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From Conflict to Accord and a Decade Thenceforth- The Plight of Internally Displaced Persons in Bodoland and the Law

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ABSTRACT

India has an age old unbroken history of welcoming and providing warm hospitality to an endless inundation of men and women of diverse creeds, cultures and races. However, when it comes to its own citizens who are displaced due to conflicts, the situation is entirely different and awfully pathetic. The IDPs of Bodoland are facing the same. They are devoid of basic rights and amenities. In the absence of a comprehensive law pertaining to protection and rehabilitation of conflict induced IDPs, their problems have been aggravated. In view of the forgoing a study of the genesis of Bodoland, history of ethnic conflicts in Bodoland, condition of the IDPs created by these conflicts and legal response to the needs of these IDPs has assumed paramount importance. This paper aims to shed light on these not so talked about problems of the people of Bodoland and also makes a humble attempt advancing a few suggestions towards remedying the same.

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Introduction

The north-eastern region of India has seen many episodes of armed conflict and generalised violence since India's independence in 1947. Some of these situations caused massive internal displacement, of hundreds of thousands of people. In 2012, more than 115,000 people remain in internal displacement in the region due to such violence, according to conservative estimates.¹ Out of these 115,000 internally displaced persons (IDPs), more than 76,000 IDPs are from Bodoland.

Bodoland or Bodoland Territorial Areas District (BTAD), which is composed of four districts of Assam namely Kokrajhar, Baksa, Chirang and Udalguri, is populated by various communities such as Bodos, Asomiyas, Bengalis, Rajbongshis, Santhals, Rabhas, Garos, Muslims etc. This area has been experiencing ethnic conflict for quite some time. Ethnic conflicts took place in 1993, 1996, 1998, 2008 and recently in the year 2012. These conflicts created large number of IDPs. These IDPs are staying in the relief camps and devoid of basic amenities.

The conflict which erupted in 2012 in the Kokrajhar district of Bodoland has displaced the indigenous Bodos, Rajbongshis and the immigrant Muslims from their habitats. The displaced stayed in the temporary relief camps, government institutions and other buildings. More than 300 relief camps were set up in Kokrajhar, Chirang and Dhubri district of Assam respectively to serve 4 lakhs inmates. Although many of the IDPs have returned to their home, 12,644 displaced people are still living in 20 relief

camps.² Presently, the inhabitants of these relief camps are faced with acute shortage of food, drinking water, sanitation, medicine supply issues to mention a few. They are also encountering deep psychological problems and have a deep sense of insecurity even while staying in the camps. This has manifested in their behaviour of unwillingness to return back to their places of original residence due to an embedded sense of security deficit.

In this background, the paper seeks to present a coherent picture of the ethnic conflicts that have taken place in Bodoland and resulted in large number of conflict induced IDPs. It examines the condition of these IDPs and also scrutinises Indian legal responses as to how these responses protect and rehabilitate conflict induced IDPs.

Internal displacement and internally displaced persons: a conceptual framework

The expression 'internally displaced persons' (IDPs) is of recent usage. Until the late 1980s, there was no such standard term.³ Early references to internally displaced persons were made through the emergence of the expression 'displaced persons'. This expression was used for the first time in UN General Assembly Resolution 2958(XXVII) of 12 December 1972.⁴ The UN High Commissioner for Refugees (UNHCR)

¹Internal Displacement Monitoring Centre (IDMC) (2013), *At least 540,000 people displaced by armed conflict and violence in India*, available at <http://www.internal-displacement.org/idmc/website/countries.nsf/%28httpEnvelopes%29/90E174CA3D9CF14CC1257790002402F2?OpenDocument#22.2.1> (Last visited on January 27, 2014).

²"Over 12,000 people still in BTAD relief camps", *The Assam Tribune*, February 26, 2013, available at <http://www.assamtribune.com/scripts/detailsnew.asp?id=feb2713/at08> (Last visited on January 27, 2014).

³ Catherine Phuon (2005), *The International Protection of Internally Displaced Persons* (Cambridge: Cambridge University Press), at 14.

⁴ See UN General Assembly Resolution 2958(XXVII), December 12, 1972, available at <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/269/88/IMG/NR026988.pdf?OpenElement> (Last visited on January 27, 2014). The Resolution was titled as "Assistance to Sudanese Refugees Returning from Abroad".

asked the Executive Committee⁵ in 1977 to clarify the distinction between refugees and displaced persons, no clear answer was provided, although there seemed to be an understanding that refugees crossed international borders, whereas displaced persons did not.⁶ In the same year, UNHCR suggested that displaced persons referred to people who crossed borders but did not qualify for refugee status, as well as internally displaced persons and this created very much confusion. However, since the 1970s, the expression has been increasingly used without its meaning being clarified.

In 1998, the term 'internally displaced persons' was defined for the first time in an international instrument titled the 'UN Guiding Principles on the Internal Displacement'.⁷ It defines IDPs as follows:

[I]nternally displaced persons are 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.⁸

An analysis of this definition clearly demonstrates only two prominent features and these two are universally accepted as characteristics of internal displacement: (1) involuntary or coerced movement, and (2) the occurrence of such movement within national borders.⁹ The second element distinguishes IDPs from refugees, who are also involuntarily displaced but across internationally recognized state borders.

Internal displacement occurs typically in response to armed conflict, persecution, situations of widespread violence, natural and man-made disasters and, more recently, large-scale development projects. On the basis of the reasons for displacement, internal displacement can be broadly put into three categories:

Disaster-induced Displacement

Disaster has been defined as "a serious disruption of the functioning of a society, causing widespread human, material, or environmental losses which exceed the ability of the affected society to cope using its own resources."¹⁰ Disasters can be natural such as floods, droughts, earthquakes, tropical storm, famine, or man-made such as industrial or technological disasters. Further, though no official estimate is present in

regards to number of people displaced due to a disaster, the number estimated is in millions of people.

