



GUIDING PRINCIPLES OF INTERNAL DISPLACEMENT: A RAY OF HOPE FOR INTERNALLY DISPLACED PERSONS (IDPS)*

Abstract:

Internally Displaced Persons are those who have been forcibly uprooted from their home and remain within the borders of their own national territory. In most of the cases their own government is either unable or unwilling to give them protection leading to severe human rights violations. The centuries old problem of internal displacement has been able to drag the attention of international community only in the last decade of twentieth century. In this respect, the Guiding Principles of Internal Displacement is an innovative development to protect the rights of internally displaced persons. Guiding Principles are not a binding document as there were many challenges before international community for making a treaty in this line. But these are the useful tools for facilitating a broad understanding of various rights of internally displaced population and therefore, accepted by various governmental, non-governmental and other agencies protecting the rights of internally displaced persons. Various states across the globe are adopting these principles while framing their laws and policies on internal displacement. Doubt has also been raised regarding its broad adoption and application due to its non-binding nature. However, in the absence of an international protection system for this vulnerable class of people, Guiding Principles work as powerful instrument to be relied upon to assist and protect the rights of internally displaced population.

Key words: Internally Displaced Persons, Guiding Principles, international community, non-binding, laws and policies.

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INTRODUCTION:

One of the fundamental purposes of the United Nations is to promote and encourage respect for human rights and fundamental freedom. Universal Declaration of Human Rights through its Article 1 proclaims the inherent freedom and equality in dignity and rights of all human beings. Every people are entitled to all the rights and freedoms set forth in the declaration without distinction of any kind as enunciated in the declaration. Above all, every human being is entitled to enjoy basic rights and freedoms independently of any binding document by the basic fact of being human. But in reality the faith and respect shown by these United Nations documents for the promotion and protection of human rights are hardly been materialised. Millions of people around the world are often denied access to food, shelter and health care facilities and are not secured within the four corners of their own home. These are the people forcibly uprooted within their own countries due to violent conflicts, communal violence, civil strife and various other man made or nature made disastrous¹ and they are termed as Internally Displaced Persons (IDPs). Nothing can be more painful than being homeless within the boundaries of one's own national frontiers and having denied the basic amenities of life.

The phenomenon of internal displacement is alarmingly high throughout the world. IDPs are the creation of circumstances. The most despairing part of displacement is that although it takes place within state borders, in most of the cases national government is either unable or unwilling to give them protection. Therefore the shifting of the responsibility to the international community always remained a matter of debate.² As they do not flee across their national frontiers, the 1951 Convention Relating to the Status of Refugees do not apply to them. IDP figure estimated to be 1.2 million in 11 countries when first counted in 1982, by 1997 it was estimated to be more than 20 million in 30 to 40 countries.³ Although the plight of IDPs was ignored by both national and international authorities in the very beginning of the problem the issue of internal displacement was placed in the international agenda due to various factors since early nineties which led the issue of internal displacement a subject of international concern.

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1. U.N Office for the Coordination of Humanitarian Affairs, *Handbook for Applying the Guiding Principles on Internal Displacement*, (Brookings Institution Project on Internal Displacement: OCHA(1999) available at <http://www.refworld.org/docid/3d52a6432.html>, last seen on 1/12/2015
 2. Roberta Cohen, *Key Policy Debates in the Internal Displacement Field*, 32 *Refugee Watch* 84, 85 (2008) available at <http://www.mcrg.ac/rw%20files/RW32/5RCohen.pdf>, last seen 15/10/2014

3. R. Cohen, *The Guiding Principles on Internal Displacement: An Innovation International Standard Setting* 10 *Global Governance* 459, 460 (2004), available at <http://www.brookingsedu/researchreports/2008/05/spring-guiding>, last seen on 10/10/2014

Defining the term Internally Displaced Persons (IDPs)

