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**PROTECTION GAPS AND LEGAL REMEDIES: ACCESS TO JUSTICE  
FOR CONFLICT INDUCED INTERNALLY DISPLACED CHILDREN IN  
CHHATTISGARH**

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**ABSTRACT**

Internal displacement is one of the worst human rights and humanitarian crises that the world faces today which disproportionately affects children. The major contributors to this phenomenon are conflicts, disasters, climate change, development etc. The present study examines the case of a tripartite violence between Naxalites, Salwa Judum-the state supported vigilante group and state forces, which shook the Bastar region of Chhattisgarh in the 2000s and forced the displacement of hundreds of thousands of people within and outside the state. This paper explores the manifold vices of conflict induced internal displacement on children including their recruitment as child soldiers, loss of education, trafficking, labour exploitation, separation from family, psychological trauma etc. These are intensified by India's lack of a uniform policy for conflict induced IDPs despite India's obligation under various international conventions. The paper further highlights various aspects like lack of reliable data, institutional co-ordination and sustainable rehabilitation frameworks and argues that in order to ensure access to justice to displaced children, there should be collective efforts from state as well as non-state entities. The paper concludes by suggesting incorporation of GPIDs into Indian law, designation of dedicated monitoring agencies and reintegration of displaced children for effective realization of their constitutional and human rights.

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## 1. Introduction

Internal Displacement is a global phenomenon of great political, economic, humanitarian and developmental implications. It may happen due to a variety of reasons like development, disaster, human rights violation, climate change, conflicts etc. The internationally accepted definition for Internally Displaced Persons (IDPs) is found in the Guiding Principles on Internal Displacement, 1998. Accordingly, IDPs are “persons or group 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 conflicts, situations of generalized violence, violations of human rights or natural or human made disasters and who have not crossed internationally recognized state border” (GPID, 1998). It is estimated that the number of IDPs across the world is twice the number of refugees. Yet, IDPs hardly find a special status under International Law unlike refugees.

As per the Global Report on Internal Displacement (GRID) of International Displacement Monitoring Agency, Norwegian Refugee Council, as of 2024, 83.4 million people across the globe are living in internal displacement (IDMC, 2025). IDPs across the world owing to conflict and violence alone amount to 73.5 million, which is twice the number of the refugee population (IDMC, 2025).

From the post partition riot victims of 1947 to the Manipur riot victims of 2014, India has had its share of conflict induced IDPs. As per the GRID Report 2025, in 2024, India’s figures of conflict induced IDPs stood at 5.25 lakhs(stock). Cross-border firings and militancy in Kashmir, armed conflicts in the North-East, localized religious and caste violence in U. P., Bihar and Gujarat, conflicts between Naxals and state forces in Chhattisgarh, violence in Manipur etc. have been the major contributors of conflict induced IDPs in India. The major reasons for conflict induced displacements in India are armed conflicts, communal and ethnic violence (Sahoo M, 2016).

The Bastar division of Chhattisgarh (then Madhya Pradesh) has had a Naxal/Maoist presence since the 1980s. The conflict intensified in the early 2000s with the government intensifying counter-insurgency measures and Salwa Judum, a state supported armed vigilante group coming into picture. The intense blood shed took thousands of lives of all parties to the conflict and civilians. Many people were displaced within and outside the state. While no official data is available on the magnitude of exodus, various agencies say that from the most affected Bastar region alone, almost 30,000 families (almost 1 lakh people) have fled to areas including

Khammam and Bhadrachalam areas of Telangana over the years deserting 600 villages (Chaturvedi M., 2012). Also, there has been exodus to other states like Orissa and Maharashtra.

It is a known fact that IDPs across the world are subjected to human rights and humanitarian challenges like protracted displacement, higher mortality rate, physical attack, sexual assault, lack of adequate shelter, livelihood, health care facilities etc (UNICEF, 2025). In India, while disaster induced IDPs find limited protection under Disaster Management Act, 2005 and development induced IDPs under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, Indian legal system lacks a chapter for conflict induced IDPs. Neither is there any agency designated for the prevention of displacement nor protection and rehabilitation of conflict induced IDPs.

