

## **CHAPTER- III**

### **HISTORICAL PROFILE OF POPULATION DISPLACEMENT AREA AND PROTECTION MECHANISM**

#### **3.0 INTRODUCTION**

In the present research work, the historical profile of population displacement area, study of the conflict engaged communities, beginning of their differences, displacement profile of population and protection mechanism of international and national level of the study area has been discussed extensively in the following ways. As per the objective of the study the protection mechanism of the displacement area has been considered where brief profile of the Kokrajhar district has to be enumerated accordingly.

#### **3.1 BRIEF HISTORY OF KOKRAJHAR DISTRICT**

Kokrajhar is one of the main districts of Assam, located in the western part of Assam. On the north, it is surrounded by Bhutan, Dhubri district on the south, on the eastern side by Bongaigaon district and West Bengal borders on the west. Originally it was a part of undivided Goalpara district. During the time of Chief Minister ship of Bimala Prasad Chaliha after curving out some northern parts of Dhubri subdivision and some parts of Goalpara subdivision, a new Civil Sub-division was created. This new subdivision was named as Kokrajhar Sub-division. Thus, the original Goalpara district was divided into three sub-divisions.

Later on, the Kokrajhar Sub-division was upgraded as Kokrajhar district with its own headquarter at Kokrajhar town in the month of 1<sup>st</sup> July, 1983. Further, the process of reorganization of districts in 1989 created some more new districts. This reorganization brought in the existence of new district - Bongaigaon where almost 40% of Kokrajhar district's total geographical area were curved out and transferred to the new district namely the Bongaigaon district. The entire Bijni Revenue Circle and some villages of Sidli Circle were included in the

newly created district of Bongaigaon. After the completion of census of 2001 some villages were interchanged between the Kokrajhar and Dhubri district. In this process twenty (20) villages from Dhubri district's Chapar Revenue Circle area were transferred to Kokrajhar district. About 35 villages from Gossaigaon revenue circle under the Kokrajhar district and some 276 villages from Dhubri district were interchanged between the two districts. Further, the formation of Bodoland Territorial Council as a territorial privilege after the Settlement of Memorandum of Understanding on 10<sup>th</sup> February, 2003 between the Bodo Liberation Tigers Force popularly known as BLT on the one side and the Government of India and Government of Assam on the other side lead to the creation of more districts on the heart of Assam. This resulted into the creation of new district – Chirang by curving out 147 villages and 84 Basugaon TC of the then Kokrajhar district's total geographical area. The surrender of BLTF cadres resulted into the creation of Bodoland Territorial Council (BTC) which consists of 46 members in the Assembly. Out of this 40 members are elected by direct election whereas 6 members are nominated are by the Governor of Assam from the unrepresentative communities. The area of BTAD consists of four adjacent districts Kokrajhar, Chirang Baksa, Udalguri and which were curved out from existing seven districts namely- Kokrajhar, Bongaigaon, Barpeta, Nalbari, Kamrup, Darrang and Sonitpur. This separate political arrangement namely the Bodoland Territorial Area District for the promotion of the Bodos in respect of religion, religion, culture, tradition, customs and for the preservation of their distinct identity is created under the Sixth Schedule provisions of the Indian Constitution (Directorate of Cencus Operation, 2011).

### **3.2 BACKGROUND OF BODO AND ADIVASI COMMUNITIES OF KOKRAJHAR DISTRICT**

The Kokrajhar district is situated under the Sixth Schedule area of Bodoland Territorial Area District which was created after the tripartite agreement on 10<sup>th</sup> February, 2003 basing on tribal belt and blocks parts falling within that particular area. But its residents include non-tribal also along with tribal communities' viz. the Bodo, Bengali, the Nepali, the Koch Rajbangsi and the Adivasi etc. Among these, the Adivasi and the Bodo group are known as the two major and large concentrated communities in Kokrajhar. A brief discussion of the two communities has been made in the following paragraphs.

### 3.2.1 THE BODO

The Bodos are one of the earliest settlers of Assam. The term Bodo was for the first time used by B.H. Hodgson as ethnological terms to refer to the Meches, the Bodo speaking people of Darjeeling district in 1846 while writing about them (Brahma, 2008). It is believed that they had migrated to India from their original habitat during the pre-historic era (Sonowal, 2013). Since then the word Bodo has been used as a generic term to denote the different branches of the Bodo language group. Ethnologically, the term Bodo covers a number of tribes like the Bodo Kocharis, Garo, Mech, Rabha, Lalung, Tripuri, Hajong etc. They are found almost in the entire part of Brahmaputra valley with significant concentration in some areas (Kundu, 2010). According to E. Gait, the Bodos or Kocharis are the aboriginal inhabitants or earliest settlers of Assam.

There is no unanimous opinion among the scholars regarding the period of migration of the Bodos into India. Many scholars have tried to interpret according to their analysis. S. K. Chatterjee believes that they had migrated to Assam in 1000 B.C. Again, B. Narzi maintains that the migration of Bodo people to Assam started since 2000 BC. Yet, most of the scholars have agreed that the people of the Bodo origin migrated into India about some 5000 B.C. Above all, they are known as the largest migrants in the history of Assam before the Aryans. Suniti Kumar Chatterjee, a known historian and literatures writes some aspects about the origin of the Bodos. According to him, the places in the north of China, in between the head waters of the Huang Ho and the Yangtze Kiyang Rivers were the original home of the Mongoloid groups and Bodo people from where they have moved and displaced in different directions (Sonowal, Why Bodoland Movement, 2013).

The Boros, also known as Bodo, is one of the major communities of Assam belonging to the Indo-Mongoloid ethnic group of the Tibeto-Burman language family (Brahma S. , 2006). The Bodos are one of the ethnic and linguistic communities and early settlers of Assam in the north east India. The word Bodo denotes both language as well as Bodo community. The Bodos belongs to a larger group of ethnicity called the Bodo Kocharis. They are recognized as a plain tribe in the sixth scheduled of the Indian Constitution. Linguistically the Bodos include a large group of people who are the speakers of the Tibeto-Burman speeches of the North and East Bengal, Assam and Burma. They are the Bodos or Boros of the Brahmaputra valley. They are known as Meches in the lower Assam, West Bengal and Nepal and also known as Rabha, Garos,

Dimasa, Kacharis, Lalungs, Sonowals, Misings, Deuris, Chutias, Modahis, Ramcha, Thengal in Assam and Tripas in Tripura. The ethnic identities of the Bodos were increasingly jeopardized resulting in economic, social and political instability (Mondol, 2011).

