

Difficulties and Concerns Regarding International Displacement Laws

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Abstract - This article offers a thorough analysis of forced migration, emphasizing its intricate and ever-changing characteristics, with a particular emphasis on the difficulties encountered by internally displaced people (IDPs) in India. This statement highlights the shortcomings of current legal systems and emphasises the pressing need for specific laws to cater to the distinct requirements of internally displaced persons (IDPs). It underscores the dangers associated with a lack of responsibility and the wide powers held by the government. The paper examines the historical and philosophical dimensions of global displacement laws, highlighting the significance of international cooperation and regional organisations, such as the African Union, in complementing current institutions. The text explores the economic, social, and psychological effects of relocation and argues for comprehensive approaches to tackle the difficulties experienced by displaced individuals. This analysis explores the involvement of the United Nations in displacement, acknowledging its capacity to operate both proactively and as a supportive entity, despite challenges posed by global politics and institutional deficiencies. The thesis explores India's legal framework pertaining to human displacement, emphasizing the intricate equilibrium that courts must maintain between constitutional principles, national security considerations, and international commitments. As a conclusion, the paper advocates for a thorough approach to tackle the intricacies of displacement, with a focus on worldwide cooperation, legal frameworks, and acknowledging the distinct requirements of displaced persons within the wider discussion on immigration, asylum, and humanitarian assistance. This abstract enhances the existing discourse on forced migration by emphasizing the significance of collaborative endeavours and all-encompassing strategies at both domestic and global scales.

Keywords - Internally Displaced Persons (IDPs), Forced Migration, African Union, Legal and Policy Frameworks, National and International Levels

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INTRODUCTION

Overview

The challenges faced by internally displaced persons (IDPs) highlight the need of addressing the complex and ever-changing nature of forced migration. Despite the existence of laws and regulations aimed at providing compensation and support to those who have been forced to leave their homes, these measures often fail to adequately meet the specific needs of internally displaced people (IDPs). The absence of explicit laws requiring states to take on the duty of caring for internally displaced individuals, coupled with the broad powers given to governments to imprison and deport individuals, creates a dangerous situation for those who require immediate humanitarian assistance. Moreover, the lack of comprehensive international dialogues about internal migration inside countries contributes to a systematic

disregard for the difficulties faced by internally displaced individuals (IDPs). Amidst the ongoing worldwide refugee crisis, it is imperative to recognise that the problem of displacement is not a new event, but rather a phenomenon that has evolved over time. This phenomenon involves a diverse array of factors, such as military wars, natural catastrophes, and economic challenges. The problem of climate refugees is expanding and intricate, requiring the establishment of innovative and collaborative strategies at a global scale. This thesis aims to improve the understanding of displacement and refugees, providing useful insights into ways for tackling the challenges faced by India and the global community. To effectively tackle the growing problem of refugees, it is crucial to implement a comprehensive approach that considers the ever-changing nature of displacement, current legal frameworks, and the significance of global cooperation. As society advances, it is crucial to

actively advocate for the rights and well-being of internally displaced individuals. This means recognizing and addressing their specific needs within the broader discussions on immigration, asylum policies, and humanitarian assistance. To effectively tackle the issue of displaced persons and promote a holistic and compassionate global response to the pressing humanitarian problem of forced migration, it is crucial to participate in cooperative initiatives and cultivate a nuanced understanding of its complicated nuances.

