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# **CONSTITUTIONAL DUTIES OF THE UNION AND THE STATE GOVERNMENT IN PROTECTING THE CONFLICT-INDUCED INTERNALLY DISPLACED PERSONS (IDP) – AN ANALYSIS**

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## **ABSTRACT**

The internally displaced persons in India lack statutory recognition. Their struggles after being displaced from their habitat remain unknown. Violence and conflict remain a key factor for internal displacements, especially in India. The lack of specific legislation imposes the burden on the Union and States to abide by the constitutional framework to ensure their rights are protected. This paper analyses the provisions enshrined in the Indian constitutional framework that are interpreted to extend their application in the protection of the rights of conflict induced Internally displaced people. This paper critically analyses the constitutional vacuum regarding the effective enforcement of Union and State duties in the effective management of conflict-induced internal displacements. This study suggests a possible framework that is to be integrated in national framework for internally displaced persons. This paper concludes that despite the existence of constitutional provisions to protect the conflict-induced internally displaced people, a uniform regulatory framework by way of national legislation is necessary to fill the legislative gap.

**Keywords:** Internally displaced person, legislative gap, constitutional framework, constitutional duties.

## **1. INTRODUCTION**

The United Nations Guiding Principles on Internal Displacement describe internally displaced persons (IDPs) as: *"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 internationally*

*recognized state border.*"<sup>1</sup>They significantly differ from the Refugees since they are displaced within their country's borders. According to the Internal Displacement Monitoring Centre data set, since 2004, India has seen 1.9 million internally displaced persons for reasons of conflict and violence.<sup>2</sup>

Conflict induced displacements are generally caused by suppression of religious and ethnic minorities or a secessionist movement, which would have persisted due to some historical occurrence such as invasion, partition or civil war. In India, the autonomy of the country has changed during the transition from the colonial era to an independent country due to internal displacements, and the effects of such displacement can still be seen even today.

### **1.1 PROBLEM STATEMENT**

India does not have a specific law for the protection and rehabilitation of conflict-induced internally displaced persons. In the absence of such legislation, the protection of these persons depends mainly on the constitutional duties of the Centre and the States. These duties are derived from general constitutional provisions relating to fundamental rights, internal security, public order, and welfare. However, these constitutional duties are not clearly defined and are often shared between the Centre and the States. As a result, reliance on constitutional duties alone has proved insufficient to ensure effective protection, coordinated response, and proper rehabilitation of conflict-induced internally displaced persons.

### **1.2 RESEARCH OBJECTIVE**

1. To study the historical background of conflict-induced internal displacement in India.
2. To examine the constitutional framework governing the duties of the Centre and the States towards conflict-induced internally displaced persons.
3. To critically analyse the adequacy and limitations of constitutional duties in protecting conflict-induced internally displaced persons in the absence of specific legislation.

### **1.3 RESEARCH QUESTIONS**

1. Are the existing constitutional duties of the Centre and the States sufficient to address the protection and rehabilitation of conflict-induced internally displaced persons in the

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<sup>1</sup> UNITED NATIONS. (2004). *GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT*.

<sup>2</sup> INTERNAL DISPLACEMENT MONITORING CENTRE. (n.d.). *Global Internal Displacement Database: India (IDMC)*. [Dataset].

absence of specific legislation?

2. How can the constitutional framework be strengthened, in light of international guidelines, to ensure better protection of conflict-induced internally displaced persons?

## 1.4 HYPOTHESIS

The constitutional duties of the Centre and the States, in the absence of specific legislation, are not sufficient to ensure effective protection and rehabilitation of conflict-induced internally displaced persons in India.