The Bodos are a race of the Mongolian people who are described to be the inhabitants of a country north of the Himalayas and West of China. This land is known as Bod. The word Bod is supposed to mean the homeland. The inhabitants of Bod country are known as the Bodo- Fichá or Bodocha or Bodosá (Bodo means land and Fichá or Chá means children, hence children of the Bod country). In course of time, they come to be known as simply Boddó-Bodó-Boró. Hence, by the term Bodo in general which is a generic name of the people, it means all the Tibeto-Burman (Bodo) speaking group of Sino- Tibetan origin (Brahma K. , 2008). The Bodos are also known as Kacharis or Boro Kacharis, the term 'Kachari' having been derived from the word Kachar, meaning 'lowland' or 'borderland'. The other tribes who are also referred to as Kacharis are the Mech, the Dimasa, the Sonowal and the Thengal.

Presently, the major part of the Bodo population lives in the northern bank of the Brahmaputra River. The highest concentration of Bodos is seen in the district of Kokrajhar, Chirang, Baksa and Udalguri district although they are found in great numbers in all along the northern parts of Dhubri, Goalpara, Barpeta, Nalbari, Kamrup, Darrang, Sonitpur and Lakhimpur districts of Assam.

### **3.2.2 THE ADIVASI**

In Assam there are many people of the Mongoloid groups and most of them are included in the category of scheduled tribes, however due to non fulfillment of the criteria set for declaring certain ethnic groups as scheduled tribe, some groups have been left out, even though they are of the same racial origin. It is observed that some ethnic groups known as Adivasi which are considered as scheduled tribes in the states like Bihar, Chhattisgarh and Jharkhand, they are not categorized as Scheduled Tribes in Assam. The migration of Adivasi people to Assam mainly started in the post Santhal Revolt in those states. The migration process of these Adivasi people towards Assam was initiated by the British Authority with the intention of disbursing the Santhal people to different region of the country and to avoid the renaissance of the movement. The British authority planned to achieve two purposes with this initiative which were mainly-

firstly, they assumed that if large sections of the people are disbursed to Assam, the revolutionary group will be minority and automatically lose its strength, and secondly, after disburse to Assam as the Santhal group would be considered as outsiders amongst the huge local diversity communities, they would not in a position to rebel against the British government. Thus, the Santhal groups in particular and the groups known as Adivasi were brought to Assam as a part of such initiative and resettlement process. Mainly, they were settled down in the west and north areas of the present Kokrajhar district which is part of western Assam and this settlement is seen in the record of 1881 year (Bhowmick, 2011). The people belonging to Adivasi or Santhal group were brought mainly with the purpose of using them in the sector of tilling activities and other agricultural production programmes. Later on, the growing rate of tea gardens in different parts of Assam invited more and more influx of Adivasi people to Assam as the tea garden labourers.

In the 19<sup>th</sup> century, the Adivasi were used by the Britishers as a colonial enterprise and the discovery of many tea gardens in Assam required many labourers to work in the tea garden plantations. For that purpose at the initial stage the British relied on the imported labours of China. But as Chinese labour were not able to do hard work at the time of need, they dropped them in the middle. After that they searched alternative labours and tried to engage the hard working community people specially the Nagas but they also refused to stay under their control. Then, the British tried to engage other local tribes in such activities, however they also resisted against the strong discipline of the British Company. The British government then finding no way, at the last resort started importing labours from Chotanagpur area to employ in the tea gardens. Thus, Adivasi were brought to exploit their hard labour and they were systematically rooted out from their area and pushed off to Assam by organized system of recruitment. The extent of migration was huge and increased in every after ten year's interval. It was recorded that twenty three lakhs sixty six thousand (23, 66,000) lakhs of people were brought to Assam from Chotanagpur area within the span of thirty years. They were brought through abusive contractual process where British used the technique of kidnapping, torture, forceful and fraud recruitment to incite so that Santhal become bound to come in Assam and become mentally ready to live and work under terrible conditions.

Moreover, the establishments of development projects and industries in the Santhal residential areas were alienating their lands in large scale. This also pushed the Santhal to come into Assam in search of jobs in the tea gardens and better life opportunities. In this way, under three different reasons and circumstances the Adivasi people settled down in Assam. In the tea gardens, workers were paid meager amount of wage for the labour of their work by the rule of some contract system and any person who breached the contract were punished harshly (Xaxa, 2005). Moreover, they were kept distance from the local people so that they cannot mingle with them. However, when the contracts were over and the tea plantation required no more labour, they were allowed to settle down in the nearby forest areas. Thus, in that way they settled and occupied many law land and forest land areas in the state of Assam in general and Kokrajhar district in particular which later on became a problem for the indigenous people.

### **3.2.3 ORIGIN OF DIFFERENCE BETWEEN THE TWO COMMUNITIES**

The unchecked and large scale immigration over the years to Assam from other parts of the country and mainly from East Bengal /East Pakistan/Bangladesh, materially changed the demographic, linguistic and socio-cultural composition of Assam. The changes engendered new competitive politico-economic pressures on the Assamese Hindus who are traditionally rather unenterpreneurial and lacking in competitive skills in comparison with the immigrants. The Assamese perceived their cultural, economic and political interest to be in great peril on account of demographic changes in the composition of state's population. As a result, the All Assam Students Union (AASU) and All Assam Gana Sangram Parishad (AAGSP) have emerged as the two main organizations for the protection of Assamese Hindu interest. The issue that today torments the indigenous people of Assam is the question of who were the first inhabitants of the area. This has provoked considerable controversy among the Aryan and Mongoloid races. Scholars guess that the Bodos originally migrated from Mongolia, China and Tibet and their original habitat was possibly between the upper head waters of the Yangste River and the Huang River. Like the Ahoms the Koch and the Kocharis kings largely influenced by the Hindu religion and the Aryan, gradually began to abandon their ancestral language and culture which explains the present obscurity regarding the lineage of the kings (Bhan, 1999).

