

For Disaster IDPs: An Institutional Gap

[Natural Disasters](#), [Internal Displacement](#), [Migration](#), [Human Rights](#)

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Climate change is expected sharply to increase the number and severity of natural disasters, displacing millions on all continents.^[1] To meet this coming challenge, recognition of 'disaster' IDPs is needed along with new institutional arrangements to protect their human rights.

Conceptual Issues

When the Guiding Principles on Internal Displacement were drafted in the 1990s, there was little consensus over whether the rights of people uprooted by natural disasters should be included. Those opposed argued that only persons fleeing persecution and violence should be considered IDPs, in other words persons who would qualify as refugees if they crossed a border. But the majority favored including those uprooted by natural disasters because governments often respond to disasters by discriminating against or neglecting certain groups on political or ethnic grounds or by overlooking their human rights in other ways.

Nonetheless, not all experts, governments, international organizations and NGOs endorsed this broad formulation and even today try to sidestep it in various ways. A report of experts to the UK government in 2005 recommended that the IDP concept be limited to persons displaced by "violence" because the causes and remedies of conflict-induced and disaster-induced displacement were different, making it "confusing" to include both in the IDP definition.^[2] Some governments have also shied away from calling persons uprooted by natural disasters IDPs. In Aceh, Indonesia, the government preferred labeling those uprooted by the tsunami 'homeless,' presumably to distinguish them from the more politicized "conflict IDPs" to whom the government had barred access.^[3] In the United States, government officials settled on every possible description of those uprooted by Hurricane Katrina except IDPs. They described them as "refugees," "evacuees," and finally "disaster victims," because IDPs in their view were people displaced by conflict elsewhere.^[4] Nor does the leading organization that counts IDPs, the Internal Displacement Monitoring Centre, include people uprooted by disasters in its statistics although it clearly acknowledges that such people are IDPs. Not dissimilarly, UNHCR made clear in 2005 that while it would serve as the lead agency for the protection of "conflict IDPs" in the UN's new "cluster approach," its role would not extend to those uprooted by disaster except "in extraordinary circumstances."^[5]

To be sure, there are many differences between IDPs displaced by conflict and disaster, but one of the consequences of separating out disaster IDPs is that they are often perceived as not having human rights and protection problems. Experience, however, shows that persons uprooted by natural disasters require not only humanitarian assistance but protection of their human rights. In the 1980s, under the pretext of responding to drought and famine, the government of Ethiopia forcibly relocated hundreds of thousands of Tigreans it regarded as political opponents, hoisting them into trucks and driving them to malaria infested areas in the south. The 2004 tsunami in Asia also brought into focus the protection concerns of those displaced, including:

- sexual and gender based violence;
- discrimination in access to assistance on ethnic, caste and religious grounds;
- recruitment of children into fighting forces;
- lack of safety in areas of displacement and return areas; and

inequities in dealing with property and compensation.

After visiting the region, Walter Kälin, Representative of the UN Secretary-General on the Human Rights of IDPs, concluded that persons forced to flee their homes share many common types of vulnerability regardless of the underlying reasons for their displacement and that “it is no less important in the context of natural disasters than it is in cases of displacement by conflict to examine and address situations of displacement through a ‘protection lens.’”^[6] A UN General Assembly resolution reinforced this view, recognizing that those displaced by natural disasters are IDPs with human rights protection needs.^[7]

Kälin developed Operational Guidelines for Human Rights and Natural Disasters,^[8] which the Inter-Agency Standing Committee adopted in 2006. The Guidelines set forth the human rights and protection concerns of people uprooted by natural disasters and identify measures such as evacuations, relocations, steps to curb gender based violence and protection against landmines to increase the security of affected populations. Further, they insist upon non-discrimination in access to humanitarian aid and respect for the full range of civil, political, economic, social and cultural rights of those affected, noting that the longer a displacement situation lasts, the greater the risk of human rights violations. The text, however, does not contain implementation machinery or indicate which actors should monitor and promote the human rights of those affected.