## 2. HISTORICAL CONCEPT

### 2.1 EVOLUTION OF CONFLICT-INDUCED IDPs

Dating back to the India-Pakistan partition, which acted as a major starting point of violence against the Kashmiri Pandits that led to large-scale displacement of about 250,000 to other cities, and they have not been able to return to their home due to continued violence.<sup>3</sup> The post-colonial India saw a rise in demand of self-determination motion in the Northeast states of India. The diverse ethnic and cultural characteristics gave rise to their identity politics that resulted in the major 1992 Naga Kuki conflict, followed by the 1993 Meiti Muslim conflict, and subsequently the Paite Kuki conflict and Karbi Kuki conflict.<sup>4</sup>

Consequently, in 1997, the Bru or Reang are the indigenous tribal minorities inhabiting in Mizoram, Assam, Tripura and Manipur, and the insurgency caused by the protest of the Bru against the Mizoram government's Dampa forest project led to an ethnic cleansing of the Bru from Mizoram and about 40000 were displaced to Tripura and Assam.<sup>5</sup> In 2012, the ethnic tensions between the indigenous Bodo people and the Bengali-speaking Muslims of Assam led to violence, causing displacements of Bodo people from Assam. Recently, followed by ethnic violence of the Meitei-Kuki clash in Manipur had caused 57000 people to be displaced.<sup>6</sup>

Analysing the patterns of the past occurrence, it can be inferred that the conflict-induced displacement in India is majorly due to communal violence, insurgencies, border disagreements, and ethnically motivated clashes directly or indirectly influenced by the policy

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<sup>3</sup> Forced Migration Review. (2024, August 27). *Internal displacement in India: causes, protection and dilemmas - Forced Migration Review*. <https://www.fmreview.org/lama/>

<sup>4</sup> Dangmei, S. (2021). Naga movement and conflict situation in North East India. *International Journal of Arts Humanities and Social Sciences Studies*, 6(7), 78.

<sup>5</sup> Nayak, D. (2016, September). *India: Brus Still Delayed Homecoming – Analysis*. EURASIAREVIEW.

<sup>6</sup> Bhaumik, S. (2012, July 26). *What lies behind Assam violence?* BBC News. <https://www.bbc.com/news/world-asia-india-18993905>

decisions of the state. Lack of specific legislation poses a major issue in the prevention of internal displacement and also the resettlement of displaced persons. In India, the absence of a specific legislative framework addressing internal displacement compels conflict-induced IDPs to rely on general constitutional guarantees and executive welfare schemes for protection and rehabilitation.

## 2.2 UNION AND STATES RESPONSES

Historically, responses to internal displacement in India have been largely reactive and driven by immediate relief rather than by a national legal framework. In many cases, displaced populations were accommodated in relief camps, and limited rehabilitation support was provided through executive orders or ad-hoc measures by the State and Central governments. In the instance of Kashmiri violence, in 1990, the State Government provided them financial assistance of Rs. 250 per family along with free ration, and many ad hoc measures from time to time. The state government had also passed the Jammu & Kashmir Migrant Immovable Property (Preservation, Protection & Restraint on Distress Sales) Act, 1997, to prevent the distress sale of immovable property of the migrants and the expenses incurred by the state government were reimbursed by the Union Government.<sup>7</sup> In the case of the Bru violence of 1997, the Union Government offered cash assistance of 4lakh and free ration to the affected families and also provided cash assistance for house construction for their resettlement.<sup>8</sup> Similarly, the displaced persons of bodo conflict of Assam were given temporary relief in refugee camps with inadequate facilities.<sup>9</sup> This pattern shows that, instead of a codified and defined policy or law, relief measures have been based on humanitarian need at that moment and were subject of discretion of administrators. Such responses vary significantly across States and incidents, resulting in a lack of consistency and long-term planning in dealing with conflict-induced displacement.

India does not maintain a centralised, comprehensive register of IDPs, and often, displacement data is insufficient and incomplete.<sup>10</sup> According to international reports, internal displacement

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<sup>7</sup> PAVITHRA. (2022, March 26). *Explainer: What are the various relief & welfare measures announced since 1990 for the Kashmiri Pandits & other migrants?* FACTLY. <https://factly.in/explainer-what-are-the-various-relief-welfare-measures-announced-since-1990-for-the-kashmiri-pandits-other-migrants/>

<sup>8</sup> Ministry of Home Affairs & North East Division. *RESETTLEMENT OF BRU MIGRANTS*. [https://www.mha.gov.in/sites/default/files/2025-12/RESETTLEMENTOFBRUMIGRANTS\\_18122025.pdf](https://www.mha.gov.in/sites/default/files/2025-12/RESETTLEMENTOFBRUMIGRANTS_18122025.pdf)