## **2. Conflict Induced Internal Displacement and Children**

In the event of a violence or conflict, women and children are the first to get displaced. According to UNICEF, By the end of 2024, there were 29.4 million internally displaced children across the world due to conflicts and violence (UNICEF, 2025). Children are the biggest victims of violence, conflicts and other forms of civil unrest. This victimisation is multi-faceted. They are killed, maimed and hurt. They are at higher risk to other crimes like sexual abuse, trafficking, child labor etc. The psychological impact of such threats and violence on children is often deeper rooted, usually unaddressed and ultimately impacts a child's right to healthy development. They may also face a barrier in access to education, sanitation, health care, food etc. Another potential threat of such violence and conflicts are that more often than not, the participants recruit young children to armed groups for purposes ranging from collection of intelligence to combat which has great implications in a child's physical, emotional, social and mental development.

Unlike refugees, there is no binding international convention for the protection of IDPs. Guiding Principles on Internal Displacement which was introduced before the United Nations Commission for Human Rights is the only international document which discusses and defines internal displacement and talks about prevention, protection and rehabilitation of internal displacement and IDPs. Many countries including India have been reluctant to accept the authoritativeness of GPID citing lack of negotiation and sovereignty concerns. Neither does India have any law or policy for protection of rights of IDPs. Despite the government's reluctance towards GPID, Delhi High Court, in *P. K. Kaul v. Estate Officer & Anr.* observed that GPIDs fill the gap in international and national law pertaining to the basic human rights of IDPs

and the same should be seen as a benchmark in the protection of IDPs. In *Union of India v. Vijay Mam*, the court identified GPID as the instrument which specifically takes care of IDPs and held that the principles stated in GPID are reiterations of the fundamental constitutional freedoms and inherent human rights available to all persons in India.

Though IDPs face a protection gap in international and domestic legal domain, International Humanitarian law and other conventions pertaining to children offer a wide range of protection to children in general and who are victims of civil unrest and displacement due to conflicts in particular. A violation of such rights ultimately leads to denial of justice. India, being a party to those conventions and in pursuance of its obligations under Sustainable Development Goals 2030, are obliged to ensure protection of children in children and children of civil unrest in particular. It should be ensured that their inherent rights are not violated.

Primary protection for children in non-international armed conflicts comes from Common Article 3 of Geneva Convention, 1949 and Additional Protocol II, 1977. United Nations Convention on the Rights of Child, 1989 (UNCRC), Optional Protocol to the Convention on Rights of the Child on the involvement of Children in Armed Conflicts, 2002, Paris Principles etc. are the other documents which lay down protection for displaced and children of armed conflicts. It is to be remembered that India is a party to all these Conventions and Protocols and therefore obliged to ensure they are implemented in letters and spirit. Furthermore, these children are protected by the existing domestic laws too.

Article 6 of UNCRC recognizes the inherent right to life of every child. It obligates the State parties to ensure development and survival of every child. On a combined reading of Art. 6 of UNCRC and Art. 21 of the Constitution of India, it is clear that right to life includes an array of other rights like liberty, dignity, shelter, growth, nourishment etc. Article 39(f) The Constitution of India makes the government duty bound to ensure healthy development of children in conditions of freedom and dignity. It also envisages to protect children from exploitation. In the event of a conflict and consequent displacement, one or more of such rights are violated.

## **2. Children of Chhattisgarh violence**

Chhattisgarh violence has given rise to two categories of child victims: (i) children who were recruited to the state and non-state forces by parties to violence (ii) children who faced protracted displacement to relief camps within the state or fled to neighbouring states.