The international community had to pass through a series of debate so as to establish a separate definition for this world's most vulnerable group of population. As IDPs remain within their own country the problems regarding principle of state sovereignty and insufficient coverage of the affected population made the issue further much complicated. There was lack of consensus upon the elements of groups of people included in the definition.⁴

The justification for elimination of the differences between refugees and IDPs was also put forwarded so as to create a single legal status for both. However, the nature of protection for these two groups of population cannot be the same. IDPs are homeless within the national frontiers of their own government and primary responsibility to protect and assist them lies upon the state whereas refugees are entitled to get international protection as they loss protection of their country.⁵As stated by C.Phung“.....I would contend that a legal synthesis between refugees and IDPs is not advisable, as it could possibly undermine the protection system which already exist for refugees.” The problem raised by the creation of a separate legal definition for internally displaced person was also objected by Phung. As the causes of internal displacement are numerous, doubt arises regarding inclusion of each and every category of internal displacement.⁶

Amidst doubts and controversies the first working definition of internally displaced persons was put forwarded in the by United Nations Secretary-General in its analytical report of 14 February as well as Special Representative's Comprehensive Study of 21 January 1993 which runs as follows---

“ Persons who have been forced to flee their homes suddenly or unexpectedly in large numbers, as a result of armed conflict, internal strife, systematic violation of human

4. Catherine Phung , *The International Protection of Internally Displaced Persons*, 28 (Cambridge University Press, 1st ed., 2004)

5. *Ibid*, at 25

6. Supra 4, at 26

rights or natural or man-made disasters, and who are within the territory of their own country.”⁷

Although this definition embraces a good number of causes of internal displacement, yet it is considered to be too narrow in some other aspects. It overlooked displacement many other situations of internal displacement. The IDP concept in this definition restricted only to those displaced whose flight is sudden and unexpected. Moreover, by including the presence of an outside force which caused the flight, the definition further limits the concept of IDP. The numerical criteria of people fleeing in large numbers further makes the definition subjected to criticisms as instances of fleeing in small groups are also there.⁸

The most widely accepted definition of IDP contained in Guiding Principle on Internal Displacement which was presented to the United Nations in 1998. As stated by Jessica Wyndham “The definition contained in the Guiding Principles most accurately described IDPs and should be used as the basis for any definition of an IDP contained in national law and policies.”⁹

Guiding Principle of Internal Displacement has defined IDP as –

*“Persons or group of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situation of generalised violence, violation of human rights or natural or human made disasters, and who have not crossed an internationally recognised state border.”*¹⁰

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7. United Nations Commission on Human Rights, “Analytical Report of the Secretary-General on Internally Displaced Persons,” 41st Sess., at 50, U.N Document E/CN.4/1995/50, (February 14, 1995) available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G95/105/94/PDF/G9510594.pdf?OpenElement> last seen 14/2/2014
 8. Eric .Mooney, *The Concept of Internal Displacement and the Case for Internally Displaced Persons as a Category of Concern*, 24 *Refugee Survey Quarterly*, 9, 10 (2005), available at <http://www.brookings.edu/wp-content/uploads/2016/06/9.pdf> last seen on 20/1/2017
 9. Jessica .Wyndham, *A Developing Trend: Laws and Policies on Internal Displacement*, 14 *Human Rights Brief* 1, 3 (2006).
 10. United Nations Commission on Human Rights, *Report of the Representative of the Secretary General on Internally Displaced Persons: Guiding Principles on Internal Displacement*, 54th Sess., at 5, UN doc. E/CN.4/1998/53/Add.2, 5, (February 11, 1998) available at <http://www.refworld.org/docid/3d4f95e11.html>, last seen 15/2/2014

The 1998 definition by using the word ‘particular’ before the list of causes had opened up the possibilities of other situations of forced displacement within the national frontiers of a country.

This definition was also subjected to widespread debate from international community as it does not encompass within itself persons uprooted by natural disaster and developmental project. Although absence of an explicit definition creates confusion, Guiding Principles directly mentions about developmental projects in its principle no. 6. The IDP definition thus tries to broaden the area by taking almost all types of internally displaced people within its ambit so as to get attention from national government as well as international community.

