

**Measuring Indonesia's Response to the Tsunami**, Statement by Roberta Cohen at Workshop on "One Year after the Tsunami: Public Perceptions and Policy," Woodrow Wilson Center, Washington DC, January 12, 2006

Never before has a response to a natural disaster occasioned so much scrutiny internationally as has the December 2005 tsunami. Its regional impact was one reason. It affected 12 countries plus the nationals of many more, and left enormous devastation in its wake – more than 230,000 killed or missing, 2 million persons internally displaced, and the destruction of large swaths of land and property. Further, the United Nations reported that 430,000 homes were swept away, 5,000 miles of coastline devastated, 2,000 miles of road ruined, and 100,000 fishing boats damaged or destroyed.<sup>1</sup>

The unprecedented amount of money raised was another reason for the international scrutiny. Bilateral and multilateral donors, corporations, NGOs and individuals around the world pledged \$13.6 billion. Given the UN oil for food program scandal in which there was so little accountability, the UN Under-Secretary-General for Humanitarian Affairs almost immediately instituted a system to track where and how the funds were being spent. And former US President Bill Clinton was appointed the UN's Special Envoy for Tsunami Recovery to provide oversight.

Overall, the United Nations got high marks for its response to the tsunami. It acted immediately, raising international awareness to the disaster, mobilizing funds -- 75 percent of which have been received, and playing a notable role in coordinating one of the largest relief operations in history. Indeed, UN officials often point out that as a result of its efforts, epidemics were averted, food assistance was delivered, most children are now back in school, and tens of thousands are employed and earning money again.

The United States has also come in for praise. Its military was quick to undertake rescue and relief operations, and it was among the world's top contributors (the government pledged more than \$800 million, and the US private sector donated about \$1.5 billion). Indeed, polls have found a more favorable view of the United States because of its response to the tsunami.<sup>2</sup>

But something is missing from this picture. First, the response to the emergency phase of the disaster must not be confused with the response to the reconstruction phase. It could take five to ten years to succeed at recovery, with sustained attention and staying power needed. Second, a close look must be given to the extent to which the survivors have actually benefited. Eighty percent of the survivors are still living in temporary shelters, many of which are substandard.<sup>3</sup> In Aceh, out of some 500,000 left homeless, at least

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<sup>1</sup> William Jefferson Clinton, "Clinton: The Tsunami, one year later," *International Herald Tribune*, December 23, 2005

<sup>2</sup> James Kunder, USAID Testimony before the Subcommittee on East Asian and Pacific Affairs, Committee on Foreign Relations, US Senate, September 15, 2005.

<sup>3</sup> Oxfam Briefing Note, "A place to stay, a place to live: Challenges in providing shelter in India, Indonesia, and Sri Lanka after the tsunami," December 14, 2005.

200,000 are still living with friends and relatives, 60 to 70,000 are in barracks, and 67,000 in tents.<sup>4</sup> Many are without access to clean water, sanitation and health care, large numbers have no jobs, and there seems to be almost complete neglect of psychosocial health services to deal with trauma. It is the survivors who must be placed at the center of any evaluation together with the response of their national governments, which after all have primary responsibility for their welfare and security.

For putting the survivors at center stage and measuring the national response, there exists a set of international guidelines -- the Guiding Principles on Internal Displacement,<sup>5</sup> which apply to persons uprooted by conflict as well as natural disaster who remain within the borders of their own countries. The Guiding Principles set forth the rights of internally displaced persons (IDPs) and the obligations of governments toward these populations. They cover material assistance, physical safety, and the fundamental civil, political, economic and social rights of the affected population, based on international human rights and humanitarian law.

Although not a binding document like a treaty, the Guiding Principles are regularly acknowledged by UN resolutions as an important tool and standard for dealing with situations of internal displacement. The UN Secretary-General has called upon governments to apply them in situations of mass displacement. The World Summit Document, which heads of state adopted in September 2005, recognized them as “an important international framework for the protection of internally displaced persons” (Art. 132).