Development-induced Displacement

In order to achieve economic growth, numerous countries, especially Third world countries, invest and have invested in large scale industrial projects, power plants, dams etc., and the same was possible only through land acquisition and subsequent displacement of people. Therefore, Development-induced Displacement is a widespread and growing phenomenon, and evidence has suggested that the same has led to a greater divide between haves and have-nots, as the beneficiaries of development are numerous but the cost is more often than not borne by the poorest and marginalized section of the population.

Conflict or violence-induced Displacement

Conflict usually occurs in consequence of pursuit of political goals, therefore various identity-based autonomy movements, secessionist movements or localized violence (including religious and ethnic conflicts) have led to internal displacement. Conflict-induced displacement has far reaching effects, and even when the conflict might be over, the displaced are unable to return due to the fear of similar conflict happening again.

Genesis and historical development of bodoland: from unrest to accord and a decade thenceforth

Before going into the present conditions of the internally displaced persons in Bodoland, it is highly desirable to discuss the establishment and historical development of Bodoland. The genesis of Bodoland lies in the Bodos discontent and their movement for a separate state. This movement for Bodoland can be studied under the following heads:

Bodo discontent

The discontent of the Bodos is rooted in the history of neglect and marginalization in a state which they claim was their original home for centuries. The Bodos are a major tribal group and the most numerous plains tribesmen in Assam, constituting about 2 million out of Assam's total population of 22 million in 1991 who assert that they were the original and authentic settlers in Assam.

At the time of India's independence in 1947, the Bodos constituted 49 per cent of the total population, but due to successive migration and settlement of Bengalis, Assamese and other communities in their areas, they have been reduced to a small minority. The successive migration resulted in the alienation of their land to the non-tribal settlers and the consequent loss of their relative strength and identity.¹¹ Bodos felt that they have been neglected, exploited, alienated and discriminated against for decades. The growth of literacy and education among the plains tribes was negligible and the Bodo inhabited districts were among the least developed. The Bodo-inhabited areas had been neglected by the successive Congress governments and the AGP governments also did not try to address the problems of the Bodo people and the Bodo areas.¹²

The tribal people belonging to the plains of Assam formed the Plains Tribal Council of Assam (PTCA) and in 1967, launched a popular movement with the demand for a new state

⁵ It was set up in 1975 as an organ of UNHCR to assist states with the interpretation of the provisions of the 1951 Convention relating to the Status of Refugees.

⁶ See G. Goodwin-Gill (1996), *The Refugee in International Law* (Oxford: Clarendon Press), at 14.

⁷ Guiding Principles on the Internal Displacement, UN Doc. E/CN.4/1998/53/Add.2.

⁸ *Ibid.*, Paragraph 2 to the Introduction to the Principles. African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, 2009 (Kampala Convention) have verbatim reproduced the definition of IDPs as defined in the Guiding Principles in its Article 1 (k). Kampala Convention is available at <http://www.unhcr.org/4ae9bede9.html> (Last visited on January 27, 2014).

⁹ Erin Mooney (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, at 10.

¹⁰ Available at <http://www.unisdr.org/we/inform/terminology> (Last visited on January 27, 2014).

¹¹ Harihar Bhattacharyya (2005), "India: Bodo People's Rights Take a Step Forward", *Federations*, 4(3): 17-18, at 17.

¹² Udayan Misra (1989), "Bodo Stir: Complex Issues, Unattainable Demands", *Economic and Political Weekly*, XXIV(21):1146-1149 at 1149, available at http://www.epw.in/system/files/pdf/1989_24/21/Bodo_Stir_Complex_Issues_Unattainable_Demands.pdf (Last visited on January 25, 2014).

for all the plains tribes of Assam on the north bank of Brahmaputra to be called 'Udayachal'. However, the PTCA gave up agitation for a separate homeland after it joined the Janata government in 1978-79.¹³

Resisting Assamization

In 1960, when Assamese was declared the sole official language of Assam the Bodos who had no indigenous written script for their own language, retaliated. The Bodos and other tribals resented the campaign of assimilation and felt they had no chance of preserving their own cultural heritage in that atmosphere¹⁴, dominated by majority Assamese culture. They rejected the Assamese script that they had been using for their language in favour of Roman script. The Sarat Chandra Singha government's (1973) opposition to the demand of Bodos to use the Roman script in place of the Assamese script for their language and AASU's demand for an end to the policy of reservation for Scheduled Castes (SC)/Scheduled Tribes (ST) candidates and scholarships for SC/ST students during the anti-alien movement, made the Bodos lose their faith in the Assamese community.¹⁵

In 1976, after some persuasion by the central government, the Bodos gave up their demand for adopting Roman script in favour of the *Devnagari* script, in which Hindi is written. The rejection of the Assamese script further widened the gap between the Assamese and Bodos. Where on the one hand, the move fuelled Assamese fears that they would be reduced to a minority in their own state, on the other hand, the Bodos feared that their language and identity would be lost in an "Assamization".

A state-wide campaign to have illegal immigrants deported was begun in the 1970s by Asom Gana Parishad which concluded with the signing of the Assam Accord. Bodo leaders strongly opposed Clause 6 of the Assam Accord,¹⁶ which promised safeguards to protect the cultural identity of 'the Assamese people'. Though the leaders of the Assam Movement meant composite indigenous population of Assam by the term 'Assamese people', the Bodo leaders feared that the clause might give legitimacy to the imposition of Assamese language and culture on Bodos.¹⁷ The Bodo leadership was also surprised that the Rajiv Gandhi government at the Centre patronised the Bodo movement during the rule of the first AGP government.¹⁸

¹³*Ibid*, at 1148.

