

Protection in Natural Disasters



Children fetch water after flooding in Aweil, Sudan
Photo

Tim McKulka, UN

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Introduction

People affected by natural disasters such as floods, cyclones, earthquakes, volcanoes, and other calamities often face urgent protection needs that may not be immediately visible to humanitarian actors caught up in trying to provide water, food, shelter, medical care and other lifesaving assistance. However, as the devastating tsunami in 2004 and subsequent disasters have demonstrated, measures to protect people from discrimination, exploitation, and other forms of human rights violations are as important as the provision of food and water. This paper provides an overview of protection challenges confronting those affected by natural disasters, drawing on examples presented at two workshops organized by the Brookings-Bern Project on Internal Displacement; the first in Asia (in partnership with the All India Disaster Management Institute) and the second in Central America, in collaboration with the Coordination Center for the Prevention of Natural Disasters in Central America (Centro de Coordinación para la Prevención de los Desastres Naturales en América Central) and CONRED, National Coordinating Agency for the Reduction of Disasters (Coordinadora Nacional para la Reducción de Desastres).

The paper begins by discussing some of the differences and similarities in the protection of people affected by natural disasters and by conflict, delineates some of the obstacles to effective protection, and describes a framework for protection response, the *Inter-Agency Standing Committee's Operational Guidelines on Human Rights in Natural Disasters*.¹ Using the categorization of rights in the *Operational Guidelines*, common protection problems are noted, together with examples of possible responses, drawn from both the *Operational Guidelines* and interventions by national and international organizations in the field.

¹ IASC, *Protecting Persons Affected by Natural Disasters: IASC Operational Guidelines on Human Rights and Natural Disasters*, Brookings-Bern Project on Internal Displacement, 2006, available: <http://www.brookings.edu/projects/idp/2006_naturaldisasters.aspx>. The Brookings-Bern Project on Internal Displacement also developed a draft manual on the Operational Guidelines to provide more concrete guidance to disaster responders and is currently being revised in light of experiences in the field, available: <http://www.brookings.edu/reports/2008/spring_natural_disasters.aspx>.

What is Protection?

This paper uses the definition of protection adopted by the Inter-Agency Standing Committee, (which is in turn based on the multi-year consultative process of the International Committee of the Red Cross), as encompassing “all activities, aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. human rights, humanitarian law and refugee law). Human rights and humanitarian actors shall conduct these activities impartially and not on the basis of race, national or ethnic origin, language or gender.”²

Protection consists of strategies to reduce vulnerabilities before and after a disaster occurs, to act **with** those at risk, and to increase the capacity and coping mechanisms of affected populations. Protection, as emphasized in the IASC definition, must be carried out impartially and without discrimination, *unless the latter can be justified with objective and serious reasons*. Setting priorities in providing humanitarian assistance is not discriminatory when based on criteria of need and accessibility is not discriminatory while priorities that are based on ethnic, gender or political considerations are discriminatory. For example, special care for young children is justified by their specific vulnerability and needs and does not constitute age-based discrimination. However, distribution of tools and seeds only to male heads of household but not to single mothers with access to land cannot usually be justified and constitutes gender-based violence.

Central to protection is the right of affected communities to information and to active participation in decision-making, including efforts to reduce vulnerabilities, the provision of humanitarian assistance, and finding durable solutions.

What is a Natural Disaster?

There is considerable debate regarding the definition of “**natural**” versus “**man-made**” disasters. Some argue that there are no “natural” disasters and that a “disaster” is the result

² ICRC, Strengthening Protection in War: A Search for Professional Standards, Geneva, ICRC: 2001, p. 19.

of the failure of authorities to prevent negative effects of natural phenomena or to respond adequately when they occur. At the workshop in Chennai, India, for example, one observer noted that the disaster of the 2004 tsunami was not the earthquake which produced the tidal surges, but rather the poorly-executed humanitarian response.³ Most humanitarians recognize shared responsibility between natural phenomena and human actions. For example, mudslides increase in Nepal as a result of both glacier runoff (a natural cause) and deforestation (a man-made cause).⁴