In the beginning the Bodos did not feel any problem when Adivasi were settling in the forests of their area. So, there was no resistance to the settlement of Adivasi in their

surroundings. In fact, it was like a situation that they themselves allowed to settle as the local people used to vacate the area of river banks in search of better high lands. Indeed, there prevailed a good environment as neighbours and lived together for decades. However, in course of time the alarming scarcity of land slowly arose the notion of local and the outsider between the two communities. The Bodos showed that that were becoming minority in their own land. These even resulted a threat to change the democratic pattern of the area. Later on, the Bodos could realize their deprivation in various forms which compelled them to claim their right as the original inhabitants. As the Bodos were not within the provision of sixth schedule they were worried about the large scale immigration in the fear of that one day it may alienate their lands from them. For the plains tribal the loss of land meant that they had to move further north to the northern bank of the Brahmaputra where they too cut down reserved forest and settled on these lands. Thus, from being owners of land they were turned into illegal encroachers on government land. Apart from the agreement on land, the tribals were guaranteed special safeguards for reservation in political representation, jobs, and education. Special financial grants for their development were also promised. But despite these provisions 90 percent of the Bodos live below the poverty line today.

According to the Bodos their present loss of status which is the outcome of a history of deprivation of tribals of their land, obliteration of their distinct linguistic, cultural and political identity, economic neglect and suppression of their genuine aspiration is humiliating for the Bodos. The Bodos blame the Assamese people for their attitude of alienating and dominating the tribals. The Bodos assert that Assam government is guilty of depriving the tribal of their land. They allege that thousands of Bighas of land in various tribal blocks and belt were approximated by Assam government for various purposes. The Bodos are mainly agriculturists who have not branched out into professions other than petty government services. Their market economy centers on a meager sale of vegetables, mustard seeds and jute (ibid. Bhan).

Like the Muslims the Santhal people were also brought by the Britishers during the colonial period as the tea garden labourers. The conflict between Bodo and Santhal is ugly fallout of the Bodoland Movement. There has been constant arm conflict between in the forest area of Kokrajhar and Bongaigaon districts between the NDFB and Birsa Commando Force (BCF) for a long period. The main reason behind this conflict was the large scale encroachment

on forest lands in Kokrajhar and Bongaigaon district. According to Bodo militant group the BCF has been working for the creation of Jharkhand area within the proposed Bodoland area which created apprehension in the minds of the Bodos about their Identity. On the other hand according to BCF in order to become majority the Bodo militant groups started massive ethnic cleansing in the Bodoland area. As a result both the groups started challenging the activities of each other which led to ethnic riots between these two communities (Dutta, 2016).

The Bodos believed that the influx of outsiders and the domination by them and the Assamese both has destroyed the compactness of the tribal blocks and belts, undermined tribal language and culture, deprived them of any control on the community resources. These perceptions have led to the feeling among Bodos that they cannot survive as people or protect their interest unless they demand a separate state. Hence, these factors made them to raise issues and various demands for autonomous council and ultimately the demand for a separate statehood Bodoland arose.

### **3.4 PROFILE OF POPULATION DISPLACEMENT**

The Kokrajhar district has been known as one of the most disturbed areas and politically very sensitive after the launch of movement for separate statehood- Bodoland by the All Bodo Students Union (ABSU) in late 1980's. The protracted conflict and frequent violence has resulted in abundant deaths, loss of property and massive population displacement in the area. There started a number of endless movements and counter movements when the ABSU took up the issue of separate statehood Bodoland movement which resulted in a situation of endless conflict.

The renaissance for separate identity amongst the Bodos started in the last part of 19<sup>th</sup> century and early part of the 20<sup>th</sup> century which developed in the form of socio-cultural and religious reform movement. Gurudev Kalicharan Brahma, the then most influential person in the society shouldered the responsibility of reforming the Bodo society in the aspect of social, cultural and religious background which later on developed the idea of preserving their self respect and identity (Sonowal, Why Bodo Movement, 2013).

The appearance of conflict situation in Kokrajhar district can be traced back to Bodoland movement period 1901- 2003 in which there emerged several conflicts in this region. The



Bodoland movement was an outcome of long drawn identity formation process which was caused by numerous factors such as historical, socio- cultural, economic, political and ethnic identity assertion among the Bodos. K. S. Singh has categorized the development of Bodoland movement into three phases which are: firstly, the initial phase which concentrated on the socio-economy upliftment of the Bodos: secondly, the intermediate phase which concentrated on the upliftment of solidarity among the Bodos by means of language and script movement and thirdly the ultimate phase which concentrated mainly on the creation of separate state Bodoland on the northern bank region of the mighty river Brahmaputra (Kundu D. , 2010).

Of course, the movement for separate statehood was launched in the name of Udayachal on the north bank of Brahmaputra for the first time by the then powerful Plains- Tribal Political organization namely Plains Tribal Council of Assam (PTCA). But, gradually when PTCA merged itself as a part of mainstream politics they fail to convince the faith of young generation of Bodos upon them. As this political party could not fulfill the hopes and aspirations of the public, it loses existence even after the completion of 17 years of its formation. Since the collapse of PTCA, ABSU took up the main leading ship for the movement of separate statehood Bodoland by the popular slogan Divide Assam 50-50 which still echo in the present movement. In the initial stage, the movement was very peaceful even though it was large in size. But later on this movement turns into violent when armed wing known as Volunteer Force was formed and involved in the movement to counter the atrocities unleashed by the Assam government with the help of police and central Paramilitary forces to suppress the movement. (Mushahary J. , Conflict induced internally displaced persons and the issue of human rights in Bodoland Territorial Council, Assam, 2018)

During the initial stage of Bodoland movement up to 1993 ethnic conflict was hardly known which affected huge number of internal displacement. However, the activities of looting, killing someone by target, arson, bombing and intra –group clash were also taking place along with the movement. In the year 1993, for the first time the major inter-ethnic violence was witnessed between the non- Bodos belonged to Muslim group known as minority and the Bodos in some districts namely Kokrajhar, Bongaigaon and Barpeta. Large numbers of people were displaced by this conflict and lead to the death of nearly 50 persons. About 3568 families which consisted of 18,000 persons were displaced by the conflict of 1993 (Deka, 2012). It is seen that

in a memorandum which was submitted by the Saranathi Committee of Bongaigaon and Kokrajhar district in the year 1996, it was raised that 5,043 families consisting of all total 20,812 persons were leading their daily lives in 18 improper relief camps since 1993 (Barman, 2009).

