

GROUP D: PROTECTION OF RIGHTS RELATED TO DOCUMENTATION; MOVEMENT; RE-ESTABLISHMENT OF FAMILY TIES; EXPRESSION AND OPINION; AND ELECTIONS

D.1 DOCUMENTATION

D.1.1 Personal documentation for identification and other purposes (e.g. birth, marriage and death certificates, personal identification and travel documents, education and health certificates) that has been lost or destroyed in a natural disaster should be restored to affected persons as early as possible. The following principles should be respected:

- (a) Women and men should be treated equally when documents of any kind are issued. Women should be issued documentation in their own names;
- (b) Unaccompanied, separated and orphaned children should be issued documentation in their own names; and
- (c) Attention should also be paid to the documentation needs of non-citizens.

Amongst others the following activities can be considered:

- ❖ Advocating for the quick adoption of simplified administrative procedures for (re-)issuing personal documentation and establishment of such procedures (e.g. bringing witnesses/community leaders/elders/local authorities who can confirm the identity of affected persons to locations where internally displaced persons live; cancellation of or discounts for fees for affected persons to have documents issued/restituted; etc.); and
- ❖ Deployment of mobile teams that include magistrates and other relevant authorities to areas affected by the disaster to (re-)issue personal documentation.

Preparedness measures:

- ❖ Securing copies of personal documents and information relevant for their restitution.

D.1.2 Loss of personal documentation should not be used:

- (a) To justify the denial of essential food and relief services;
- (b) To prevent individuals from travelling to safe areas or from returning to their homes;
- (c) To impede their access to employment opportunities; or
- (d) To deny access to basic services such as education or essential health care.



D.1.3 Loss of documents proving land tenure and ownership should not be used to impede the exercise of property rights (see above C.1.3).

D.1.4 Organizations providing humanitarian assistance to affected persons should either grant access to life-saving goods and services even in the absence of registration or register the beneficiaries for purposes of such assistance without delay during the emergency phase of the humanitarian response.

D.1.5 Personal data collected, and records established in this context, should be protected against misuse of any kind.

Amongst others the following activities can be considered:

- ❖ Keeping personal data in paper form always locked up and electronic data password-protected and encrypted, and using secure locations to store such information (including the presence of guards);
- ❖ Developing and implementing strict procedures for sharing of personal data and for identifying persons with whom data can be shared; and
- ❖ Destroying data once the purpose for its collection has been served.

Preparedness measures:

- ❖ Humanitarian actors have a data collection policy and standard operating procedures in place.

D.2 FREEDOM OF MOVEMENT, PARTICULARLY IN THE CONTEXT OF DURABLE SOLUTIONS¹⁸

D.2.1 The **right to freedom of movement** of affected persons, whether or not displaced, should be respected and protected. This right should be understood as including the right to freely decide whether to remain in or to leave an endangered zone. It should not be subject to restrictions except those which are: (i) provided for by law, (ii) serve exclusively the purpose of protecting the safety of the persons concerned, and (iii) are used only when there are no other less intrusive measures. In the case of evacuations (above A.1.3 – A.1.7), temporary relocation should not last longer than absolutely necessary.

¹⁸ Other important aspects of the freedom of movement and its possible restrictions – namely evacuations and forced evictions – are discussed above (see Guidelines A.1.4 and C.2.4). The following Guidelines relate primarily but not exclusively to the right of those displaced by disasters to decide for themselves whether they want to return to their homes, integrate locally or start a new life elsewhere in the country.

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D.2.2 After the emergency phase, internally displaced persons should be supported to find a durable solution to their displacement. Durable solutions should be understood as sustainable integration of internally displaced persons:

- ❖ At the place of origin (“return”);
- ❖ In areas where they took refuge (“local integration”); or
- ❖ In another part of the country (“settlement elsewhere in the country”).

Internally displaced persons should be granted the right to choose freely whether they want to return to their homes and places of origin, to integrate locally in the area to which they have been displaced, or to settle elsewhere in the country. Appropriate measures, such as consultation, information campaigns and go-and-see visits should be taken to enable such persons to take an informed decision in this regard.

