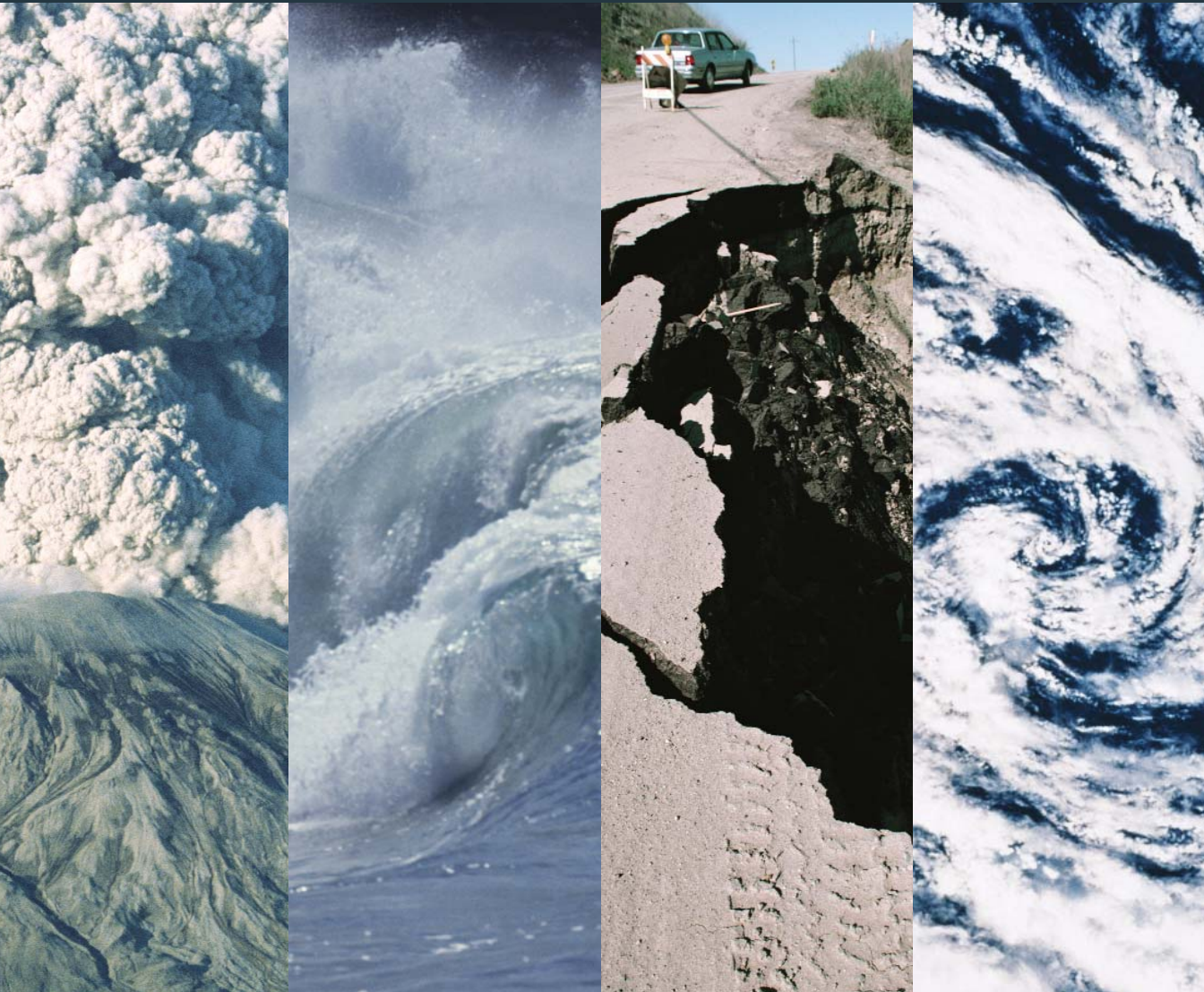


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HUMAN RIGHTS AND NATURAL DISASTERS

Operational Guidelines and Field Manual
on Human Rights Protection in Situations
of Natural Disaster



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ABBREVIATIONS

AMD	Ante-mortem data
CCPR	Covenant on Civil and Political Rights
CESCR	Covenant on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
IASC	Inter-Agency Standing Committee
ICRC	International Committee of the Red Cross
IDP	Internally displaced person
NGO	Non-governmental organisation
PMD	Post-mortem data
RSG	Representative of the Secretary General
UDHR	Universal Declaration of Human Rights

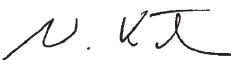
FOREWORD

Although disasters are quick to strike, their consequences can be long to remedy and can linger on for months and years. The extent to which their effects increase inherent inequalities in life and society is to a significant extent a question of how governments and humanitarian actors integrate human rights into their disaster preparedness and response.

To promote and facilitate a rights-based approach to disaster relief, the Inter-Agency Standing Committee (IASC) adopted Operational Guidelines on Protecting Persons in Natural Disasters in June 2006. This Pilot Manual has been drafted to accompany the Operational Guidelines. It intends to help people in the field to understand the human rights dimensions of their work in disaster response while giving them practical examples and operational steps about how some of these seemingly abstract concepts may be implemented.

This draft has been long in coming. We would particularly like to thank the members and partners of the IASC who helped formulate both the Guidelines and the Manual, as well as the individuals who put so much time and effort into seeing them come alive. We would also like to thank the Brookings-Bern Project on Internal Displacement for the generous support provided to this manual.