The definition of natural disaster used in the *Operational Guidelines on Human Rights and Natural Disasters* is: “the consequences of events triggered by natural hazards that overwhelm local response capacity and seriously affect the social and economic development of a region.”⁵ The International Disaster Response Law Guidelines put forward by the International Federation of Red Cross and Red Crescent Societies (IFRC) define a disaster as “a serious disruption of the functioning of society, which poses a significant, widespread threat to human life, health, property or the environment, whether arising from accident, nature or human activity, whether developing suddenly or as the result of long-term processes, but excluding armed conflict.”⁶

A second issue related to definitions concerns the way in which disease is considered. While not included in the work on natural disasters by the International Law Commission, the international humanitarian community generally considers the threat of pandemics – such as Bovine Spongiform Encephalopathy (BSE, more generally known as mad cow disease) in 2000 and Severe Acute Respiratory Syndrome (SARS) in 2005 – and most

³ Brookings-Bern Project on Internal Displacement, *Summary Report: Protecting and Promoting Rights in Natural Disasters in South Asia: Prevention and Response, Chennai, India, 9-10 April 2009, Convened by All India Disaster Mitigation Institute and the Brookings-Bern Project on Internal Displacement*, July 2009, available: <http://www.brookings.edu/reports/2009/0701_natural_disasters,-d-,aspx.aspx>. See also: Naomi Klein, *The Shock Doctrine: The Rise of Disaster Capitalism*, New York: Metropolitan Books, 2007; Nandini Guenwardena and Mark Schuller, ed.s, *Capitalizing on Catastrophe: Neoliberal Strategies in Disaster Reconstruction*, New York: AltaMira Press, 2008, p. 18.

⁴ Participants in Winter Course, Calcutta Research Group, December 2007.

⁵ Inter-Agency Standing Committee, *Protecting Persons affected by Natural Disasters: IASC Operational Guidelines on Human Rights and Natural Disasters*, Washington, DC: Brookings-Bern Project on Internal Displacement, June 2006.

⁶ See *Introduction to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance*, IFRC, Geneva, 2008, p. 11, available: <<http://www.ifrc.org/what/disasters/idrl/resources/guidelines.asp>>.

recently H1NI (Swine Flu) as natural disasters. Are epidemics natural phenomena or the result of inadequate human control – or both? Should the response to widespread disease outbreaks be in the same order as to geological or weather-related phenomena? If pandemics are to be considered another type of natural disaster, then there are questions as to the dividing line between illness and emergency. There have been bitter arguments, for example, in the humanitarian community about whether HIV/AIDS should be considered a “natural disaster.” Should biological phenomena – such as plant disease (the great Irish potato famine of the mid-1800s) or foot-and-mouth disease (which has occasionally paralyzed the economies of countries such as Argentina) or locust infestations (West Africa, 2004)⁷ – be considered natural disasters? These are not just philosophical discussions or only of concern to wordsmiths. Designating a particular phenomenon as a natural disaster (or simply as a disaster) triggers a different magnitude of national and international response than when a disease is considered part of the regular order of things. And there are important human rights concerns relating to quarantine, freedom of movement, etc. attached to some of these issues.

Another difficult definitional issue is the question of **sudden-onset** versus **slow-onset disasters**. There is a tendency to refer to natural disasters in terms of sudden-onset events – cyclones, hurricanes, earthquakes, flooding. Frankly, these are the “easy” events to identify. To what extent should ‘slow-onset’ disasters – (e.g. drought and desertification) be treated as humanitarian disasters requiring responses similar to those elicited by sudden-onset disasters? And what about climate change? The sinking of villages into the permafrost, the slow rise of oceanic waters over islands, including island states, the plight of those forced to leave their homes due to what appears to be permanent drought, where does humanitarian protection enter into the picture in these cases? Do people who migrate because of slow-onset, persistent drought have a privileged claim on the international community in comparison to people who flee grinding rural or urban poverty – or simply cyclical drought?

⁷ The UN Consolidated Appeal for West Africa 2005 was raised in March 2005 to US\$190.3 million from the original request of US\$152.3 million. See OCHA, *Consolidated Appeal for West Africa 2005 - Mid-Year Review*, 29 June 2005: <http://ochaonline.un.org/cap2005/webpage.asp?Page=1301>.