From that time onwards the then Kokrajhar district and the present headquarter of Bodoland Territorial Area District after the accord of BTC was followed by a number of ethnic clashes in greater intensity conflict with higher number of deaths and huge number of population displacement which was never witnessed in the history of past. In the month of May – June of 1996, a conflict broke out between the Adivasi and Bodos in the Kokrajhar district where a huge number of population displacement took place. Almost 2, 62,682 persons from 42,214 families from both the communities were displaced by this conflict. The victims of this conflict were sheltered in various government sponsored 78 relief camps within the Kokrajhar and other adjoining areas of the district. Later on, by the end of the year 1997, many inmates from the relief camps were forced to return back to their original villages with insufficient amount of money and inadequate compensation provided from the side of government. However, it was seen that again in 1998, the conflict started between the two groups which resulted in the displacement of 48,556 families consisting of almost 3, 14,342 persons. It was recorded that out of total 48,556 displaced families, 32,954 families belonged to Gossaigaon subdivision and the rest 15,602 families were from Kokrajhar subdivision. By this violence, 756 villages were displaced in Kokrajhar district. Out of these, 196 were from revenue village, 25 from recognized forest village and the rest 535 were from the encroached forest villages (Commissioner, 2002).

Table No. 3.1: Distribution of total affected families of Kokrajhar and Gossaigaon Subdivisions due to outbreak of ethnic clash in 1996 between Santhal and Bodo.

Sl. No.	Sub – Division		Total number of affected families
1.	Kokrajhar	20,064	42,214
2.	Gossaigaon	22,150	

Source: Collected from Action Plan for Refugees of 1993, 1996 & 1998 Ethnic violence; Deputy Commissioner Office, Kokrajhar.

Table No. 3.2: Distribution of total affected families of Kokrajhar and Gossaigaon Subdivisions due to outbreak of ethnic clash in 1996 between Santhal and Bodo.

Sl. No.	Sub – Division		Total number of affected families
1.	Kokrajhar	15,602	48,556
2.	Gossaigaon	32,954	

Source: Collected from Action Plan for Refugees of 1993, 1996 & 1998 Ethnic violence; Deputy Commissioner Office, Kokrajhar.

Moreover, after these two conflicts more ethnic- conflicts burst out on protracted nature the main reason of which is related with identity assertion of every ethnic groups residing in this region. Many of the groups were not satisfied with the formation of ethnic homeland for Bodos. The other communities living in that area always feel that they are neglected with such settlement from various rights for which there is frequent resentment against the Bodos and clash with other communities. In BTC region, the main groups are the Bodos, Adivasi and Muslims. Among these groups the relation is very sensitive and sometimes even a small clash at individual level also leads to communal riots. Beyond this, every community in this region feels themselves as minority and tries to express their hopes and aspirations by the means of insurgencies and movement. In this way, almost all the major groups have their own active insurgent groups for which they rely on gun culture. The insurgent groups among them are National Democratic Front of Bodoland (NDFB) which is now on three factions, Kamatapur Liberation Organization (KLO) among Rajbhongsis, Muslim United Liberation Tigers of Assam (MULTA) among Muslims and then different groups among Adivasis like Adivasi Cobra Force, Birsa Commando Force, All Adivasi National Liberation Army, Santhal Liberation Tigers, Adivasi Cobra Military of Assam and Adivasi People's Army (Asian Centre for Human Rights, 2012).

Further, most of the insurgent groups of north east India are engaged either in ceasefire or in talks with the government of where both the factions of NDFB(R) and NDFB (P) are also included. However, NDFB(S) which is a splinter group under the leadership of I.K. Songbijit are

still underground and are considered as one of the active and dreaded militant organization in the entire area. This dangerous group of NDFP(S) on the night of 23<sup>rd</sup> December, 2014 attacked Adivasi or Santhal villages and fired with arms indiscriminately in Kokrajhar, Chirang and Sonitpur districts killing 80 Adivasis and injuring numerous people. The official report of Asian Centre for Human rights (ACHR) claims 3, 00,000 lakhs displaced people in Assam which was recorded as the highest in the world for the year 2014 (Wikipedia, 2014). This displaced people of terrible incident were kept in 85 relief camps in the four districts of Assam namely Kokrajhar, Chirang, Udalguri and Sonitpur.

The indiscriminate and inhuman serial killing of Adivasi masses in different parts of Assam along with the Kokrajhar district by the banned outfit received huge condemnation across the national and international level from various sections of the society i. e. civil society organizations and the political parties. The Amnesty International also condemned this brutal and inhuman killing of the civilians and directs the respective state to initiate zero tolerance towards the terrorist and also asked to intensify to the counter insurgency operation in its statement. Moreover, Asian Centre for Human Rights also termed it as the crimes against the humanity as per the contents of Rome Statute of International Court.

### **3.5 PROTECTION MECHANISM OF CONFLICT DISPLACED PERSONS: STUDY OF GLOBAL AND NATIONAL LEVEL PERSPECTIVE**

The concept protection implies about ensuring that all men, women, boys and girls are able to enjoy their rights on an equal basis in safety and dignity and also at the time of internal displacement (Global Protection Cluster Working Group, 2009). In other words, all those activities designed to obtain full respect for the rights of the individual as per the letter and spirit of the relevant bodies i.e. law of human rights, law of refugee and law of humanitarian is meant protection activity or mechanism. Thus, any protection activity is based on rule of law. In other words, it may also be argued that humanitarian problems, including those that result from displacement in the event of conflict, are the consequences of a violation, deliberate or otherwise

of rules of law and are primarily the responsibility of national authorities that are under an obligation to provide protection and assistance to the population (Hickel, 2001) .