The real test for this Pilot Manual will be in the field. We depend on the end-users, the front line service deliverers, to tell us how useful it is and how it is used. Further comments, criticism and suggestions are welcome. This Pilot Manual should be a living document which can be updated and adapted to evolving needs and requests from the field.



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on the Human Rights of
Internally Displaced Persons



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INTRODUCTION

ADDRESSING THE HUMAN RIGHTS GAP IN DISASTER RELIEF

Natural disasters are the consequences of events triggered by natural hazards that overwhelm local response capacity and seriously affect the social and economic development of a region. Traditionally, natural disasters have been seen as situations that create challenges and problems mainly of a humanitarian nature. However, increasingly, it has come to be recognized, that human rights protection also needs to be provided in these contexts.

The tsunamis, hurricanes and earthquakes, which hit parts of Asia and the Americas in 2004/2005, highlighted the need to be attentive to the multiple human rights challenges victims of such disasters may face. All too often the human rights of disaster victims are not sufficiently taken into account. Unequal access to assistance, discrimination in aid provision, enforced relocation, sexual and gender-based violence, loss of documentation, recruitment of children into fighting forces, unsafe or involuntary return or resettlement, and issues of property restitution are just some of the problems that are often encountered by those affected by the consequences of natural disasters.

In addition, a high number of persons also become internally displaced when volcanic eruptions, tsunamis, floods, drought, landslides, or earthquakes destroy houses and shelter, forcing affected populations to leave their homes or places of residence. Experience has shown that the longer the displacement lasts, the greater the risk of human rights violations. In particular, discrimination and violations of economic, social and cultural rights tend to become more systemic over time.

Often the human rights violations are not intended or planned. Sometimes they result from insufficient resources and capacities to prepare and respond to the consequences of the disasters. More often, they are the result of inappropriate policies, neglect or oversight. These violations could be avoided if both national and international actors took the relevant human rights guarantees into account from the beginning. Missions and evaluations by the Representative of the UN Secretary-General (RSG) on the human rights of internally displaced persons show that not only national authorities are often

unaware of the relevance of human rights norms in the context of natural disasters. International agencies and non-governmental organisations (NGOs) are also at a loss as to how to incorporate a human rights-based approach into emergency relief and response, even though many of the laws and codes of conduct applicable in situations of natural disaster include such guarantees.

Human rights have to be the legal underpinning of all humanitarian work pertaining to natural disasters. There is no other legal framework to guide such activities, especially in areas where there is no armed conflict. If humanitarian assistance is not based on a human rights framework, there is a risk that the focus will be too narrow and the basic needs of the victims will not be integrated into a holistic planning process. There is also the risk that factors important for recovery and reconstruction will be overlooked. Furthermore, neglecting the human rights of those affected by natural disasters means overlooking the fact that such people do not live in a legal vacuum, but in countries with laws, rules and institutions that should protect their rights. International human rights principles should guide disaster risk management, including pre-disaster mitigation and preparedness measures, emergency relief and rehabilitation, and reconstruction efforts. Those at risk need to be protected against violence and abuse. Those displaced need to be provided with protection and assistance and need to be able either to return in safety and in dignity to their original lands and property, or to be assisted to integrate locally in the area to which they have fled or to settle elsewhere in the country. Adherence to international human rights standards will help to ensure that the basic needs of victims or beneficiaries are met. The challenge often is how to apply these rules in an operational context.

In order to provide guidance on how to protect the rights of individuals affected by natural disasters, in June 2006, the UN Inter-Agency Standing Committee (IASC) adopted Operational Guidelines on Human Rights and Natural Disasters. These guidelines were needed because already existing guidelines on humanitarian action in emergencies, as well as standards for protecting human rights in armed conflict, did not deal specifically with human rights concerns emanating from natural disasters. The Guidelines are addressed to intergovernmental and non-governmental humanitarian actors. They focus on what humanitarian actors should do in order to implement a human rights-based approach to humanitarian action in the context of natural disasters. Complementing the Guidelines is this Manual, which provides

the human rights background underpinning the Guidelines and lists practical operational steps to provide humanitarian workers with examples of how the Guidelines can best be implemented.

PURPOSE OF THE OPERATIONAL GUIDELINES AND THE MANUAL

The Operational Guidelines and their Manual are intended to ensure that disaster relief and reconstruction efforts are conducted within a framework that protects and furthers human rights.

Specifically, the Operational Guidelines aim to:

- Ensure that human rights principles and protection standards -- including the fundamental principles of non-discrimination and accountability -- are integrated into all disaster response, recovery and reconstruction efforts from the earliest stage possible;
- Identify relevant measures to ensure that affected persons and their communities are fully consulted and can actively participate in all stages of the disaster response in accordance with their human rights;
- Complement existing guidelines on humanitarian standards in situations of natural disaster;
- Provide benchmarks for monitoring and assessing the needs of persons affected by the consequences of natural disasters;
- Provide a basis for humanitarian actors when entering into dialogue with governments about their obligations to the victims of natural disasters under human rights law.

CONTENT AND STRUCTURE OF THE MANUAL

PART I explains the notion and implications of human rights protection in situations of natural disaster and the meaning of a human rights-based approach to disaster relief.

PART II, the core of the Manual, presents the main human rights principles relevant in situations of natural disaster and advice on how to implement them. It is structured into sections that follow the Operational Guidelines grouping of human rights into four categories: (A) rights related to life, physical security and integrity; (B) rights related to the basic necessities of life; (C) other economic, social and cultural rights; and (D) other civil and political rights.