Institutional Arrangements

At the national, regional and international levels, institutional arrangements for protecting the human rights of disaster IDPs are weak. While primary responsibility to assist and protect disaster IDPs lies with the state, many governments do not have the capacity or willingness to carry out these responsibilities. In Pakistan, during the 2005 earthquake, the government argued against applying international principles of ‘protection’ since the people concerned were not refugees. It pressured IDPs to leave camps without making adequate preparations for their returns and did not *require* that vulnerable groups be helped in the rebuilding of their homes or receive assistance in claiming their property or inheritance rights.^[9] In the United States, rescue, evacuation and reconstruction plans in the Gulf Coast were found to disadvantage poor people, in particular African-Americans.^[10] The UN Human Rights Committee, which monitors state compliance with the International Covenant on Civil and Political Rights, called upon the US to ensure that the rights of the poor and in particular African-Americans are “fully taken into consideration in the reconstruction plans” in accordance with the UN Guiding Principles on Internal Displacement.^[11] In Bangladesh, the NGO CARE found that women of the Hindu religion were excluded from relief assistance during the 2007 cyclone, as were other groups. Members of local town councils were said to be “influential in selecting beneficiaries, which excluded people who did not vote for them.”^[12]

Clearly, governments need laws, policies and mechanisms at the national and community levels to ensure that in disaster prevention, relief and reconstruction, the human rights of those affected are taken into account. The International Federation of Red Cross and Red Crescent Societies has called for national laws to prevent discrimination and human rights abuse in disaster response.^[13]

National human rights commissions, which are quasi governmental bodies, have played an important role in monitoring the extent to which the rights of disaster victims are protected. In Sri Lanka, after the tsunami, the National Human Rights Commission took up hundreds if not thousands of cases of persons with human rights problems while the Thai commission submitted recommendations to its government for search operations for the missing and for compensation and reparation for families and communities. In India, the commission sent out special rapporteurs to look into the human rights concerns of those affected by disasters in Orissa and Gujarat. These South Asian national commissions belong to the Asia Pacific Forum of National Human Rights Institutions (APF) which has developed a human rights framework for responding to disasters. APF has also urged its member commissions to help their governments in drafting laws and policies as well as reconstruction programs that take into account the human rights of disaster victims. The commissions,

however, need increased resources, staff and training. With greater capacity they could also serve as models for commissions in Africa and the Americas, which have not yet engaged in monitoring and advocating for disaster victims although they are being urged to do by the Representative of the UN Secretary-General.

Local NGOs can be critical to mobilizing national awareness of IDP rights in disasters. In Sri Lanka, the Consortium of Humanitarian Agencies and the Center for Policy Alternatives brought to light the disparity in treatment between those uprooted by the tsunami and those uprooted by civil strife - leading to remedial action. In the United States, the US Human Rights Network, the Institute for Southern Studies and other NGOs have called upon American officials to recognize disaster victims as IDPs and provide them with greater protection in line with the Guiding Principles on Internal Displacement.^[14]

At the regional level, the Association of Southeast Asian Nations (ASEAN), in response to Cyclone Nargis in Burma, became actively involved in diplomatic initiatives to open up access to survivors and in coordinating assistance with the UN. But it did not engage in advocacy efforts for the rights of survivors who were being forcibly evicted from temporary shelters or pushed back into ruined villages without supplies. Nor did it seek to counter possible recruitment of orphaned or separated children into Burma's military forces. A more proactive rights based approach will have to be developed.

At the international level, the Representative of the UN Secretary-General on the Human Rights of IDPs has become a major advocate for the rights of disaster victims. Having found that a single natural disaster could be as devastating as many ongoing internal conflicts, he decided to add IDPs uprooted by disasters to the concerns of his mandate. The UN Human Rights Council confirmed this new role in 2007 and Kälin has been visiting different parts of the world, in particular Central America, Southern Africa and Southeast Asia, to examine how best "to promote the protection of human rights of IDPs in the context of natural disasters."^[15] However, Kälin is but a single individual with limited resources and staff whose mandate also covers the 26 million persons uprooted by conflict. If he is to be truly effective, the UN must come up with the human and material resources to enable him to undertake this new role.

