

RIGHTS OF INTERNALLY DISPLACED PERSONS (IDP) WITH REFERENCE TO THE GUIDING PRINCIPLES OF IDP

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A. MEANING OF ‘HUMAN RIGHTS’

Human rights are "basic rights and freedoms that all people are entitled to regardless of nationality, sex, national or ethnic origin, race, religion, language, or other status." Human rights are conceived as universal and egalitarian, with all people having equal rights by virtue of being human. These rights may exist as natural rights or as legal rights, in both national and international law. According to Doctor Mark Cooray, [LLB (Cey)., PhD (Col)., PhD (Cantab)] "The term "*human rights*" is a relatively modern invention. It covers under its umbrella three different types of rights: (i) the fundamental freedoms or classical civil liberties, (ii) ethnic and religious rights (iii) socio-economic rights. Some constitutions have enumerated the first or the first and the second and attempted to set up judicial enforcement of such rights. The third category has not been stated in a constitution in an enforceable form, but some constitutions refer to them as directive principles of state policy." To sum up, human rights means the fundamental rights that humans have by the fact of being human, and that are neither created nor can be abrogated by any government. The observations of the Constitution Bench of the Hon'ble Supreme Court in **M. Nagaraj & Ors. Vs. Union of India & Ors.** (2006) 8 SCC 212, (para 20) the Apex Court observed: "*It is a fallacy to regard fundamental rights as a gift from the State to its citizens. Individuals possess basic human rights independently of any Constitution by reason of the basic fact that they are members of the human race.*"

B. DEFINING ‘INTERNALLY DISPLACED PERSONS’

According to the "Protecting Internally Displaced Persons: A manual for Law and Policy Makers" published in October, 2008 prepared by Brookings Institution- University of Bern (Project on Internal Displacement)- "There is no legal definition of who constitutes an "internally displaced person" in international law. The notion of IDPs set out in the introduction to the Guiding Principles is meant to be descriptive rather than normative, drawing attention to the characteristics of IDPs that make them inherently vulnerable.

This notion has gained authority and is commonly used at the international level. Two elements are decisive in identifying who is an IDP: (1) the coercive or otherwise involuntary character of movement—that is, movement caused by armed conflict, violence, disasters, and the like; and (2) the fact that such movement takes place within national borders. The second requirement is to be understood in a broad sense. It refers to the place where the displaced persons find refuge, and it also is met if, for example, displaced persons have to transit through the territory of a neighboring state in order to gain access to a safe part of their own country; first go abroad and then return (voluntarily or involuntarily) to their own country but cannot go back to their home or place of origin or habitual residence for reasons indicated in paragraph 2 of the Guiding Principles; or left voluntarily to another part of their country but cannot return to their homes because of events that occurred during their absence that make return impossible or unreasonable.

It is significant that the Guiding Principles do not refer to the notion of citizenship, thus indicating that foreigners may also qualify as internally

displaced persons. Reference to “homes or places of habitual residence,” however, indicates that their presence in the country concerned cannot be of just a passing nature but must have reached some permanency. Thus, the following categories of persons qualify as IDPs:

- Internally displaced citizens of the country concerned
- Former refugees who have returned to their country of origin but are unable to return to their former homes or find another durable solution through social and economic integration in another part of the country.
- Displaced stateless persons who have their habitual residence in the country concerned
- Displaced nationals of another country who have lived there for a long time (maybe even generations) and have largely lost contact with their country of nationality
- Displaced nationals of another country who have their habitual residence in the country concerned because they been admitted permanently or for prolonged periods of time.

IDPs who are non-citizens, however, are not automatically entitled to rights mentioned in the Guiding Principles that may be specifically reserved to citizens under applicable international law, such as the right to vote and to participate in governmental and public affairs (Principle 22(d)).

Refugees displaced in their country of refuge or asylum remain refugees, but it would be appropriate to apply the Guiding Principles by analogy to the extent that applicable refugee law does not address their displacement-related needs. Similarly, displaced migrants with short-term permits or in irregular situations remain migrants, with lesser rights than those accorded to the permanent population of the country.