As a participant in the process that developed the Guiding Principles, I introduced them at a seminar in Jakarta in 2001 that my project at Brookings organized together with Komnas Ham – Indonesia’s Human Rights Commission, CERIC - the Center for Research on Inter-group Relations and Conflict Resolution at the University of Indonesia, and UN agencies.<sup>6</sup> At the time there were more than one million Indonesians uprooted by conflict, and officials from the central government and the most affected provinces as well as international organizations, NGOs, and research institutions came together to discuss the problem. One of the seminar’s major recommendations was the dissemination of the Guiding Principles by the Indonesian government to the police and military, regional government officials, and local communities hosting IDPs. Seminar participants also called for the translation of the Principles into Bahasa Indonesia, which was subsequently done.<sup>7</sup> Further, the magazine *Tempo* featured the Principles.

Let us now evaluate the response to the tsunami within the framework of the Guiding Principles.

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<sup>4</sup> See “Special Edition The Tsunami, 1 Year On,” *Tempo*, Jakarta, December 27, 2005-January 2, 2006, p.26; and Scott Baldauf, “Aceh’s next generation,” *Christian Science Monitor*, December 19, 2005.

<sup>5</sup> [www.brookings.edu/fp/projects/idp/resources/GPsEnglish.pdf](http://www.brookings.edu/fp/projects/idp/resources/GPsEnglish.pdf)

<sup>6</sup> See [www.brookings.edu/fp/projects/idp/conferences/indonesia2001\\_report.htm](http://www.brookings.edu/fp/projects/idp/conferences/indonesia2001_report.htm)

<sup>7</sup> See [www.brookings.edu/fp/projects/idp/resources/GPI.pdf](http://www.brookings.edu/fp/projects/idp/resources/GPI.pdf)

**Prevention.** The Principles begin with prevention, making clear that governments have a responsibility to prevent or mitigate the conditions that lead to displacement. In the case of natural disaster, this means putting into place early warning systems, disaster preparedness plans at the village level and housing standards that make buildings better equipped to withstand the effects of earthquakes. These are in fact the fundamental rights of populations living in high-risk areas and such populations arguably should be able to claim compensation when public officials fail to take reasonable measures to protect them. Since the tsunami, there has been some progress in this area. An early warning system for the entire Indian Ocean region is being developed to prepare every country's weather service to receive warnings, which should become operational by mid-2006. But this is only a first step. National education campaigns and standards for disaster resistant construction are needed, as called for by Clinton.<sup>8</sup> "It takes 10% more to build an earthquake resistant house than to create a death trap," the UN's Emergency Relief Coordinator points out, but for every dollar invested, "you reap ten fold that amount later in reduced disaster intervention costs."<sup>9</sup> Indonesia is a country prone to natural disasters, making it important that monitoring take place to ensure that preventive steps are taken.

**Access.** Another fundamental right of displaced persons is access to humanitarian and reconstruction assistance. Following the tsunami, the Indonesian government to its credit opened up Aceh to foreign air forces, international and local aid organizations and the media. But complications arose from carrying out an international relief effort in areas previously closed off to UN agencies and NGOs. Their long absence during years of conflict meant that they were unfamiliar with the terrain, which served to slow the response. Moreover, suspicions about international aid as well as national pride at times interfered with the aid effort. During the first three months in Aceh, foreign agencies did not know whether they would be allowed to stay after March and could not therefore plan effectively. In the case of the UN High Commissioner for Refugees (UNHCR), it was asked to leave even though UNHCR was engaged in a \$60 million program to build up to 35,000 permanent homes in Aceh. The Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons was able to visit Thailand and Sri Lanka in March but did not receive a visa to visit Indonesia. Despite these early setbacks, the province of Aceh has now become open, UNHCR has been invited back, and there are large numbers of international agencies and NGOs present.