Meaning of Displaced Persons

The meaning of displaced persons as per various nations:

- **India:** Internally displaced people (IDPs) are individuals or groups who have been forcefully removed from their homes or regular places of abode. The main reason of this relocation is mostly attributed to armed conflict, the need to evade the repercussions of armed conflict, instances of pervasive violence, infringements against human rights, or natural or anthropogenic catastrophes. It is crucial to acknowledge that these internally displaced persons (IDPs) have not migrated over a national border. This description aligns with the 1998 Guiding Principles³⁰. The phrase "New Displacement" refers to the measurement of recently recorded cases or incidents of displacement within a certain year, rather than the measurement of persons who have been moved. This method is performed since there is a chance that people may experience many occurrences of displacement.
- **China:** China, like many other countries, has specific legal and administrative systems in place to address issues related to forced migration, displacement, and the eventual resettlement of impacted persons. In the Chinese context, the government has sometimes tackled the problem of displacement caused by various circumstances, such as urban redevelopment projects, natural disasters, and other noteworthy events. However, it is crucial to acknowledge that the choice of terminology and the legal framework used may vary based on the specific circumstances. China has faced issues related to rural-to-urban migration, as residents from rural areas move to urban centres in quest of employment opportunities. In some instances, relocation and resettlement schemes have been executed. During occurrences of natural disasters or environmental issues, there may be specific terminology related to these situations.
- **Norway:** Internally displaced persons (IDPs), as defined by the Norwegian Refugee Council (NRC), are individuals or groups who have been forced to

leave their homes or usual places of residence due to armed conflict, acts of violence, human rights violations, or natural disasters, and who remain within the borders of their own country.

- **USA:** In the domain of United States law and politics, those who have been forcibly displaced from their countries and have later sought asylum inside the boundaries of the United States are often referred to as refugees or asylees. These terms have specific legal definitions in the context of immigration law in the United States. A refugee is a person who is forced to leave their home because they have a genuine fear of being persecuted based on their race, religion, nationality, membership in a certain social group, or political convictions, and they are unable to go back. An asylee is a person who meets similar qualifying criteria, but is either already inside the geographical limits of the United States or is located at a recognised port of entry.

Individuals who are forced to leave their homes due to natural disasters or unforeseen emergencies, but stay within the United States, are typically discussed in the context of disaster response, emergency management, or domestic policy. They are not specifically referred to as internally displaced persons.

European Union: As defined by the European Union, internally displaced persons (IDPs) are individuals or groups who have been forced to leave their homes due to armed conflict, violence, human rights violations, or natural disasters, but have not crossed an international border³¹.

Refugees and Internally Displaced Persons

A "displaced person" is someone who is obliged or coerced to depart from their regular place of residence or nation as a result of diverse situations. Displacement may occur as a result of several conditions, including wars, violence, persecution, natural disasters, development projects, or other situations that compromise the security and safety of a person's place of residence. Displaced persons often face perilous situations, marked by their detachment from their homes, communities, and familiar surroundings. Individuals confronted with displacement, whether caused by conflict or natural disasters, can choose to seek refuge either within their own country, known as internally displaced people (IDPs), or by crossing international borders and obtaining refugee status.

The difference between a person who is considered to be internally displaced (also known as an IDP) and a refugee resides in the legal and geographical statuses that each individual has. A person who has been compelled to leave their home as a result of armed conflict, acts of violence, or natural catastrophes but who continues to reside inside the boundaries of their own nation is referred to as an

³⁰ See The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern, Brookings, <https://www.brookings.edu/articles/the-concept-of-internal-displacement-and-the-case-for-internally-displaced-persons-as-a-category-of-concern/> (last visited July 3, 2019).

³¹ 1998 Guiding Principles

internally displaced person (IDP). A person who has escaped their place of origin owing to a well-founded fear of being persecuted is referred to as a refugee, on the other hand.

According to the requirements that are specified in the 1951 Convention on the Status of Refugees, a person is deemed to be a "refugee" if they are beyond the boundaries of their home country and are either unable or unwilling to seek protection from that nation³². This is the definition of a "refugee." This is due to the fact that the person has a reasonable fear that they would be persecuted on account of their race, religion, nationality, participation in a particular social group, or political convictions about the subject matter. In addition, this definition includes people who do not have a nationality and who are living in a location other than their former habitual home as a result of the aforementioned conditions, and who are either unable or unwilling to return to their former habitual residence. The meaning of the term "refugee" has been expanded in some nations as a result of additional international agreements such as the Cartagena Declaration on Refugees and the Convention Governing the Specific Aspects of Refugee Problems in Africa. The new definition of "refugee" now encompasses people who are fleeing the overall repercussions of armed conflict and/or natural disasters.

