn in the classroom sitting, kneeling or lying on the floor due to a lack of chairs and tables (ACHR 2010b: 21; PIPM, UNMM and NEDF 2008: 12). Equality of education has also been an issue in the few operational schools in the region, with a lack of girls' toilets in almost half the primary schools in rural areas of Tripura.

Uneven migration, autonomy movements and conflicting interests have seen a violent conflict and displacement situation in the Northeast. Government abuse of power has been the most significant factor driving displacement and has resulted in a lack of commitment to protecting IDPs, with violations of human rights under the AFSPA causing a failure to accept responsibility to protect those displaced by military action. Goswami (2006: 63) has characterised the state response in Assam as: the construction of makeshift temporary relief camps shortly following violence; the provision of Gratuitous Relief (GR) of rice, lentils and oil until these camps began to take the form of permanent structures; and the cessation of GR in an attempt to force people from the camps to look for their own form of rehabilitation. Violence and unsatisfactory government responses have posed an extremely high cost to personal security and basic needs of IDPs in the Northeast, which have often been granted on ethnic or religious bases where interests of these groups are similar to those of the state government.

Analysis

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State government responses to IDP needs have differed drastically between Jammu and Kashmir and the Northeast, with a strong variation evident in protection of rights, commitment to addressing internal displacement, and attempted resolution of the security situation. Measures to address the security situation in the two regions, despite both being characterised by violence, have been differently oriented: towards lessening threats in Jammu and Kashmir in order to permit return, while, in the Northeast, stabilisation of the volatile situation producing IDPs has taken the form of strong violence against perceived perpetrators. As a result, the government has placed importance on gaining control over the conflict situation in the Northeast over providing rights to IDPs. The MCRG (2006b: 3) also asserts that priority has been given to rehabilitation of insurgent groups such as the Boroland Autonomous Council rather than to IDPs.

The lack of federal acknowledgement of the existence of IDPs in India has greatly enhanced the ability of state governments to modify their responses and justify the amount of protection and relief. Often, these justifications have been based on particular interests or political agendas. In Jammu and Kashmir, a link can be drawn between bilateral tensions with Pakistan and the provision of relief to Kashmiri Pandit IDPs. India's role in defeating the Muslim militants in Jammu and Kashmir affiliated with Pakistani roots parallels its favourable treatment of Kashmiri Pandit IDPs, with their return and resettlement in the Kashmir Valley of priority to the Indian government. As a large group of Hindus in the only Muslim-majority state in India, the government has conceptualised the return of the Kashmiri Pandits as essential in demographic terms; consequently, a higher priority is placed on provision of basic needs and resolution of the security situation to permit return (IDMC 2010: 45).

The nature of violence and the government's role in conflict is highly influential on political agendas that can impact state responses to IDPs. In Jammu and Kashmir, it is predominantly armed rebel groups opposing the government who are perpetuating the process of internal displacement, invoking a government response to defeat these groups and protect those who have been affected by rebel-driven violence. In the Northeast, the government and government-allied militia is a strong driver of displacement, with exploitation of the federally-implemented AFSPA demonstrating gross abuses of power by state authorities. Government unwillingness to recognise the consequences of an extremely militarised response to violence has led to reluctance to accept responsibility for contributing to conflict-induced displacement; accordingly, recognition of IDPs and their needs is virtually nonexistent and there is a notable absence of measures through which IDPs can be adequately protected.

Government response in Assam has also been heavily influenced by the nature of conflict, indicated by acts of ethnic cleansing by the Boros in Barpeta, Kokrajhar and Bongaigaon against Muslim peasants and the Santhal tribe (Hussain 20: 4521). The indistinguishability of victims and perpetrators in situations of genocide and ethnic cleansing often occurs due to the similarity in appearance, language, outlook and customs between perpetrators and victims, and is frequently a reason for a government to shirk protection responsibilities for victims of such violence (Conversi 2005: 327). Due to the ethnic and communal nature of conflict in the Northeast, the government has assumed homogeneity, as insurgents strongly resemble the victims. Violence by security personnel has thus been targeted not only at perpetrators of violence, but on civilians in districts such as Kamrup (ACHR 2010b: 19). In turn, the recognition of IDPs is affected by government perceptions that these individuals are involved in furthering violence. In the Karbi Anglong district of Assam, similarities between insurgents and displaced Karbi, Kuki and Dimasa groups has led to minimal identification of IDPs in this region, resulting in an extremely small amount of facilities and capacity in camps.