International Community’s Concern over IDP Problem:

Unlike refugees IDPs are the persons staying within their own countries thereby primary responsibility rests on their national government. But it has been observed that in most of the situations national government is either unable or unwilling to give protection to them leading to severe human right violations to this vulnerable class of people.¹¹The problem of sovereignty is another issue which comes on the way for which United Nations had not been able to do much on IDPs.¹²

It is only during late nineties that the issue of IDPs gained momentum in international agenda. With the increasing burden of IDP population the international community had come up a series of normative framework at the national, regional and international level. The global crisis for internal displacement can be traced back in 1988 when a million people died in Sudan for lack of food and emergency supplies as they were removed from

11. S.V.Mello, *Manual on Field Practice on Internal Displacement, Examples from UN Agencies and Partner Organisations of Field-based Initiative Supporting Internally Displaced Persons*, (OCHA: Inter-Agency Standing Committee Policy Paper ,1999), i.

12. *Supra* 2, at 85

The global crisis for internal displacement can be traced back in 1988 when a million people died in Sudan for lack of food and emergency supplies as they were removed from

their homes.¹³ As they were unable to cross international border the 1951 Refugee Convention was not applicable to them thereby making themselves vulnerable to human rights abuse. Again in 1991, media coverage of displaced Iraqi Kurds brought international community's attention.¹⁴ The gap in the international protection regime was acknowledged as soon as IDPs began to outnumbered refugees with the increase in the number of internal conflicts following cold war.¹⁵ Under those circumstances international community had accepted it to a legitimate concern to deal with the problems of IDPs.

Development of a Normative Legal Framework:

For the first time United Nations proposed to convene of an international conference on the plight of Refugees, Returnees and Displaced Persons in Southern Africa(SARRED) A request is made to the Secretary General to establish a mechanism within the United Nations system to ensure the implementation and overall co-ordination of relief programmes of IDPs.¹⁶ In the following year in 1989, International Conference on Central American Refugees (CIREFCA), held in Guatemala defined the term IDP and it was realised that there is a need for special assistance to this vulnerable class of people. Displacement caused by conflict and crisis of a third group of persons who remain homeless and without any means of subsistence within the boundaries of their own countries are called as internally displaced persons as per the declaration.¹⁷ Recognising

13. Roberta Cohen and F.M. Deng, *Masses of Flight: The Global Crisis of Internal Displacement*, 3(Washington D.C :Brookings Institution Press,1998)

14. Ibid, at 4

15. Supra 13, at 16.

16. U.N General Assembly, *International Conference on the Plight of Refugees, Returnees and Displaced Persons in Southern Africa*,75th plenary Meet.,para6,U.N. document A/RES/43/116(August12,1988) available at <http://www.un.org/document/ga/res/43/a43r116.htm>,last seen on 21/11/2015.

17. CIREFCA, *Declaration and Concerted Plan of Action in Favour of Central American Refugees, Returnees and Displaced Persons*,89/13/Rev.1,U.N.Document CIREFCA 89/13/Rev.1, Chap. II, part one, Para 6, (30/5/1989) available at <http://www.refworld.org/docid/3fbb5d094.html> last seen on [16/7/2015](http://www.refworld.org/docid/3fbb5d094.html)

the fact that the crisis in Central America not only has brought about the exodus of refugees, but also has resulted in both internal and external displacements of a considerably higher number of persons than that of refugees ,the declaration laid emphasis on paying equal attention to displaced persons too. ¹⁸

The major driving force behind international recognition of the problem was initiative taken by a group of NGOs. Some of the individuals actively involved in the process are