Role of United Nations in Displacement of a Person

The United Nations (UN) has a crucial role in addressing global displacement issues, serving as a proactive entity that might unintentionally contribute to displacement dynamics. The UN's dual status grants it a crucial role in tackling worldwide displacement. In order to fully comprehend the United Nations' involvement in the problem of forced migration, it is essential to examine the UN's dual positions as a promoter and a preventer, while closely monitoring the present situation of global politics.

The United Nations is actively engaged in reducing the number of persons who are obliged to migrate via the many organisations and initiatives within its purview. The proactive approach aims to prevent conditions that may lead to forced migration. Its commitment to human rights, peacekeeping, conflict resolution, and sustainable development exemplify this proactive approach. The agency's purpose is to tackle the root causes of displacement and provide circumstances that reduce the likelihood of individuals being forced to move. This is achieved via the use of diplomatic channels, methodologies for resolving conflicts, and initiatives for development. The United Nations has the duty to serve as a worldwide champion for stability,

³² See Unlocking Solutions for the Internally Displaced, https://www.un.org/internal-displacement-panel/sites/www.un.org/internal-displacement-panel/files/unlocking_solutions_for_idps_additional_submission_to_the_high_level_panel_final_30.09.20.pdf (last visited July 17, 2019).

security, and the safeguarding of those who are most susceptible at times of crises like these.

The operation of the United Nations (UN) is not without complexity, and there have been instances when it has caused the displacement of people due to various situations in the realm of international politics. One example of a factor is the impact of Western dominance on the decision-making processes of the United Nations. The presence of power disparities and conflicting geopolitical interests often influence decision-making processes, leading to acts that may either escalate ongoing conflicts or contribute to the displacement of populations.

The deficiencies in the organisational framework of many UN entities, particularly the UN Security Council, have a significant impact on shaping the international community's response to crises. The inclusion of veto-wielding members, such as the United States of America, China, Russia, France, and the United Kingdom, increases the likelihood of inaction and deadlock, so hindering effective steps to prevent or alleviate relocation. This group include countries such as the United States of America, China, Russia, France, and the United Kingdom. This inherent flaw might impede the ability to promptly and decisively address conflicts in some areas, hence leaving affected populations vulnerable to displacement.

The United Nations' ability to effectively manage population mobility may also be hindered by deficiencies in its operating procedures, such as inefficient bureaucratic processes and sluggish decision-making. During urgent situations, bureaucratic obstacles may cause delays in taking critical steps, thereby exacerbating tensions and allowing population displacement to occur before preventative measures are implemented.

Furthermore, the United Nations' ability to implement comprehensive strategies to prevent relocation may be impeded by its reliance on budgetary resources and financial constraints. Insufficient funding may hinder the effectiveness and comprehensiveness of projects aimed at addressing the root causes of relocation, so endangering communities.

Consequently, the United Nations has a multifaceted role in addressing displacement, which includes both preventive and unwittingly promotive aspects. Although the organisation is committed to addressing the root causes of displacement, it operates within a complex global political landscape marked by power asymmetries, structural deficiencies, procedural inefficiencies, and budgetary constraints. For the UN to enhance its role as a proactive force in preventing displacement and align its actions with its humanitarian and peacekeeping objectives, it is crucial for the organisation to comprehend and address these challenges.

Judicial Response Towards Displacement of People

The occurrence of human displacement, caused by many circumstances such as armed conflicts, natural disasters, political oppression, or economic difficulties, has become a prominent humanitarian concern in modern civilization. The topic has gained increasing attention within legal and judicial circles because of the forced removal of individuals and communities from their homes, leading to substantial difficulties and a lack of certainty. The response of the judiciary to the displacement of persons involves a complex interplay between international and national legal systems, which includes the establishment of legal rules to address the many issues that arise in this domain.