It is known fact that in the corner of the world, the phenomenon of internal displacement is not a new one: it has been a regular incident and there is huge presence of IDPs in every nation. Throughout the history, there are numerous examples of how states subjected their own citizens to massive displacement, starvation, killings and in some cases genocide, while the rest of the world stood by and watched (Jonrud, 2012) . However, the problems of internally displaced persons (IDPs) has received little attention or sometimes never received the attention even though they legally deserve. Although they are also the same human beings and the citizen of the country and all the law of the land are legally applicable to them, however it is seen that in terms of protection and enjoyment of rights they are often treated as second class citizens. Thus, it is found that there is no proper and adequate system for addressing the problems and for providing assistance for the conflict affected internally displaced persons.

Moreover, maximum governments of the nations feel shy to admit and recognize the presence of IDPs in their country and the part of their responsibility to protect them in the International Forum. Actually, the respective National governments have the responsibility to prevent their citizens from forceful displacement from their original habitats and to ensure that the displaced are provided with full access to their rights and rehabilitation.

### **3.5.1 PROTECTION OF IDPs UNDER INTERNATIONAL HUMAN RIGHTS LAW**

In the international level, the International Human Rights Law which comprises both treaty and customary laws guarantees these rights and brings a obligation to the states to ensure respect, protect and fulfill human rights of all persons without the discrimination of any kind on the ground of gender, age, sex, language, religion, ethnic origin, national and social origin of birth or other status including on the grounds of being or having been internally displaced (Group, 2007). Moreover, the human rights law is applicable both in times of peace and in situations of armed conflict and also provides important protection to Internally Displaced Persons. It aims both to prevent displacement and to ensure basic rights should it occur. The

prohibition on torture, cruel, inhuman or degrading treatment or punishment and the right to peaceful enjoyment of property and to home and family life are of particular importance for the prevention of displacement. The right to personal safety and to have home as well as right to food, shelter, education and access to work offer vital protection during displacement. Many of the rights are also relevance to the issue of return (ICRC, 2002).

The Universal Declaration of Human Rights (UDHR) of 1948 is the first human rights instrument developed by the United Nations. It establishes the main civil, political, economic and cultural rights to which all persons are entitled, without any kind of discrimination. The UDHR with its two covenants; International Covenant on Civil and Political rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR), together constitute what is regarded as the “international bill of rights”. Although none of these human rights instruments specifically address internal displacement, they do cover a wide range of risks that IDPs often face and reinforce protection for particular groups of persons who tend to be disproportionately affected by displacement (op.cit. G.P. 2007, p.17)

The other main instruments that care for the protection and promotion of the welfare of IDPs are: The Convention on the Elimination of all Forms of Discrimination Against Women, 1979 (CEDAW) sets a framework for national action for ensuring women enjoy, on an equal footing with men, their rights in all fields including employment, education and administration of property and for ensuring the protection of women, especially against threats to their physical safety and against rape and sexual exploitation. The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 (CAT): It defines and prohibits torture under all circumstances. It also stipulates that the states cannot transfer a person to another state if there are grounds for believing that he/she will be tortured. Another important international human rights law is International Convention on the Elimination of All Forms of Discrimination: it prohibits racial discrimination when a person or group is treated differently because of race, color, descent, national origin or ethnic origin with the aim or effect of denying their human rights and fundamental freedoms. Again, the International Convention on the Prevention and Punishment of the Crime of Genocide, 1948 (ICPPCG) defines genocide as an acts committed with the intent to destroy, in whole or in part , a national, ethnic, racial or religious group, and declares it as a crime, whether committed during peacetime or war. Again,

the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child labour (ILO Convention No.182) 1999 obliges the states to take necessary measures to eliminate the worst forms of child labour, such as slavery, trafficking, prostitution or forced labour, including recruitment of children under 18 years for use in armed conflict (Ibid. G P., p.18).

Thus, human rights law also applies to the internally displaced persons as it is applicable to all the individuals without any distinction and discrimination under all circumstances. Human rights law becomes the only source of respect and legal protection and ensuring the human rights of the internally displaced persons, when humanitarian law is not applicable (Phuong, 2005).

Hence, the states have a responsibility to ensure the full and equal enjoyment of human rights of all individuals on their territory or under their jurisdiction. The state has three dimensions of responsibility: first, the duty to respect which requires the states to ensure that all the agents of the state act in compliance with human rights law and refrain from any act that might interfere with or impair the exercise of rights and the IDPs are able to move freely inside and outside of the settlements or camps; Second, the duty to protect which obliges the states to take all necessary measures to prevent and stop any violations of rights by third parties including groups and other individuals: third, the duty to fulfill which extends to all authorities of the state, including the military and the police, and all public authorities whether at national, regional or local level to take all possible means to exercise their human rights (Group G. P., 2009).

### **3.5.2. GUIDING PRINCIPLES ON INTERNAL DISPLACEMENT**

The guiding principles which came into existence after consultations with international experts and lawyers from across the world, including, UN bodies and standards for NGOs, including regional organizations, represents normative standards for efforts to address internal displacements. Since then it has been receiving importance as an international standard of protecting internally displaced persons and has been highlighted by number of international bodies. In 2015, at the World Summit, leaders of the government and heads of the states unanimously recognized the guiding principles as an important international framework for the protection of Internally Displaced Persons. The United Nations General Assembly and the

Council of UN human rights have also unanimously reaffirmed this acknowledgment. The principles have also been recognized by many regional bodies such as African Union, Council of Europe and the Organizations of American States. Moreover, more increasing numbered of states is also developing their national policies and laws on internal displacement based on Guiding Principles (Mushahary, 2018).

Together with many regional organizations a number of individual states have also spoken positively regarding the contribution of the guiding principles in protecting the internally displaced persons. During the sixty seven session of the commission on human rights the representative of Georgia make a statement that the principles were a useful instrument for protecting the rights of internally displaced persons and also informed the house that efforts were also made y their government to bring national laws in the line with the standard contained in the guiding principles (Ibid.). Likewise, several states including Angola, Burundi, Colombia, Peru, Philippines, Sri Lanka and Uganda have also made explicit references to the principles in their national laws and policies on internal displacement (Kalin, 2005).

The representative of India also spoke in favour of the guiding principles by referring commission's comments of earlier session despite knowing the lacking of legal bindings of the principles on the member states by referring that it can be useful at the time of crisis situation.