¹⁴Hiren Gohain (1989), "Bodo Stir in Perspective", *Economic and Political Weekly*, XXIV(25):1377-1379 at 1377, available at http://www.epw.in/system/files/pdf/1989_24/25/Bodo_Stir_in_Perspective.pdf (Last visited on January 25, 2014).

¹⁵*Ibid*, at 1378.

¹⁶Clause 6 of the Assam Accord, 1985.

Constitutional, legislative and administrative safeguards, as may be appropriate shall be provided to protect, preserve and promote the culture, social, linguistic identity and heritage of the Assamese people.

Available at http://cdpsindia.org/assam_accord.asp (Last visited on January 25, 2014).

¹⁷Sanjib Baruah (1999), *India Against Itself: Assam and the Politics of Nationally* (New York: Oxford University Press), at 124.

¹⁸Monirul Hussain (1999), "Fear of Being Killed, Violated and Displaced: An Incomplete Dossier of Terrorism in Post-Colonial Assam" in S. Kailash Aggarwal (Ed.), *Dynamics of Identity and Inter-group Relations in North-East India* (Shimla: Indian Institute of Advanced Studies), at 130.

Divide Assam 50-50

In 1986, the new AGP government dissolved all encroachments made after January 1, 1980 as illegal in accordance with the Assam Accord to protect the forests. But this led to eviction of many Bodo peasants giving a political fillip to the Bodo movement. When the ABSU under Upendra Nath Brahma [ABSU (UB)] failed to bring in the other plains tribes for a new movement, it decided to move ahead on its own and they gave up the earlier demand for a 'tribal homeland' in favour of a full-fledged state of 'Bodoland'.¹⁹

The ABSU's (UB) section launched its movement in March, 1987 on the basis of the 92-point charter of demands which it submitted to the Assam government. The last demand in the 92-point charter related to the establishment of a separate state for the 'plains tribes' of Assam on the north bank of the Brahmaputra. The original charter of demands was soon to be reduced to three 'political' demands:

- the creation of a separate state of 'Bodoland';
- the setting up of district councils in the tribal areas on the south bank of Brahmaputra;
- the inclusion of the Bodo- Kacharis of Karbi Anglong in the Sixth Schedule of the Constitution.

But the ABSU (UB)'s claim to represent the entire Bodo population was contested by PTCA and also by the faction of the ABSU led by Gangadhar Ramchiary.²⁰ The ABSU (UB)'s demand for a separate 'Bodoland' gradually alienated the Bodos from the Assamese mainstream.

The movement for a separate Bodo homeland began in 1987 in a democratic manner with the slogan 'Divide Assam 50-50'. The ABSU (UB) opted for violent tactics and it began to attack PTCA supporters and non-Bodo government officials. Apart from hitting out at those sections of the Bodos, which were opposed to the division of Assam, the ABSU (UB) issued 'quit notices' to the non-Bodo population to create a homogeneous Bodo population area. Hundreds of civilians from both and non-Bodo communities and hundreds of security personnel had been killed by the Bodo militants. Bodo militants began an ethnic cleansing campaign in the proposed Bodoland area through targeted violence, extortions, kidnappings, etc. They attacked school buildings, bazaars, public buildings, railway stations, roads, bridges etc., to pressurise the central as well as state governments.²¹ The state's response to this violent movement was the use of force through the army and other paramilitary forces.²²

Bodo Accord of 1993

On February 20, 1993, the All-Bodo Students Union and the Bodo People's Action Committee (BPAC) signed Bodo Accord with the Central and the State governments to end the violent Bodoland movement. The Accord made a commitment to forming an elected Bodo Autonomous Council (BAC) comprising "contiguous geographical areas between river Sankosh and Mazbat/river Pasnoi". The Accord left the question

¹⁹Udayan Misra (1989), "Bodo Stir: Complex Issues, Unattainable Demands", *Economic and Political Weekly*, XXIV (21):1146-1149 at 1149, available at http://www.epw.in/system/files/pdf/1989_24/21/Bodo_Stir_Compex_Issues_Unattainable_Demands.pdf (Last visited on January 25, 2014).

²⁰*Ibid*.

²¹*Ibid*, at 1147-1148.

²²Sanjib Baruah (1999), *India Against Itself: Assam and the Politics of Nationally* (New York: Oxford University Press), at 175-177.

of its precise territorial jurisdiction open and provided that the government will “scrutinise the list of villages submitted by Bodo activists having 50 percent and more population which will be included in the BAC. For the purpose of providing a contiguous area, even villages having less than 50 per cent tribal population shall be included”²³.

The State Assembly passed the BAC Act in the same year, which provided for a General Council to be constituted by 40 elected members including 30 seats reserved for the Scheduled Tribes. The Act also provided for functional autonomy to the BAC over a total 37 subjects. Though an interim BAC was formed later that year, elections for BAC could not be held because of the disagreement and confusion over the territorial jurisdiction of the new body. The BAC however could never exercise whatsoever limited autonomy was provided by the Act mainly because of insufficient financial powers and overwhelming domination of the state government over most of the transferred subjects. The Government of Assam unilaterally demarcated and declared the boundary of the BAC in the later part of 1993, which was rejected by the ABSU and BPAC and this resulted in large-scale violence in different parts of Bongaigaon and Kokrajhar and the gruesome massacre in Barpeta in 1994²⁴.