**Non-discrimination.** According to basic humanitarian principles, aid must be based on impartiality and non-discrimination, which means that political opinion, race, religion and ethnicity are not to influence who receives the aid and in what amount. During the first six months after the tsunami, there were reports of aid being denied to groups or areas suspected of sympathizing with the Free Aceh Movement (GAM). Where counter-terrorism measures were in place, the NGO Forum Asia found, "they were not relaxed to enable all the victims to access aid."<sup>10</sup> Two groups that did an evaluation found that aid

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<sup>8</sup> William Jefferson Clinton, "Clinton: The Tsunami, one year later," op.cit.

<sup>9</sup> "Highlights of the Press Conference by UN Emergency Relief Coordinator on the International Task Force for Disaster Prevention," United Nations Information Service, Geneva, 22 November 2005.

<sup>10</sup> Asia Forum on Human Rights in Development, "The Human Rights Implications of the 26 December Tsunami," Bangkok, 4 March 2005, p.4.

distribution was being used by the military as a political weapon in its struggle with the GAM.<sup>11</sup>

Also reported was a disparity in treatment between those uprooted by conflict in Aceh (who numbered some 100,000) and those uprooted by the tsunami (some 500,000). It took until May for aid workers to be allowed to travel beyond the coast into areas ravaged by conflict. One analyst saw large numbers of burnt out and abandoned houses and reported that “survivors of the conflict resent that virtually all the humanitarian assistance was going to tsunami survivors.”<sup>12</sup> Indonesia’s Human Rights Commission, Komnas Ham, found that those displaced by conflict often lacked basic services and received insufficient assistance for rehabilitation and recovery.<sup>13</sup> A *Jakarta Post* article described those displaced by conflict as “off the radar and agenda of the Indonesian government.”<sup>14</sup>

The peace agreement between the government and the GAM in August 2005 led to efforts to reduce this disparity. The government announced it would deal with *both* conflict and tsunami affected populations to avoid inequities and tensions in the reconstruction process. As Human Rights Watch aptly put it, the government found it not to be in its interest to create “a ‘golden’ coastline of new housing and benefits while the rest of the province remains underdeveloped and ravaged by the war.”<sup>15</sup> The Reconstruction Agency for Aceh and Nias (BRR – Badan Rehabilitasi dan Rekonstruksi) set up in April 2005 assumed responsibility for both tsunami and conflict affected areas, with Director Kuntoro Mangkusubroto affirming that the reintegration of both groups is “integral to the peace-building process.”<sup>16</sup> The World Bank has also begun supporting a compensation program for communities affected by conflict. However, the disparity remains, in part exacerbated by many international humanitarian organizations whose funds are earmarked only for those uprooted by the tsunami.

The government has worked to address other inequities as well. For example, it developed a program of providing cash assistance to families hosting IDPs. This ended the disparity between IDPs in government-run relocation centers who received aid and families hosting IDPs who did not. The aid encouraged greater community support for IDPs and their hosts, resulted in IDP registrations and access to other services, and injected cash into the local economy.<sup>17</sup>

**Protection of Property Rights.** The destruction of land title deeds and property records and the loss of coastal land have given rise to problems of compensation, property ownership and inheritance issues. The absence of formal title has put the poor at a severe

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<sup>11</sup> East-West Center and Human Rights Center of University of California, Berkeley, *After the Tsunami: Human Rights of Vulnerable Populations*, October 2005, p.34.

<sup>12</sup> Interview with Andrea Fitri Woodhouse, December 6, 2005.

<sup>13</sup> Indonesian National Commission on Human Rights, “Case Study: IDPs in Aceh, Activities and Recent Initiatives,” October 2005, pp.3, 7.

<sup>14</sup> Brad Adams, “Aceh’s Forgotten Victims,” *Jakarta Post*, May 27, 2005.

<sup>15</sup> Human Rights Watch, Letter to the UN Special Envoy on Tsunami Recovery, May 10, 2005.

<sup>16</sup> Kuntoro Mangkusubroto, Seminar on Building Back after Natural Disaster: Lessons from the Asia Tsunami, US Institute of Peace, Washington DC, September 23, 2005.