Martin MacPherson of Friends World Committee for Consultation (Quakers), Beth Ferries of the World Council of Church (WCC) and Roberta Cohen of the Refugee Policy Group (RPG).¹⁹ The Commission on Human Rights, in its resolution 1991/25 requested the Secretary General to prepare an analytical report on internally displaced persons. The Secretary General prepared the report on the basis of the information received from Governments, intergovernmental and non-governmental organisations.²⁰ Taking note of the analytical report, the commission requested the Secretary –General to appoint a representative who would seek again views and information from all governments on the human rights issues related to internally displaced persons. The Commission also requested an examination of existing international human rights, humanitarian and refugee laws and standard on their applicability to the protection of relief assistance of IDPs. The representative was asked to serve twin functions of information gathering and the preparation of a report.²¹ Accordingly, as approved by Economic and Social Council, Francis Deng was appointed as a representative to seek views and information on the human rights issues related to IDPs. The development towards a normative legal framework commenced during the year 1994. A team of legal experts was formed to address the issues related to IDPs found that although IDPs receive a good deal of

18. Ibid , at 3.

19. F.M Deng, *The Guiding Principles on Internal Displacement and the Development of International Norms*, 141,150 in *International Law and International Relations: Bridging Theory and Practice* (Thomas J. Biersleker., et al eds., 1st ed.2007).

20. Commission on Human Rights, *UN Note by the Secretary –General*, .49th Sess., at 4,U. N Document E/CN.4/1993/35(January21,1993) available at <http://www.refworld.org/pdfid/45377b620.pdf> last seen 29/3/2017

21. Ibid, at 5

coverage under international human rights and humanitarian law and analogous to refugee law, they are not exclusively mentioned in that law and it fails to protect adequate protection in some of the significant areas. The legal team’s Compilation and Analysis report applicable to internally displaced was presented to the Commission in 1996with its supplement in 1998.²² The legal team concluded that for better protection of IDPs, a restatement of the law would be needed so as to meet the gaps and gray areas to meet the specific needs of IDPs.

Emergence of Guiding Principles:

In response to the Compilation and Analysis and to meet the gap in the existing law, the Commission and the General Assembly requested the Representative of the Secretary-General to prepare a framework for the protection and assistance of the internally displaced persons. The drafting of Guiding Principles was thus initiated in continued collaboration with the team of experts. With a prolonged discussion with his legal team Francis M. Deng had developed a set of principles addressing the specific needs of internally displaced people. The preparation of the report on Guiding Principles on Internal Displacement was finalised in the year 1998²³. The emergence of Guiding Principles is a major initiative taken by international community to solve the problems faced by IDPs.

These principles although not binding in nature, have set forth the rights of IDPs and obligation of state and non-state actors towards fulfilling the needs of IDPs. Since these principles are based on international humanitarian law, human rights law and refugee law by analogy, these have got widespread international recognition. Again, non existence of a single document to protect the rights of IDPs stands to be the reason behind the wide

22. United Nations Economic and Social Council, *Report of the Representative of the Secretary-General Mr. Francis Deng*, submitted pursuant to Commission on Human Rights resolution 1997/39, 45th Sess., at 3, U.N. Document E/CN.4/1998/53/Add.1, (February 11, 1998) available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G98/104/81/PDF/G9810481.pdf?OpenElement> last seen 29/3/2017

23. Ibid

acceptance of this principles.²⁴

The basic purpose of Guiding Principles is to address the specific protection needs of internally displaced persons worldwide which are consistent with international humanitarian law and human rights law. These set of principles set forth the rights of IDPs and obligations of state and non-state actors towards giving protection and humanitarian assistance to them. These principles identify rights and guarantees protection of persons from forced displacement. They try to protect and assist persons from forced displacement during displacement as well as during return or resettlement and reintegration.²⁵

Emphasising the worldwide applicability of Guiding Principles to the specific needs of internally displaced persons, it also identifies the rights and guarantees relevant to the

protection of persons from forced displacement during displacement as well as during return and resettlement. These are the guidance to the Representative of the Secretary – General, States, intergovernmental and non-governmental organizations, all other authorities, groups and persons while dealing with internally displaced persons.²⁶ Guiding principles lays down thirty principles divided into five sections. Section I spells out some general responsibility including the duty and responsibility of national authorities to provide protection and humanitarian assistance to IDPs. Section II describes protection from arbitrary displacement. Section III enunciated some principles based on protection during displacement. Section IV lays down the principles based on humanitarian assistance which are based on principles of humanity and impartiality and without discrimination. Section V of Guiding Principles is relating to return, resettlement and reintegration.