### **3.1. Child soldiers**

One of the biggest menaces of Chhattisgarh conflict was recruitment and use of children in the violence by all the parties; state and non-state. While such recruitment to Salwa Judum and Naxal groups was based on threat and force, the State government exploited poverty and emotions of natives to recruit children. Naxalites recruited and still continue to recruit children as young as six years old to their associations called Bal Sangams where they are taught Maoist ideology. Once they are twelve years or older, these children are recruited to other units called Sangams (village-level association), Jan Militias (armed informants) and Dalams (armed squads). Here they are taught to collect intelligence, use explosives, plant land mines and IEDs and trained in other weapons. They often engage in armed conflicts with the State security forces. They will not be allowed to leave Naxal groups at a later point or surrender before the government, as that might invite severe repercussions including threat to the lives of self or family members (Human Rights Watch, 2008).

Since its inception in 2005, Salwa Judum has caused unimaginable violence and blood-shed in Bastar. As part of vigilantism, they forced thousands of tribals out of their villages to the Judum base camps. Children as young as 12 years old from such camps were recruited to Judum. Such children were taken along with senior members of Judum and state security forces for raids in villages where they were also involved in burning houses, beating villagers who the Judum suspected were Naxalite sympathizers, robbery etc.

As violence between Salwa Judum and Naxalites gained momentum, Government of Chhattisgarh started recruiting Special Police Officers (SPOs) to the force. While such appointments were made under Indian Police Act, 1861 and Chhattisgarh Police Act, 2007, both the statutes did not have any guidelines regarding the necessary eligibility for SPOs, particularly regarding age. As per a written note filed by the Government of Chhattisgarh before the Hon'ble Supreme Court in the case of *Nandini Sundar & Ors. v. State of Chhattisgarh & Ors.*, It was revealed that between 2005 and 2011, the government had appointed 6500 SPOs. Though the government claimed all of the SPOs appointed were above

18 years, reports by Civil society groups including Human Rights Watch (HRW) say otherwise. In a 2008 report, HRW claimed even children as young as 15 years were appointed as SPOs for honorarium ranging from Rs. 1500-3000. Most of the recruits were children who dropped out of school and were in search of livelihood due to various reasons. Once recruited, they were given

basic weapon training (Nandini Sundar, 2011). Like children recruited by Naxal groups, minor SPOs also could not go back home in fear of Naxalite reprisal thereby putting their life in peril.

Though all the parties had used children in the conflict, there is no official data to show the number of actual recruitments, deaths and disability suffered by children in the violence which lasted for more than five years. These practices in Chhattisgarh have been in clear violation of the principles of International Humanitarian Law and India's responsibilities there under.

Art. 38 of the United Nations Convention on the Rights of the Child (UNCRC) puts an obligation on states to ensure that children under 15 years of age do not take part in direct hostilities in any circumstances. Art. 38(3) asks states to refrain from recruiting children under 15 years to their armed forces. Optional Protocol I of UNCRC amends this position. Art. 1 of Optional Protocol I prohibits compulsory recruitment of children under 18 years to state armed forces. While, under Article 4, armed groups other than state armed forces cannot recruit children under 18 years voluntarily or compulsorily. Also, Art. 4. Para 3c of Additional Protocol II of Geneva Convention, 1949 explicitly prohibits recruitment and any kind of participation of children; direct or indirect in hostilities. Principle 13 of GPID categorically prohibits recruitment of displaced children to participate in hostilities.

Though India is a party to UNCRC, Optional Protocol I and Additional Protocol II, it failed in Chhattisgarh to prevent the recruitment of children to State and state supported forces. Neither has any of the involved parties been prosecuted or punished for use of children in conflicts. Article 19 of UNCRC makes it obligatory on the part of the government to take all legal, administrative and social measures to protect a child from physical and mental violence. Children who were recruited and made to participate in the conflicts have faced physical and mental abuse in their worst form. Article 4(2) of Optional Protocol I demands the party states to adopt legal measures to prohibit recruitment of children by non-state armed groups and criminalise such recruitment. To this date, we do not have a law to this effect. Despite violation of these rights, the perpetrators have not been held accountable or prosecuted yet.