Protection, Natural Disasters and Conflict: Tracing the Connections

There is often an assumption that there are significant differences between emergencies stemming from natural disasters and those resulting from conflict. While there are indeed differences, it is important to point out the similarities, as there is a tendency to limit our view of protection problems to those occurring in armed conflict.

1. People are often displaced by both natural disasters and conflict and most remain within the borders of their country, referred to as internally displaced persons (IDPs), defined in the *Guiding Principles on Internal Displacement* as:

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 armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.⁸

Those displaced by either natural disasters or conflicts are entitled to basic human rights as citizens of their countries and/or (as in the case of non-citizens) as guaranteed by various international human rights conventions or other legal instruments. The *Guiding Principles on Internal Displacement*, based on human rights, refugee and international humanitarian law, provide guidance to governments responsible for protecting and assisting the displaced during displacement and for facilitating durable solutions for their displacement.

Another unfortunate similarity between victims of armed conflict and natural disasters is that governments often do not meet their obligations to protect displaced persons.⁹

2. The human experiences of those displaced by natural disasters and conflicts are often similar. Whether displaced by flooding or fighting, people lose family members,

⁸ United Nations, *Guiding Principles on Internal Displacement*, 1998.

http://www.brookings.edu/projects/idp/gp_page.aspx

⁹ It is important to underline that displacement is not synonymous with vulnerability. In fact, those who are affected – but not displaced – by either natural disasters or conflicts are often more vulnerable than those who leave their communities.

endure the pain of family separation and are deprived of their possessions, homes and communities.

3. In both armed conflict and natural disasters, vulnerable groups suffer more.

Vulnerability in natural disaster has been described by Wisner et al as “the characteristics of a person or group and their situation influencing their capacity to anticipate, cope with, resist and recover from the impact of a natural hazard.”¹⁰

Sexual abuse and rape of women is often a tool of war, and gender-based violence is unfortunately common among women displaced by both natural disasters and conflict. Children displaced by either natural disasters or conflicts are more susceptible to recruitment by armed forces. Vulnerable groups frequently experience discrimination in the provision of assistance whether affected by armed conflict or natural disaster. In many camps where persons displaced by conflict live, food is – at least initially – more likely to go to healthy and strong men than to children or those with disabilities. The same is true in natural disasters. In New Orleans, the elderly, the immigrants and African-American communities suffered the effects of Hurricane Katrina disproportionately.¹¹

As we will see, the reduction of vulnerability – achieved in large part by the inclusion, or participation of “vulnerable persons” in disaster preparedness – is a key component in protection planning.

3. Poverty makes things worse for both victims of natural disasters and conflict. Of the 10 lowest ranking countries on the *Human Development Index*, five are currently experiencing displacement because of conflict (e.g. Democratic Republic of Congo or DRC, Ethiopia, Chad, Central African Republic, and Sierra Leone.) Several others on the list are particularly susceptible to natural disasters: Mozambique, Mali, Niger, Guinea-Bissau, and Burkina Faso.¹² And a number of countries have been plagued by both armed conflict and natural disasters such as flooding, drought, earthquakes, and volcanic eruptions (e.g.

¹⁰ Wisner, B., P. Blaikie, T. Cannon, and I. Davis. 2004. At risk: Natural hazards, people's vulnerability and disasters, 2nd ed. London: Routledge, p. 4, 11.

¹¹ Chris Kromm and Sue Sturgis, *Hurricane Katrina and the Guiding Principles on Internal Displacement*, Durham, NC: Institute for Southern Studies, January 2008.

¹² UN Development Program, *Human Development Report, 2007/08*, New York: UNDP, p. 232.

Somalia, Sri Lanka, Democratic Republic of the Congo, Central African Republic, Afghanistan, and Pakistan).