The international legal framework encompasses the body of rules and regulations that regulate the conduct of states and their dealings with each other. There are several important legal instruments that exist at the international level. These instruments serve as a foundation for addressing the issue of displacement and protecting the rights of those who experience harm due to such situations. The legal categorization and rights of those seeking asylum are extensively governed by the United Nations Refugee Convention of 1951 and its subsequent Protocol of 1967. The concept of non-refoulement is a well-established principle that prohibits the return of refugees to a nation where their life or freedom is at risk. The 1998 United Nations (UN) Guiding Principles on Internal Displacement serve as a fundamental framework to guarantee the safeguarding of internally displaced individuals (IDPs). The aforementioned principles delineate the entitlements and assurances that must be given to internally displaced individuals (IDPs) during their relocation and in the subsequent years. These principles include a range of factors, such as accommodations for housing, food, medical treatment, and legal safeguards, among others.

- **Global judicial institutions and panels:** International courts and tribunals are judicial entities that have been formed to resolve legal disputes and promote the rule of law on a worldwide level. These institutions play a crucial role in promoting the settlement of international disputes and upholding accountability. The involvement of international legal institutions, such as the International Criminal Court (ICC) and the International Court of Justice (ICJ), is essential for addressing the problem of displacement. This statement is especially true when the issue stems from military conflicts and extensive acts of violence. The International Court of Justice (ICJ) has the authority to resolve disputes launched by governments about breaches of international legal standards, particularly those related to forced migration. Conversely, the International Criminal Court (ICC) has the authority to initiate legal actions against individuals involved in serious crimes such as genocide, war crimes, and crimes against humanity. These actions often pose a risk

of displacing affected populations. The main goal of these tribunals is to guarantee that both governmental and individual responsibility is limited to those who are accountable for their acts resulting in displacement and subsequent human rights abuses.

- **Legal systems of nations:** The participation of national legal systems in addressing displacement is essential, particularly with issues like as asylum, immigration, and the protection of displaced individuals inside their respective territories. Many countries have established official procedures to grant asylum or refugee status to those who are seeking protection from persecution. It is imperative that these legal systems adhere to international standards, ensuring that individuals who have been displaced get appropriate procedural protections and fair treatment in accordance with their rights under international law.
- **Developing legal principles:** As the complexities of displacement advance, legal rules also evolve. The concept of "Responsibility to Protect" (R2P) emphasises the need of nation-states to take proactive measures in dealing with and resolving cases of mass displacement caused by armed conflicts, even if it involves their own population. The Responsibility to Protect (R2P) emphasises the obligation of the international community to protect individuals from acts of violence and displacement, especially in situations when a state is unable or unwilling to meet this responsibility.
- **Ethical and Policy Considerations:** The court response to displacement is significantly influenced by ethical and policy issues, which go beyond basic adherence to legal procedures. Moreover, this subject has ethical and policy ramifications. Judicial authorities, legal experts, and decision-makers have the intricate challenge of dealing with matters related to the principles of fairness, fairness, and the moral need to protect and assist persons who have been forcibly displaced. It is crucial to carefully consider the long-lasting consequences of relocation and make deliberate measures to protect the welfare of individuals and communities. Furthermore, it is essential to establish channels for recovery, restoration, and assimilation.