D.2.3 Conditions conducive to making return, local integration or settlement elsewhere in the country sustainable should be established as soon as possible. Conditions are considered sustainable if internally displaced persons:

- (a) Are and feel safe and secure, free from harassment and intimidation, as well as from unmitigated risks of further natural disasters;
- (b) Have been able to access adequate housing, including, in the case of return, to repossession of and adequate reconstruction or rehabilitation of their homes; and
- (c) Can return to their lives as normally as possible, with access to water, basic services, schools, livelihoods, employment, markets, etc. without discrimination.

Amongst others the following activities can be considered:

- ❖ Conducting security assessments of sites for return, local integration or settlement elsewhere in the country;
- ❖ Establishing comprehensive and accessible public information campaigns as well as grassroots communication strategies on return, local integration and settlement elsewhere in the country;
- ❖ Establishing mechanisms such as media reports, database, information centres etc. to provide internally displaced persons with information on the conditions at the place of their former homes or locations identified for settlement elsewhere in the country and organization of “go and see” visits;
- ❖ Identifying persons with special needs and including them into the planning and management of return, local integration or settlement elsewhere in the country, including

through outreach activities and focus group meetings where appropriate;

- ❖ Publishing and widely disseminating zoning and rebuilding plans and holding of planning commission meetings that are open to the general public;
- ❖ Monitoring and identifying instances of discrimination, in particular of persons with special needs, in providing access to durable solutions including adequate housing, basic services and livelihoods; and
- ❖ Removal of legal and administrative obstacles that hinder local integration or settlement elsewhere in the country.

D.2.4 Permanent prohibitions of return without the consent of affected persons and communities should only be considered and implemented if the area where people live or want to return to is indeed an area with high and persistent risk for life and security that cannot be mitigated by available adaptation and other protective measures. Any such prohibition must respect all of the following conditions:

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- (a) It is provided for by law;
 - (b) Its only purpose is to protect the lives and health of the affected persons;
 - (c) The affected persons have been informed of the process and the reasons for the decision;
 - (d) The affected persons have been consulted during all phases of the relocation, starting from the choice of the site to the construction of housing, services and access to livelihoods, and were given an opportunity to participate in these decisions and their implementation; and
 - (e) The affected persons are provided with the opportunity for settlement elsewhere in the country in accordance with the following conditions:
 - The proposed sites are not exposed to secondary impacts of the disaster and are safe from recurrent disasters; and
 - At such sites, the affected persons have access to safe and culturally appropriate housing; water, basic health services and education; livelihoods and employment; markets; etc. without discrimination.

Amongst others the following activities can be considered:

- ❖ Advocacy on behalf of affected persons forced to return to or settle in a place where their life, safety, liberty and/or health would be at risk;
- ❖ Advocacy on behalf of affected persons faced with prohibition of return that are not in accordance with international standards or with forced relocation;

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- ❖ Provision of effective legal remedies and free legal advice for such persons; and
- ❖ Monitoring of post-disaster settlement or relocation schemes to ensure they are not used as a pretext to either clear or repopulate areas in order to further political, military or economic ends unrelated to the protection of the population.

D.2.5 In all cases of limitations of freedom of movement, in particular as outlined in D.2.1 – D.2.4, affected persons should be provided with effective legal remedies that respect due process guarantees, including the right to be heard and the right of access to an independent court or tribunal, as well as to just compensation.

D.3 RE-ESTABLISHING FAMILY TIES

D.3.1 Relief operations should be designed so as to preserve family unity. Members of internally displaced families who wish to remain together should be allowed and assisted to do so during all phases of the disaster response, and their separation should be prevented.

Amongst others the following activities can be considered:

- ❖ Organizing assistance in a manner that avoids incentives to separate families in the hope of better assistance benefits. In particular distributing food and non-food items in quantities appropriate for large families; and
- ❖ Providing access to education in areas where internally displaced persons leave.