The 10 weakest states, according to economic, political security, and social welfare indicators are (in order of weakest to less weak): Somalia, Afghanistan, DRC, Iraq, Burundi, Sudan, Central African Republic, Zimbabwe, Liberia, and Côte d'Ivoire – all countries which have experienced major civil conflict – which has generated many displaced persons – in recent years. The majority have also suffered major armed conflict and major natural disasters over the past ten years as well: Somalia: repeated cycles of drought and flooding; Afghanistan: drought, epidemic; DRC: drought, volcanic eruption, flood, epidemic, major storm; Burundi: two droughts, two epidemics, major storm; Sudan: drought; Central African Republic: floods; Liberia: Epidemic, flood, major storm.¹³

4. The weakest point in the international system for both natural disasters and conflicts is in prevention or mitigation. In the case of natural disasters, early warning systems have been developed – but more could be done.¹⁴ And early warning systems alone are not enough. In the case of natural disasters, the international humanitarian community has come up with the Hyogo Plan of Action and the International Strategy for Disaster Risk Reduction to try to mitigate the effects of natural disasters.¹⁵ While offering concrete suggestions for reducing the human impact of natural disasters, unfortunately, they are not yet priorities for most national governments or for international donors. Early warning without early action will not prevent displacement.

Humanitarian Dilemmas

In order to prevent negative effects of natural hazards, the evacuation of communities – including at times the forced relocation of communities – may be necessary and legal. While the *Guiding Principles on Internal Displacement* prohibit arbitrary displacement, there are circumstances when communities need to be relocated in order to safeguard

¹³ Source: www.reliefweb.int

¹⁴ See for example: IASC's Humanitarian Early Warning Service which was developed by the World Food Program http://www.hewsworld.org/home_page/default.asp

¹⁵ See www.unisdr.org for related materials.

lives. In these cases, evacuations must be a last resort, absolutely necessary in order to protect those at risk, and carried out without discrimination. Affected persons must be informed about why, how and where they are being evacuated and communities should be consulted to the extent possible.¹⁶ Future livelihoods should be considered, and communities should be kept together and as close to their places of origin as possible.

According to A.1.6 of the IASC Operational Guidelines,

“Their right of choice may not be subjected to any restrictions except those provided by law, and are necessary to protect national security, the safety and security of affected populations, public order, safety, public health or morals or the rights or 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 last only as long as such dangers exists and only be implemented if other, less intrusive measures of protection are not available or possible.” A1.7. states, “Persons affected by the natural disaster should not, under any circumstances, be forced to return or to resettle in any place where their life, safety, liberty and/or health would be at further risk.”

The Operational Guidelines provide an important caveat for humanitarian organizations, stating in A.1.8 that:

“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 prohibitions against their return, should not be supported by organizations providing protection and assistance to persons affected by natural disasters, even if [such evacuations] have been ordered by the competent authorities. Such organizations should not become involved in involuntary evacuations in any manner.”

While humanitarian organizations should be cautious about appearing to condone forced evacuations, there are likely to be protective activities that can be taken around these

¹⁶ Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Walter Kälin, to the UN Human Rights Council, 5 March 2009, A/HRC/10/013/Add.1, p. 16.

evacuations, e.g. tracking the movement of persons, establishing a presence where possible, making it clear that the organization does not support the evacuations, etc.

Another dilemma humanitarian organizations are likely to encounter involves the degree to which they cooperate with the military in planning for or responding to natural disasters. The role of national or international armed forces in providing assistance to the displaced is more generally accepted in natural disasters than in conflict.¹⁷ However, as Kälén pointed out with respect to tsunami-affected countries:

While it is often the case that the military is the national institution most equipped with the logistics, personnel and supplies to undertake initial rescue and humanitarian response to large disasters, ongoing military control of aid and of camps can also endanger beneficiaries, because it can heighten the IDPs' vulnerability to sexual exploitation and abuse as well as children's military recruitment, and dampen displaced persons' ability to control decisions affecting their lives. This risk is especially high in situations of internal armed conflict, where the proximity of the military can render the camps a military target for no-state armed groups.¹⁸

Multinational forces have been used in many areas around the world to protect the delivery of humanitarian relief.¹⁹ But their presence is often controversial as many humanitarian actors feel that the involvement of military forces contradicts humanitarian principles of neutrality and independence.²⁰ The reality, however, is that in many countries the military will be involved in disaster response due to its "heavy lift" and logistical capacity – the military is also often able to reach areas others are unable to reach and to move large

¹⁷ See for example, Sharon Wiharta, Hassan Ahmad, Jean-Yves Haine, Josefina Löfgren and Tim Randall, *The Effectiveness of Foreign Military Assets in Natural Disaster Response*, Stockholm: Stockholm International Peace Research Institute, 2008. For a case study on the role of the US military in responding to the 2005 Pakistani earthquake, see Wiley C. Thompson, "Success in Kashmir: a positive trend in civil-military integration during humanitarian assistance operations," *Disasters* 2009.