<sup>17</sup> Claudia Hudspeth, “Accessing IDPs in post-tsunami Aceh,” *Forced Migration Review*, July 2005, p. 20.

disadvantage. Women too, especially widows, may face discrimination in regaining their homes and property. Further, the creation of buffer and security zones has interfered with exercising property rights as well as freedom of movement and the right to earn a living.

Director Kuntoro of the BRR has taken a flexible, pragmatic attitude toward buffer zones, but clear policies and administrative mechanisms are needed to review claims, help survivors replace lost documents, ensure that non-traditional forms of ownership are recognized, clarify the location of exclusion zones, and provide assistance to people who lost their land and livelihoods. Steps are also needed to help widows secure legal title to land and housing in their own names, recognize married women on title deeds and ensure that orphaned children receive entitlements to land and compensation. The World Bank has been working with the government on land titling issues, and thus far it is reported that “there has been no explosion of land disputes.”<sup>18</sup> Nonetheless, the status of much land is still unclear and Walter Kalin, Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, advises that the most effective way of handling large-scale property issues is to create a dedicated administrative body with a mandate for mediation, adjudication (subject to appeal to courts) and flexible types of remedies. Modification of laws and policies are also needed to “ensure that customary rights and non-traditional forms of ownership evidence are recognized” and to promote women’s rights.<sup>19</sup>

**Attention to vulnerable groups.** In every emergency, there are groups with special needs who easily become left behind -- the poorest in the affected population, orphans and separated children, single women and women heads of household, elderly people who have lost their families, disabled people, and minority groups.

In the case of children, the Indonesian government in collaboration with UNICEF rapidly undertook programs to prevent trafficking. For example, separated children were moved in with extended families and communities rather than their being spirited away to other parts of Indonesia or abroad for adoption. Out of 2,393 children orphaned or separated from their parents in Aceh, 85 per cent are with relations or family friends and 400 have been placed in homes.<sup>20</sup> In addition to tracing efforts, guarantees are needed to ensure that children receive entitlements to land and compensation owed to their families.

In the case of women, the presence for many months of military forces in and around relocation centers, as well as lack of privacy in the barracks set up for IDPs, resulted in a rise in sexual and gender-based abuse.<sup>21</sup> In addition, domestic violence has come to the fore as well as reports of forced marriages of young women survivors to older men given the shortage of women (three times as many women as men perished in the tsunami). Income generation programs for women have been introduced but the virtual exclusion of

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<sup>18</sup> “Land:Housing,” in Special Edition The Tsunami, 1 Year On, *Tempo*, Jakarta, December 27, 2005-January 2, 2006, pp. 20-1.

<sup>19</sup> Walter Kalin, “Natural disasters and IDPs’ rights,” *Forced Migration Review*, July 2005, p.11.

<sup>20</sup> Scott Baldauf, “Aceh’s next generation,” op.cit.

<sup>21</sup> See Michael Casey, “Charity Reports Rising Abuse of Female Tsunami Survivors,” *Washington Post*, March 27, 2005.

women from the rehabilitation and reconstruction process is also regularly reported. UN officials have publicly called for regular consultation with women, recognition of their economic contribution when evaluating compensation for lost property, and steps to overcome discrimination interfering with their regaining their homes and land.

**Consultation with affected populations.** In 2001 at the seminar in Jakarta on internal displacement, Indonesian civil society representatives one after the other criticized what they called the “top down approach” of the government in dealing with IDPs. What they wanted was what they called “a bottom up approach” or consultation with the affected communities. Unfortunately, some of the same criticism is being leveled today. Indeed, one of the reasons large portions of the government’s master plan for Aceh had to be modified was because it was developed with little input from local communities. Throughout the tsunami affected countries, Representative of the UN Secretary-General Kalin and the UN’s Special Rapporteur on Adequate Housing pointed to insufficient consultation with survivors in the formulation of need and loss assessments, aid distribution and reconstruction. Lack of consultation has resulted in the setting up of temporary housing far from the livelihoods of survivors and from transport.<sup>22</sup> It has also resulted in camp designs that fail to protect women.<sup>23</sup> If reconstruction plans are to be sustainable and accepted by local communities, consultation mechanisms must not be one-time events but a structured part of the planning process, as called for in the Guiding Principles. To its credit, the BRR’s approach is participatory, and the Women’s Empowerment Bureau of Aceh, the World Bank and others are seeking to establish consultation mechanisms. Nonetheless, a study published in October found “a dearth of community involvement in policy making” and insufficient numbers of local people in key positions in the organizations and international agencies working on reconstruction in Aceh.<sup>24</sup>