The guiding principle on internal displacement has brought together and overview of the rights of internally displaced persons and the responsibilities of national authority and non state actors. As it has received wide international acceptance today the guiding principles has been recognized by states as an important international framework for the protection of IDPs as well as a tool and standard to guide governments, international organizations and all other relevant actors in situations of internal displacement (op.cit. Mushahary, p.97). The guiding principles having thirty principles in number provide guidance to all actors that deal with the internally displaced, whether government, insurgents groups, international; organizations or NGOs and also provide a definition of an IDP and a comprehensive standard of what protection should mean during internal displacement. The principles apply in all phases of internal displacement; such as



1. The pre displacement phase which provide protection from unlawful displacement,
2. Protection and assistance during displacement and
3. Durable solutions namely return, local integration at the place of displacement or resettlement in another part of the country and reintegration.

In simple sense, it can be termed that guiding principles offers standards for protection against arbitrary displacement, innovatively enunciating a right not to be arbitrarily displaced. Secondly, they set forth standards for protection during displacement, tailoring the full range of civil, political, economic, social and cultural rights to the specific needs of IDPs. Lastly, the principles offer standards for protection during return, resettlement and reintegration. Overall, the guiding principles provide a comprehensive international minimum standard for the treatment and protection of the rights of the IDPs (Cohen, 2004).

The guiding principles on internal displacement having, altogether, 30 principles in all have been divided into five broad sections relating to protection, return, rehabilitation and reintegration of IDPs.

#### **SECTION I -- GENERAL PRINCIPLES WHICH IS DISCUSSED UNDER THE PRINCIPLES (1 – 4):**

The general principles talks about the primary responsibilities of the national authorities to protect and assist IDPs within their jurisdiction. It also discusses about the enjoyment o equal rights and freedoms as other persons in their country without any discrimination.

#### **SECTION II - PRINCIPLES RELATING TO PROTECTION FROM ARBITRARY DISPLACEMENT (5 – 9):**

The section articulates a right of the persons not to be unlawfully displaced from their original residence and urge states to take prior measures so that the situation leading to the displacement can be prohibited.

### **SECTION III – PRINCIPLES RELATING TO PROTECTION AND ASSISTANCE DURING DISPLACEMENT (10-23):**

In this section, it has been discussed that every person, including IDPs should enjoy a wide range of civil, political, economic, social and cultural rights. These rights are:

- a) The right to life and to protection against acts of violence and torture, sexual exploitation and gender based violence, forceful recruitment of children into armed forces or groups and their participations in hostilities.
- b) The right to have liberty of movement and freedom and including the right to move freely in and out of IDP camps.
- c) The right to have essential foods, potable water, basic shelter and housing , appropriate clothing, medical services and proper sanitation
- d) The right to have respect for family life and unification.
- e) The right to seek asylum in another country and also to seek safety in another part within the country
- f) The right to have personal identification documentations without discrimination on the basis of gender both for male and female for the enjoyment of legal rights.
- g) The right to seek freely employment opportunities and participation in economic activities.
- h) The right to participate equally both for women and girl in the educational programmes.
- i) The right to vote and participate in government and public offices
- j) The right to have property and possessions
- k) The right to have communication in the language they understand
- l) The right to have recognition everywhere as a person before the law.

### **SECTION IV– PRINCIPLES RELATING TO ACCESS TO HUMANITARIAN ASSISTANCE (24-27):**

In this section IV there is a discussion about the rights of the Internally Displaced Persons (IDPs) to be carried out all humanitarian assistances by the International organizations and other appropriate actors to offer services and to enjoy rapid and unimpeded access to the displaced,

whenever the state authorities are unable or unwilling to provide assistance to Internally Displaced Persons. It also cites about the provisions of humanitarian assistance to execute with the principles of humanity and impartiality and without discrimination. Moreover, it discusses about the responsibility of humanitarian assistance to respect the relevant international standards of while taking appropriate measures in protection of the IDPs. It also speaks for the respect and protection for supplies, vehicles and the persons engaged in the humanitarian activities.

#### **SECTION V-- PRINCIPLES RELATING TO RETURN, RESETTLEMENT AND REINTEGRATION, PRINCIPLES (28-30):**

These section V discusses about the primary responsibilities of the competent authorities to establish conditions, as well as provide the means and ways for a long-lasting solution to displacement problem which includes the right to:

- i. Return to their original place of residence, endeavor for reintegration of returned IDPs, or resettle in any part of the country voluntarily with dignity and safety.
- ii. Participation in the planning programme about their return or resettlement and reintegration
- iii. Prohibition of discrimination who have been resettled to their original place of residence or in any part of the country
- iv. Assist in recovery of lost property and possessions and if not possible to return, to provide the compensation appropriately and providing opportunities for equal access in public offices.

Thus, the guiding principles on internal displacement are comprehensive instrument and more than enough to protect the rights and privileges of the IDPs if it is implemented properly. The principles contained in the guiding principles provide a complete framework for the identification of protection concerns and planning, implementing, monitoring protection activities in situations of internal displacement. It helps government, international agencies, NGOs and IDPs themselves to promote and protect the rights of the IDPs (Deng, 1999).

### **3.5.3 THE UNITED NATION DEVELOPMENT PROGRAMME**

The role of the United Nation Development Programme in respect of dealing with IDPs is not negligible. It has contributed and played very important role in the rehabilitation and resettlement process of Internally Displaced Persons around the world. It has been recognized as the largest social and economic development provider to the countries around the world. The sustainable human development role of UNDP begins to grow wherever the target ability of IDPs fades primarily in:

1. Facilitating joint planning of different interventions well beforehand, to ensure that development activities are sufficiently synchronized with relief
2. Supporting development of the communities that the displaced have rejoined
3. Implementing rehabilitation activities in the displaced communities of return in order to facilitate their sustainable reintegration and
4. Provide local capacity building support to local entities to enable them to take an active role in the reintegration and resettlement process.

Moreover, besides the mentioned specialized agencies which are working for the protection and assistance of the IDPs there are several other specialized agencies within the United Nations and outside the UN who are working for the wellbeing of IDPs. These are the United Nations International Children Emergency Fund (UNICEF), office of the High Commissioner for Human Rights (OHCHR), Office for coordination of Humanitarian Affairs (OCHA) World Food Programme (WFP), Food and Agriculture Office (FAO), World Health Organization, International Labour Organization (ILO) and many others. Further, outside the UN system there are several other specialized INGOs who are working issues related to IDPs such as Internal Displacement Monitoring Centre (IDMC) (op.cit, Mushahary, pp. 93-94).