¹⁸ Kälén, op cit., p. 17.

¹⁹ Richard F. Grimmer, "Instances of Use of United States Armed Forces Abroad: 1798-2006." CRS Report for Congress, Updated 8 January 2007. <http://www.maxwell.af.mil/au/awc/awcgate/crs/rl30172.pdf>; Tim Morris, "Civil-Military Relations in Afghanistan." FRM 13, June 2002, <http://www.ipb.org/disarmdevelop/militarisation%20of%20aid/Civil-Military%20Relations%20in%20Afghanistan%20with%20Recommendations.pdf>; Taylor B. Seybolt, *Humanitarian Military Intervention: The Conditions for Success and Failure*, Oxford; New York: Oxford University Press, 2007.

²⁰ See, for example, the guidelines developed by InterAction and the US Institute for Peace on civil-military relations in humanitarian operations. <http://www.usip.org/pubs/guidelines.html>

quantities of supplies quickly. Natural disasters may provide a less politically charged atmosphere to introduce discussions about protection-related issues and to create positive liaisons within military and civilian command structures.

Practical Protection Problems in Natural Disasters and the Inter-Agency Standing Committee Operational Guidelines on Human Rights and Natural Disasters

A growing recognition of the need to respect, uphold, and promote the human rights of those affected by natural disasters, whether displaced or not, was the driving force for the Representative of the Secretary General on the Human Rights of Internally Displaced Persons to develop a practical set of guidelines relevant to protection in natural disasters for use in the field, emphasizing their roots in existing international law and legal norms. The Operational Guidelines were formally adopted by the Inter-Agency Standing Committee in June 2006 and are presently being used to train humanitarian (including some first responders) on ways to ensure human rights are protected in the midst of disaster.²¹ They are currently being revised in light of field experience and will be discussed and (hopefully) adopted by the IASC at the end of 2009. A manual that provides more detailed information and resources has been developed to accompany the Guidelines and is also under revision.

The Guidelines outline a human rights-based approach to the disaster response and early recovery phases and the revision will place more emphasis on disaster-preparedness planning. In particular, the Guidelines underscore the fact that people do not lose their basic human rights as a result of a natural disaster or their displacement but are entitled to all relevant human rights guaranteed to all residents and citizens—although they may also have particular needs related to the disaster, thus requiring specific assistance and

²¹ IASC, *Protecting Persons Affected by Natural Disasters: IASC Operational Guidelines on Human Rights and Natural Disasters*, Brookings-Bern Project on Internal Displacement, 2006, available: <http://www.brookings.edu/projects/idp/2006_naturaldisasters.aspx>. The Brookings-Bern Project on Internal Displacement also developed a draft manual on the Operational Guidelines to provide more concrete guidance to disaster responders and is currently being revised in light of experiences in the field, available: <http://www.brookings.edu/reports/2008/spring_natural_disasters.aspx>.

protection measures. Non-citizens – migrant workers, for example – also have rights, and may be particularly vulnerable following natural disasters.

As with all situations of internal displacement, 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 such protection and assistance from their governments.

The Operational Guidelines stress that human rights encompass not only civil and political rights but also economic, social and cultural rights. However, in the midst of a disaster, it is often difficult to simultaneously promote all rights for all of those affected. Thus for practical reasons, the Operational Guidelines divide human rights 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 of assault, rape, arbitrary detention, kidnapping, and threats to these rights);
- (B) rights related to 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 be provided with or have access to education, to receive restitution or compensation for lost property, and to work); 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 Operational Guidelines suggest that the first two groups of rights may be the most relevant during the emergency, life-saving phase. Thus in the initial disaster response, it is usually more important to ensure adequate access to water than to provide replacement identity cards to those displaced. However, the guidelines insist that only the full respect of all four groups of rights can ensure adequate protection of those affected by natural disasters, including those who are displaced.²² Further, the implications of implementing

²² IASC, *Operational Guidelines*, *op.cit.* p. 7.

the right under C) and D) should not be underestimated, as will be seen in some of the examples provided.