Most importantly, the UN's operational agencies need to become more actively involved. At present there is no set agency assigned to the protection of disaster IDPs. The Resident or Humanitarian Coordinator in the field is supposed to consult with UNICEF, the Office of the High Commissioner for Human Rights (OHCHR) and UNHCR when a natural or human made disaster occurs to determine which body will take the lead responsibility for protection.^[16] Because UNICEF has offices throughout the world, it has assumed the lead in most cases, but it doesn't have broad protection skills.

In the area of child protection, UNICEF has received high marks, tracing families, helping separated children, and preventing violence and exploitation of children in disasters. But other vulnerable groups, such as the elderly, the disabled, ethnic or religious minorities, or those with HIV/AIDS have not received as strong a focus. Yet the infirm, the elderly, and the disabled are often forced aside in food distribution lines, face serious difficulties in evacuations and in crowded camps, and have special health needs that are often neglected in disasters.^[17] In the Mozambique floods, where UNICEF and Save the Children were the lead, evaluators found that "the plight of the elderly without families was often overlooked" although "there were many initiatives centred on children." Even in the case of women, whose needs UNICEF generally targets, disaggregated statistics were seldom available and little attention was paid to the fact that "many of the tasks associated with recovering from the flooding are traditional male tasks, including clearing land, and rebuilding houses," with which women had difficulties. Yet tents were not always available to those who could not build shelters.^[18] In the Pakistan earthquake, many NGOs initially quit the UNICEF led protection cluster because the agency "was only interested in child protection," observed one UN official.^[19] UNICEF itself has acknowledged the narrowness of its protection focus and has commissioned an in-house study to determine the kind of resources, personnel and training it would need to take on a broader protection role. Staff within the agency, however, fear that its child protection role could become diluted in a broader protection perspective.^[20] Yet if UNICEF is to successfully serve as a protection lead for UN agencies and NGOs in disasters, it will need to cover the entire IDP population.

Other agencies should also consider becoming engaged. UNHCR made known in 2005 that it would not involve itself with 'disaster IDPs' unless there are extraordinary circumstances, but given its experience and skills in protection, it should re-examine its own capacity for playing a more active role. This should be the case especially when natural disasters strike areas of conflict where UNHCR is already on the ground and engaged with IDPs. UNHCR did lend a hand in the tsunami and the Pakistan earthquake but basically has been standing on the sidelines as the international community mobilizes to deal with disasters. Similarly, OHCHR needs to explore how it could become more relevant to disaster protection through the deployment of human rights monitors, the undertaking of advocacy and the setting up of regular training programs for national and local authorities on integrating human rights in disaster management. The UN Population Fund and UNAIDS which were also criticized in Mozambique for slow protection response should strengthen their capacity as well. Finally, the UN Emergency Relief Coordinator should ensure that his field coordinators make protection an automatic part of emergency response and where need be, assign protection responsibilities in disasters.

More coherent messages by UN agencies in support of international protection should also be encouraged. In the wake of the Pakistan earthquake, UN officials were reported to be speaking with different voices on the usefulness of international protection principles, with some insisting that the law of Pakistan "trumps international law." UN staff, one study explained, feared "they might lose their jobs if they implemented principles." The team carrying out the study was told that UNICEF, OCHA and UNHCR did not push hard enough on protection issues - UNICEF because it was involved mainly with children, UNHCR because it did not want to jeopardize its Afghan refugee program, OCHA because it did not want to undermine its negotiations with the government over an early recovery fund-raising document.^[21] While the organizations and their NGO partners as well as government agencies did target women and children's needs in camp programs and in the rebuilding of homes, ^[22] a government-World Bank study found that women, especially women heads of household, were insufficiently involved in the planning and recovery process despite their changed roles.^[23]

A field manual specifying how to promote human rights in natural disasters was published in April by the Brookings-Bern Project on Internal Displacement.^[24] The UN needs to ensure that the manual is widely disseminated and that the human rights of IDPs become an integral part of the training, activities and programs of all UN agencies, NGOs and governments involved in natural disasters. Recognition that people displaced by disasters need protection of their human rights is long overdue. So are effective institutional arrangements.