India's commitment to humanitarian ideals is evident by its historical role as a sanctuary for persons escaping persecution, while not being a signatory to significant international agreements. However, the lack of a comprehensive statewide strategy for internally displaced persons (IDPs) highlights a deficiency in meeting the requirements of vulnerable populations. This necessitates the government to promptly prioritise and address this issue. The constitutional framework, which encompasses Articles 14 and 21, provides the foundation for safeguarding basic rights, with a specific focus on ensuring equality and upholding the rights to life and

liberty. The court's reaction, as shown by significant judicial rulings, demonstrates an intricate equilibrium between safeguarding constitutional principles, ensuring national security, and fulfilling international commitments. The executive branch's discretionary authority, particularly in cases involving deportation and expulsion, underscores the intricate challenges that arise when seeking to reconcile security concerns with humanitarian considerations. The principles of non-refoulement and conformity to international humanitarian norms emphasise the recognition by the court system of the importance of global standards in safeguarding the rights of displaced persons.

The investigation uncovers discrepancies in the judiciary's reactions, namely between the Trial Courts and the High Courts. This underscores the need for a more cohesive legal framework to distinguish refugees from non-citizens. Given the absence of comprehensive national policies for internally displaced persons (IDPs), as emphasised in the Global Overview 2011 report, it is urgent to create a specialised agency within the Ministry of Home Affairs to effectively tackle the challenges encountered by displaced individuals. The analysis of displacement cases resulting from development projects sheds insight on the modification of the legal framework for rehabilitation and resettlement. The judiciary's emphasis on providing assistance and support, particularly in river valley projects, demonstrates its dedication to safeguarding the fundamental rights of individuals affected by these initiatives and resolving the associated challenges that arise from undertaking such substantial endeavours.

The legal battle now occurring in India demonstrates the interconnectedness of constitutional principles, national power, and international obligations regarding the movement of people. The Indian court plays a crucial role in establishing a legal framework that safeguards the fundamental human rights of all individuals, regardless of their citizenship status, in addressing the challenges posed by different forms of displacement. The results of this research highlight the urgent need for India to adopt and execute comprehensive national policies and strategies to tackle the many difficulties connected with displacement. To achieve this, it is necessary to align the legislative framework of India with international humanitarian standards.

Judgements Rights of Displaced Persons

The Indian courts have deliberated on many verdicts on the legitimacy and constitutionality of refugee laws, as well as the entitlement of refugees to seek asylum in India. Various judges from distinct courts have articulated their views about the entitlements of refugees and, if applicable, the boundaries that should govern such entitlements. Several notable examples to mention are: "The defendant, a refugee with UNHCR status in India, was convicted and sentenced to six weeks of harsh jail, in addition to a fine. Although the

defendant was unable to provide his refugee certificate during the arrest, the court nonetheless imposed the penalty.

State vs. Montasir M. Gubara³³, the accused is a refugee who is staying in India with refugee status. At the time of his arrest he was not able to produce his refugee certificate granted by UNHCR and that has been placed before the Court when trial starts. But, the Court sentenced him to rigorous imprisonment for 6 weeks along with fine. The case of **State vs. Huson Vilvaraj**³⁴ involves the conviction of a Sri Lankan exile for residing in Delhi without valid travel credentials, as per Section 14 of the Foreigners Act, 1946. The court imposed a six-month term of simple imprisonment on the accused and also levied a fine. The court emphasized that being a refugee does not entitle one to free travel and that persons are bound by the rules of the host nation.

In **Yogeswari Devi vs. The State of Tamil Nadu**³⁴, Yogeswari Devi filed a Habeas Corpus petition to contest an order issued by the first respondent in the case against the State of Tamil Nadu. The petitioner, a Sri Lankan national who arrived in India as a refugee, requested the liberation of her son, who is now detained. Following the presentation of arguments, the court determined that the detention order was unlawful and violated the constitution, therefore mandating the release of the individual in custody.