The Guidelines state that:

“in all cases States have an obligation to respect, protect and to fulfill the human rights of their citizens and of any other persons in their territory or under their jurisdiction.”²³

States thus have a responsibility to *prevent* violations of these rights from occurring or re-occurring, to *stop them when they do occur*, and to *ensure reparation and full rehabilitation* for those whose rights have been violated.

When governments are unwilling or unable to fulfill these responsibilities, the international community needs to support and supplement the efforts of national and local authorities. These organizations– UN agencies, international and national non-governmental organizations, civil society, and IDP communities – also have a responsibility to ensure that their approaches and programs incorporate a human rights focus.

In fact, most often, rights are violated not due to conscious intent but due to lack of awareness or planning based on a rights-based approach. Thus in the United States, the evacuation plans for Hurricane Katrina in New Orleans in 2005 were based on an assumption that people owned private vehicles – even though there were racial and class differences in vehicle ownership. While most middle class white people had access to private cars, many poor and African-American residents did not.²⁴ More recently, in the evacuation of New Orleans prior to Hurricane Gustav in August 2008, it was clear that officials had still not heeded the lessons learned from Katrina. While evacuation plans provided bus transportation for those without cars, displaced New Orleans residents were

²³ IASC, *Operational Guidelines*, *op.cit.* pg. 9

²⁴ Chris Kromm and Sue Sturgis, “Hurricane Katrina and the Guiding Principles on Internal Displacement”, Institute for Southern Studies, January 2008. pg. 13
<http://www.southernstudies.org/ISSKatrinaHumanRightsJan08.pdf>

taken to large communal shelters while those who evacuated by car were directed to churches, private homes and hotels.²⁵

Two key issues often arise that create serious problems in both creating protection problems and blocking effective responses to protection needs: discrimination and lack of participation.

The patterns of discrimination that emerge during the initial emergency response phase often existed long before the disaster.²⁶ For example, in the emergency response to the 2004 tsunami, there were reports of discrimination in assistance based on caste, as Dalits in India claimed that their villages had not been restored as quickly as those of higher castes.²⁷ In Sri Lanka, the national human rights commission examined claims of discrimination in aid distribution in the case of Muslims in the east and Tamils in the south. There were also recriminations over the distribution of aid between government and LTTE-held areas. In Aceh in Indonesia, where the military plays a major role in distributing relief supplies and escorting relief groups, some tsunami survivors suspected of having links with the rebels claimed they were denied aid.²⁸

The lack of consultation with affected communities is a theme running throughout accounts of humanitarian response to natural disasters. While consultation is often difficult in the immediate post-emergency period – both because of the imperative to distribute relief quickly and because of the fact that many communities are traumatized – consultative mechanisms are also lacking years after the disaster. A year after the tsunami, for example, the RSG and the Special Rapporteur on Housing found that consultative

²⁵ “Never Again, Again”, New York Times, September 20, 2008.

http://www.nytimes.com/2008/09/21/opinion/21sun2.html?_r=1&oref=slogin

²⁶ As Alex de Waal notes, “Power inequities are typically accentuated in all stages of disaster, from prevention to insurance, through protection and evacuation at the height of the crisis, to relief and rehabilitation,” in: Gunewardena and Schuller, ed.s, *op. cit.*, p. ix.

²⁷ *Protection of Persons in Natural Disasters*, Report of a Working visit to Asia by the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Brookings-Bern Project on Internal Displacement, 2005 http://www.brookings.edu/~media/Files/rc/reports/2005/04_tsunami/200504_tsunami.pdf

²⁸ Roberta Cohen, “Post-Tsunami Human Rights Concerns,” Presentation at a meeting organized by Women in International Security, “Warning Systems, Reconstruction and Stability: Durable Solutions in the Aftermath of the Tsunami Tragedy, 21 March 2005, http://www.brookings.edu/~media/Files/rc/speeches/2005/0321humanrights_cohen/20050321_rcohen.pdf

mechanisms had not been established and that affected communities still lacked access to basic information.²⁹

One of the lessons learned from experience with natural disasters is that in general, the longer displacement lasts, the greater the risk of human rights violations.