### **3.2 Displaced Children**

Since mid-2005, Chhattisgarh has seen displacement of tens of thousands of people to forests, camps and neighbouring states. One of the biggest challenges of this displacement is the non-availability of authentic, quality data to determine its exact magnitude. This is owing to the fact that India does not have any monitoring mechanism or legal policy for conflict induced IDPs.

Their treatment has rather been on an ad-hoc basis. Lack of age and gender specific data, especially regarding children, poses a serious threat in providing rehabilitative measures, ensuring education, health facilities etc. As already discussed, these displaced children are ultra-vulnerable. They go through severe, physical, psychological and emotional trauma which ultimately affects their life, growth and healthy development. Some of the major challenges are discussed below.

### **I. Separation from family and right to reunification**

In the event of any displacement, the primary challenge a child faces is separation from family. Such separation could arise from various reasons like death of family members, abduction by parties involved, children being sent to safer places by parents in fear of a sudden attack by any of the parties etc. This displacement could either be for a short period or for a long period. Separation in general and in the context of displacement in particular increases the vulnerability of children as they lose the protection of their parents. They may be displaced to camps, forest, neighbouring districts or states unaccompanied. They become prone to child marriages and child labor. Displaced children also fall victims to trafficking, sexual abuse etc. In most cases when children are separated from family, they will have to assume adult responsibilities. Loss of family, fear and exposure to such crimes may have serious emotional and psychological impacts on a child thereby affecting their normal development(NCPCR, 2010).

International Humanitarian Law provides certain fundamental guarantees to children who are victims of non-international armed conflicts (Geneva Convention, 1949). It requires parties to the conflict to provide special care and aid to children. Principle 7 of GPID directs the authorities to ensure that members of the same family are not separated. Principle 17 directs the government to make all endeavours to reunite separated family members. Article 9 of UNCRC prohibits separation of a child from its parents against his/her will. Article 4 of Additional Protocol II discusses identification and reunion with families. In conflict induced displacement if a child is so separated from his/her family and is left without a guardian, he becomes a child in need of care and protection under Section 2 of Juvenile Justice (Care and Protection) Act, 2015. Section 32 mandates compulsory reporting of children found without parents. As per Section 31, such children are to be produced before Child Welfare Committees.

### **II.Right to education**

Denial of the right to education is another challenge displaced children have to face. Bastar being one of the least developed areas in Chhattisgarh has not had enough schools since the formation of the state. As per 2001 Census Report, as many as 214 villages in Bastar did not have primary schools (HRW, 2008). Once Salwa Judum started and violence intensified, parents stopped sending children to schools in the fear of abduction by Judum to join the movement. Fear of Salwa Judum had its impact on teachers too which ultimately resulted in them stopping coming to schools. Also, many of the schools and hostels were occupied by security forces for years until an order of evacuation by the Supreme Court in 2011. Naxalites also played their role. As per National Human Rights Commissions, Naxalites forced children to drop out of schools after fifth standard (NCPCR, 2010). In Dantewada, Schools occupied by security forces were attacked and such schools had to be shifted to State controlled areas. Many of the children could not access these makeshift schools due to lack of transportation facilities and other reasons (Sharma S., 2011). Some schools in Naxalite strongholds of Sukma and Abhujmad remained closed for as long as 13 years till 2019 (Shivare R, 2019).

Insecurity which prevailed in the region has considerably affected the quality of education further marginalising an already marginalised community. As per investigation conducted by NCPCR and other NGOs, Children who were displaced to Andhra Pradesh faced obstacles in enrolling at regional schools due to lack of identity documents and failure to produce Transfer Certificates. Few internally displaced children who enrolled in local schools of Andhra Pradesh eventually dropped out owing to the language barrier in Telugu medium schools. The Andhra Pradesh government failed in providing a language bridge course for children from Bastar so as to enable them to continue with the studies.