<sup>9</sup> We want to live in our homes, not like animals in relief camps, say homeless Bodo refugees. (2012, July). *INDIATV*. <https://www.indiatvnews.com/news/india/live-homes-animals-relief-camps-homeless-bodo-refugees-17153.html>

<sup>10</sup> Kumar, S. Y. S. (2019). Prevention of Conflict-Induced IDPs and their Protection: the Challenges. *Artha - Journal of Social Sciences*, 18(4), 57–69. <https://doi.org/10.12724/ajss.51.4>

due to conflict and violence continues to be a persistent challenge in India, though often underreported at the national level.<sup>11</sup> Despite these recurring displacement crises, India has not adopted a specific law addressing IDPs or their protection. Instead, the constitutional framework and executive relief measures remain the primary sources of duty and responsibility for both the Centre and the States.

### 3. CONSTITUTIONAL FRAMEWORK GOVERNING IDP

The Constitution of India does not recognise internally displaced persons expressly. Nevertheless, the protection and rehabilitation and resettlement of internally displaced persons and preventing internal displacements can be interpreted through the provisions relating to constitutional duties of the Union and States that are distributed throughout the framework of our constitution. The duties dealing with internal security, public order, governance, and welfare can be interpreted to ensure the effective management of conflict-induced internal displacements. The duties of the Union and States with respect to the conflict-induced internally displaced people can be primarily divided into two heads, namely protection and resettlement.

#### 3.1 DUTIES OF THE UNION

**Article 355** of the Constitution of India imposes a duty on the Union Government to protect every State against external aggression and Internal disturbance and to ensure that the State Governments are carried on in accordance with the provisions of the Constitution. This duty has a broad aspect, implying that the Union should protect the States' integrity by preventing the conflict-induced internal displacements, which may threaten the states' autonomy and also serve as a ground to invoke Article 352 or Article 356 whenever necessary. The term 'internal disturbance' has a broader scope<sup>12</sup>, which would include people's displacement from a state facing violence. There is a constitutional mandate in Article 355 that should not be neglected.<sup>13</sup> But it remains weak in dealing with conflict-induced internally displaced people's rights.

**Article 282** enables the Union or the State to make grants for any public purpose that also includes the power to grant relief for conflict-induced internally displaced people.

Moreover, **Entry 2A** of the Union list given in the Seventh schedule of the Constitution, gives

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<sup>11</sup> Geology.com. (2007). *INDIA: National and state authorities failing to protect IDPs*. <https://api.internal-displacement.org/sites/default/files/publications/documents/201009-ap-india-overview-en.pdf?>

<sup>12</sup> JAIN, M. P. *INDIAN CONSTITUTIONAL LAW* (8th ed.).

<sup>13</sup> Sarbananda Sonowal vs Union Of India & Anr 2005 (5) SCC 665

the Union the power to make laws regarding the deployment of any armed forces under the control of the Union in any state in aid of civil power. It does not bar the union from deploying forces suo motto whenever the conditions go out of hand.

**Entry 81** of the Union list gives power to make laws by the Union regarding inter-state migration and interstate quarantine. Migration between states may not always be involuntary since the conflict induced IdPs differ from many other internal migrants as they have limited access to social and capital resources, such as housing and land, that have been left behind as a result of the conflict.<sup>14</sup>

**Entry 97** of the Union list provides the residuary power of the Parliament to enact laws regarding the subject matter which have not been enumerated in List I or List II. Its scope is very wide<sup>15</sup> And the Parliament has the power to enact IDP laws under this provision.

### 3.2 DUTIES OF THE STATE

The state executive has an obligation to follow the direction given by the union executive under **Article 256** to ensure compliance with laws made by the Parliament. This provision ensures that the Union has the power to give directions when the States are facing any issues. The union has the upper hand in resolving any dispute arising within a state or between states.

In addition to this, the State has a primary obligation to maintain law and order within the State because **Entry 1** of the state list provides the power for the state legislature to make laws to maintain public order in aid of civil power.

The state can make laws in accordance with **Entry 2** of the State list regarding effective management of internal conflicts by making necessary legislation with regard to the police in violence-prone areas. It also has the duty to make effective deployment of forces whenever necessary. The executive power of the State under **Article 162** extends to matters concerning the management of camps, food distribution, essential supplies, and the implementation of rehabilitation measures, subject to the direction of the Union executive.