A 'Rights-Based' Approach to Humanitarian Action

A human rights-based approach to humanitarian action implies that international human rights, refugee, and international humanitarian law (the latter only in the case of armed conflict) are used as a framework and basis for humanitarian action.

A rights-based approach is used to:

- Systematically analyze the vulnerability of the people affected by natural disasters and to identify their specific needs
- Ensure that humanitarian action is *non-discriminatory*
- Ensure that humanitarian action is *adequate*³⁰

Non-discriminatory humanitarian action means that it is *adapted to the particular needs of the persons or communities*. It does not mean that everyone needs to have the same kind or level of assistance. For example, some groups may require special attention due to a history of discrimination because otherwise they may be left out and will not receive what they need to survive in the aftermath of a disaster. However, decisions to give preferential treatment to particular groups must be consciously considered in terms of how it may affect their safety within the larger community, as there may be cases where hostility produced by such treatment may outweigh the benefits.

ActionAid offers a thought-provoking description of what a rights-based approach means:

“ActionAid believes that people who live in poverty should understand their experiences of want, fear, discrimination and exclusion in terms of human rights

²⁹ http://www.brookings.edu/speeches/2005/1219tsunami_kalin.aspx

³⁰ See chart below, Section B., for a description of “adequate” humanitarian action.

abuses, violations and exploitation, and not in terms of natural phenomena, as the consequence of their own failings, or as situations they have brought upon themselves.”³¹

What kind of protection problems/violations might occur in the context of a natural disaster and what steps can be taken to address them?

Some of protection problems reported in natural disasters appear below, along with some general and specific recommendations offered by the Operational Guidelines and ideas based on workshop discussions and presentations.

(A) Rights related to physical security and integrity.³²

Protection Problems	Possible Approaches to Protection Problems from Operational Guidelines and from Field Examples
1. Sexual assault/rape	- Following a disaster, women may find themselves as heads of households or alone without family protection. In such situations the pressure to assume additional economic responsibility for the family increases women's and girls' (and often boys') vulnerability to sexual exploitation. - Ensure proper medical help, including PEP, ED, and culturally appropriate counseling are available - Protect confidentiality of survivors - Ensure law enforcement/local authorities are encouraged to take measures to prevent and response to sexual violence (Op Guidelines, A.3.1) - Emphasis must be placed on the prevention of sexual assault. - Field example in Nepal:

³¹ As stated in workshop on Human Rights and Natural Disasters in South Asia, Chennai, India, April 2009.

³² Examples are not intended to be exhaustive.

	• The Protection Cluster assisted in the creation of “watch committees” in IDP camps following flooding. In addition, Protection Clusters were created at the district and capital levels.³³
2 Enforced prostitution	▪ Ensure police are prepared to address the problem without punishing women.
3. Physical assault (including domestic violence, child abuse, other violence within the affected community or violence from the host community, police, military, etc.)	▪ Ensure proper medical help is available ▪ Conduct public awareness campaigns to let people know where to get help
4. Trafficking	▪ Ensure that women in the community are aware of where to go for help if they are sexually assaulted or approached by traffickers ▪ Ensure that teachers and parents are made aware of the dangers of trafficking and where to report trafficking. Radio programs, public information announcements can be made to increase awareness.
5. Deliberate killing, wounding, displacement, arbitrary arrest and detention, torture and/or inhuman or degrading treatment, forcible recruitment of children, forced labor/slavery, disappearance by state actors or de facto authorities	▪ The location and layout of camps/settlements should be situated in areas with a low natural hazard risk, and physical security should be provided via law enforcement and monitoring mechanisms, including camp committees made up of affected persons, including women. (Op Guidelines, A.4.2. and A.4.3) In cases where abuses

³³ Dinesh Singh, “Implementation of the IASC Operation Guidelines on Human Rights and Natural Disasters: The Nepal Experience and the Role of the Protection Cluster,” *Regional Workshop on Promoting and Protecting Rights in Natural Disasters in South Asia*, Chennai, India, April 9-10, 2009.