Education has been long recognised as a fundamental right by international as well as national laws. Principle 23 of GPID categorically emphasises the need to provide free and compulsory education to displaced children. Article 29 of UNCRC recognises the right to education of every child. The provision rightly recognises the importance of education in the development of a child's personality, talent, physical and mental abilities. UNCRC categorically points out how education is important in preparing a child to live in a free society, and to assimilate the ideas of equality of sexes, peace, tolerance, understanding and friendship irrespective of ethnicity, nationality, religion etc. This holds specific importance in the case of children who faced violence as their experiences might have left severe psychological and emotional impacts.

Article 4 Para 3a of Additional Protocol II of Geneva Convention, 1949 particularly talks about the right to education of children in non-international armed conflicts. Principle 23 of GPID directs the government to ensure education to internally displaced children living in and outside camps. Article 21A of the Constitution provides for free and compulsory education to children between six and fourteen years. Article 45 directs the government to provide early childhood care and education to children till six years. Right of Children to Free and Compulsory Education Act, 2009 mandates free and compulsory education to all children between six and fourteen years. The Act also stipulates that delay in producing Transfer Certificate shall not be a ground for denying admission. Section 9(k) imposes a duty on the concerned local authority to provide free and compulsory education to children from migrant families. Section 14(2) explicitly prohibits denying admission to children for lack of age proof.

In the case of children from Bastar, one or more of these protections were not enforced. While rights were already in place, implementation of the same was negligible primarily because of the lack of a sound policy for IDPs. Ambitious programs like Sarva Shiksha Abhiyaan or Integrated Child Development Services do not have guidelines regarding imparting education in conflict-stricken areas (NCPCR, 2010). Despite the available legal protection, a survey by NCPCR found that many of the IDP camps did not have anganwadis or access to schools (NCPCR, 2010).

### **III. Child labour and trafficking**

Apart from participating in armed conflicts, children of Chhattisgarh violence have faced other forms of child labour too. While Salwa Judum has stopped existing per se and police forces do not recruit under-age SPOs, Naxalite recruitment of children still continues. Many of the children who were displaced to Andhra Pradesh (and present-day Telangana) had to take up adult responsibilities in the family. Hence, they worked in farms and brick kilns. Owing to their vulnerability, these children were exploited in various forms like working under minimum wages. Also, the employer would not assume any responsibility in the event of any accident at the work place and the child will be left to his/her own (Dasgupta K., 2016). Another challenge was the high incidence of trafficking among women and young girls. Sudden loss of male members in the family, loss of livelihood and displacement to unknown territories made them more prone to trafficking. As per various newspaper reports, between 2009 and 2019, 9000 girls and women were trafficked from Bastar.

There are protections in international and national laws for children in general and displaced children in particular, against such violations. The state is duty bound to ensure that every child gets an environment conducive to his/her growth and development. To this effect, Article 19 of UNCRC requires the government to take all possible measures to protect a child from violence, abuse, injury, negligent treatment etc. Article 36 directs state parties to protect children from all forms of exploitation detrimental to a child's welfare. Article 23 of the Constitution prohibits trafficking in every form. The Penal provision pertaining to trafficking can be found in Sections 370 and S. 370A of Indian Penal Code, 1860. Section 370A specifically penalises sexual exploitation of a trafficked minor. Apart from these, Immoral Trafficking (Prevention) Act, 1956, imposes severe penalties on offences involving commercial sexual exploitation of children.

Article 32 of UNCRC directs state parties to protect children from economic exploitation which may adversely affect his/her education and physical and mental health. Article 24 of the Constitution prohibits employment of children below 14 years in hazardous industries including factories and mines. To this effect India has various legislations like Child Labour (Prohibition) Act, 1986, Factories Act, 1948. Mines Act, 1952, Juvenile Justice (Care and Protection) Act, 2015 etc. which penalises child labour.