The ABSU, under its then president Swambla Basumatary, rejected and denounced the Bodo Accord and revived its demand for the creation of a separate State of Bodoland to be carved out of Assam, and submitted a memorandum to the then Prime Minister P.V. Narasimha Rao on March 19, 1996. On July 30, 1996, Swambla Basumatary was assassinated by militants of the National Democratic Front of Bodoland (NDFB). The NDFB was known as the Bodo Security Force at the time of its inception on October 3, 1986, until it took the new nomenclature in 1993. The separatist outfit has been waging an armed campaign for a “sovereign Bodoland” and “self-determination of the Bodos” ever since.

Fierce fratricidal clashes followed among the Bodos, with the NDFB and the Bodo Liberation Tigers (BLT), formed on June 18, 1996, which too waged an armed campaign for statehood running parallel with the ABSU-led revived statehood movement, killing loyalists and sympathisers of each other. The Bodo militant outfits began an ethnic cleansing campaign in the proposed Bodoland area. A large number of people including women and children were killed and thousands rendered homeless in ethnic violence in lower Assam by these militant organisations.

Due to its organisational strength and armed struggle, the BLT gradually became the *de facto* guardian organisation of the Bodo movement and in July 1999, it declared unilateral ceasefire in response to the central government’s appeal for talks.

Bodoland Territorial Council Accord of 2003

The Government of India and the Government of Assam had been making concerted efforts to fulfil the aspirations of the Bodo people relating to their cultural identity, language, education and economic development. Towards this end, a series of tripartite talks were held between Government of India,

Government of Assam and Bodo Liberation Tigers (BLT) since March, 2000. As a result, it was agreed to create a self-governing body for the Bodo Areas in the State of Assam and accordingly, on February 10, 2003, the Central Government, the BLT and the State Government signed a new Bodoland Territorial Council Accord²⁵ (**BTC Accord**) for creation of a ‘Bodoland Territorial Council’ (BTC). BTC was to comprise of four new contiguous districts to be created by reorganising the existing districts of Assam. Initially, the BTC would comprise of 3,082 villages where the Bodos were in majority.²⁶

Bodoland Territorial Areas District (BTAD)

To implement the BTC Accord, the Sixth Schedule to the Constitution of India, in its application to the state of Assam, was amended on September 7, 2003 by the Sixth Schedule to the Constitution (Amendment) Act, 2003²⁷ and the provisions of the Sixth Schedule were made applicable to the area of the Bodoland Territorial Council i.e. Bodoland Territorial Areas District (BTAD). This Amendment gave BTAD the status of an autonomous district as Sixth Schedule area under the Constitution. Thereafter, in accordance with Article 244 (2), BTAD came to be administered in accordance with the provisions of the Sixth Schedule.

The BTAD is popularly known as **Bodoland**. The BTDC comprised of, according to a notification issued by the Government of Assam on October 31, 2003, four new districts, viz., Kokrajhar, Baska, Chirang and Udalguri, which had been carved out of eight districts of Assam namely Kokrajhar, Dhubri, Bongaigaon, Barpeta, Nalbari, Kamrup, Darrang and Sonitpur.

Creation of Bodoland: A Synoptic View



Map 1: Map of Assam (as in 2001)

²⁵ The objectives of the agreement were:

- to create an Autonomous self-governing body to be known as Bodoland Territorial Council (BTC) within the State of Assam;
- to provide constitutional protection under Sixth Schedule to the said Autonomous Body;
- to fulfil economic, educational and linguistic aspirations of the Bodos;
- to preserve the land-rights of the Bodos;
- to preserve the socio-cultural and ethnic identity of the Bodos; and
- to speed up the infrastructure development in BTC area.

²⁶ Memorandum of Settlement, Bodo Accord, February 10, 2003, Paragraph 3.1. This Accord is also available at http://cdpsindia.org/btc_accord.asp (Last visited on January 25, 2014).

²⁷ Sixth Schedule to the Constitution (Amendment) Act, 2003, available at http://www.prindia.org/uploads/media/Sixth%20Schedule%201/bill164_20080318164_SIXTH_SCHEDULE_with_amendments.pdf (Last visited on January 27, 2014).

²³Memorandum of Settlement, Bodo Accord, February 20, 1993. This Accord is also available at https://peaceaccords.nd.edu/site_media/media/accords/Bodo_Accord_-_1993.pdf (Last visited on January 25, 2014).

²⁴Bhupen Sarmah (2002), The Question of Autonomy for the Plain Tribes of Assam, *Social Change and Development*, 51(1):87.

(Source: http://censusindia.gov.in/maps/State_Maps/StateMaps_links/assam01.html)



Map 2: Map of Assam (as of 2012)

(Source: <http://www.mapsofindia.com/maps/assam/assam-district.htm>)

Ethnic conflicts and internal displacement in bodoland

Bodoland is populated by various communities and it has been experiencing ethnic conflicts for quite some time now. The clashes between Bodos and Muslims in 2012 are one of the most recent examples. The conflict in the tribal areas between the Immigrant Muslims and the Tribal communities is not of recent origin. There have been many such conflicts in the past. Several reasons may be enumerated as the causal factors of these bouts of ethnic conflict but the most logical and prominent one seems to be the Bodos need to carve out a homogeneous territory which would in turn provide impetus to their demand of a separate Bodoland. All these ethnic conflicts have resulted in the internal displacement of large number of people. Impact of these ethnic conflicts on the internal displacement and the creation of internally displaced persons can be discussed under two sub-heads representing two different time periods, viz. (A) Ethnic Conflicts and Internal Displacement in Bodoland: Prior to BTC Accord 2003 and (B) Ethnic Conflicts and Internal Displacement in Bodoland: After BTC Accord 2003.