Preparedness measures:

- ❖ Foresee family sizes when preparing relief and contingency planning.

D.3.2 Affected persons should be assisted in learning about the fate and whereabouts of missing relatives. The next of kin should be informed on the progress of the investigation and results obtained through the use of tracing services or mechanisms. The reunification of families, should they so desire, should be facilitated, particularly when children or older persons are involved.

Amongst others the following activities can be considered:

- ❖ Establishing rapid family tracing and reunification procedures from the onset of the emergency and identifying a lead agency or organisation responsible for family tracing and reunification. In most instances this would be the International Committee of the Red Cross (ICRC) or national Red Cross and Red Crescent Societies. Promoting coordination with the lead agency and setting up of compatible systems and formats for transmitting copies of registration details and tracing requests to the lead agency or organization;

- ❖ Conducting comprehensive census or registration exercises to determine the persons who are looking for missing relatives or friends in the disaster as well as the exact numbers, age and gender of missing persons;
- ❖ Collecting all available photographic and video records to assist families who are searching for missing relatives;
- ❖ Developing public communication strategies to disseminate information about separated family members with due regard to the protection of sensitive personal data, in particular relating to unaccompanied children and their whereabouts. These could include: posting photos on bulletin boards; camp and community meetings; TV and radio broadcasts and newspaper advertisements; preparing tracing bulletins or leaflets with photos of family members for wide circulation; or the distribution of cell-phones to receive text messages;
- ❖ Using a wide variety of tracing methods. In addition to the above strategies, these may include: interviewing adults who have lost children; taking children to locations they have described; and organizing family messaging services in a language and manner that is understood by the affected populations;
- ❖ Once family members have been identified, reunifying families to the extent desired by the family as smoothly and efficiently as possible, avoiding unnecessary bureaucratic delays and obstacles;
- ❖ In the case of children, ensuring that family relationships are valid and that the child and family members have given their consent before proceeding with reunification is essential; and
- ❖ Providing psycho-social and material support to reunified families as necessary, as well as to family members that are still separated.

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D.3.3 Separated and unaccompanied children should be taken care of until they can be reunited with their families. All interim care arrangements should be in the best interest of the child. Children should be kept fully informed about interim care arrangements and their rights, and their opinions regarding caretakers should be taken into consideration. Siblings should be kept together when arranging for interim care.

Amongst others the following activities can be considered:

- ❖ Conducting rapid assessments in the immediate aftermath of the disaster to identify the number of separated and unaccompanied children and their specific needs, and to assess existing care arrangements. Details about unaccompanied and separated children should be included in registration exercises;
- ❖ Establishing rapid registration, family tracing and reunification procedures from the onset of the emergency to reunite separated and unaccompanied children with family members;

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Emphasis should be placed on triaging cases to facilitate appropriate and timely action on a case by case basis. Particular attention should be placed on identifying child-headed households, as well as separated or unaccompanied children who may already have been subjected to a grave violation (e.g. recruitment, abduction, gender-based violence);

- ❖ Including questions relevant for identifying unaccompanied and separated children in other registration exercises;
- ❖ Ensuring appropriate documentation, care and tracking of separated and unaccompanied children who are medically evacuated;
- ❖ Where no surviving family members can be traced, making arrangements for separated and unaccompanied children to be cared for by friends or neighbours from their own community whenever possible, taking into consideration children's preferences for caretakers;
- ❖ Conducting regular and close monitoring and review of interim care arrangements to ensure that separated and unaccompanied children are well cared for and protected from all forms of physical, psychological and sexual abuse and exploitation. Children should be interviewed in private to allow them to reveal incidents of abuse. Immediate action should be taken to remove children from abusive or exploitative interim care situations and to find alternative solutions;
- ❖ Avoiding the placement of separated or unaccompanied children in orphanages or children's homes. Such placement, if necessary, should only be used as a temporary measure while more sustainable, community-based solutions are sought, or as a last resort when all other options have been exhausted. Careful monitoring and record-keeping of each individual case regarding the placement of children is critical;
- ❖ Ensuring that separated and unaccompanied children are provided with necessary documentation in their names, including registration, personal identity, birth certificates, health, education, and land ownership. Establishment of rapid documentation procedures; and
- ❖ Ensuring that separated and unaccompanied children have equal access to the material, financial and legal assistance to which they are entitled in the aftermath of a disaster. In particular, separated and unaccompanied children, or their legal guardians, should be provided with the possibility to claim government benefits for dead, missing or injured family members; resettlement and housing allowances; land entitlements and compensation.