Despite the abundance of laws, displaced children often fall victim to these menaces given the existing protection gap in the system, lack of co-ordination between Central and State governments, red-tapism, corruption and general insensitivity towards displaced children.

#### **IV. Access to food, sanitation and health care**

A major challenge faced by victims of any civil unrest is access to food and health services. In Chhattisgarh both Salwa Judum and Naxalites burnt houses and farm lands of villagers who were suspected to be sympathizers of opponents. During raids, salwa judum also robbed and killed the livestock of villagers (Sundar N, 2016). For native villagers of Bastar, uprooting from forest, loss of farm land and livestock meant loss of livelihood which eventually affected access to food for children. Those who were displaced to Andhra Pradesh faced livelihood challenges which ultimately affected food availability for children. Also, they were kept out of food security networks like PDS, Antyodaya Yojana etc. citing lack of relevant documents. This further aggravated the situation. A fact-finding mission of National Commission for the Protection of

Child Rights (NCPCR) found that displaced children living in camps were stunted, under-weight, malnutrition and under-weight due to food deprivation (NCPCR, 2010).

Over-crowding, inadequacy of clean water and sanitation facilities were other major challenges faced by IDPs in camps. This posed a severe challenge to women and girls especially during menstruation. Spread of water and air borne diseases were rampant in the camps. Most camps did not have adequate medical facilities or personnel.

Mental and emotional well-being of internally displaced children are matters of concern as they go through an array of experiences ranging from exposure to conflict, violence in camps, loss of family members, separation from family, insecurities, dropping out from school etc. these ultimately result in depression, Post Traumatic Stress Disorder etc. Adequate measures were seldom taken to ensure the psycho-social well-being of children. The NCPCR study throws light on how matters of mental health were often neglected by the government in IDP camps and settlements (NCPCR, 2010). Furthermore, most camps failed to ensure immunization to children.

Law gives highest regard to the physical and mental well-being of every child and hence gives ample legal protection to ensure the same. Fundamental guarantees provided under Article 4 of Additional protocol II of Geneva Convention directs towards ensuring physical and mental well-being of civilians in situations of non-international armed conflict. Principle 18 of GPID emphasizes on the need to ensure adequate medical facilities, access to food, shelter, clothing, sanitation and portable water to the internally displaced. Principle 19 directs the government to ensure medical aid for wounded, sick and disabled IDPs. The same principle focuses on the need to address mental health of IDPs too. Principle 19(3) says the need to ensure to contain contagious diseases that may occur in IDP settlements. Article 24 of UNCRC specifically addresses access to medical facilities and health care of children. Accordingly, State parties are to work towards diminishing infant and child mortality. Article 39 specifically provides for physical and psychological recovery of children who are victims of abuse, violence and armed conflicts. It also lays great emphasis on the need for social integration of such children. A suggestion on similar lines found place in the NCPCR's policy recommendation to the government. It emphasised on the need to reintegrate children who left armed groups. It rightly points out how such children who were in conflict with law eventually became children in need of care and protection. The report also suggests the need for long term rehabilitative measures for such children who were desensitized as a result of exposure to

violence (NCPCR, 2010). Despite this, the government of India or the state governments have not formulated a rehabilitative mechanism for children who have laid down arms. Rather, they are still stigmatised for their once upon a time association with armed groups which further alienates them from society and makes a normal life, development and assimilation to mainstream society difficult.

UNCRC mandates registration of every child's birth. It also recognises every child's right to identity. State governments are directed to provide all possible assistance to re-establish the lost identity of a child.

#### **4. Access to Justice to Children of Chhattisgarh violence**

The above discussion makes it clear that children are the most vulnerable groups to be affected by displacement owing to their dependent status. Displacement brings to them a plethora of challenges including, but not limited to discrimination, higher susceptibility to violence, lack of health care and education, being used as human shields and soldiers by warring parties etc. In some cases children also face the trauma of social ostracisation (as in Chhattisgarh where they are branded as "Naxals" or Judum members), loss of family etc. It has only been a little over three decades that international law has recognised children as entities with specific sets of rights. In 2015, they found specific focus in Sustainable Development Goals which aims to leave no one behind by 2030. In this context access to justice for children in general and displaced children in particular needs specific attention.