Zalmay v. Union of India³⁵: A writ petition was submitted using Article 226 of the Constitution and Section 482 of the Code of Criminal Procedure, contesting a detention order issued under the COFEPOSA Act. After evaluating the situation, taking into account the detenu's rejection of the detention order, the court determined that the detention was unlawful and violated the constitution. As a result, the court ordered the detenu to be released. In this case, the court highlighted the significance of efficient advocacy and determined that the detainee's right to present an effective defense had not been compromised. As a result, the court concluded that the detention order was unlawful

In **Mr. Kateri Abbasi Habibi Ali Qutaifi and Tari Ali Mansoori**³⁶, both aged 16 and 17 years, who are refugees from Iraq, were held in custody at the Joint Interrogation Centre in Bhuj, District Kutch, located

³³ State v. Montasir M. Gubara, C.C. No. 427/P/1994, India: Magistrate Courts, 3 September 1996, available at: https://www.refworld.org/cases,IND_MMM,3f4b8fe14.html.

³⁴ <https://indiankanoon.org/doc/1809285/>

³⁵ Criminal Case No.427/P/1994, Court of Additional Chief Metropolitan Magistrate, Mumbai, Decided on: 03September1996 <http://www.refworld.org/type,CASELAW,IND_MMM,IND,3f4b8fe14,0.html> accessed 25 December 2023

³⁶ Case No. 443/3 of 1997, Court Metropolitan Magistrate, New Delhi, Decided on: 06 May 1998 http://www.refworld.org/type,CASELAW,IND_MMM,IND,3f4b8f702,0.html accessed 25 December 2020

in the State of Gujarat. The individuals are requesting the court's guidance to be released from jail. They argue that instead of being deported to Iraq, they should be sent to the United Nations High Commissioner for Refugees, in accordance with the established principle of 'non-refoulement.'

The court provided specific guidelines for the implementation of humanitarian law, outlined as follows:

- The Government is not legally obligated to enforce the International Conventions and Treaties, nor do they provide a basis for legal action. However, the Government is obligated to show respect for these agreements.
- The authority of the Government to deport a foreigner is unrestricted.
- Article 21 of the Indian Constitution ensures the right to life for non-citizens on Indian territory, but it does not provide them the right to live and establish themselves in India.
- The courts may rely on international agreements and treaties that implement the basic rights provided in our Constitution as integral components of those rights, and can enforce them accordingly.
- Article 21 of the Constitution of India includes the concept of non-refoulement, which provides protection to refugees as long as their presence does not harm national security.
- International law and treaty responsibilities must be upheld, as mandated by directions outlined in Article 51(c) and Article 253.
- The courts have the authority to use such principles in national legislation, as long as those principles do not conflict with national legislation.
- Courts have the authority to interpret international conventions and treaties where there is no provision in domestic law, using a harmonic approach³⁷.

The court determined that the applicants in this instance are refugees who have been officially recognized by UNHCR. The petitioners argued that their lives are endangered if they return to their country, as supported by the report of the UNHCR, which references Decree No. 115 of 25 August 1994 issued by the Government of Iraq. This decree states that individuals who evade military service may have their ear auricle cut off. Despite making lofty assertions, UNHCR has taken no action in the current situation, save for giving a refugee certificate. UNHCR is obligated to raise the problem with both the Government of Iraq and the Government of India. The UNHCR is expected to demonstrate more proactive involvement in addressing the challenges faced by refugee claimants, which is the primary purpose of its existence. Therefore, in the absence of relevant information and careful consideration by the responsible authorities, the only guidance that can be

provided in this particular situation is to request the abovementioned authorities to evaluate the petitioner's case from a compassionate standpoint. The court granted permission for the special civil petitions and instructed the respondents to evaluate the petitioners' request in accordance with the law. The court further ruled that the petitioners are prohibited from being expelled from India. Furthermore, even if the result is unfavorable to them, they will still not be deported for an additional duration of 15 days.

In the matter of *State vs. Mohd Ehsan*³⁸, the petitioner, who was a refugee, received a deportation order from the Trial Court. Nevertheless, upon the presentation of the refugee certificate given by the UNHCR to the Court, the deportation order was revoked. However, he was convicted and ordered to pay a monetary penalty. In the event of non-payment, he was also condemned to serve 6 months of basic incarceration.