### 3.3 CONCURRENT DUTIES

As per **Entry 20** of the concurrent list, the Union and States also exercise control over social and economic planning, such as land, housing, health services, and local welfare schemes, all of which are important in the resettlement and reintegration of internally displaced persons.

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<sup>14</sup>Kumar, S. Y. S. (2019b). Prevention of Conflict-Induced IDPs and their Protection: the Challenges. *Artha - Journal of Social Sciences*, 18(4), 57–69. <https://doi.org/10.12724/ajss.51.4>

<sup>15</sup> Supra 12

Moreover, the Union and the States have the duty to ensure that citizens have the fundamental rights enshrined in the Constitution and also follow the directive principles when framing policies.

## **4. CRITICAL ANALYSIS OF CONSTITUTIONAL DUTIES WITH RESPECT TO CONFLICT-INDUCED IDPS**

### **4.1 UNION'S DUTY TO PROTECT**

The Union has a constitutionally mandatory duty to protect the states under Article 355. However, the action of the Union government to protect the States in times of conflict had to be scrutinised to check its effective implementation. For instance, the Union under its law-making power granted under Entry 2A of the Constitution had passed the Armed Forces Special Powers Act, 1958, which is one of the important steps taken by the Union Government to ensure the duty under Article 355 has been fulfilled since the Northeastern states are more prone to conflicts. Section 3 gives the power to the Central government to declare any area of a State as 'disturbed' when dangerous circumstances emerge, and it becomes essential to utilise the military forces in support of the state police.<sup>16</sup> The declaration depends on the satisfaction of the Government official, and this is where the duty turns into a discretion of the Government that can be influenced by political factors.<sup>17</sup>

Moreover, section 4 of the act gives wide immunity to the armed forces to arrest without warrant and even to cause death in some cases.<sup>18</sup> Granting such broad powers had been alleged to have caused human rights violations such as illegal arrests, sexual harassment, abuse, and torture of innocent people.<sup>19</sup> The Union Government's constitutional duty has been fulfilled through the act, but the actual object of the Act was to protect the civilians; however, the implementation has led to adverse consequences, and the people displaced due to such conflicts have not benefited in any manner. Similarly, in the instance of Manipur violence, when the conflict was in its initial phase, despite the armed forces, about 5000 people were displaced

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<sup>16</sup> Tikhak, M., Dhar, R., & Nath, S. (2023). A draconian law "Armed forces special powers act, 1958" and its impact on disturbed areas of Arunachal Pradesh. *International Journal of Law, Justice and Jurisprudence*, 4(1), 80–84.

<sup>17</sup> Mazumdar, S., Das, A., & Arora. Armed Forces (Special Powers) Act, 1958: A Case for Review. *Articles Section of www.manupatra.com*. <https://articles.manupatra.com/pdf/0A3D1B68-D1EE-48D0-80D2-29595CAFD060.pdf>

<sup>18</sup> *ibid*

<sup>19</sup> Banerjee, R. (2017, July 15). 186 cases of abuse in AFSPA enforced states in 4 yrs. *The Times of India*. [https://timesofindia.indiatimes.com/india/186-cases-of-abuse-in-afspa-enforced-states/articleshow/59603418.cms?Nakade, S. B., Government of India, Shrivastav, P., & Raghavan, V. R. \(2005\). REPORT OF THE COMMITTEE TO REVIEW THE ARMED FORCES \(SPECIAL POWERS\) ACT, 1958.](https://timesofindia.indiatimes.com/india/186-cases-of-abuse-in-afspa-enforced-states/articleshow/59603418.cms?Nakade, S. B., Government of India, Shrivastav, P., & Raghavan, V. R. (2005). REPORT OF THE COMMITTEE TO REVIEW THE ARMED FORCES (SPECIAL POWERS) ACT, 1958.)

within 48 hours of the violence.<sup>20</sup> Although the Government had the constitutional authority to declare failure of constitutional machinery under Article 356, the delay in exercising such power significantly weakens the effectiveness of its duty under Article 355. By the time forces were deployed, large displacements would have taken place. These two instances show that though there was a duty in the texts, the actual law in application will not always be sufficient when there is a lack of specific legislation and the sole reliance on constitutional duty for the protection of displaced persons.