The concept of Access to Justice finds its root in rule of law. A civilised society is said to be governed by rule of law when all stakeholders including state are accountable to publicly promulgated law which among other things is in consonance with international human rights standards (UNGA, 2004). In its simplest terms access to justice means peoples' awareness of their rights and knowledge and access to the means to enforce such rights efficiently. It is submitted that the absence of this knowledge renders the very existence of such rights meaningless.

While in its early days, access to justice was limited to access to courts, over the last decades, the spectrum has widened. Today social inclusion is considered as an important cornerstone, as access to justice in its truest sense should mean equal access to justice institutions. OECD's observation that social exclusion and lack of access to justice are directly proportional among communities is in tandem with this point. While in the early days access to justice's

primary focus point was poor, today the concept extends to a wide section of other marginalized people like refugees and children (OECD, 2016).

The United Nations has endorsed Access to Justice philosophy as one of the seventeen goals so as to achieve Agenda 2030. While the underlying idea of all the SDGs is to give a call for nations to act upon so as to ensure peace and prosperity, goal number 16 seeks to “ensure access to justice to all and to build effective, accountable and inclusive institutions at all levels” (UNGA, 2015). Target 16.2 specifically seeks to end abuse, exploitation, trafficking and all forms of violence against and torture of children. Target 16.3 requires member states to promote rule of law and ensure access to justice.

It is a given that conflicts and generalised violence can lead to the breakdown of rule of law . Accordingly, justice could become inaccessible to the displaced. These challenges can be normative or institutional. Normative challenges are when a country lacks proper laws or policy in place to protect the rights of IDPs including children. In the Indian context, we still have not incorporated GPIDs into our domestic legal framework. Nor do we have a uniform policy for protection and rehabilitation of IDPs. This is a major challenge in access to justice for displaced people. Institutional challenges could include non-working of government functionaries or lack of access to thereof and individual challenges in accessing such services. Individual challenges can range from loss of housing, livelihood to cultural and logistic barriers (if they are displaced to a different state/province) etc. This has been the case of Chhattisgarh violence. When the non-Hindi, non-Telugu speaking Gondi, Muriya tribes were displaced to Telugu speaking undivided Andhra Pradesh, language was a clear barrier for children especially in matters of education.

In every democracy, the primary responsibility to ensure access to justice to people is with the state. It is an inherent and fundamental right of every person. In *Anita Kushwaha v. Push Sudan*, Apex Court observed that access to justice was a fundamental right under Articles 14 and 21 of our constitution. This can be read with India’s obligations under international conventions like UDHR, ICCPR, UNCRC, CEDAW etc. which have recognised access to legal remedies and principle of equality before law. While the judgment primarily focused on adjudicatory mechanism as a means to access to justice, it is humbly submitted that the ambit of access to justice is much wider. Legislature and executive too have equally relevant roles to play.

This being the case of state agencies, the role of humanitarian agencies and civil societies in ensuring access to justice need to be mentioned. They have a wide range of responsibilities; like

reviewing legal and policy frame works, identifying protection gaps, act as pressure groups to bring about necessary changes in laws, provide humanitarian aid to the affected, act as buffer one between parties in conflict and to encourage them to uphold rule of law, advocate rights of victims, conduct independent inquiries and publish reports of the same, coordinate the work of relevant actors at domestic, regional and international level provide free legal aid, aim for institutional reforms provide technical support to the stakeholders in their areas of expertise etc.