Each section begins with general human rights principles¹ followed by the actual text of the IASC operational guidelines relating these general human rights norms to the specific circumstances following. Finally, *Operational Steps* give practical suggestions on how to implement the operational guidelines.² They reflect a human rights perspective and are addressed primarily to the staff of international agencies and NGOs. They may also be useful for national and local authorities. The Operational Steps are illustrative, not exhaustive.

PART III addresses the special rights and needs of vulnerable groups, in particular internally displaced persons, women, children, the elderly, single-headed households, persons with disabilities or HIV/AIDS, ethnic minorities and indigenous peoples. It also cross-references the rights and concerns of these groups with the Operational Guidelines and the Operational Steps contained in Part II.

ANNEX I contains references to codes of conduct, guidelines and manuals that are relevant in the context of natural disasters.

ANNEX II contains a compilation of the Operational Guidelines with references to the Sphere Project.³

LEGAL BASIS

The Operational Guidelines are informed by and draw on provisions in relevant international human rights law. They also draw on existing standards

1 The fact that certain human rights are not mentioned should not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or right granted to persons under domestic law.

2 The operational steps complement, but do not supplement, other guidelines, handbooks or manuals that already exist in the specific field of concern.

3 The Sphere Project, Humanitarian Charter and Minimum Standards in Disaster Response, 2004 Edition, Geneva 2004.

and policies pertaining to humanitarian action as well as to human rights guidelines on humanitarian standards in situations of natural disaster. They cover civil and political as well as economic, social and cultural rights. While natural disasters may occur in situations of armed conflict, international humanitarian law per se does not regulate the effects of such disasters. However, it may complement human rights law in such situations.

The Operational Guidelines are based on the Universal Declaration of Human Rights, and such relevant human rights instruments as the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. The Operational Guidelines are also based on relevant regional human rights conventions, as well as such standards as the Guiding Principles on Internal Displacement,⁴ the Sphere Humanitarian Charter and Minimum Standards in Disaster Response, the IFRC Code of Conduct⁵ and the IASC IDP Policy.⁶ The Operational Guidelines should be seen as complementing these standards and interpreted so as to be consistent with them.

GLOSSARY

In these Guidelines:

- “Natural disaster” refers to the consequences of events triggered by such natural hazards as earthquakes, volcanic eruptions, landslides, tsunamis, floods and drought that overwhelm local response capacity. Such disasters seriously disrupt the functioning of a community or a society causing widespread human, material, economic or environmental losses, which exceed the ability of the affected community or society to cope by using its own resources.⁷
- “Protection” encompasses all activities aimed at obtaining full respect for the rights of the individual in accordance with the let-

⁴ E.CN.4/1998/53/Add.2.

⁵ Code of Conduct for The International Red Cross and Red Crescent Movement and NGOs in Disaster Relief, Geneva, ICRC, 1992.

⁶ Inter-Agency Standing Committee, Implementing the Collaborative Response to Situations of Internal Displacement, Guidance for UN Humanitarian and/or Resident Coordinators and Country Teams, September 2004 (hereinafter IASC IDP Policy).

⁷ See also the glossary of the International Society for Disaster Reduction; <http://www.unisdr.org/eng/library/lib-terminology-eng%20home.htm> (16 May 2007).

ter and the spirit of the relevant bodies of law (i.e. international human rights law and, where applicable, international humanitarian law).⁸

- “Internally displaced persons” (IDPs) or “persons displaced by the disaster” means persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of natural disasters, and who have not crossed an internationally recognized State border.⁹

8 IASC IDP Policy, Annex 3 (referring to Sylvie Giossi Caverzasio (ed), *Strengthening Protection in War – A Search for Professional Standards*, Geneva, ICRC, 2001).

9 Guiding Principles on Internal Displacement, preambular paragraphs.

A HUMAN RIGHTS-BASED APPROACH TO DISASTER RELIEF

PROTECTION FRAMEWORK

These Guidelines are inspired by the following understanding of human rights protection during disaster relief:¹⁰

1. Those affected by natural disasters, including those displaced by such events, remain, as residents and most often citizens of the country in which they are living, entitled to the protection of international human rights law as well as, if applicable, of international humanitarian law subscribed to by the State concerned or applicable as customary international law. They do not lose, as a consequence of their being displaced or otherwise affected by the disaster, the rights of the population at large. At the same time, they have particular needs which call for specific protection and assistance measures that are distinct from those required by individuals who were not adversely affected by the disaster.
2. The primary duty and responsibility to provide such protection and assistance lies with the national authorities of the affected countries. Those affected by natural disasters have the right to request and receive protection and assistance from their governments. The main duty bearers, thus, are the national and local authorities of the countries concerned.
3. Protection is not limited to securing the survival and physical security of those affected by natural disasters. Protection encompasses all relevant guarantees—civil and political as well as economic, social and

¹⁰ See Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, E/CN.4/2006/71, paragraphs 4-8.

cultural rights—attributed to them by international human rights and, where applicable, international humanitarian law. Although all human rights are fundamentally interrelated, for practical reasons, these rights can be divided into four groups, namely: (A) rights related to physical security and integrity (e.g. protection of the right to life and the right to be free from assault, rape, arbitrary detention, kidnapping, and threats concerning the above); (B) rights related to the basic necessities of life (e.g. the rights to food, drinking water, shelter, adequate clothing, adequate health services, and sanitation); (C) rights related to other economic, social and cultural protection needs (e.g. the rights to have access to education and work as well as to receive restitution or compensation for lost property); and (D) rights related to other civil and political protection needs (e.g. the rights to religious freedom and freedom of speech, personal documentation, political participation, access to courts, and freedom from discrimination). The first two groups of rights are most relevant during the emergency, life-saving phase. Only the full respect of all categories of rights, however, can ensure adequate protection of the human rights of those affected by natural disasters, including the displaced.