#### 4.2 CONDITIONS OF RELIEF CAMPS

The Union and state government, under the provision of Article 282 enables them to grant relief for public purpose including relief for the conflict-induced internally displaced persons. The relief under Article 282 remains in the discretion of the executive-driven, lacking the status of a legally enforceable right.

This is evident from the following cases. In the ethnic violence in the western part of Mizoram in October 1997, a large number of minority Bru (Reang) families migrated to North Tripura, and the Bru migrants were given shelter in relief camps.<sup>21</sup> The conditions of such relief camps lack basic education facilities for children, and insufficient healthcare, drinking water or sanitation facilities.<sup>22</sup> The relief camps set up for the conflict-induced internally displaced persons, though meant for granting temporary relief, fail to provide basic facilities for the families to lead their livelihood. Similarly, as a consequence of Manipur violence, people were displaced across several relief camps.<sup>23</sup> Lack of nutrition and sanitation in these camps has been a problem for the internally displaced Persons.<sup>24</sup>

In both situations, though financial assistance and temporary shelters were provided, the relief measures failed to ensure basic necessities such as proper education, healthcare facilities, sanitation, and sustainable livelihood opportunities. The continuation of poor living conditions

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<sup>20</sup> Oinam, & Lhaskyabs. (2024, July 11). The Manipur Conflict: Internal Discontent, Policy Gaps, and Regional Implications. *THE DIPLOMAT*. <https://thediplomat.com/2024/07/the-manipur-conflict-internal-discontent-policy-gaps-and-regional-implications/>

<sup>21</sup> Supra 8

<sup>22</sup> The National Commission for Protection of Child Rights (NCPCR). (2018). *Devising pathways for appropriate repatriation of children of Bru-Reang community*. [https://ncpcr.gov.in/uploads/167204990463a974f0bebd4\\_a-report-on-devising-pathways-for-appropriate-repatriation-of-children-of-bru-reang-community-2018.pdf](https://ncpcr.gov.in/uploads/167204990463a974f0bebd4_a-report-on-devising-pathways-for-appropriate-repatriation-of-children-of-bru-reang-community-2018.pdf)

<sup>23</sup> Vishnoi, A. (2023, September 18). Manipur: 58,357 people, including 22,000 kids in 351 relief camps. *The Economic Times*. <https://economictimes.indiatimes.com/news/india/manipur-58357-people-including-22000-kids-in-351-relief-camps/articleshow/103739227.cms>

<sup>24</sup> Prateek Goyal, & Prateek Goyal. (2025, December 8). 'Overcrowded, underfed': Manipur planned to shut relief camps in Dec, but many still 'trapped.' *Newslaundry*. <https://www.newslaundry.com/2025/12/08/overcrowded-underfed-manipur-planned-to-shut-relief-camps-in-dec-but-many-still-trapped>

in relief camps in both cases over long periods clearly shows a weakness in the constitutional response to internal displacement due to poor enforcement.

#### **4.3 EFFECTIVENESS OF RESETTLEMENT SCHEMES**

The Union government granted relief for Bru victims of Cash Assistance per month, free ration, House Building Assistance, and free transportation to the place of resettlement.<sup>25</sup> Although there were formal agreements for Bru resettlement, the actual implementation has been slow and inconsistent. Many resettled Bru families have faced long delays in receiving their monthly allowances, which has weakened the impact of the relief schemes and exposed gaps in coordination between the Union and State governments.<sup>26</sup>

In the case of Manipur, though the Union government allocated substantial funds for relief and rehabilitation<sup>27</sup> The implementation on the ground has been slow and uneven since only a few families have received proper housing under the planned schemes.<sup>28</sup>. Even where monetary allowances are provided, they often remain insufficient to meet basic needs and support sustainable livelihoods.<sup>29</sup> This situation shows that while Article 282 allows the Union and States to grant relief for public purposes and Entry 20 empowers both the Union and States to legislate on laws relating to economic and social planning, including welfare and resettlement, reliance on discretionary relief without a structured, enforceable framework fails to ensure long-term protection and rehabilitation of conflict-induced internally displaced persons.