Ethnic Conflicts and Internal Displacement in Bodoland: Prior to BTC Accord 2003

Bodos and immigrants Muslims clashed in parts of the districts of Kokrajhar and Bongaigaon (these areas of Bongaigaon since 2003 fall under Chirang) since October 7, 1993 to October 11, 1993.²⁸ Officially, 3,658 families or about 18,000 people were affected. Some fled to nearby areas within Assam, others fled to Bhutan. According to a memorandum submitted to the Chief Minister of Assam by the Kokrajhar and Bongaigaon Saranathi Committee in 1996, there were more than 20,000 Muslims living in 18 relief camps in the two districts by that year. The displaced Muslim families were sheltered in makeshift relief camps for more than 16 years.²⁹ As of November 2011, more than 10,000 IDPs were still staying in the relief camps.³⁰

²⁸UddipanaGoswami (2008), "Nobody's People: Muslim IDPs of Western Assam", in Samir Kumar Das, *Blisters on their Feet: Tales of Internally Displaced Persons in India's North East* (New Delhi: Sage Publication), at 182.

²⁹SushantaTalukdar (2012), "Murky Politics", *Frontline*, 29(16):10-13, at 11, available at <http://pay.hindu.com/ebook%20-%20ebf120120824part1.pdf>(Last visited on January 20, 2014).

³⁰ Internal Displacement Monitoring Centre (IDMC) (2011), *This is our land: Ethnic violence and internal*

May 1996 and May 1998

In May 1996 and May 1998, another bout of clashes took place between Bodos and Adivasis in Bongaigaon district. The clashes in 1996 claimed 198 lives and displaced 2,02,684 people belonging to 43,214 families in Kokrajhar and the undivided Bongaigaon districts. Even as most of the affected people continued to stay in relief camps, another round of clashes occurred in 1998, claiming 186 lives and displacing about 94,000 people belonging to both the communities. The total number of families displaced in Kokrajhar and Bongaigaon districts in clashes in 1993, 1996 and 1998 rose to 48,556, accounting for 3,14,342 people.³¹ This triggered a serious humanitarian crisis as most of the affected people stayed in the relief camps for over a decade while some stayed for nearly 17 years. Of those displaced in 1996 and 1998, 44,000 were estimated to be children.³² As of November 2011, more than 16,000 people displaced in May 1996 (Bodos- Adivasis violence) and almost 20,000 people displaced in May 1998 (Bodos- Adivasis violence) were staying in the relief camps.³³

Ethnic Conflicts and Internal Displacement in Bodoland: After BTC Accord 2003

August- October 2008

In August 2008, communal violence between Bodos and immigrant Muslim settlers broke out in Routa Bagan village in Udalguri district when the All Assam Students' Union organised a state-wide campaign to evict illegal immigrants. More than 14,000 people fled, taking shelter in nine relief camps. Further violence in October 2008 in Udalguri, Darrang, Sonitpur and Chirang districts killed 55 and displaced 212,000 people, with 54 villages being directly affected and the residents of another 150 villages fleeing for fear of being attacked. The displaced included Muslims as well as Bodos. As of January 2009, 50,000 mostly Muslim IDPs were living in relief camps in Udalguri and Darrang districts because they were afraid to return, and the government extended the deadline for return to 31 January 2009 as the deadline for the return of the displaced.³⁴ As of June 2009, about 125,000 total IDPs were still staying in camps.³⁵

displacement in North-East India, available at [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/33F71FE1DC7DA917C125795600303A63/\\$file/India-SCR-Nov2011.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/33F71FE1DC7DA917C125795600303A63/$file/India-SCR-Nov2011.pdf)(Last visited on January 23, 2014).

³¹*Ibid*, at 12.

³²Farah Naqvi (2012), "Assam calls for a human response", available at <http://www.thehindu.com/opinion/op-ed/assam-calls-for-a-human-response/article3731625.ece>(Last visited on January 26, 2014).

³³ Internal Displacement Monitoring Centre (IDMC) (2011), *This is our land: Ethnic violence and internal displacement in North-East India, available at* [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/33F71FE1DC7DA917C125795600303A63/\\$file/India-SCR-Nov2011.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/33F71FE1DC7DA917C125795600303A63/$file/India-SCR-Nov2011.pdf)(Last visited on January 23, 2014).

³⁴Internal Displacement Monitoring Centre (IDMC) (2010), "Assam (North-East India): Displacement following Bodo-Muslim and Bodo-Santhal violence", available at <http://www.internal-displacement.org/idmc/website/countries.nsf/%28httpEnvelopes%29/C4195D26719DC1E1C125778F004F94C5?OpenDocument>(Last visited on January 26, 2014).

³⁵ Internal Displacement Monitoring Centre (IDMC) (2011), *This is our land: Ethnic violence and internal*

July-August 2012

Once again, clashes took place between Bodos and Muslims in July-August 2012 in the Bodoland Territorial Autonomous Districts (BTAD) consisting of Baksa, Chirang, Kokrajhar and Udalguri districts, and neighbouring Dhubri district of Assam. Since 20 July 2012, the riots had claimed about 90 lives as on 31 August 2012 and displaced over 400,000 people.³⁶ There were many unrecorded deaths and if the unrecorded deaths were taken into consideration, the number of unnecessary deaths would be much higher. Whenever conflict between the communities occurs people have to be on the run for their lives with whatever can be carried physically at that moment. During the recent conflict people too had to face a similar situation and also had to hunt for alternate shelters. The extent of misery and financial loss is at times incalculable to these already economically backward people.