4. In all cases States have an obligation to respect, protect and fulfil the rights of their citizens and of the people living in their territory. States have also an obligation: (a) to prevent violations of these rights from (re-)occurring; (b) to stop them while they are happening by making sure that its organs and authorities respect the rights concerned or protect victims against violations by third parties; and (c) to ensure reparation and full rehabilitation if violations have occurred.
5. States therefore have an obligation to do everything within their power to prevent and/or mitigate the potential negative consequences that natural hazards may wreak. However, the Operational Guidelines, however, mainly give guidance in situations once the disaster has occurred.
6. UN agencies, international and national NGOs and other relevant international actors have an essential role to play in advocating on behalf of the rights of the victims. In addition, they can assist governments in their efforts and strengthen national capacity to protect

rights. Such assistance can be undertaken by: (a) working through the government if possible; (b) complementing the government's efforts; or (c) substituting for the government if needed.

7. Where the capacity and/or willingness of the authorities to meet their responsibilities are insufficient, the international community needs to support and supplement the efforts of the government and local authorities. The scope and complexity of many natural disasters call for the active involvement of organisations and groups both within and outside the UN system which have special expertise and resources, including displaced and host communities and civil society. As set out in the introduction, every actor in the disaster context should use a human rights-based approach to disaster relief. Protection activities of international actors must not be limited strictly to securing the basic survival needs of those affected by natural disasters. The activities should cover all guarantees contained in the four groups of rights outlined above. Where international agencies or NGOs substitute for governments or carry out tasks delegated to them by governments, these actors must observe relevant human rights obligations themselves. They must ensure that their activities do not constitute or perpetuate violations of human rights.
8. Protection activities of the international actors can be:
 - *Responsive*: aimed at “stopping, preventing or mitigating a pattern of [ongoing] abuse”;
 - *Remedial*: “aimed at restoring people’s dignity and ensuring adequate living conditions subsequent to a pattern of violation, through rehabilitation, restitution, compensation and repair”; or
 - *Environment building*: “aiming to create and/or consolidate an environment – political, social, cultural, institutional, economic and legal – conducive to full respect for the rights of the individual”.¹¹

¹¹ IASC, IDP Policy, at p.44.

THE NEED TO ENSURE NON-DISCRIMINATORY DISASTER RELIEF

From a human rights perspective the right of the affected population to be protected against any kind of discrimination on the basis of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, age, disability or other status is of paramount importance. Discrimination includes both intentional discrimination and policies or activities that have a discriminatory impact. Avoiding and preventing inequities and discrimination between people directly affected by the disaster and those only indirectly affected by it, as well as between different groups among the victims, is one of the most complex challenges in disaster relief. Internally displaced persons, women and girls, and other vulnerable groups such as persons with disabilities or HIV/AIDS, single parents, elderly persons without family support, or members of ethnic or religious minorities and indigenous peoples are at a particular risk of being disadvantaged.

The principles of equality and non-discrimination contained in the different human rights instruments¹² are central tenets of international human rights law and humanitarian principles. They should underpin all disaster relief, recovery and reconstruction efforts. Access to humanitarian relief and reconstruction assistance should be provided without any discrimination of any kind. Assistance should be carried out in accordance with the humanitarian principles of humanity, impartiality and neutrality. Disaster relief and recovery efforts should not discriminate between different groups of displaced and affected populations. For example, there should be no discrimination between displaced persons in camps and those staying with host families. Disaster relief and assistance should not create inequities between the standard of services available for populations affected by disaster and for non-affected communities in the surrounding areas. All members of affected communities should have equal access to information regarding disaster relief and recovery strategies. They should be fully consulted and able to participate in all stages of the disaster response.

To calibrate the provision of assistance to the needs of the people affected, however, is not a violation of the principle of non-discrimination; rather, it

¹² Art. 1 and 2 UDHR; Art. 2, para. 2 CESC; Art. 2, para. 1 and Art. 26 CCPR.

reflects an appropriate human rights-based approach to humanitarian aid delivery. The principle of non-discrimination allows distinctions based on serious and objective reasons and requires the duty-bearers to identify beneficiaries according to the degree and character of their needs. Beneficiaries of humanitarian assistance should not automatically include all the people who have been affected by the disaster. Some people may have second homes or extended families for temporary housing or they may have the financial means to continue self-support.

In order to be able to implement non-discriminatory assistance and protection activities, it is essential to know who the potential beneficiaries are and what their specific needs are. At the outset, any relief programme has to start with a well thought-out beneficiary profile. Without this profile, the programme risks falling short of the beneficiaries' entitlements and becoming (involuntarily) discriminatory. In order to identify the beneficiaries of targeted assistance correctly, it is recommended that, in the initial stages of the emergency, a rapid survey be conducted to identify the gender, demographic, social, economic and political profile of affected communities. Assessments of vulnerability, livelihoods, assets, skills and capacities should also be conducted. Such community profiles should be used as a planning tool throughout each stage of the disaster response to ensure that the response is equitable and addresses the needs of all sectors of the community.

Finally, it is important to provide information and education on equality and non-discrimination to all affected communities to inform them of their rights and encourage them to raise their concerns with the local authorities and humanitarian agencies. Local and national authorities should continue to implement and enforce existing anti-discrimination legislation in the aftermath of a natural disaster or help develop such legislation where it does not yet exist.