### **3.5.4 PROTECTION OF IDPs UNDER INTERNATIONAL REFUGEE LAW**

The problem of the refugees and the internally displaced persons originates from the same root causes i. e. armed conflict and human right abuses. The severe humanitarian problems faced by the refugees and the Internally Displaced Persons (IDPs) are almost similar. So, the protection mechanism required for them is almost the same for dealing with the situation. For this reason, there is worldwide discussion, debates among the world bodies, civil societies and the scholars on this critical issue that the internally displaced persons should also be safeguarded under the same protection mechanism as the refugees are provided. During the time of conflict and displacement, the IDPs also face the problems of insecurity, lack of humanitarian assistances and violations of human rights protection. But, it is noteworthy to mention here that during the time of displacement the IDPs lack the right to access legal rights to the provisions of humanitarian assistance. (Mushahary J. , Conflict induced internally displaced persons and the issue of human rights in Bodoland Territorial Council, Assam, 2018).

However, in case of protection of refugees the world/ International community have the full responsibility to take and initiate prompt action whenever the situation arises in any corner of the world. Along with world bodies, protecting refugees is among the primary responsibilities of the particular states who have received. This has been affirmed in the international and regional legal instruments such as the 1951 UN and 1969 OAU Refugee Conventions. In July, 1951, the UN Geneva Conference adopted the 1951 Convention which was later supplemented by the 1967 protocol. These legal instruments define who refugees are and the kind of legal protection, other assistance and social rights refugees are entitled to. The 1951 convention also defines refugees' obligations to host countries and this was the most important global legal instruments openly covering the most important aspects of a refugee's life.

The UNHCR asserts that refugee protection remains an urgent imperative for those who are forced to leave their own countries and deserve minimum the same standards of treatment enjoyed by other people like the foreign nationals in a given country and in many cases the same treatment as nationals. This system of international protection and assistance are only for those people who have crossed borders but it did not extend a provision of support to the people who were forcefully displaced within the boundary of a particular state and under the risk of protection of the state. On the other hand, IDPs are the persons who are forced to flee their

homes but remain within their country's borders. Unlike refugees, the IDPs do not cross an international border in order to find security in other countries. Thus, IDPs remains one of the most vulnerable groups in terms of insecurity and human rights violation beyond the reach of international community and without sufficient security and legal protection from their own country (Ndimurwimo, 2015).

Of course, the reality of the fact that the protection mechanism of refugee law is not applicable to the internally displaced persons it does not indicate that this protection mechanism of refugees is totally irrelevant to the protection of internally displaced persons. In earlier citation, it is mentioned that the problems faced by the refugees and the IDPs are almost similar and identical, the refugee law can be applied as a point of reference and can be a source to inspire for preparing a standard setting for the internally displaced persons (Bhagwan, 2013).

### **3.5.5 PROTECTION UNDER INTERNATIONAL HUMANITARIAN LAW**

International humanitarian law is a set of rules which seek, for humanitarian reasons, to limit the effects of armed conflict. It protects persons who are not or are no longer participating in the hostilities and restricts the means and methods of warfare. International humanitarian law is also known as the law of war or the law of armed conflict. International humanitarian law is part of international law which is the body of rules governing relations between states. Many of the provisions of international law are derived from treaties or conventions and customary laws. This law has its roots in the four Geneva Conventions of 1949 and two further protocols of 1977 relating to the protection of victims of armed conflicts (ICRC, 2004).

International human rights law is applicable in situations of armed conflict, whether international or non international. If IDPs are in a state that is involved in an armed conflict then, provided they are not taking an active part in the hostilities, they are considered civilians and, as such, are entitled to the protection afforded to civilians. This law also expressly prohibits compelling civilians to leave their place of residence unless either their security are imperative military necessity render this essential. If respected, the general rules of international humanitarian law that protect civilians can prevent displacement or should it occur, offer protection during displacement. The following rules are of particular relevance.

1. Those prohibiting parties to a conflict from targeting civilians and civilians' properties or conducting hostilities in an indiscriminate manner.
2. The prohibition on starvation of the civilian population and on the destruction of objects indispensable to its survival
3. The prohibition on collective punishment which often take the form of destruction of dwellings
4. The rules requiring parties to a conflict to allow relief consignments to reach civilian population in need.

Thus, if respected these rules of the international humanitarian law can play an important role in preventing displacement, as it is often their violation which is at the root of displacement (International Committee on the Red Cross, 2002).

### **3.6 APPLICABILITY OF GUIDING PRINCIPLES AT NATIONAL AND REGIONAL LEVEL:**

The basic principle of the United Nations Guiding Principles on Internal Displacement is that it bestows the primary responsibility upon the states. The states have to take the main responsibility and primary duties in regard to the protection and providing humanitarian assistance to internally displaced persons within the jurisdiction of their territory. It is clearly mentioned in the sub section 1 under 3 which indicates that the states have the obligation to take protective measures and to ensure assistance to the internally displaced persons as per the existing norms of international human rights law, international humanitarian law and other international standard settles rules. The principle 1 of the Guiding principles clearly states that the IDPs shall enjoy in full equally the same rights and freedoms under international and domestic laws as other persons in the country enjoy and shall not be discriminated against the enjoyment of any rights and freedoms on the ground that they are internally displaced persons.

Around the world states have been encouraged to enact and adopt strong legal frameworks for the security, protection and promotion of IDPs in the national level. As a result, several countries in the world like Angola, Uganda, Burundi, Philippines, Colombia, Sri Lanka

and Turkey have taken clear references of the Guiding Principles of Internal Displacement in preparing their policies, strategies and laws on internal displacement management within their nations. Likewise, several regional bodies and intergovernmental organizations have also relied and acknowledged the Guiding principles on internal displacement. These include the organization of African Union (OAU), the Economic Community of West African States, the Organization for Security and Cooperation in Europe (OSCE) and the Intergovernmental Authority of Development (IGAD) have also accepted and termed the principles as the useful tools in the preparation or development of national level policies on the internal displacement aspect (Kalin W. , 2006).