The IDPs took shelter in more than 300 camps set up on public land and in public buildings, including schools. Living conditions in camps were reportedly dire, with a lack of basic necessities and little access to health care and education services. Government schools and other buildings have been converted into relief camps thereby affecting school children and general public. The Asian Centre for Human Rights (ACHR) in its Report pointed out that no Minimum Standards were followed in Humanitarian Response. It mentioned that with no basic facilities such as adequate food, medicines, doctors, drinking water, clothes, sanitation and hygiene and more people flocking the already overcrowded relief camps, the humanitarian crisis was palpable. This point was further corroborated by the National Commission for Minorities in its Report on Visit to Bodoland Territorial Autonomous Districts (BTAD) and Dhubri District in Assam. Report pointed out that the women were malnourished, children unclad, toilet facilities meagre and hardly any place for people to take a bath. It was further observed that inmates of these relief camps also complained that their reports were not taken down as FIRs by the Police. Recurrence of violence was a major issue with most inmates.³⁷ More than 12,000 people displaced in this ethnic violence in the Bodoland Territorial Autonomous Districts (BTAD) areas are still living in relief camps in Kokrajhar and Chirang districts. According to an official release, as many as 12,644 displaced people are still living in 20 relief camps. Of which 4615 are in Kokrajhar district, all of whom belonging to the minority community and 395 Bodo and 7634 minority people are living in camps in Chirang district.³⁸

displacement in North-East India, available at [http://www.internal-displacement.org/8025708F004BE3B1/\(httpInfoFiles\)/33F71FE1DC7DA917C125795600303A63/\\$file/India-SCR-Nov2011.pdf](http://www.internal-displacement.org/8025708F004BE3B1/(httpInfoFiles)/33F71FE1DC7DA917C125795600303A63/$file/India-SCR-Nov2011.pdf) (Last visited on January 23, 2014).

³⁶ Asian Centre for Human Rights (ACHR) (2012), *Assam Riots: Preventable but not prevented*, available at <http://www.achrweb.org/reports/india/AssamRiots2012.pdf> (Last visited on January 26, 2014).

³⁷ National Commission for Minorities (NCM) (2012), Report on Visit to Bodoland Territorial Autonomous Districts (BTAD) and Dhubri District in Assam (August 11-12, 2012), available at <http://www.ncm.nic.in/pdf/tour%20reports/Assam.pdf> (Last visited on January 27, 2014).

³⁸ "Over 12,000 people still in BTAD relief camps", The Assam Tribune, February 26, 2013, available at <http://www.assamtribune.com/scripts/detailsnew.asp?id=feb2713/at08> (Last visited on January 27, 2014).

Protection of IDPS in bodoland and the law

In the previous part, it has been seen that series of ethnic conflicts in Bodoland has produced the problem of internal displacement and created large number of IDPs in Bodoland and the adjacent areas. Many of these IDPs are still staying in relief camps and devoid of basic amenities.³⁹ Against this backdrop, this part strives to analyse the various legal instruments pertaining to the protection of these IDPs under two sub-headings, viz. (A) International Level Response and (B) Domestic Level Responses.

International Level Response

At the International level, there is no universal legally binding instrument specifically dealing with the IDPs. However, the UN Commission on Human Rights has adopted the "Guiding Principles on Internal Displacement".⁴⁰ These Principles, although not legally binding, are the main instruments specifically dealing with IDPs.

Guiding Principles on Internal Displacement

These Guiding Principles are considered as "the basic international norm for protection" of IDPs. Based upon international humanitarian and human rights law and analogous refugee law, these Principles are intended to serve as an international standard to guide governments, international organizations and all other relevant actors in providing assistance and protection to IDPs. The Guiding Principles seek to protect all internally displaced persons in internal conflict situations, natural disasters and other situations of forced displacement.

The Principles identify the rights and guarantees relevant to the protection of the internally displaced in all phases of displacement. They provide protection against arbitrary displacement, offer a basis for protection and assistance during displacement, and set forth guarantees for safe return, resettlement and reintegration. Principles cast the primary duty and responsibility on the National authorities to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.⁴¹ They put further obligation on States to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.⁴² While

³⁹For a detailed account of the condition of these IDPs, see Internal Displacement Monitoring Centre (IDMC) (2010), India: National and State Authorities Failing to Protect IDPs, available at [http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/F4A1646EA4DEFB06C1257792004BE769/\\$file/India_Overview_Sept2010.pdf](http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/F4A1646EA4DEFB06C1257792004BE769/$file/India_Overview_Sept2010.pdf) (Last visited on January 27, 2014). Also see Asian Centre for Human Rights (ACHR) (2009), India: Human Rights Report 2009, available at <http://www.achrweb.org/reports/india/AR09/AR2009.pdf> (Last visited on January 27, 2014).

⁴⁰ Guiding Principles on Internal Displacement were annex to the Report of the Representative of the UN Secretary-General on IDPs, Mr. Francis M. Deng. Mr. Deng submitted this Report to the UN Commission on Human Rights pursuant to Commission resolution 1997/39. Commission adopted the whole Report with Annex on February 11, 1998. See UN Doc. E/CN.4/1998/53/Add.2. The Report with the Guiding Principles as its annex is available at <http://www.refworld.org/docid/3d4f95e11.html> (Last visited on January 27, 2014).

⁴¹ Guiding Principles on Internal Displacement, Principle 3.