THE NEED TO INFORM AND CONSULT

In the interest of efficient management of relief efforts in situations of natural disaster, there can be a tendency to centralize decision-making. Those affected, and in particular those displaced by a disaster, can find themselves excluded from the planning of aid distribution, the type of food and other

items supplied, the location and layout of camps and settlements, and other matters central to their daily lives.

Being excluded from decisions that will have an impact on one's life can heighten the sense of helplessness and disempowerment that already exists following a natural disaster. Such exclusion can also undermine the effectiveness of humanitarian assistance, and even put the physical security of the persons affected at risk. Even where participation is sought, women are too often left out despite the fact that they, along with the children for whom they care, have specific protection, assistance and reintegration needs. In the absence of consultation there is a risk that these needs will not be addressed. Other groups that tend to be marginalised in the consultations are older people, people with disabilities, single heads of households, unaccompanied minors, and members of religious or ethnic minorities.

The rights of affected communities to full, free and impartial information, and to full consultation are part of the right to information and freedom of expression guaranteed by human rights law.¹³ In order to ensure that information is easily accessible and that there is access to different groups within the affected population international actors should use a variety of outreach methods. Particular attention should also be paid to the fact that disaster victims, and particularly those belonging to minority groups, may require information and consultation in a language other than the official languages. Humanitarian actors should therefore take steps to ensure that victims are consulted in a language they understand. For both practical and legal reasons, all affected communities, without discrimination, should have the opportunity to be consulted and to participate in the planning and implementation of the various stages of the disaster response. They should also actively participate in humanitarian relief and assistance efforts to the extent possible. This is critical to ensure that relief and recovery programmes are effective, equitable, and sustainable. To this end, mechanisms should be established to enable communities to provide feedback and to express complaints and grievances regarding the disaster relief, recovery and reconstruction response. Since women often play a critical role in local resource management and family coping strategies, special efforts should be made to ensure that women are fully consulted and can participate in all aspects of the disaster response.

¹³ E.g. Art. 19 UDHR; Art. 19 CCPR

THE NEED TO MONITOR

It is essential to establish effective monitoring mechanisms, benchmarks and indicators to ensure that the protection of the human rights of those affected by natural disasters, including those who are internally displaced, is effectively implemented. Furthermore, all disaster prevention, relief and recovery should be assessed so as to evaluate whether those activities are being carried out in accordance with international human rights and humanitarian standards as outlined in the Operational Guidelines.

Beyond the oversight that should already be exercised by international and regional human rights bodies and internal oversight processes, national monitoring mechanisms should be encouraged and set up with sufficient and independent resources. National Human Rights Institutions established in accordance with the Paris Principles¹⁴ can play a particularly important role in this regard.

Monitoring mechanisms should be easily accessible to potential complainants. Unless monitoring activities interfere unduly with essential humanitarian work, oversight tasks should be carried out on a regular basis. Monitors should seek and receive pertinent information and not be unreasonably denied access to places where disaster prevention, relief and recovery are being carried out. They should also be allowed to interview humanitarian staff.

The findings and recommendations of monitoring mechanisms should be appropriately integrated into planning and management at both the national and international levels.

The following **practical steps** are recommended:

- Include a special focus on human rights issues and related data in disaster situation reports, databases and information management systems;
- Include focal points for human rights, as well as specialized expertise on gender, children's issues and other at-risk groups, in all disaster management and coordination bodies;

¹⁴ Principles relating to the status and functioning of national institutions for protection and promotion of human rights (Paris Principles), UN Doc. A/Res/48/134, 20 December 1993.

- Ensure all domestic and international actors involved in disaster response and recovery planning and operations receive adequate training in human rights standards, particularly as they apply to victims of natural disasters;
- Develop and include indicators to assess the protection of the affected population against all kinds of discrimination in all phases of the disaster relief programming and evaluation;
- Integrate human rights indicators and benchmarks into all government, UN, NGO and civil society disaster relief, recovery and reconstruction programmes; and put in place systems to measure and monitor them regularly;
- Encourage donors to integrate human rights monitoring into assistance and protection programme monitoring and evaluation cycles;
- Encourage National Human Rights Institutions to set up monitoring units to investigate, report on and respond to discrimination and other human rights violations or abuses that occur during the disaster response and to ensure compliance with national, regional and international human rights and humanitarian standards;
- Help publicize the findings resulting from the National Human Rights Institutions' monitoring activities;
- Set up community-based, participatory monitoring models which may include:
 - a) complaint boxes and grievance mechanisms in camps and settlements for displaced and affected communities;
 - b) questionnaires and report cards that displaced and affected communities can complete;
 - c) regular public meetings with local officials, NGOs, international agencies, and representatives from the local community;
 - d) village-based consultations to encourage local communities to voice their concerns and to promote participation;
 - e) separate fora to enable women to voice their opinions and con-

cerns (especially in societies where women are traditionally excluded from participation in public discourse);

- Put in place mechanisms to ensure accountability and an immediate response to allegations of human rights abuses, including appropriate action by law enforcement bodies, protection for witnesses, and remedies for the victims;
- Distribute the Operational Guidelines widely to government officials, UN agencies, international, national and local NGOs and community-based organisations; provide training and awareness raising on how to implement them.

IMPLEMENTATION OF THE OPERATIONAL GUIDELINES*

The Operational Guidelines mainly target activities that need to be undertaken during the emergency phase of humanitarian action. Once the immediate life-saving phase is over, some of the guidelines may be no longer relevant, but others continue to be important.

The operational steps that follow are indications of how the Operational Guidelines could be implemented. It very much depends on the specific context which and how many of these steps should be taken in a given situation.