However, as long as they have not left the country concerned, their rights as migrants must be respected.

To the extent that these norms do not address their displacement-related needs for humanitarian assistance and protection, the Guiding Principles may be applied by analogy.”

C. GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT [Extract from the document E/CN.4/1998/53/Add.2, dated 11 February 1998]

“Introduction: Scope and Purpose

1. *These Guiding Principles address the specific needs of internally displaced persons worldwide. They identify rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration.*
2. *For the purposes of these Principles, internally 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.*
3. *These Principles reflect and are consistent with international human rights law and international humanitarian law. They provide guidance to:*
 - (a) *The Representative of the Secretary-General on internally displaced persons in carrying out his mandate;*
 - (b) *States when faced with the phenomenon of internal displacement;*
 - (c) *All other authorities, groups and persons in their relations with internally displaced persons; and*

(d) Intergovernmental and non-governmental organizations when addressing internal displacement.

4. These Guiding Principles should be disseminated and applied as widely as possible.

Section I – General Principles

Principle 1

1. Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.

2. These Principles are without prejudice to individual criminal responsibility under international law, in particular relating to genocide, crimes against humanity and war crimes.

Principle 2

1. These Principles shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction. The observance of these Principles shall not affect the legal status of any authorities, groups or persons involved.

2. These Principles shall not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or rights granted to persons under domestic law. In particular, these Principles are without prejudice to the right to seek and enjoy asylum in other countries.

Note:

The Court is also bound to recognize the status of downtrodden sections as held in **Randhir Singh v. Union of India & Ors.** decided on 22 February, 1982 and reported in (1982) 1 SCC 618, 1982 AIR 879, 1982 SCR (3) 298, it was held that-

"The judges of the Court have a duty to redeem their constitutional oath and do justice no less to the pavement dweller than to the guest of the five star hotel."

Principle 3

1. National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.

2. Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these authorities. They shall not be persecuted or punished for making such a request.

Principle 4

1. These Principles shall be applied without discrimination of any kind, 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.

2. Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

Section II – Principles Relating to Protection from Displacement

Principle 5

All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian

law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.

Principle 6

1. Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.
2. The prohibition of arbitrary displacement includes displacement:
 - (a) When it is based on policies of apartheid, "ethnic cleansing" or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population;
 - (b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;
 - (c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests;
 - (d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and
 - (e) When it is used as a collective punishment.
3. Displacement shall last no longer than required by the circumstances.

Note:

The Hon'ble Apex Court also recognized the slum and pavement dwellers in the case of **Olga Tellis & Ors. vs. Bombay Municipal Corporation & Ors. etc.** decided on 10 July, 1985 and reported in 1986 AIR 180, 1985 SCR Supl. (2) 51, the Constitution Bench of Hon'ble Supreme Court has held that-

".....To summarise, we hold that no person has the right to encroach, by erecting a structure or otherwise, on footpaths, pavements or any other place reserved or earmarked for a public purpose like, for example, a garden or a playground; that the provision contained in section 314 of the Bombay Municipal Corporation Act is not unreasonable in the circumstances of the case; and that, the Kamraj Nagar Basti is situated on an accessory road leading to the Western Express Highway. We have referred to the assurances given by the State Government in its pleadings here which, we repeat, must be made good. Stated briefly, pavement dwellers who were censused or who happened to be censused in 1976 should be given, though not as a condition precedent to their removal, alternate pitches at Malavani or at such other convenient place as the Government considers reasonable but not farther away in terms of distance; slum dwellers who were given identity cards and whose dwellings were numbered in the 1976 census must be given alternate sites for their resettlement; slums which have been in existence for a long time, say for twenty years or more, and which have been improved and developed will not be removed unless the land on which they stand or the appurtenant land, is required for a public purposes, in which case, alternate sites or accommodation will be provided to them, the 'Low Income Scheme Shelter Programme' which is proposed to be undertaken with the aid of the World Bank will be pursued earnestly; and, the Slum Upgradation Programme (SUP)' under which basic amenities are to be given to slum dwellers will be implemented without delay. In order to minimise the hardship involved in any eviction, we direct that the slums, wherever situated, will not be removed until one month after the end of the current monsoon season, that is, until October 31, 1985 and, thereafter, only in accordance with this judgment. If any slum is required to be removed before that date, parties may apply to this Court. Pavement dwellers, whether censused or uncensused, will not be removed until the same date viz. October 31, 1985. 99"