However, the assumption that IDPs are involved in perpetrating violence can also be used as a justification through which state governments in the Northeast can deny protection to victims. The targeting of ethnic groups by Indian state governments is highly evident and supported by the UN, which asserts that the Muslim population in Jammu and Kashmir and tribals in the Northeast are two groups that have faced significant discrimination and violence (CESCR 2008: 3). In Assam, the government has provided different levels of relief to different ethnic groups; those in Kokrajhar have been provided with only rice, while those in Karbi Anglong have been provided with rice and lentils (IDMC 2007b: 4). The identification of those residing in camps in Kokrajhar as Muslim peasants also raises further question as to the favouring by the state government of certain groups of IDPs over others.

In Jammu and Kashmir, the perpetrators of violence are strongly affiliated with Muslim origins that contrast the

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character of Hindu groups that make up the majority of IDPs in the region. As a result, the displaced Kashmiri Pandit population is easily identifiable against Muslim militants, particularly when residing in Hindu-dominated areas such as Jammu. IDPs in Jammu have undoubtedly received the largest amount of protection and relief: for instance, 1,024 two-room apartments have been constructed for IDPs living in single-room shelters in camps in 2010 (IDMC 2010a: 43). Consequently, the protection of rights has been far stronger for the displaced Kashmiri Pandit population than for those displaced by communal violence in the Northeast.

Insufficient amounts of food have also been provided to IDPs in the Northeast as the government has attempted to force people from camps. The government of Tripura has claimed that it does not have enough funding to provide relief to displaced persons, citing a lack of federal government allocation for rice to justify a reduction in already scarce provisions (IDMC 2007a: 14; NCHRTM 2008: 26); yet evidence suggests that relief has not been provided in camps in order to coerce residents into leaving and acquiring their own sources of residence, income and sustenance (Goswami 2006: 63; Mandal 2009: 35). This can be traced to the lack of priority placed on addressing IDP needs in the Northeast as opposed to resolving ethnic conflict, establishing government authority and control, and restabilising the region. In turn, providing relief and protecting the needs of IDPs in camps is regarded as draining of resources rather than a necessary measure through which human rights can be acknowledged and upheld.

Conclusion

The difference between state government responses to IDPs in Jammu and Kashmir and the Northeast is strongly apparent in the literature. Different responses to the causes and resolution of conflict in addition to provisions during the period of displacement and implementation of long-term strategies has resulted in an extremely varied response to the internal displacement situation in the two states. The lack of a federal agency to monitor and protect IDPs has greatly contributed to the perpetuation of inadequate and unjustified state responses to protection needs, which, in the Northeast, have been conducted along ethnic and religious lines. While this is heavily correlated to the state government's involvement in the conflict, and the perception of certain groups as insurgents or terrorists in the Northeast, the Jammu and Kashmir State Government's desire to combat Pakistani Muslim militants has led to a favourable treatment of Hindu Pandit IDPs. Though the AFSPA has had strong consequences in both regions, security forces in the Northeast have more strongly abused this law in order to target particular ethnic groups, furthering and heightening ethnic divisions, tensions and displacement. Consequently, lesser provisions to IDPs have resulted from government denial and there is minimal recognition of the needs of IDPs.

Ultimately, the political interests and attitudes of the state governments have overshadowed responses to IDP needs, dictating measures taken, the groups to whom relief is provided, and how needs and rights are protected. In both circumstances, these have been determined by the nature of the conflict and security situation alongside the government's role in conflict. Where the government are in significant part the perpetrators of the conflict, IDP needs are less likely to be protected, as is evident in the Northeast. Where the victims of the conflict are aligned with government interests, as demonstrated by the case of the Kashmiri Pandits, protection and rehabilitation of IDPs becomes a greater priority for the state government. With the absence of a national framework for the protection of IDPs and the close monitoring of human rights, state governments are likely to continue to respond to IDP needs in weak, unsatisfactory and varied manners highly dependent on political agendas and interests.

Bibliography

Amnesty International. 2010. *Amnesty International Report 2010: The State of the World's Human Rights*. Accessed 4 May 2011. Available at http://thereport.amnesty.org/sites/default/files/AIR2010_AZ_EN.pdf.