## **5. Conclusion and Suggestions**

IDPs in general and conflict induced IDPs in particular face severe socio-legal and human rights challenges. State Governments are reluctant to include them in government welfare programs like rural employment guarantee schemes as they perceive IDPs from other states consume the state's welfare funds and consider them a burden to resources. Other challenges include access to clean water, sanitation, food, health service, lack of proper government identity documents like Aadhar etc. In case of Chhattisgarh violence, people who were displaced to forests in Andhra Pradesh had to face severe discrimination from indigenous tribes of Andhra Pradesh as well as the forest officers. In a public hearing conducted by NCPCR in Khammam and Bhadrachalam, IDPs explained how their settlements in the forest were repeatedly burnt down by forest officials alleging Naxalite connections thus leaving them destitute.

In the past there had been a few instances where a positive step was taken towards bringing Conflict Induced IDPs within the Indian legal system. Accordingly, two Bills were introduced in the Parliament in 2004 and 2011; Communal Violence (Prevention, Control and Rehabilitation of Victims) Bill, 2004 and Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011. Both the Bills were dropped following opposition and criticisms.

Thus, even after 20 years of Guiding Principles on Internal Displacement and being party to Sustainable Development Goals, 2015, Access to Justice for IDPs remain unachievable. While in theory, unlike refugees, they do not cross international boundaries and remain within the jurisdiction of their mother land, in reality even their most basic rights are violated.

While no government wants to take responsibility, IDPs, more often than not, become forgotten people. India's adhoc treatment of IDPs further aggravates the situation. Thus, India's primary focus should be to develop a comprehensive framework for IDPs which will ensure them basic human rights and a life with dignity in the event of displacement. Towards that, India should stop negating GPIDs and try to incorporate its principles in our policy for IDPs.

For any kind of protection or rehabilitative measure to be successful, it is important to have quality and timely data on the magnitude and demography of displacement. This is more so for women and children, as they face greater challenges. In order to have such data, the government should establish a designated agency at Center and State levels. Since the displacement can be inter-district or even inter-state, it is imperative that there is co-operation between governments at different levels including data sharing.

In any armed conflict, though everyone is at equal peril, children face more challenges due to their young age and consequent vulnerability. According to a 2020 report by Save the Children, one out of five children live in conflict zones (Save the Children, 2020). If such conflicts lead to displacement, the government should take all necessary steps to bring back normalcy to their lives and ensure that their childhoods are not snatched away. It should be made sure that children who have lost their identities are provided with them, including birth registration at the earliest. This is important as a lack of identity documents may lead to denial of other services including education, health, food etc.

The latest challenge displaced children face is the ongoing covid-19 pandemic. United Nations Secretary General Antonio Guterres rightly pointed out that IDPs are ultra-vulnerable to the pandemic (Save the Children, 2020). UNICEF Executive Director Henriette Fore considers displaced children as the hidden victims of the recent pandemic (Save the Children, 2020). While social distancing is important in not contracting the virus, this becomes difficult in over-crowded IDP camps. Unavailability of clean water also poses a challenge.

While formulating a policy for IDPs, it is pertinent to remember that it is not a one-person game. While the primary responsibility for relief and rehabilitation is upon the government, the role of international humanitarian agencies, NGOs, local self-governments and other civil society groups cannot be undermined. This is particularly true in reintegration of children who were in conflict with law ones but who later became children in need of care and protection.

Governments at centre and states should ensure that the rights of children of Chhattisgarh violence are protected. Strict action should be taken against all the parties who have committed violence of any forms against children. Keeping in mind its obligation under UNCRC authorities should focus on reintegration of children into society by providing them support including psychological support.

Though none of the SDGs or targets talk about IDPs explicitly, authorities should realise that no country can attain sustainable development if a significant population is in constant movement and uncertainty. Protection of children should be given adequate attention as they grow up to be the future of every country.

Lastly, it is to be kept in mind that institutional failures can negate even the most comprehensive legislation or policy from achieving the desired results. Hence it is imperative to educate and sensitize all the involved parties like the host population, bureaucrats, law enforcement machinery etc.

## 6. Reference

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