⁴² *Ibid.*, Principle 9.

dealing with right to standard of living of IDPs, Guiding Principle outlines that at the minimum, regardless of the circumstances and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to: a) Essential food and potable water; b) Basic shelter and housing; c) Appropriate clothing; and d) Essential medical services and sanitation.⁴³ These Principles advocate that IDPs should not be discriminated on any ground such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria.⁴⁴

With respect to their legal character, the Guiding Principles are neither a draft declaration on the rights of the internally displaced persons nor do they constitute, as such, a binding instrument. However, they 'reflect and are consistent with international human rights law and international humanitarian law'.⁴⁵ They aim to provide practical guidance to all those dealing with internally displaced persons. They should also guide States faced with problems of internal displacement, as well as other authorities, groups and persons. It also promises to be of use to inter- governmental and non- governmental organizations in fulfilling their mandates.

It is also a highly persuasive compilation and consolidation of the existing international regime on the subject. Thus, it constitutes an important tool for addressing the protection and assistance needs of internally displaced persons as well as contributing to the prevention of internal displacement in the future. Considering the importance of the Guiding Principles, in September 2005, the heads of state and governments assembled at the World Summit in New York recognized the Guiding Principles as "an important international framework for the protection of internally displaced persons".⁴⁶

Domestic Level Responses

India is having large number of conflict-induced IDPs. But it is very difficult to estimate the accurate number as there is no central government agency responsible for monitoring the numbers of people displaced and returning, and humanitarian and human rights agencies have limited access to them. The displaced whose numbers are known are generally those living in camps and registered there, and it is not known how many people live in displacement outside of camps. A conservative estimate of the total number of people displaced by conflict and violence would be at least 540,000 as of December 2012.⁴⁷

Many of India's conflict induced IDPs have insufficient access to basic necessities such as food, clean water, shelter and health care. They are living in pitiable condition. Yet, Indian Government has not taken any concrete action for their protection and rehabilitation. There is no national policy, legislation or other mechanism to respond to the needs of people displaced by violence in India. However, it is important to note here that Government of India has formulated the National Rehabilitation and Resettlement Policy in the year 2007 and this

Policy only talk about the development induced displacement and IDPs.⁴⁸ It does not cover conflict induced development and IDPs. Recently, on August 29, 2013, the Lok Sabha (Lower House of Indian Parliament) passed the **Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill, 2013**⁴⁹ to:

- ensure a humane, participative, informed and transparent process for land acquisition for industrialisation, development of essential infrastructural facilities and urbanisation with the least disturbance to the owners of the land and other affected families
- provide just and fair compensation to the affected families whose land has been acquired or proposed to be acquired or are affected by such acquisition and make adequate provisions for such affected persons for their rehabilitation and resettlement and for ensuring that the cumulative outcome of compulsory acquisition should be that affected persons become partners in development leading to an improvement in their post-acquisition social and economic status.⁵⁰

This Bill once again only focuses on development induced displacement and does not deal with conflict induced development.

In an interesting development, from the perspective of conflict induced IDPs, National Advisory Council to the Government of India⁵¹ came out with the Draft of the **Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011** and sent this Draft Bill to the Government on July 22, 2011.⁵² This Bill not only defines the term "internally displaced person" as a person who has been forced or obliged to leave his or her home or place of ordinary residence as a result of or in order to avoid the effects of organized communal or targeted violence to any other location within India⁵³ but also requires that when there is violence, and citizens lose their lives, livelihoods, and homes, then each devastation must be recognized in the same manner. The Bill maintains that each life lost must be compensated for justly and uniformly. Regrettably this has not been the case, and

⁴⁸ The National Rehabilitation and Resettlement Policy, 2007 is the revised version of the National Policy on Resettlement and Rehabilitation for Project Affected Families, 2003. The 2007 Policy came into force on October 31, 2007. The National Rehabilitation and Resettlement Policy, 2007 is available at <http://www.aegcl.co.in/National%20Rehabilitation%20and%20Resettlement%20Policy%202007.pdf> (Last visited on January 27, 2014).

⁴⁹ This Bill was introduced in the Lok Sabha on September 7, 2011 as the Land Acquisition, Rehabilitation and Resettlement Bill, 2011.

⁵⁰ Preamble to the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Bill, 2013. This Bill (as passed by the Lok Sabha) is available at <http://www.prsindia.org/uploads/media/Land%20and%20R%20and%20LAAR%20Bill%20as%20passed%20by%20LS.pdf> (Last visited on January 27, 2014).

⁵¹ The task of the National Advisory Council (NAC) is to provide inputs in the formulation of policy by the Government and to provide support to the Government in its legislative business.

⁵² The Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011 as drafted by National Advisory Council is available at <http://nac.nic.in/pdf/pctvb.pdf> (Last visited on January 27, 2014).

⁵³ Section 3(g), The Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Bill, 2011.

⁴³ *Ibid.*, Principle 18.

⁴⁴ *Ibid.*, Principle 4.

⁴⁵ *Ibid.*, Paragraph 3 of the Introduction to the Principles.

⁴⁶ The Outcome Document of 2005 World Summit was adopted by the UN General Assembly by its Resolution 60/1 of October 24, 2005. See UN Doc. A/RES/60/1.