24. Roberta Cohen, *The Guiding Principles on Internal Displacement: how do they support IDP response strategies?*, Recent Commentaries about the Nature and Application of the Guiding Principles on Internal Displacement, 29, 31, (2002) available at www.brookings.edu/fp/projects/idp/recentcommentaries last seen 23/9/2014

25. United Nations Economic and Social Council, *Report of the Representative of the Secretary-General Mr. Francis Deng , submitted pursuant to Commission on Human Rights resolution 1997/39, 54th Sess.*, at 3, U.N. Document E/CN.4/1998/53/Add.2, 3, (February 11, 1998) available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G98/104/93/PDF/G9810493.pdf?OpenElement> last seen 29/3/2017

26. Ibid, at 5

Impact of Guiding Principles:

Guiding Principles, the first international arrangements to fill the gap in the international protection regime for internally displaced persons are not a binding document although consistent with international human rights law and humanitarian law. Despite its non binding nature these principles are been able to drag the attention of UN resolutions as they regularly refer them as an ‘important tool’ and ‘standard’ for solving the problems faced by internally displaced persons.²⁷ For promoting Guiding Principles the UN Secretary General had called upon the national government to adopt these principles through national legislation.

The Commissioner of Human Rights in its 2003 resolution n(59th session) appreciated Guiding Principles and termed it to be an important tool for dealing with the situations of

internal displacement. It had also welcomed the fact that an increasing number of states, United Nations agencies, regional and non-governmental organisations are applying these principles as a standard.²⁸ While paying attention to the growing problem of IDPs, in March 2005, the UN Secretary -General in his report “Larger Freedom” urged the member states to accept Guiding Principles as “the basic international norm for protection and to commit themselves to promote the adoption of these through national legislation”²⁹

Based on the report of the chairman of UN General Assembly, after consultation of the states, circulated a revised draft declaration towards the end of July 2005 which proposes to recognise Guiding Principles as “the minimum international standard for the protection of internally displaced persons”³⁰

27. Walter Kalin, *The Guiding Principles on Internal Displacement as International Minimum Standard and Protection Tool*, 24, *Refugee Survey Quarterly*, 27, 27 (2005) available in www.brookings.edu/fp/projects/idp/articles/2005 last seen 21/9/2014

28. U.N Commission on Human Rights, *Internally Displaced Persons*, Res.2003/51, 59th Sess., at 3, U.N Document E/CN.4/RES/2003/51, (April 23, 2003) available in <http://www.refworld.org/docid/3f7aa2264.html>, last seen 21/9/2014

29. U. N General Assembly, *In Larger Freedom: towards development, security and human rights for all, Report of the Secretary General*, Res. 59th Sess., at 50-51, UN Document A/59/2005, (March 21, 2005) available at [http:// www.unmillenniumproject.org/document/Inlargerfreedom.pdf](http://www.unmillenniumproject.org/document/Inlargerfreedom.pdf), last seen on 12/6/2015

30. *Supra* 27, at 29

Several states have expressed their positive views regarding the contributions made by Guiding Principles towards fulfilling the protection and assistance needs of internally displaced persons. To name a few, Austria referred these principles as an important tool for governments, international, regional and non-governmental organizations and other actors facing situations of internal displacement. In spite of recognising the fact that Guiding Principles are not legally binding, India accepted these principles as important guidelines for states while dealing with internally displaced persons.³¹ Guiding Principles became the basis for minimum standards for the resettlement of internally displaced persons in Angola. In collaboration with the United Nations country team, a permanent framework for the protection of internally displaced persons was established by the government of Burundi.³² The representative of Georgia stated these principles as a useful instrument for protecting the rights of internally displaced persons and his government