Asian Centre for Human Rights (ACHR). 2010a. *India Human Rights Report Quarterly, July-September 2010*, ed. S. Chakma. Accessed 24 March 2011. Available at <http://www.achrweb.org/ihrrq/issue1/ihrrq-jul-sep-2010.pdf>.

Asian Centre for Human Rights (ACHR). 2010b. *India Human Rights Report Quarterly, September-December 2010*, ed. S. Chakma. Accessed 4 May 2011. Available at <http://www.achrweb.org/ihrrq/issue2/ihrrq-oct-dec-2010.pdf>

Protecting Internally Displaced Persons in India

Written by Tanushree Rao

- Bamzai, Prithivi Nath Kaul. 1962. *A history of Kashmir: political, social, cultural, from the earliest times to the present day*. Delhi: Metropolitan Book Co.
- Bhaduri, Aditi. 2010. 'Displaced Lives – Personal Narratives'. Calcutta Research Group research paper. Accessed 24 April 2011. Available at http://www.mcrgh.ac.in/PP_Aditi.pdf.
- Calcutta Research Group (MCRG). 2006a. *Voices of the Internally Displaced in South Asia*. Kolkata: Mahanirban Calcutta Research Group.
- Calcutta Research Group (MCRG). 2006b. 'IDPs in India's Northeast'. MCRG Workshop Report, 24-26 August 2006. Accessed 21 April 2011. Available at http://www.brookings.edu/fp/projects/idp/2007_CRG_Kohimarpt.pdf.
- Cloughley, Brian. 1999. 'Violence in Kashmir'. *Security Dialogue* 30(2): 225-238
- Cohen, Roberta. 2004. 'Some Reflections on National and International Responsibility in Situations of Internal Displacement'. Brookings-Bern Project on Internal Displacement. Accessed 21 April 2011. Available at http://www.brookings.edu/~media/Files/rc/papers/2004/spring_humanrights_cohen/20040504.pdf
- Cohen, Roberta and Francis M. Deng. 1998a. *Masses in Flight: The Global Crisis of Internal Displacement*. Washington, D.C.: Brookings Institution Press.
- Cohen, Roberta and Francis M. Deng. 1998b. *The Forsaken People: Case Studies of the Internally Displaced*. Washington, D.C.: Brookings Institution Press.
- Conversi, Daniele. 2005. 'Genocide, Ethnic Cleansing, and Nationalism'. In *The Sage Handbook of Nations and Nationalism*, eds. G. Delanty and K. Kumar. London: Sage.
- Dey, Ishita and Sabyasachi Basu Ray Chaudhury. 2007. *The Responsibility to Protect: IDPs and Our National and State Human Rights Commissions*. Kolkata: Mahanirban Calcutta Research Group.
- Goswami, Uddipana. 2006. 'Enabling IDP Livelihoods in Western Assam: Nobody's Responsibility'. *Refugee Survey Quarterly* 25(2): 60-68.
- Human Rights Watch (HRW). 2011. *World Report 2011: India*. Accessed 24 March 2011. Available at http://www.hrw.org/sites/default/files/related_material/india_3.pdf.
- Hussain, Monirul. 2004. 'Food Security and the Northeast'. *Economic and Political Weekly* 39(41): 4515-4516.
- Hussain, Monirul. 2000. 'State, Identity Movements and Internal Displacement in the Northeast'. *Economic and Political Weekly* 35(51): 4519-4523.
- Internal Displacement Monitoring Centre (IDMC). 2006. *India: Tens of thousands newly displaced in Northeastern and central states: A profile of the internal displacement situation*. Accessed 24 March 2011. Available at [http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%297EAC25979917D09DC125710F005B0548/\\$file/India%20-February%202006.pdf](http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%297EAC25979917D09DC125710F005B0548/$file/India%20-February%202006.pdf).
- Internal Displacement Monitoring Centre (IDMC). 2007a. *India: large numbers of IDPs are unassisted and in need of protection*. Accessed 21 April 2011. Available at <http://www2.ohchr.org/english/bodies/cescr/docs/info-ngos/IDMC2India40.pdf>.
- Internal Displacement Monitoring Centre (IDMC). 2007b. 'Internal Displacement in India'. Submission to the Universal Periodic Review mechanism established by the Human Rights Council in Resolution 5/1 of 18 June 2007. Accessed 4 May 2011. Available at <http://www.upr->

Protecting Internally Displaced Persons in India

Written by Tanushree Rao

info.org/IMG/pdf/IDMC_IND_UPR_S1_2008_InternalDisplacementMonitoringCenter_uprsubmission.pdf.