### **5. COMPARATIVE ANALYSIS WITH INTERNATIONAL GUIDELINES**

At the international level, the UN Guiding Principles on Internal Displacement 1998<sup>30</sup> constitute the most authoritative framework governing the protection of internally displaced persons. Though non-binding, the Guiding Principles gives norms comprehensive standard for state responsibility towards IDPs. In contrast, India does not have a specific legal framework

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<sup>25</sup> Supra 8

<sup>26</sup> One year on, no monthly allowance for 2000 Bru families resettled in Tripura, claims leader. (2023, October 29). *The New Indian Express*. <https://www.newindianexpress.com/nation/2023/Oct/29/one-year-on-no-monthly-allowance-for-2000-bru-families-resettled-in-tripura-claims-leader-2628140.html?>

<sup>27</sup> Centre Provides Rs 217 Crore For Relief, Rehabilitation Of Displaced People In Manipur. (2025, April 6). *NDTV*. <https://www.ndtv.com/india-news/centre-provides-rs-217-crore-for-relief-rehabilitation-of-displaced-people-in-manipur-8100247?>

<sup>28</sup> Baruah, S., & Leivon, J. (2025, December 19). 'We won't return to relief camps': Manipur has started resettling those displaced by violence. It's not without challenges. *The Indian Express*. <https://indianexpress.com/article/india/manipur-relief-camps-violence-challenges-10428854/>

<sup>29</sup> *ibid*

<sup>30</sup> Supra 1

or policy addressing internal displacement. While the Guiding Principles explicitly recognise protection from displacement, humanitarian assistance during displacement, and durable solutions such as return, resettlement, and reintegration, India's approach remains disoriented, relying primarily on constitutional provisions and temporary reliefs.

The UN Guiding Principles emphasise prevention of arbitrary displacement, particularly displacement resulting from ethnic cleansing, communal violence, and military operations. States are required to exhaust all feasible alternatives before displacement occurs. Though the State enacts security laws like AFPSA, it should have been more civilian-centric rather than security-based. Moreover, the UN Guiding Principles (Principles 18–23) require States to ensure adequate food, shelter, education, healthcare, sanitation, protection of dignity and safety. However, in India, many relief camps lack minimum living standards, and the prolonged existence of camps without long-term solutions violates international principles.

International law emphasises voluntary, safe, dignified, and sustainable resettlement of displaced persons. But India experiences weakness in enforcing such resettlements. Hence, there is a need for a specific IDP law in adherence with the international guidelines stating clear procedures and accountabilities of the State and Union government.

## **6. CONCLUSION**

Conflict-induced internal displacement continues to be a serious but often ignored human rights issue in India. Although the Constitution provides a general framework through Articles 355, 256, 282 and the Seventh Schedule, these provisions were not specifically meant to deal with internal displacement. Because of this, the protection and rehabilitation of internally displaced persons mainly depend on executive decisions and temporary relief measures, rather than on clear and enforceable legal rights.

This study shows that constitutional duties by themselves are not enough to prevent displacement or to ensure proper rehabilitation of displaced persons. The response of the Union Government has largely focused on maintaining law and order and deploying security forces, while issues such as civilian safety, living conditions in relief camps, and long-term rehabilitation have not received adequate attention. The lack of a centralised and reliable database on internally displaced persons further weakens planning, monitoring, and

accountability.

When India's approach is compared with international standards, especially the UN Guiding Principles on Internal Displacement, it becomes clear that there is a significant gap. International frameworks follow a rights-based and preventive approach, whereas in India, internal displacement is still treated as a temporary humanitarian problem rather than a long-term governance and human rights concern.

### **Suggestions**

- A specific national law on internal displacement should be enacted in line with the UN Guiding Principles on Internal Displacement.
- Clear minimum standards should be fixed for relief camps, especially regarding health care, education, sanitation, and livelihood support.
- A centralised system for collecting and maintaining data on internally displaced persons should be created to ensure effective planning and implementation.
- Government responses should focus more on civilian protection and long-term rehabilitation, particularly in conflict-affected areas.

In conclusion, in the absence of a specific legal framework, conflict-induced internal displacement in India continues to be addressed through uneven and temporary measures. To truly protect the dignity and rights of displaced persons, India must adopt a rights-based, preventive, and accountable approach that reflects the constitutional values of equality, dignity, and social justice.

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