**Preserving the civilian character of the relief and reconstruction effort.** In the wake of disaster, military capacity can be invaluable to rescue and humanitarian response. Indeed, the Indonesian military in the first weeks after the disaster played a critical role in saving people, delivering aid and providing access for humanitarian agencies. But its continued role for months thereafter in the relief effort in Aceh gave rise to concerns that humanitarian aid was being “used as a tool to assert control over a population in need.”<sup>25</sup>

With the August 2005 peace agreement, such concerns dissipated. At least half of the nearly 50,000 troops in Aceh withdrew and the way is being paved for civilian self-government and oversight of the province. In addition, the BRR has taken over coordination of the reconstruction effort and by most accounts is making progress. Nonetheless, it should be firmly established, whether in peace or wartime, that humanitarian aid is the responsibility of civilian institutions. The military’s long history

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<sup>22</sup> Norma Susanti Manalu, International NGO Forum on Indonesian Development, Oral Statement to UN Commission on Human Rights, Geneva, April 14, 2005.

<sup>23</sup> Tess Bacala, “Women and Disaster: Resilience amid Ruin,” Philippine Center for Investigative Journalism, 2005. The article reports that there are no separate toilets for men and women.

<sup>24</sup> East-West Center and Human Rights Center of University of California, *After the Tsunami*, op cit., p.39.

<sup>25</sup> Indonesian National Commission on Human Rights, op cit., p.4.

of human rights abuse in Aceh makes it essential for neutral civilian institutions with experience in relief and reconstruction to be the only ones authorized to oversee the recovery effort in accordance with internationally recognized humanitarian principles.

**Slow Pace of Recovery and Reconstruction.** Although timelines are not provided for in the Guiding Principles, it is understood that recovery and reconstruction in response to a disaster must be as speedy as possible. Although some Indonesian government and UN officials defend the pace of the reconstruction on the grounds of the sheer devastation in Aceh and the need for a careful and well-planned response, in May, the head of the BRR expressed shock at the slow pace of the reconstruction. Kuntoro told the press: “There are no roads being built, there are no bridges being built. There are no harbors being built. When it comes to reconstruction, zero.”<sup>26</sup> Since its establishment in late April, the BRR has moved quickly to get projects approved for roads, schools, houses and ports, and in the second half of 2005, construction speeded up. But the BRR must cope with a long and growing list of challenges, which slows up its work. Bureaucracy is one, reflected in the slow disbursement of funds to Aceh and the delays in publishing the reconstruction plan. Coordination is another, with reports of insufficient consultation between the central and provincial governments and between the government and the international community. As for the 120,000 houses that need to be built, there are property ownership issues, shortages of land, the loss of professionals, the inexperience of NGOs in building houses, the scarcity and high price of building materials, and transport and logistical problems.

In addition, there is corruption. President Susilo Bambang Yudhoyono came into office on an anti-corruption platform in 2004 and has been serious in seeking to uproot the practice. Kuntoro was appointed director of the BRR because of his integrity. In fact, he told an audience in Washington that the main reason the reconstruction agency was created was to ensure that it would *not* be tainted by the corrupt practices of other government bodies.<sup>27</sup> In addition, investigations and convictions of local officials have been taking place, in particular in Aceh. But it is also true that Transparency International ranked Indonesia among the 20 most corrupt countries in the world. Bribes are reported to be needed for identity cards and land certificates,<sup>28</sup> and NGOs like Indonesia Corruption Watch as well as the media have drawn attention to siphoning off of aid by the military, favoritism by local officials toward select constituencies, and the difficulties of the state’s auditing agency in accounting for all the donations received.<sup>29</sup> A US Agency for International Development document points out that, “Weak governing institutions, inadequate rule of law, and pervasive corruption” are the principal obstacles facing the new government.<sup>30</sup> Clearly it will be a challenge for the government to ensure that corruption does not undermine the response to tsunami reconstruction and that a

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<sup>26</sup> Dean Yates, “Aceh tsunami chief ‘shocked’ at slow reconstruction,” Reuters, May 9, 2005.