⁴⁷ Internal Displacement Monitoring Centre (IDMC) (2013), Global Overview 2012: People Internally Displaced by Conflict and Violence, available at <http://www.internal-displacement.org/global-overview/pdf> (Last visited on January 27, 2014).

governments have been both arbitrary and selective in awarding compensation to different groups of citizens with different standards of generosity. Compensation must not be a matter of charity or largesse, but a justiciable right with a single uniform standard for every Indian citizen. This Bill provides that compensation shall be paid within 30 days from the date of the incident, and in accordance with a schedule, which shall be revised every 3 years. No compensation for death shall be less than Rs. 15 lakhs. No compensation for rape shall be less than Rs. 5 lakhs.⁵⁴

This Bill is a welcome step in realizing the rights of the conflict induced IDPs. However, it is not in line with the Guiding Principles on Internal Displacement, notably concerning IDPs' rights to education and durable solutions. Moreover, Government has not taken any decision yet on the future of this Bill as this Bill is facing criticism from various quarters on different grounds.

In absence of a comprehensive national policy, legislation or other mechanism to respond to the needs of people internally displaced by conflict, authorities in India, whether at the national, state or district levels, often fail to meet their responsibilities to protect and assist the displaced, in some instances because they were unaware of IDPs' rights.⁵⁵ The responsibility for protecting the displaced and providing assistance to them generally falls on state governments and district authorities. This has resulted in wide discrepancies between responses from one state to another and even from one situation to another within the same state. Where state- and district-level authorities do provide assistance, it remains ad-hoc and varied. The state government of Assam has provided different groups of IDPs with different levels of assistance, allegedly along ethnic lines. For example, it has provided people displaced from "revenue villages" (where inhabitants have land and property titles) with grants of Rs. 10,000. People displaced from non-surveyed areas, on the other hand, have not received grants at all. Yet others received grants of only Rs. 1,500.⁵⁶

There is no central government focal point to ensure IDPs' protection, monitor their number and needs or facilitate durable solutions through return, local integration or settlement elsewhere in the country. Some national agencies and human rights bodies, including the National Human Rights Commission and the National Commission for Protection of Child Rights, advocate on behalf of IDPs. Humanitarian and human rights organisations have only limited access to the displaced population and there was little support from international actors in the response to internal displacement due to conflict and violence.

Summing up, India's lack of legislative response to the issues of protection, rehabilitation and resettlement of conflict induced IDPs clearly demonstrates its empathy towards IDPs in general and the IDPs in Bodoland in particular.

Conclusion And Suggestions

Series of ethnic conflicts have created large number of IDPs in the Bodoland and this has triggered a humanitarian crisis. Apart from the basic necessities, they have lost their most precious possessions, i.e., the land, home and livelihood. IDPs of Bodoland suffer from landlessness, joblessness, homelessness, marginalisation, food insecurity, increased morbidity and mortality, loss of access to common property rights, social disarticulation and disintegration.

The Indian government has repeatedly expressed reservations in international fora about the UN Guiding Principles on Internal Displacement, which it sees as infringing its national sovereignty. India has no national IDP policy targeting conflict-induced IDPs, and the responsibility for IDP assistance and protection is frequently delegated to the state governments. This approach of the Indian Government has aggravated the problem of conflict induced IDPs in general and IDPs of Bodoland in particular.

The paper seeks to emphasise on the point that the issue of IDPs in Bodoland deserves the special attention and care of the larger civil society and the Indian state. To address this IDP issue, one requires political will. Further, certain suggestions may be made with regard to improving the conditions of these IDPs:

- The Government of India should develop a national IDP legislation and policy in accordance with the Guiding Principles on Internal Displacement, so as to establish a comprehensive framework for responses to situations of internal displacement caused by generalised violence, and to ensure that the rights of people displaced are protected and their needs addressed.
- The Government of India should Provide oversight bodies such as the National Human Rights Commission (NHRC), the National Commission for Protection of Child Rights (NCPCR), the various State Commissions for the Protection of Child Rights, the National Commission for Scheduled Tribes (NCST), the National Commission for Women (NCW), the National Commission for Minorities (NCM) with sufficient capacity to regularly assess the situation and needs of people displaced due to violence.
- The Government of India should ensure that state governments have the capacity to respond to internal displacement situations, and hold them accountable to the recommendations of the oversight bodies above.
- When assessing the needs of IDPs, the Government of India, focus on those who are particularly vulnerable, including women, children, older people, the disabled, and minorities.
- The Government of India should ensure that the Right to Education (RTE) Act of 2009 is implemented in areas affected by violence-induced displacement, and implement the recommendations of the National Commission for Protection of Child Rights (NCPCR), including by developing a national policy for children in areas of civil unrest.
- The Government of India should ensure that people displaced by violence receive adequate protection, assistance and compensation in accordance with the Guiding Principles on Internal Displacement and the Framework on Durable Solutions. This could be done, in collaboration with state governments.
- The Government of India should ensure that the Sixth Schedule of the Constitution of India is not implemented in a way that could create or exacerbate incentives to violence and displacement.

⁵⁴*Ibid.*, Section 99.

⁵⁵ Internal Displacement Monitoring Centre (IDMC) (2013), *Global Overview 2012: People Internally Displaced by Conflict and Violence*, available at <http://www.internal-displacement.org/global-overview/pdf> (Last visited on January 27, 2014).

⁵⁶ Internal Displacement Monitoring Centre (IDMC) (2010), *India: National and State Authorities Failing to Protect IDPs*, available at [http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/F4A1646EA4DEFB06C1257792004BE769/\\$file/India_Overview_Sept2010.pdf](http://www.internal-displacement.org/8025708F004BE3B1/%28httpInfoFiles%29/F4A1646EA4DEFB06C1257792004BE769/$file/India_Overview_Sept2010.pdf) (Last visited on January 27, 2014).

- The Government of Assam should provide the displaced with support according to their needs, focusing particularly on livelihoods, skills development and education, in order to facilitate durable solutions.
- The Government of Assam should provide adequate compensation to those among the displaced whose homes were partially or fully destroyed during the violence.