Principle 7

1. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.
2. The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.

3. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:

- (a) A specific decision shall be taken by a State authority empowered by law to order such measures;
- (b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;
- (c) The free and informed consent of those to be displaced shall be sought;
- (d) The authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation;
- (e) Law enforcement measures, where required, shall be carried out by competent legal authorities; and
- (f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

Principle 8

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

Principle 9

States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

Section III – Principles Relating to Protection During Displacement

Principle 10

1. Every human being has the inherent right to life which shall be protected by law. No one shall be arbitrarily deprived of his or her life. Internally displaced persons shall be protected in particular against:

- (a) Genocide;
- (b) Murder;
- (c) Summary or arbitrary executions; and
- (d) Enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

2. Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances. Internally displaced persons shall be protected, in particular, against:

- (a) Direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;
- (b) Starvation as a method of combat;
- (c) Their use to shield military objectives from attack or to shield, favour or impede military operations;
- (d) Attacks against their camps or settlements; and
- (e) The use of anti-personnel landmines.

Principle 11

1. Every human being has the right to dignity and physical, mental and moral integrity.

2. Internally displaced persons, whether or not their liberty has been restricted, shall be protected in particular against:

- (a) Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;
- (b) Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children; and
- (c) Acts of violence intended to spread terror among internally displaced persons.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

Principle 12

1. *Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.*
2. *To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.*
3. *Internally displaced persons shall be protected from discriminatory arrest and detention as a result of their displacement.*
4. *In no case shall internally displaced persons be taken hostage.*

Principle 13

1. *In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.*
2. *Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances.*

Principle 14

1. *Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.*
2. *In particular, internally displaced persons have the right to move freely in and out of camps or other settlements.*

Principle 15

Internally displaced persons have:

- (a) *The right to seek safety in another part of the country;*
- (b) *The right to leave their country;*
- (c) *The right to seek asylum in another country; and*
- (d) *The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.*

Principle 16

1. *All internally displaced persons have the right to know the fate and whereabouts of missing relatives.*
2. *The authorities concerned shall endeavour to establish the fate and whereabouts of internally displaced persons reported missing, and cooperate with relevant international organizations engaged in this task. They shall inform the next of kin on the progress of the investigation and notify them of any result.*
3. *The authorities concerned shall endeavour to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation, and facilitate the return of those remains to the next of kin or dispose of them respectfully.*
4. *Grave sites of internally displaced persons should be protected and respected in all circumstances. Internally displaced persons should have the right of access to the grave sites of their deceased relatives.*

Principle 17

1. *Every human being has the right to respect of his or her family life.*
2. *To give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so.*
3. *Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and cooperate with the work of humanitarian organizations engaged in the task of family reunification.*

4. *Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together.*

Principle 18

1. *All internally displaced persons have the right to an adequate standard of living.*
2. *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.*
3. *Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.*

Notes:

In the case of **Narmada Bachao Andolan vs Union Of India And Others** decided on 18 October, 2000 reported in 2000 AIR 3751, 2000 (4) Suppl. SCR 94, 2000 (10) SCC 664, 2000 (7) SCALE 34, 2000 (2) Suppl. JT 6, the Supreme Court has held that-

"...It is a matter of great concern that even after half a century of freedom, water is not available to all citizens even for their basic drinking necessity violating the human right resolution of U.N.O. and Article 21 of the Constitution of India..."