*As needs in the aftermath of a disaster are often great and resources are usually limited, it is not always possible to implement all of the operational steps to the extent suggested here. However, it is important to include a human rights perspective from the beginning and implement recommended measures step by step and to the extent possible under the circumstances.

IASC OPERATIONAL GUIDELINES ON HUMAN RIGHTS AND NATURAL DISASTERS

GENERAL PRINCIPLES

- I. Persons affected by natural disasters should enjoy the same rights and freedoms under human rights law as others in their country and not be discriminated against. Targeted measures to address assistance and protection needs of specific categories of affected populations do not constitute discrimination if, and to the extent that, they are based on differing needs.
- II. States have the primary duty and responsibility to provide assistance to persons affected by natural disasters and to protect their human rights.
- III. Organisations providing protection and assistance to persons affected by natural disasters accept that human rights underpin all humanitarian action. In situations of natural disaster they should therefore respect the human rights of persons affected by disasters at all times and advocate for the promotion and protection of those rights to the fullest extent. Humanitarian organisations should not promote, actively participate in, or in any other manner contribute to, or endorse policies or activities, which do or can lead to human rights violations by States. They should strive to enable the affected people to exercise their own rights.
- IV. Organisations providing protection and assistance in situations of natural disasters should be guided by these Operational Guidelines in all of their activities, in particular when monitoring and assessing the situation and needs of affected persons, when program-

ming and implementing their own activities as well as when entering into a dialogue with governmental authorities on the State's duties and responsibilities under international human rights and, where applicable, international humanitarian and refugee law. In doing so, they should remain accountable to all of their relevant stakeholders, in particular to the persons affected by the natural disaster.

- V. All communities affected by a natural disaster should be entitled to easy accessible information concerning: (a) the nature and level of disaster they are facing; (b) the possible risk mitigation measures that can be taken; (c) early warning information; and (d) information on ongoing humanitarian assistance, recovery efforts and their respective entitlements. They should be meaningfully consulted and given the opportunity to take charge of their own affairs to the maximum extent possible and to participate in the planning and implementation of the various stages of the disaster response.
- VI. These Operational Guidelines seek to improve the practical implementation of international instruments protecting human rights. They shall not be interpreted as restricting, modifying or impairing the provisions of international human rights or, where applicable, international humanitarian and refugee law. They should be applied together with other relevant Codes of Conduct, Guidelines and Manuals.¹⁵
- VII. Organisations providing protection and assistance in situations of natural disasters shall endeavour to have adequate mechanisms established to ensure that the Operational Guidelines are applied and that the human rights of the affected are protected.

¹⁵ See the detailed references to codes of conduct, guidelines and manuals relevant to natural disasters, in Part IV below.

PROTECTION OF LIFE, SECURITY, AND PHYSICAL, MENTAL AND MORAL INTEGRITY

Relevant Human Rights Principles

- Every human being has the inherent right to life, which shall be protected by law.¹⁶
- Every human being has the right to dignity and physical, mental and moral integrity. Everyone shall be protected, in particular, against torture, cruel and inhuman or degrading treatment or punishment¹⁷; rape and other acts of gender-based and gender-specific violence or indecent assault and domestic violence.¹⁸
- Everyone has the right to be protected against acts of violence threatened or committed by private parties and other non-state actors.¹⁹
- Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.²⁰
- Every human being has the right to liberty of movement and freedom to choose his or her residence.²¹
- Every human being shall be protected against forced or compulsory labour and human trafficking or other contemporary forms of slavery such as sale into marriage, forced prostitution or sexual exploitation. Services exacted in order to deal with the consequences of the disaster and necessary for the life or well-being of the community shall not be regarded as forced or compulsory labour.²²
- Children shall be protected against economic exploitation and hazardous or harmful work, particularly against the worst forms of child labour, including recruitment into armed forces or groups.²³

¹⁶ Art. 3 UDHR; Art. 6 CCPR; Common Article 3 to the 1949 Geneva Conventions.

¹⁷ Art. 5 UDHR; Art. 7 CCPR.

¹⁸ Art. 5 UDHR in conjunction with Art. 1 UDHR; Art. 7 in conjunction with Art. 2, para. 1 CCPR.

¹⁹ See Human Rights Committee, General Comment No. 31, para. 8.

²⁰ Art. 9 UDHR; Art. 9 CCPR.

²¹ Art. 13 UDHR; Art. 12 CCPR.

²² Art. 4 UDHR; Art. 8 CCPR.

²³ Art. 32 CRC; Art. 3 ILO Convention on the Worst Forms of Child Labour, Nr. 182; Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict.

A.1 EVACUATIONS AND OTHER LIFE-SAVING MEASURES

Guidelines

- A.1.1 If an imminent natural disaster creates a serious risk for the life, physical integrity or health of affected individuals and communities, all appropriate measures necessary to protect those in danger, including in particular vulnerable groups, should be taken to the maximum extent possible (e.g. emergency shelter arrangements).
- A.1.2 If such measures would be insufficient, endangered persons should be allowed, and assisted to leave the danger zone. To the extent that they cannot do so on their own, endangered persons should be evacuated from the danger zone by using all available means.
- A.1.3 These evacuations should be carried out in a manner that fully respects the right to life, dignity, liberty and security of all those affected, in particular members of vulnerable groups. Measures should be taken to safeguard homes and common assets left behind. Evacuated persons should be registered and their evacuation monitored.
- A.1.4 When the natural disaster has occurred, persons affected by it should be allowed to move to other parts of the country and to settle there. This right may not be subject to any restrictions except those which are provided by law, and are necessary to protect national security, the safety and security of affected populations, public order (*ordre public*), public health or the rights and freedoms of others.
- A.1.5 Persons—including evacuees—who have been ordered or forced to flee or to leave their homes or places of habitual residences as result of a natural disaster or its effects, or have left in order to avoid them, and have not crossed an internationally recognized State border should be treated as belonging to the category of internally displaced persons covered by the 1998 Guiding Principles on Internal Displacement.
- A.1.6 After the emergency phase, persons displaced by the natural disaster should be granted the opportunity to choose freely whether they want to return to their homes and places of origin, to remain in the area to which they have been displaced, or to resettle to another part of the country. Their right of choice may not be subjected to any restrictions except those which are provided by law, and are necessary to protect national security,