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D.3.4 Adoption should only be envisaged once it has been established that all efforts with regard to tracing and family reunification have failed, or that the parents have consented to the adoption in conformity with the standards set up in the Hague Adoption Convention.¹⁹ The consent of parents and the consent of other persons, institutions and

¹⁹ The Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption (Hague Adoption Convention) of 29 May 1993.

authorities that are necessary for adoption must be free and informed. Priority should be given to adoption by relatives in their country of residence. Where this is not an option, preference should be given to adoption within the community from which the child came or at least within his or her own culture.

Preparedness measures:

- ❖ Establishment of legal or administrative procedures to formalize interim care arrangements within the community, including foster care, and to provide additional material, financial and social support as appropriate; and
- ❖ Pre-identification of alternative arrangements either with host families or institutions, as well as pre-identification of monitoring mechanisms.

D.4 EXPRESSION, ASSEMBLY AND ASSOCIATION, AND RELIGION

D.4.1 Affected persons and communities should be allowed and enabled to give feedback and raise complaints or grievances on the disaster relief and recovery response. They should be protected against adverse reaction to such expression of their opinion. Opportunities should be provided for affected persons to conduct peaceful assemblies or to form associations for this purpose.

Amongst others the following activities can be considered:

- ❖ Establishing mechanisms and building capacity to enable affected persons including women, children and youth as well as members of marginalized or minority groups to voice their concerns and opinions regarding the relief and recovery efforts; and
- ❖ Establishing specific mechanisms to monitor, to report on and to investigate incidents where the rights of individuals to freedom of thought, expression and assembly are curtailed and where individuals are punished or ill-treated for the exercise of these fundamental rights. Ensuring appropriate action by law enforcement bodies in such cases.

D.4.2 Religious beliefs and cultural traditions should be respected to the extent possible, when planning and implementing humanitarian assistance, in particular in the context of food assistance, health care services, and living and sanitary arrangements.

Amongst others the following activities can be considered:

- ❖ Consulting with religious leaders and elders on religious and cultural traditions and beliefs that need to be respected to the extent possible during the humanitarian response;
- ❖ Avoiding inclusion of culturally non-acceptable food and non-food items into distribution packages; and

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- ❖ Ensuring that arrangements and provision of services are gender-sensitive where the genders are traditionally separated.

D.4.3 Affected persons should be allowed and provided with opportunities for the exercise of their religious faith and cultural traditions in a manner that respects the rights and beliefs of others and does not incite discrimination, hostility or violence.

Amongst others the following activities can be considered:

- ❖ Locating, to the extent possible, camps and collective centres as well as permanent relocation sites for communities displaced by the disaster within close proximity of existing religious, cultural and community buildings. Including such facilities, where they do not exist, in site plans for such sites; and
- ❖ Protecting existing religious and cultural sites, especially those of indigenous, ethnic or religious minorities.

D.5 ELECTORAL RIGHTS

D.5.1 Affected persons, whether or not displaced, should be enabled to fully exercise their right to vote in elections and to be elected



Amongst others the following activities can be considered:

- ❖ Organizing opportunities to affected persons, whether or not they have been displaced, for voter registration and voting as well as running for office. This may include the use of mobile registration teams and mobile polling stations; and
- ❖ Using procedures for absentee voting by those displaced or by allowing them, particularly in the case of prolonged displacement, to register as voters at the place where they temporarily reside.