Internal Displacement Monitoring Centre (IDMC). 2008. 'Economic, Social and Cultural Rights of IDPs in India'. Submission from the IDMC of the Norwegian Refugee Council (NRC) to the Committee on Economic, Social and Cultural Rights: 40th session. Accessed 1 May 2011. Available at <http://www2.ohchr.org/english/bodies/cescr/docs/info-ngos/IDMCIndia40.pdf>.

Internal Displacement Monitoring Centre (IDMC). 2010a. *India: National and State Authorities Failing to Protect IDPs: A profile of the internal displacement situation*. Accessed 24 March 2011. Available at [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/F4A1646EA4DEFB06C1257792004BE769/\\$file/India_Overview_Sept2010.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/F4A1646EA4DEFB06C1257792004BE769/$file/India_Overview_Sept2010.pdf).

Internal Displacement Monitoring Centre (IDMC). 2010b. *Learning in displacement: Briefing paper on the right to education of internally displaced people*. Accessed 24 March 2011. Available at [http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/2C822B57D65D8363C12577DE0057617F/\\$file/Learning-in-displacement.pdf](http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/2C822B57D65D8363C12577DE0057617F/$file/Learning-in-displacement.pdf).

Internal Displacement Monitoring Centre (IDMC). 2011. *Internal Displacement: Global Overview of Trends and Developments in 2010*, eds. N.M. Birkeland, and E. Jennings. Accessed 4 May 2011. Available at <http://www.internal-displacement.org/publications/global-overview-2010.pdf>.

Kalin, Walter. 2005. 'The Guiding Principles on Internal Displacement as International Minimum Standard and Protection Tool'. *Refugee Survey Quarterly* 24(3): 27-36.

Lama, Mahendra P. 2000. 'Internal Displacement in India: Causes, Protection and Dilemmas'. *Forced Migration Review* 8: 24-26.

Mandal, Monika. 2009. 'Internal Displacement in India: Status, Condition & Prospects of Return'. *Refugee Watch* 33: 33-47.

Mooney, Erin. 2005. 'The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern'. *Refugee Survey Quarterly* 24(3): 9-26.

National Committee for Human Rights Treaty Monitoring in India (NCHRTM). 2008. 'The problems of non-implementation of ESCR rights in India: The tribal dimension'. Shadow report to the UN Committee on Economic, Social and Cultural Rights. Accessed 21 April 2011. Available at <http://www2.ohchr.org/english/bodies/cescr/docs/info-ngos/India-TheTribaldimension-NCHRTM.doc>.

National Human Rights Commission (NHRC). [1993] 2006. *The Protection of Human Rights Act, 1993*. New Delhi: NHRC.

Neuman, W. Lawrence. 2006. *Social Research Methods: Qualitative and Quantitative Approaches*, 6th ed. Boston: Pearson.

The Office of the United Nations High Commissioner for Refugees (UNHCR). 2006. 'Internally Displaced Persons'. In *The State of the World's Refugees: Human Displacement in the New Millennium*. Accessed 24 March 2011. Available at <http://www.unhcr.org/4444afce0.html>.

Orchard, Phil. 2010. 'Protection of internally displaced persons: soft law as a norm-generating mechanism'. *Review of International Studies* 36: 281-303.

People's Initiative for Peace, Manipur (PIPM), United NGOs Mission-Manipur (UNMM) and North East Dialogue Forum (NEDF). 2008. 'Request for consideration under the urgent action and early warning procedure in connection

Protecting Internally Displaced Persons in India

Written by Tanushree Rao

with grave and persistent violations of indigenous peoples' rights in Northeast India'. Submission to the Committee on Economic, Social and Cultural Rights: 40th session. Accessed 21 April 2011. Available at <http://www2.ohchr.org/english/bodies/cescr/docs/info-ngos/PIPMIndia40.doc>.

Saha, K.C. 2000. 'Rethinking the Guiding Principles: the case of the Kashmiri Pandits'. *Forced Migration Review* 8: 26-28.