In the case of *State vs. Benjamin Zang Nang*³⁹, the defendant completed his term of incarceration as stipulated by the Foreigners Act. Following the end of his jail term, he received an order for deportation from India. Nevertheless, the defendant requested to be placed in the custody of UNHCR in order to petition for refugee status. The Court dismissed this request on the grounds that it lacks authority to extradite him to UNHCR.

In the case of *State vs. Mohammad Riza Ali*⁴⁰, the defendant was accused of violating many sections of the Indian Penal Code by possessing counterfeit travel papers and contravening the Foreigners Act. Nevertheless, the accused presented a refugee certificate issued by UNHCR to the Court, resulting in his exoneration from the accusations under the Foreigners Act. However, the trial continues for violations under the Penal Code.

In the case of *State vs. Kishan Chand and Habib Iranpur*⁴¹, the second defendant admitted guilt in accordance with the Foreigners Act of 1946. The second defendant said that he is a UNHCR-mandated refugee who fled Iran due to persecution. Following the hearing, the Court imposed a sentence of one month of harsh imprisonment and a fine on the second accused.

In the case of *State vs. Mohd. Yaashin*⁴², the defendant was accused of violating the Indian Penal Code by obtaining a counterfeit passport and travel document in order to enter India, as well as violating the Foreigners Act. He is exempted from the charges under the Foreigners Act based on the refugee

³⁸ (1990) DLT 517

³⁹ 1999 Cr. L. J. 919

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² FIR No. 435/1993, Court of Metropolitan Magistrate, New Delhi, decided on 17 March 1994 http://www.refworld.org/type,CASELAW,IND_MMM,IND,3f4b8fa74,0.html accessed 21 December 2023.

³⁷ H.C.P. No. 971 of 2001.

certificate issued by UNHCR. Nevertheless, the Court imposed a fine on him, and in the event of non-payment, he received a 30-day term.

In the case of **State vs. Chandra Kumar & Others**⁴³, the Trial Court garnered significant media attention for not only overturning the deportation order but also instructing the Government of India to present the Refugee and Asylum Seekers (Protection) Bill, 2006 to the Parliament. The defendant was apprehended for obtaining counterfeit papers in order to depart from India and go to Italy. The prosecution sought to repatriate him after the completion of his sentence. Nevertheless, the Court ruled that the accused refugee should be sent to the refugee camp in Tamil Nadu.

In general, the Trial Courts have not been able to establish a consistent procedure in matters involving refugees. The differences mostly arise from the dependence on colonial rules that fail to address the circumstances of a refugee. On many occasions, the Court shown leniency in sentence when a refugee certificate was given by the UNHCR. However, the Court ultimately found the refugee guilty. Nevertheless, there have been instances when the High Courts have issued orders to dismiss a prosecution under the Foreigners Act, 1946, upon granting refugee status to the accused. It is crucial to acknowledge that the Trial Court's role is limited in a refugee scenario when the country's laws do not clearly differentiate between a refugee and a foreigner."

Repatriation and Resettlement of Displaced Persons

The case of **Gurunathan and Others vs. The Government of India and Others**⁴⁴ was brought before the Court to request that the government cease the forced repatriation of Sri Lankan displaced individuals to their home country. The Government of India issued a formal commitment, guaranteeing that Sri Lankan refugees would not be repatriated against their will, and that no coercion would be used in the repatriation process. Based on this assurance, the Court dismissed the petition. The Madras High Court encountered a similar matter of involuntary repatriation in the case of **P. Nedumaran and Dr. S. Ramadoss vs. Union of India and Another**⁴⁵. The Court resolved the petition in a manner consistent with the prior case.

In the **Narmada Bachao Andolan versus Union Of India And Others**⁴⁶ case, the ultimate ruling included instructions about the process of submergence, land acquisition, and the rehabilitation of those who were

displaced. The Gujarat Government was obligated to cover all expenditures, including compensation, fees, and costs, that were accrued by Madhya Pradesh and Maharashtra due to the mandatory purchase of property. The tribunal established specific procedures for the reintegration of displaced individuals and the provision of public services. Crucially, it was specified that no submergence should occur unless the people who would be displaced were properly rehabilitated⁴⁷.