Hence, the Guiding Principles on internal displacement has become a major source of the soft law and has been able to maintain and fill up the long standing major lacking in the protection system of international displacement standard in respect to internally displaced persons. Since the formation, the guiding principle has able to bring changes in the lives of millions of internally displaced people around the world with great and wide acceptance of it.

### **3.7 APPLICATION OF GUIDING PRINCIPLES ON NATIONAL POLICY IN INDIA: STUDY OF LEGAL FRAMEWORK**

In the world a large number of nations are influenced greatly by the applicability of guiding principles and has accepted it in preparing their strategies, policies and enacting laws in respect to the protection of internally displaced persons. India as a nation has not been able to free itself from the presence of IDPs which are basically created from the cause of communal clash, ethnic violence, development induced displacement etc. However, despite overloaded with such problem, the Indian state has not able to acknowledge and incorporate the guiding principles of internal displacement on national policy or legal institutional framework (Lama, 2006).

However, the provisions of fundamental rights incorporated under Article Part - III of the Indian constitution, guarantees to all its citizens the fundamental rights which is the major source of protection to every Indian citizen and also to IDPs whenever and wherever their rights and security are harshly violated. These provisions related to the rights, safety and security of every individual life are: Article- 14 which speaks about the right to equality before the law, Articles-



15 which prohibits the discrimination on the grounds of religion, caste, race, sex and place of birth. The Article -16 which guarantees every Indian citizen the right to equality in terms of public enjoyment, Article – 19 which ensures the right of freedom of speech and expression and Article -21 which is the basic source and provider for securing the right to life.

In addition to these mentioned fundamental rights there are certain directions to the state of Indian Union which is popularly known as the Directive Principles of State Policy. Some relevant provisions of these principles are: Article- 39 where there is direction to the state to ensure its citizens with right to adequate means of livelihood, Article- 41 which impose upon the states the responsibility to take effective provision to secure the right to work, education and to public assistance etc. Moreover, provision is incorporated in the constitution whenever there is violation of the fundamental rights of the Indian citizen including the IDPs, they can approach Court of law and seek justice under Article- 32 of the Indian constitution. Therefore, these provisions enshrined and incorporated in the Indian constitution are the relevant and salient features in regard to the safety, security and protection of IDPs.

### **3.8 NATIONAL POLICY ON RESETTLEMENT AND REHABILITATION 2007**

In regard to the rehabilitation and resettlement of the IDPs the government of India adopted some policies like National Policy on Resettlement and Rehabilitation 2003, and Draft National Policy on Resettlement and Rehabilitation 2006 through which the problem of internally displaced persons were tried to solve. However, these successive policies seem to be ineffective and inadequate in dealing with IDPs in many respects sometimes due to many drawbacks and shortfalls in the policies. Hence, after receiving wide spread condemnation of these previous policies which were repressive in nature, the government of India reviewed the previous ones and brought the new policy of NPRR, 2007 with some modifications in the provisions and contents of the policy. The National Policy for Rehabilitation and Resettlement, 2007 was introduced in the Lok Sabha in the year 2007 after getting statutory support and was implemented in the entire country from October 31<sup>st</sup>, 2007. The earlier national policies failed to address the adverse impact on the affected families. It remained non - beneficial to them in terms

of economic, social, and cultural in a participatory and lastly transparent manner. The national policy on rehabilitation and resettlement 2007, thus keeping in mind the previous lacking and disadvantages focuses on the following objectives.

1. First, to minimize large scale displacement as far as possible.
2. Second, to ensure adequate rehabilitation packages and implementation of the rehabilitation process with the active participation of the displaced persons
3. Third, to ensure that special care is taken for protecting the rights of the weaker sections of the society specially the members of ST and SC and to create obligations on the state for their treatment with concern and responsibility.
4. Fourth, to provide a better standard of living to the displaced persons and providing sustainable income to the affected families.
5. Fifth, to integrate the rehabilitation concerns with development planning and implementation process.

Thus, the policy hopes to facilitate harmonious relationship between the land requiring body and the affected displaced families through mutual efforts (Kumar, 2011). Even though, the policy has not been free from criticisms because of the presence many weak points and lack of strong commitment on the part of suffering of the displaced persons yet the policy is regarded a comprehensive one in covering a wide range of dimension of displacement. It is the outcome of the improvement of National Policy for Relief and Rehabilitation 2003 and the Draft Policy on Relief and Rehabilitation 2006. This policy has attempted at maximum to address the various shortcomings contained in the earlier various policies and documents related to rehabilitation and resettlement of IDPs.

### **3.9 CONCLUSION**

The above discussion has revealed that there are so many issues and perspectives in regard to the population displacement and its protection mechanism in the study area. The reason of population displacement can be traced back to the huge migration related problem for long

period. The unchecked migration of the Adivasis or Santhal from other parts of India particularly from Jharkhand and Orissa during the period of British administration laid the foundation of origin problem from which the problems has got scope to arise from time to time. The study has revealed that in the initial stage of the migration there was no problem between the indigenous or original inhabitants i. e. Bodos and on the other hand the migrated Santhal community brought during the time of British tea garden growing period in Assam. But, with the passage of time, when lands were becoming scarcity and the means of livelihood insufficient, the competitions between the two groups arose and later on both the groups engaged directly in the conflicts, as a result of which large number of population displacement of both the communities occurred along the violation of human rights and presence of huge insecurity condition of the common people.

However, in case of displacement for the protection of displaced people there are several organs, bodies around the world to deal with the IDPs and for the protection, promotion of their human rights, safety and human security concern. These mechanisms for the protection of IDPs are dealt in wide range in this part of study. Moreover, the same protection mechanism is also crossed examined in the Indian context. But, it is observed that India has no such policy as like of IDPs or mentioned anywhere specifically about the terms of IDPs in the Indian laws or constitution. India has lacked clear mentioned about the IDPs. Finally, it is observed that India has attempted to enact laws in regard to the displaced persons for their safety and security during the process of internal displacement and many provisions of the Indian constitution itself is the source of protection and promotion of human rights abuses, safety and human security of the common people including the internally displaced persons.

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