Saha, K.C. 2002. 'Learning from the Ethnic Conflict and the Internal Displacement in Tripura in Northeast India'. *Human Rights Review* 3(3): 50-64.

South Asia Terrorism Portal (SATP). 2011. 'Fatalities in Terrorist Violence in India's Northeast'. Accessed 27 April 2011. Available at <http://www.satp.org/satporgtp/countries/india/database/fatalitiesnortheast2006.htm>

Sarantakos, S. 2005. *Social Research*, 3rd ed. New York: Palgrave Macmillan.

Shekhawat, Seema. 2009. 'Conflict-Induced Displacement: The Pandits of Kashmir'. *Conflict Trends* 4: 31-37.

Sudan, Falendra Kumar. 2010. 'Social and Economic Costs of Armed Conflicts on Children: Evidence from Displaced Camps in Jammu and Kashmir, India'. Paper submitted to the International Research Workshop on Households in Conflict Network and the German Institute for Economic Research (DIW Berlin) on "The Global Costs of Conflict", 1-2 February 2010 at DIW Berlin, Germany. Accessed 26 April 2011. Available at http://www.hicn.org/FifthWorkshop_Sudan.pdf.

United Nations Committee on Economic, Social and Cultural Rights (CESCR). 2008. *Consideration of Reports Submitted by States Parties under Articles 16 and 17 of the Covenant: Concluding Observations of the Committee on Economic, Social and Cultural Rights: India*. Accessed 21 April 2011. Available at <http://www2.ohchr.org/english/bodies/cescr/docs/co/E.C.12.IND.CO.5.doc> (cat.no. E/C.12/IND/CO/5).

United Nations Human Rights Council (UNHRC). 2007. *Report of the Representative of the Secretary-General on human rights of internally displaced persons, Walter Kalin*. Accessed 24 March 2011. Available at <http://www.unhcr.org/refworld/docid/46029d102.html>. (cat.no. A/HRC/4/38).

United Nations Human Rights Council (UNHRC). 2007. *Report of the Representative of the Secretary-General on Human Rights of Internally Displaced Persons*. Accessed 24 March 2011. Available at <http://www.unhcr.org/refworld/docid/46029d102.html>. (cat.no. A/HRC/4/38)

United Nations Office for the Coordination of Humanitarian Affairs (OCHA). [2001] 2004. *Guiding Principles on Internal Displacement*. Accessed 24 March 2011. Available at <http://www.unhcr.org/43ce1cff2.html>.

United Nations Office for the Coordination of Humanitarian Affairs (OCHA). 1999. *Handbook for Applying the Guiding Principles on Internal Displacement*. Accessed 24 March 2011. Available at <http://www.unhcr.org/refworld/docid/3d52a6432.html>

U.S. Department of State Bureau of Democracy, Human Rights, and Labor (BDHRL). 2010. *Country Reports on Human Rights Practices: India*. Accessed 4 May 2011. Available at <http://www.state.gov/documents/organization/160058.pdf>.

Weiss, Thomas C. And David A. Korn. 2006. *Internal Displacement: Conceptualization and its Consequences*. London and New York: Routledge.

[1]For the purposes of this essay, 'north-eastern states' or 'Northeast' will refer to the Seven Sister States located in the geographically isolated north-eastern region of India: Assam, Tripura, Manipur, Nagaland, Arunachal Pradesh, Meghalaya and Mizoram. I will focus primarily on the case of Assam, the largest and most populous state in the

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region with the strongest occurrence of conflict-induced displacement. [2]Both of these Acts will hereafter be abbreviated as AFSPA. [3]In the Jammu province are Dogras, Brahmans, Dogra Rajputs, Rajputs, Khattris, Mahajans, Harijans, Paharis and Gujjars (Bamzai 1962: 14-15). In the Kashmir Valley province are Brahmans or Kashmiri Pandits, a large number of Sunni and Shia Muslims, Sikhs, Pathans, Mughuls, Bombas, Khakhas, Doods, Galawans, Chaupans, Bhagats and Hanjis (Bamzai 1962: 17-20). The third Indian-administered province, Ladakh, consists of Tibetan Buddhists and Shia Muslims but does not have a significant position in conflict. [4]The Boro tribe of Assam is better known as the Bodo tribe. The people of this tribe choose to identify themselves as Boros. —

Written by: Tanushree Rao

Written at: The University of Queensland

Written for: Dr Phil Orchard

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