the safety and security of affected populations, public order (ordre public), safety, public health or morals or the rights and freedoms of others. In particular, the return of persons displaced by the disaster to their homes and places of origin should only be prohibited if these homes or places of origin are in zones where there are real dangers to the life or physical integrity and health of the affected persons. Restrictions should only last as long as such dangers exist and only be implemented if other, less intrusive, measures of protection are not available or possible.

- A.1.7 Persons affected by the natural disaster should not, under any circumstances, be forced to return to or resettle in any place where their life, safety, liberty and/or health would be at further risk.
- A.1.8 Unless it is necessary for the protection of affected persons against very serious and imminent threats to their lives, their physical integrity or health, evacuations against their will, or the prohibitions of their return, should not be supported by organisations providing protection and assistance to persons affected by natural disasters, even if they have been ordered by the competent authorities. Such organisations should not become involved in involuntary evacuations in any manner.

Operational Steps

The duty to protect the life and security of human beings may entail the obligation to evacuate those potentially affected by natural disasters. At the same time, there is a risk that involuntary evacuations may be carried out in situations where they are not necessary, and where less intrusive measures may be sufficient to protect persons concerned.

The following operational steps are recommended:

- Identify areas especially endangered in cases of natural disasters; plan and implement measures such as protective shelters that may be sufficient to protect (potential) victims of natural disasters short of evacuations.
- Encourage governmental counterparts to establish criteria, consistent with the principle of proportionality, for deciding when involuntary evacuation may be justified.
- Ensure that evacuation plans are prepared and that local or international actors who could carry out the necessary evacuations are identified.

- Ensure that the target population is informed (in a language and manner people can understand) and consulted ahead of time as well as throughout the evacuation.
- Prepare for the reception of the evacuated or displaced persons and provide protection and assistance to them according to the Guiding Principles on Internal Displacement.

A.2 PROTECTION AGAINST THE NEGATIVE IMPACTS OF NATURAL HAZARDS

Guideline

A.2.1 Persons affected by natural disasters, displaced or not, should be protected against the dangers of potential secondary hazards and other disaster risks.

Operational Steps

- To prevent further damage and to protect persons already affected by the natural disaster, national authorities should be prepared for potential secondary hazards and other disaster risks.
- The potential for secondary hazards and other disaster risks needs to be assessed and updated.
- Persons affected and potentially affected by secondary hazards and other disaster risks should be informed about these risks.
- The return of displaced persons to their homes or places of habitual residence should only be prohibited if these homes or places are in areas where there are real dangers of potential secondary hazards and other disaster risks. Such restrictions should only last as long as such dangers and risks exist and only be implemented if other, less intrusive measures of protection are not available or possible.

A.3 PROTECTION AGAINST VIOLENCE, INCLUDING GENDER-BASED VIOLENCE

Guidelines

- A.3.1 During and after the emergency phase, law enforcement personnel and local authorities should be encouraged to take effective measures to ensure the security of populations affected by the natural disaster.
- A.3.2 Mechanisms which are appropriate to address instances of violence and other violations of human rights, as well as of relevant guarantees under international humanitarian law, should be established without delay. In particular, the deployment of law enforcement personnel to areas at risk of or with a breakdown of law and order—including sexual and gender-based violence, robberies, or looting—should be requested.
- A.3.3 Appropriate measures should be taken as early and as quickly as possible to protect affected populations, in particular women and boy and girl children, against forced or compulsory labour and human trafficking or other contemporary forms of slavery such as sale into marriage, forced prostitution, and sexual exploitation.
- A.3.4 Should the natural disaster occur in a country with an armed conflict, appropriate measures should be taken as soon as possible to ensure that children affected by the natural disaster are protected against being recruited or associated with armed forces or groups.

Operational Steps

The people and communities affected by the natural disaster may be further exposed to violence if law and order break down. With their infrastructure and resources, the military and armed forces can play a useful role in the immediate aftermath of an emergency in helping to set up distribution systems and camps. At the same time, particularly in areas with armed conflicts, the involvement of armed forces and armed groups can be an additional source of tension and potential violence. In such cases, the involvement of these forces and groups should be avoided as much as possible.

The risk of gender-based violence, in particular among displaced populations living in camps, increases over time because of the disruption of family order, protection and coping mechanisms combined with the loss of income and livelihoods.

In the case of IDPs, the planning, layout and design of camps and settlements are key for the protection of their physical security.