The right to shelter was accepted as a part of the right to life as laid down by the Apex Court in **Francis Coralie Mullin, Petitioner v. The Administrator, Union Territory of Delhi and Ors.**, reported in AIR 1981 SC 746 and in the said case the Apex Court held thus:

"The fundamental right to life which is the most precious human right and which forms the arc of all other right must therefore be interpreted in a broad and expansive spirit so as to invest it with significance and vitality which may endure for years to come and enhance the dignity of the individual and the worth of the human person".

Also in the case of **State of Karnataka & Ors. Vs. Narasimhamurthy & Ors.** decided on 11/08/1995 reported in 1996 AIR 90, 1995 (2) Suppl. SCR 649, 1995 (5) SCC 524, 1995 (4) SCALE 853, 1995 (6) JT 375, it was stressed that-

"Right to shelter is a fundamental right under Article 19 (1) of the Constitution. To make the right meaningful to the poor, the State has to provide facilities and opportunity to build house. Acquisition of the land to provide house sites to the poor houseless is a public purpose as it is a constitutional duty of the State to provide house sites to the poor."

Principle 19

1. *All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.*
2. *Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for victims of sexual and other abuses.*
3. *Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.*

Principle 20

1. *Every human being has the right to recognition everywhere as a person before the law.*

2. To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.

3. Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.

Principle 21

1. No one shall be arbitrarily deprived of property and possessions.

2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts:

- (a) Pillage;
- (b) Direct or indiscriminate attacks or other acts of violence;
- (c) Being used to shield military operations or objectives;
- (d) Being made the object of reprisal; and
- (e) Being destroyed or appropriated as a form of collective punishment.

3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

Note:

Recently it was observed that right to property is a part of human rights In **Narmada Bachao Andolan vs State Of M.P. & Anr.** decided on 11 May, 2011 in connection with Civil Appeal No. 2082 of 2011, their Lordship of Hon'ble Supreme Court has observed that-

"26. This Court has consistently held that Article 300-A is not only a constitutional right but also a human right. (Vide: Lachhman Dass v. Jagat Ram & Ors., (2007) 10 SCC 448; and Amarjit Singh & Ors. v. State of Punjab & Ors. (2010) 10 SC 43)."

And in **State of Kerala & Anr. v. Peoples Union for Civil Liberties, Kerala State Unit & Ors.**, (2009) 8 SCC 46, the Apex Court held as under:

"102. Article 21 deals with right to life and liberty. Would it bring within its umbrage a right of tribals to be rehabilitated in their own habitat is the question?"

103. If the answer is to be rendered in the affirmative, then, for no reason whatsoever even an inch of land belonging to a member of Scheduled Tribe can ever be acquired.

Furthermore, a distinction must be borne between a right of rehabilitation required to be provided when the land of the members of the Scheduled Tribes are acquired vis-à-vis a prohibition imposed upon the State from doing so at all."

Principle 22

1. Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:

- (a) The rights to freedom of thought, conscience, religion or belief, opinion and expression;
- (b) The right to seek freely opportunities for employment and to participate in economic activities;
- (c) The right to associate freely and participate equally in community affairs;

(d) The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right; and

(e) The right to communicate in a language they understand.

Principle 23

1. Every human being has the right to education.

2. To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.

3. Special efforts should be made to ensure the full and equal participation of women and girls in educational programmes.

4. Education and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

Section IV – Principles Relating to Humanitarian Assistance

Principle 24

1. All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.

2. Humanitarian assistance to internally displaced persons shall not be diverted, in particular for political or military reasons.