<sup>27</sup> Kunturo Mangkusubroto, *op cit.*

<sup>28</sup> East-West Center, *After the Tsunami*, *op cit.*, p. 40.

<sup>29</sup> See Seth Mydans, “Where Tsunami Ravaged, Barely a Sign of Relief,” *New York Times*, April 6, 2005 and World Bank, “Conflict and Recovery in Aceh,” 23 August 2005 (pre-publication version).

<sup>30</sup> USAID BUDGET: Indonesia, December 20, 2005, p.2.

sharp reduction takes place between the large amount of funds received (\$4.4 billion to date out of \$7.5 billion pledged)<sup>31</sup> and the results achieved on the ground.

**Strengthening Capacity.** One promising way to initiate human rights monitoring of the reconstruction plan would be to request Komnas Ham to undertake this role and to strengthen its capacity to do so. National human rights commissions may be created by the state but they can exercise a certain amount of independence and are in a position to monitor government performance, advise governments when their policies and laws need to be improved, and receive and act upon complaints.

In August 2005, Komnas Ham together with the national human rights commissions of the Asia Pacific region, adopted Guidelines on internally displaced persons in situations of natural disaster, which call for monitoring by the commissions of how the human rights of IDPs are being respected.<sup>32</sup>

At a meeting of national human rights commissions in Colombo in October, in which I participated, the representative of Komnas Ham pointed out that the commission had been taken off guard by the tsunami, not having been designed to deal with natural disasters. But now it had submitted to the government a list of human rights concerns emanating from the tsunami that should be integrated into policies and programs. These included housing rights, property rights, loss of documentation, participation in reconstruction plans, and the rights and needs of women and children.

But Komnas Ham will need resources and capacity to carry out a monitoring role. The Asia Pacific Forum of National Human Rights Institutions, together with my project at Brookings, has been working with Komnas Ham to strengthen its capacity with regard to internal displacement and in 2006 Komnas Ham plans to train government officials, military and police in responding to the rights of displaced persons. However, this is only a first step.

**Conclusion.** In conclusion, aid programs that pay attention to human rights have a better chance of becoming sustainable and contributing to the long-term stability of the country. In Indonesia, there is room for cautious optimism. It now has a government committed to responding to the needs of the survivors and ensuring that peace and recovery take hold in Aceh. It also has a government seeking to bring the military's financial dealings and involvement in corruption under control. At the same time, much of what was called for by the Jakarta seminar of 2001 is called for today -- non-discrimination in the provision of aid; better coordination at the national, regional and local levels; transparency and accountability in the disbursement of funds; mechanisms to ensure that women have equal rights to land and housing; and the greater involvement of beneficiaries and host

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<sup>31</sup> BRR and UN Information Management Service, Tsunami Recovery Status Report, December 14, 2005.

<sup>32</sup> *Guidelines on Internally Displaced Persons in the Context of Natural Disasters: A Common Methodology for National Human Rights Institutions*, endorsed by the national human rights commissions of the Asia Pacific region, August 2005, [www.asiapacificforum.net/training/idp/brookings-bern/guidelines.doc](http://www.asiapacificforum.net/training/idp/brookings-bern/guidelines.doc)

communities in the planning and implementation of reconstruction programs. Whether natural disaster or conflict uproots people, the government has the opportunity to “build back better” based on humanitarian and human rights standards. Disasters bring to the fore deep structural problems in countries and provide opportunities to reverse long-standing patterns of discrimination and ethnic conflict. Addressing them can create a strong foundation for recovery.