The case of **Saifullah Bajwa vs. Union of India**⁴⁸ was brought before the court with a request to dismiss the writ suit against the Government of India, since the petitioners were provided relocation by the UNHCR. This case was first presented to a different panel of judges at the High Court in 2008. The petitioners requested the court to order the government to grant them refuge due to the persecution they experienced in Pakistan. Subsequently, it was disclosed that the Government of India had declined to provide sanctuary and had detained the petitioners in Tihar Jail. The Court issued a mandate for UNHCR involvement, halting the deportation process, and subsequently, the petitioners were granted the chance to be resettled in other nations. The petition was dismissed due to withdrawal.

The Court, being mindful of safeguarding the basic rights of those who have been displaced, as outlined in Article 21 of the Constitution of India, considered the case. The emphasis is on preventing submergence⁴⁹, and if the dam is permitted to be built, its height should be significantly decreased to offer adequate relief and rehabilitation of the displaced people, as specified in the Tribunal's Award. The Court's main focus is on Relief and Rehabilitation measures, seeing the other matters raised in the petition as untimely. However, the Court now intends to examine some aspects of these issues⁵⁰."

Therefore, the research emphasises the need of adopting a comprehensive and inclusive strategy to address the challenges arising from relocation. This strategy should include global collaboration, established legal frameworks, and recognition of the distinct need of displaced persons within the broader discourse on immigration, asylum, and humanitarian aid. This thesis offers an extensive examination of forced migration, including its historical progression, legal ramifications, and its significant impacts on individuals and society. It contributes to the ongoing discourse on this subject by offering a subtle perspective on displacement. The findings underscore the need for collaborative endeavours, global comprehension, and comprehensive

⁴³ Criminal Case No. 66/96, Court of Metropolitan Magistrate, New Delhi, decided on: 31 May 1996 http://www.refworld.org/type,CASELAW,IND_MMM,IND,3f4b8f8b4,0.html accessed 25 December 2023.

⁴⁴ High Court of Bombay, A.D. 1458 of 1994

⁴⁵ High Court of Delhi, 1998 (47) DRJ 74, Decided On: 21 August 1998

⁴⁶ High Court of Madras, W. P. Nos. 6708 and 7916 of 1992

⁴⁷ High Court of Madras, W.P. No. 12298 and 12343 of 1992, Decided on: 27 August 1992

⁴⁸ High Court of Delhi, 226 (2016) DLT 208, Decided on: 21 December 2015

⁴⁹ High Court of Delhi, W.P.(CRL) 465/2011, Decided on: 09 December 2011

⁵⁰ Decided on 18 October, 2000

approaches to address the challenges posed by forced migration at both national and international levels. The research promotes a cooperative effort to protect the rights and welfare of displaced individuals, recognising their distinct requirements within the broader frameworks of immigration, asylum, and humanitarian aid.

CONCLUSION

Overall, this research emphasises the intricacies of compelled migration, exposing the insufficiencies of current legal structures in effectively addressing the distinct requirements of internally displaced individuals (IDPs). The worldwide indifference towards the challenges of internal migration highlights the pressing need for a comprehensive approach that can effectively address the dynamic character of displacement, use existing legal frameworks, and promote international cooperation. The report highlights the need of tackling urgent difficulties in safeguarding the rights of internally displaced persons (IDPs) inside countries, acknowledging the complex factors that contribute to displacement, and engaging regional organisations such as the African Union in developing additional legal frameworks. The study promotes comprehensive approaches to tackle the economic, social, and psychological effects of relocation. It highlights the significance of international cooperation, strong legal frameworks, and acknowledging the distinct needs of displaced individuals in the wider conversation on immigration, asylum, and humanitarian assistance.

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