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^[1] Christian Aid predicts that one million persons a year or a total of 50 million will be displaced by natural disasters by the year 2050, see *Human tide: the real migration crisis*, May 2007, p. 6.

^[2] Stephen Castles and Nicholas Van Hear *Developing DFID's Policy Approach to Refugees and Internally Displaced Persons*, vol. 1 (February 2005) Refugee Studies Centre, University of Oxford, 12.

^[3] Marion Couldrev and Tim Morris, "Post-tsunami protection concerns in Aceh," *Forced Migration Review* (July 2005), 28.

^[4] Roberta Cohen, "Human Rights at Home," Statement at the Kennedy School of Government at Harvard University, 1 November 2006. http://www.brookings.edu/speeches/2006/1101humanrights_Cohen.aspx

- [5] United Nations High Commissioner for Refugees, "Internally Displaced People: Questions and Answers," September 2007. <http://www.unhcr.org/basics/BASICS/405ef8c64.pdf>
- [6] Walter Kälin, "Natural Disasters and IDPs' Rights," *Forced Migration Review*, July 2005, 11.
- [7] UN General Assembly, A/RES/62/153, 20 November 2007, preambular paragraphs 1-3.
- [8] *Protecting Persons Affected by Natural Disasters: IASC Operational Guidelines on Human Rights and Natural Disasters* (Washington, DC: Brookings-Bern Project on Internal Displacement, 2006)
- [9] See Andrew Wilder, "Perceptions of the Pakistan Earthquake Response," Humanitarian Agenda 2015 Pakistan Country Study (February 2008), 40-41 (box 6); and Earthquake Rehabilitation and Reconstruction Authority (ERRA), "Social Impact Assessment: 8 October 2005 Pakistan Earthquake," May 2007.
- [10] Chris Kromm and Sue Sturgis, *Hurricane Katrina and the Guiding Principles on Internal Displacement*, Institute of Southern Studies (January 2008).
- [11] UN Document, CCPR/C/USA/CO/3/Rev.1, para. 26.
- [12] "Rapid Gender Assessment of SIDR Response," CARE-Bangladesh, December 2007.
- [13] International Federation of the Red Cross and Red Crescent Societies, *World Disasters Report: Focus on Discrimination*, Geneva, 2007. IFRC points out that a number of international instruments now guarantee the rights of people in disasters, among them the African Charter on the Rights and Welfare of the Child and the International Convention on the Rights of Persons with Disabilities.
- [14] See supra note 10.
- [15] UN Human Rights Council, Resolution A/HRC/6/L.46, 11 December 2007.
- [16] Inter-Agency Standing Committee, Global Protection Cluster Working Group, *Handbook for the Protection of Internally Displaced Persons* [provisional release] (New York, December 2007), 41-43.
- [17] HelpAge International, *Strong and Fragile: Learning from older people in emergencies*, November 2007.
- [18] UN Inter-Agency Standing Committee, "Inter-agency real-time evaluation of the response to the February 2007 floods and cyclone in Mozambique," (May 2007), 29-30.
- [19] Wilder, "Perceptions," 40-41.
- [20] Child Protection Coordination within Cluster Approach: An Inter-Agency Survey, March 2008.
- [21] Wilder, "Perceptions," 40-41.
- [22] United Nations High Commissioner for Refugees, "UNHCR Final Report South Asia Earthquake," April 2007.
- [23] Earthquake Rehabilitation and Reconstruction Authority (ERRA), "Social Impact Assessment: 8 October 2005 Pakistan Earthquake," May 2007.

[24] “Human Rights and Natural Disasters: Operational Guidelines and Field Manual on Human Rights Protection in Situations of Natural Disaster,” Brookings-Bern Project on Internal Displacement, April 2008.