Angola was the first country to enact its national law based on the elements of Guiding Principles. These principles worked as a basis for minimum standards for resettlement of the internally displaced population.³³ In Burundi, a Framework for Consultation on Protection of Internally Displaced Person has been developed which established an open forum for discussions on the issues relating to Internally Displaced Persons and to support the implementation of UN Guiding Principles. The constitutional court in Colombia delivered two judgements where Guiding Principles were referred in support of the action

31. United Nations Commission on Human Rights, *Report of the Representative of the Secretary-General on Internally displaced persons*, 49th Sess., at 7, UN Document E/CN.4/2002/95, (January 16, 2002), available at http://ap.ohchr.org/documents/alldocs.aspx?doc_id=2940 last seen 15/7/2015

32. U.N. General Assembly, *Report of the Representative of the Secretary-General on internally displaced persons*, 56th Sess., at 7, U.N. Document A/56/168* (August 21, 2001) available in https://www.iom.int/jahia/webdav/shared/shared/mainsite/policy_and_research/un/56/A_56_168_en.pdf last seen 25/3/2017

33. Ibid

taken in favour of internally displaced persons³⁴ Colombia had adopted laws and policies based on internally displaced even before the emergence of Guiding Principles. Colombia's constitutional court clarified that state must always satisfied those rights which deserve minimum positive level of protection, such as, the right to life, the right to dignity and physical, psychological and moral integrity, the right to a family and to family unity, the right to health for adult displaced population and children. Along with these rights the court enunciated a good number of other such rights in accordance with Guiding Principles of Internal Displacement.³⁵

At the regional level, a number of developments have been taking place for the promotion and application of these Principles. Regional organisations are emphasising the use of Guiding Principles and development of national and regional framework for internally displaced population worldwide. The historic Kampala Convention was the first internal displacement-specific convention covering the entire region adopted in the year 2009 for meeting the Protection and Assistance needs of Internally Displaced persons in Africa.

³⁶Another Convention adopted in Africa particularly relevant to the development of a national framework on internal displacement is Great Lakes Protocol of 2006. Both of

these documents oblige the state parties to develop national instruments to protect the rights of IDPs and obligate the state parties towards them. The preamble to the protocol recognises the Guiding Principles on Internal Displacement as an important international framework for the protection of internally displaced persons by the United Nations Member States.³⁷ The various regional organisations such as African Union (AU), the Economic Community of West African States (ECOWAS), the Organisation of American States (OAS) and the Organisation for Security and Cooperation in Europe (OSCE)

34. Supra 32

35. Brooking –Bern Project on Internal Displacement, *Judicial Protection of Internally Displaced Persons: The Colombian Experience*, 183-186 (R.A.Rivadeneira,2009)

36. U.N General Assembly, *Report of the Representative of the Secretary- General on the human rights of internally displaced persons*, 13th Sess., at 5, U.N document A/HRC/13/21, (January5,2010) available at <http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A-HRC-13-21.pdf> last seen 25/3/2017

37. Protocol on the Protection and Assistance to internally displaced persons, Nairabi, 5-7 September, 2006, 1, (November, 2006) available at <http://www.refworld.org/pdfid/52384fe44.pdf> last seen 25/3/2017

continue to focus on the applicability of these principles by member states. If someone termed it as an authoritative guide other termed it as a yardstick to support the internally displaced population.³⁸

Guiding Principles, the much awaited document in the field of internal displacement, were well received at regional and international level. But to translate these principles into action remains problematic .The implementation of these principles on the ground faces many difficulties so far as principle of sovereignty interferes with it. Laws and policies although based on Guiding Principles do not give the guarantee of its implementation.³⁹ Nonetheless, accepting the principles and acknowledging the same is indeed the first step towards finding some solution for IDPs..