Note:

In the case of **Yamkhomang Haokip vs State Of Manipur And Ors.** decided on 12 July, 2000 reported in (2003) 3 GLR 409, Hon'ble Gauhati High Court has observed that-

"Now obviously, the right to life enshrined in Article 21 cannot be restricted to mere animal existence. It means something much more than just physical survival. In *Kharak Singh v. State of Uttar Pradesh* (1964) 1 SCR 332 (1932) (2) Cri. LJ329 Suba Rao, J. In *Munn v. Illinois* (1877) 94 US 113 to emphasise the quality of life covered by Article 21 : "*Sunil Batra v. Delhi Admn.* (1979) 1 SCR 392 at P. 503; (1978 Cri. LJ 1741): By the term "life" as here used something more in meant than mere animal existence. The inhibition against its deprivation extends to all those limbs and faculties by which life is enjoyed. The provision equally prohibits the mutilation of the body or amputation of an arm of leg or the putting out of an eye or the destruction of any other organ of the body through which the soul communicates with the outer world." And this passage was against accepted as laying down the correct law by the Constitution Bench of this Court in the first *Sunil Batra* case (1978 Cri LJ 1741) (supra). Every limb or faculty through which life is enjoyed is thus protected by Article 21 and a fortiori, this would include the faculties of thinking and feeling. Now deprivation which is inhibited by Article 21 may be total or partial, neither any limb or faculty can be totally destroyed nor can it be partially damaged. Moreover it is every kind of deprivation at is hit by Article 21 whether such deprivation be permanent or temporary and, furthermore, deprivation is not an act which is complete once and for all: it is a continuing act and so long as it lasts, it must be in accordance with procedure established by law. It is therefore clear that any act which damages or injuries of interferes with the use of, any limb or faculty of a person, either permanently or even temporarily would be within the inhibition of Article 21.

Principle 25

1. The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.

2. International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a State's internal affairs and shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.

3. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.

Principle 26

Persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.

Principle 27

1. International humanitarian organizations and other appropriate actors when providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard. In so doing, these organizations and actors should respect relevant international standards and codes of conduct.

2. The preceding paragraph is without prejudice to the protection responsibilities of international organizations mandated for this purpose, whose services may be offered or requested by States.

Section V – Principles Relating to Return, Resettlement and Reintegration

Principle 28

1. Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.

2. Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

Principle 29

1. Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.

2. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

Principle 30

All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.”

D. CONCLUSION

The present available enactment for the malady of displacement is the archaic “Land Acquisition Act, 1894” but it deals with the landowners. Displacement of tribal community as harmful for their culture and traditions may also hit the entity of Article 29 of the Constitution of India. However, it may be exhorting to conclude with the observations of Hon’ble Supreme Court in the case of **Siddharam Satlingappa Mhetre vs State Of**

Maharashtra And Ors. decided on 2 December, 2010 in connection with Criminal Appeal No. 2271 of 2010. (Arising out of SLP (CrI.) No.7615 of 2009), the Supreme Court has held that-

"41. All human beings are born with some unalienable rights like life, liberty and pursuit of happiness. The importance of these natural rights can be found in the fact that these are fundamental for their proper existence and no other right can be enjoyed without the presence of right to life and liberty.

42. Life bereft of liberty would be without honour and dignity and it would lose all significance and meaning and the life itself would not be worth living. That is why "liberty" is called the very quintessence of a civilized existence.

43. Origin of "liberty" can be traced in the ancient Greek civilization. The Greeks distinguished between the liberty of the group and the liberty of the individual. In 431 B.C., an Athenian statesman described that the concept of liberty was the outcome of two notions, firstly, protection of group from attack and secondly, the ambition of the group to realize itself as fully as possible through the self-realization of the individual by way of human reason. Greeks assigned the duty of protecting their liberties to the State. According to Aristotle, as the state was a means to fulfill certain fundamental needs of human nature and was a means for development of individuals' personality in association of fellow citizens so it was natural and necessary to man. Plato found his "republic" as the best source for the achievement of the self-realization of the people.

...45. It is very difficult to define the "liberty". It has many facets and meanings. The philosophers and moralists have praised freedom and liberty but this term is difficult to define because it does not resist any interpretation. The term "liberty" may be defined as the affirmation by an individual or group of his or its own essence. It needs the presence of three factors, firstly, harmonious balance of personality, secondly, the absence of restraint upon the exercise of that affirmation and thirdly, organization of opportunities for the exercise of a continuous initiative."