Regarding the protection of those affected by natural disasters against violence, whether or not they are displaced, the following operational steps are recommended:

Violence in general:

- Identify and map the potential sources of violence, from outside and within the affected population, and take preventive measures to reduce their potential impact.
- Provide additional protection and assistance to single women and girl-children, single parent households, children who have lost their parents or are temporarily separated from them, elderly persons without family support, persons with disabilities or HIV/AIDS, and members of ethnic or religious minorities or indigenous groups. This additional protection should ensure that these persons can live in safe and secure shelters and be safe from incidents of harassment.
- In the early stages of the emergency response, incorporate strategies to protect children and adolescents against physical, psychological and sexual abuse and exploitation. Set up mechanisms for them and other members of the community to report on incidents of physical and sexual abuse and exploitation of children, trafficking of children, child labour and recruitment of child soldiers. Ensure the confidentiality and protection of victims and witnesses.
- Raise awareness among single parents or people in new parenting roles on how to protect the children in their care against abuse and exploitation.
- Educate police, law enforcement officers and the judiciary on how to investigate and respond to incidents of child abuse, sexual exploitation, trafficking, and child labour.
- Where humanitarian assistance is provided by armed forces or groups, ensure that civilian authorities or humanitarian organisations supervise the provision of such relief.

Gender-based violence:

- In the disaster prevention, response and recovery efforts, in particular in accordance with the IASC Policy on the Prevention of Gender-based

Violence, include strategies to safeguard women's physical and personal security. In particular and in order to maximize the safety and security of women and girls, ensure that temporary camps, transitional settlements and permanent housing schemes for people affected by natural disasters are planned and designed with the full participation of women. Particular attention should be paid to the following:

- housing and shelter design, location and lay-out;
 - lighting, fencing and other security measures;
 - location of and access to water points, bathing and sanitation facilities, sources of fuel, food distribution points, health, education and other community facilities.
- Conduct community-based public information campaigns to educate local communities, government and law enforcement officials and humanitarian workers about the risks and consequences of sexual and gender-based violence, as well as the penalties it can entail.
 - Devise programmes specifically aimed at educating men about sexual and gender-based violence. Target the root causes of increased sexual and domestic violence in the aftermath of a natural disaster, in particular the breakdown of family support structures, and substance abuse.
 - Devise ways to address the problem of substance abuse, including among single parents. Initiatives could include community-based public awareness campaigns on alcoholism, use of other toxic substances, and violence, as well as rehabilitation programmes for those with substance abuse problems.
 - Work with local law enforcement officials, the judiciary and camp management committees to put in place procedures: to enable victims to report incidents of sexual and gender-based violence; to investigate thoroughly and prosecute perpetrators of sexual and gender-based violence; to protect the witnesses. Ensure that strict confidentiality is respected when dealing with sensitive health information.
 - Ensure that sufficient female police, law enforcement and judicial officers are recruited to work with displaced and affected communities to follow up on reports of sexual and gender-based violence; and ensure that these individuals are trained in handling these issues sensitively and confidentially.
 - Strictly enforce codes of conduct for humanitarian workers that prohibit sexual abuse and exploitation of women, as well as boy and girl children.

- Provide appropriate, gender-sensitive and confidential medical, counselling and material support to survivors of sexual and gender-based violence.
- Ensure remedies are available for victims of sexual and gender-based violence.

A.4 CAMP SECURITY

Guidelines

- A.4.1 Persons displaced by the disaster should, to the maximum extent possible, be provided with the means to recover as quickly as possible and become self-sustainable (even in places of temporary displacement) or with fast rehabilitation assistance for return. Camps are a last resort and should only be established as long as the possibility of self-sustainability or fast rehabilitation assistance does not exist.
- A.4.2 The location and lay-out of camps and settlements for persons displaced by the disaster should be situated in areas with a low natural hazard risk. They should be designed so as to maximize the security and protection of displaced persons, including women and others whose physical security is most at risk (e.g. children, older persons, persons with disabilities, single-headed households and members of religious and ethnic minority groups or indigenous peoples).
- A.4.3 Security should be provided in camps, in particular by monitoring, through law enforcement personnel and camp committees drawn from among the displaced communities. Appropriate mechanisms to address instances of violence and other violations of the human rights of camp residents should be established.
- A.4.4 Persons affected by the disaster should be allowed to move freely in and out of camps. Such movement should not be restricted or prohibited unless it is necessary for the protection of the security or health of camp residents, or that of the population in the vicinity. If there are restrictions, they should not remain in force any longer than absolutely necessary.
- A.4.5 In order to maintain the civilian character of camps at all times, appropriate measures should be taken to avoid the presence of uncontrolled armed elements in camps and settlements. Where such elements are

present, they should be separated from the civilian population in the camp. The presence of armed State police or security forces should be limited to the extent strictly necessary to provide security.

A.4.6 Once the immediate emergency phase is over, camps set up by armed forces or groups should be managed by civilian authorities or organisations. The role of police and security forces should be limited to providing security.

Operational Steps

The planning of transitional settlements for IDPs has to be based on a contextual analysis of their needs if it is to have a significant impact on the physical security and protection of IDPs. Appropriate planning can make a difference between *being* secure and *feeling* secure. The IDPs need not only to be, but also to feel, secure and this relates directly to the general atmosphere of the settlement. Regarding camp security, the following operational steps are recommended:

- Locate washing and communal sanitary facilities, water points, food distribution points, fuel sources, health and education facilities close to living and sleeping quarters and provide secure access, especially at night. This may require that lighting be provided for all walkways and roads within the settlement. Ensure that fuel and water are in places that do not place the people fetching them at additional risk.
- Design shelters and living/sleeping quarters in a way that allows for a maximum degree of privacy and protection against unwanted visitors and intruders.
- Maximize the involvement of displaced persons, in particular women and others in at-risk groups, in the planning and design of camps and settlements to ensure their protection and security.
- Establish, in close coordination with camp residents, including women, a guard or buddy system among the camp population.
- To avoid potential abuses, put in place mechanisms to monitor the activities of the police and military in situations where they are responsible for camp security.