Legal nature of Guiding Principles:

Observing the seriousness and degree of extensity of the problem of Internal Displacement, it was very much urgent to have a normative framework in that line immediately so as to avoid a long period of uncertainty to tackle the problem of internal displacement. ⁴⁰ However, there were too many challenges before the international community to develop a treaty in that line. Firstly, treaty making in the area of human rights is very difficult from

ratification point of view. Recently, it has become difficult to get enough ratification for new human Rights instruments to enter into force. Another challenge faced during drafting the Guiding Principles is to cover all situations of internal displacement which further necessitated merger of human rights and humanitarian law. But an attempt to combine both the areas of law probably would have been opposed by States and other organisations as their nature of applicability is different.⁴¹ All these reasons resulted in the formation of Guiding Principles which are not binding in nature.

38. *Report of the Representative of the Secretary –General on Internally displaced persons*, United Nations Commission on Human Rights, Sess.58,U.N. Document. E/CN.4/2002/95, 15-16, (16/1/2002) available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G02/101/40/PDF/G0210140.pdf?OpenElement> last seen 25/3/2017

39. *Supra* 3, at 470-471

40. *Supra* 24, at 4

41. Lecture sponsored by the Brookings-cuny Project on Internal Displacement, How Hard is Soft Law? Guiding Principles on Internal Displacement and Need for a Normative Framework (Prof. W. Kalin), December 19,2001, City of University of New York Graduate Center,4-7, www.brookings.edu/fp/projects/idp/recentcommentaries last seen 23/9/2014

These principles are the outcome of the effort made by a team of experts in close consultation with the concerned agencies and organisations. Therefore, the violation of these principles does not entail violation of international law in strict sense and not a burden or responsibility for the state to put it in practice.⁴²

But it is to be noted that many of the principles, most importantly those relating to the displacement phase, are the one that are already existed in customary international law. A study prepared by ICRC on customary international law brings forth the fact that Guiding Principles restate numerous customary international rules applicable in armed conflict. Right from arbitrary displacement to property rights Guiding Principles restated the rules of customary international law.⁴³

The legal strength although not present in Guiding principles, they are the source of empowerment for displaced communities as it pronounces a series of rights IDPS enjoys.⁴⁴ As argued by Walter Kalin that one should look at the actual acceptance and use rather than their legal norms. He further stated that “they become hard standard even if they are still not hard law”⁴⁵

42. Supra 27, at 29

43. J.M Henckaerts & L.D. Beck, *Customary International Humanitarian Law :Vol.1: Rules*, 457-462 ((1st ed.,2005).

44. Supra 3, at 471

45. Supra 4, at 73

Conclusion:

Internal displacement, though existed long before, has been able to draw the attention of international community only in recent years. The sudden disaster inflicting upon a large number of internally displaced persons called for an immediate response towards meeting the unmet needs of displaced population. As their own government do not act responsibly expectations from international community has grown in order to fulfil their various humanitarian and protective needs. In this respect, emergence of Guiding Principles works as a catalyst in protecting the rights of IDPs. It is a document which facilitates the broad understanding of the problem of internal displacement.

The much waited document in the field of internal displacement has come to an end with the inception of Guiding Principles. Various governments across the globe have also shown a positive response to it. Dissemination of these principles is although successful, lack of political will along with principle of sovereignty comes in the way for their effective implementation. The problems faced by internally displaced cannot be put to an end with mere recognition by government and international community. Effective implementation of

these principles targeting particular plight of IDPs are still considered to be an operational challenge for the governments and international community.

The slow but positive progress of Guiding Principles without any enforcement machinery is yet to turn into a reliable system. A period of less than even twenty years is not sufficient to judge the principles in terms of their adoption as well as implementation. Operational deficiency of these principles can be corrected only through a concerted effort put by individuals, governments, NGOs, regional, international and local bodies and displaced themselves. And it is hoped that in near future Guiding Principles would certainly bring positive changes in the lives of millions of displaced persons trapped inside the borders.