	by authorities are occurring, an international presence should be established, preferably by the UN. ▪ The civilian nature of the camp must be maintained at all times. Measures must be taken to deter the presence of uncontrolled armed groups and to keep any armed groups separate from the civilian population. The presence of armed State police/security forces should be limited to the extent necessary to provide security for camp residents. (Op Guidelines, A.4.5) ▪ Access to camps/settlements should be limited to residents and legitimate visitors whenever possible to prevent predatory behavior by trafficking/prostitution rings, etc.
6. Protection of psychological integrity/dignity	▪ The tremendous psychological repercussions of loss of family members, loss of community, loss of dignity due to inability to make a living or to feel ‘at home’ cannot be underestimated. Further, there is ample evidence to suggest that persons affected by natural disasters often experience a great deal of anxiety and fear following the event. It is critical not to overlook psychosocial needs in natural disasters, but interventions should be culturally appropriate and should not make assumptions about people’s resilience.³⁴

(B) Rights related to basic necessities of life

³⁴ For guidance on addressing psychosocial issues in natural disasters, see “IASC Guidelines on Mental Health and Psychosocial support in Emergency setting,” IASC 2007. See also Andre Jacobs, “Amid Tremors, a City Trembles with Dread,” *The New York Times*, May 27, 2008.

Protection Problems	Possible Approaches to Protection Problems from Operational Guidelines and from the Field
1. Inadequate or inaccessible food, clean water, sanitation facilities, health care (lack of access or denial of access to health care for persons with chronic illnesses, older persons or persons with disabilities; inappropriate food for people based on religious/cultural restrictions; etc.	▪ Adequate humanitarian action means that it is (i) available (goods and services are sufficient in quantity and quality; (ii) accessible (are within safe reach and can be physically accessed by everyone, including vulnerable and marginalized groups; (iii) acceptable (goods and services are culturally acceptable and sensitive to gender and age and (iv) adaptable (goods and services are provided in ways that are flexible enough to adapt to the change of needs in each phase of emergency relief and reconstruction and in the case of internally displaced persons, return.³⁵ ▪ “Provide for distribution and assistance in a way that avoids the need for pregnant women, women with infants, older people, people with disabilities without family support, unaccompanied children to stand in line for long periods of time or to carry heavy loads from the distribution point to their dwellings. Make sure that non-food items are appropriate for their specific needs.”³⁶ ▪ Persons with disabilities must be included in disaster risk reduction education and disaster preparedness to ensure that warning systems are recognizable to them and that adequate measures for rescue of persons with disabilities are in place. ▪ Immediate measures for assistive devices and medication ▪ Livelihoods as per the choice ▪ Accessible temporary shelters ▪ Housing on priority basis ▪ Accessible environment ▪ Accessible housing

³⁵ See “Protecting Persons Affected by Natural Disasters: IASC Operational Guidelines on Human Rights and Natural Disasters,” Section B, 2.1 for a further description of these concepts.

³⁶ “Protecting Persons Affected by Natural Disasters: IASC Operational Guidelines on Human Rights and Natural Disasters,” Section B.1.

- Appropriate livelihoods
- Effective rehabilitation services
- Inclusive actions and process
- Harmonization of the disaster related laws and policies with Article 10 of UNCRPD which deals with situations of risks and humanitarian emergencies in relation to PWDs.³⁷

2. Inadequate shelter; lack of privacy, break-up of family groups, clans, communities.

- Camps are a last resort and should only be established where, and until, the possibility of self-sustainability [exists]. (Op Guidelines, A.4.2)
- The right to shelter should be understood as the right to live somewhere in security, peace and dignity...(Op Guidelines, B.2.4)
- As soon as possible, appropriate measures should be taken, without discrimination of any kind, to allow for the speedy transition from temporary or intermediate shelter to temporary or permanent housing, fulfilling the requirements of adequacy in international human rights law. (Op Guidelines C.3.2)
- Field example in Guatemala:
 - In a discussion about revision of the Sphere standards during the Guatemala workshop, a major issue raised was whether standards for disaster affected-communities should be higher than for citizens not affected by disasters. Participants agreed that improving conditions in communities of origin not only enables people to return to their communities, but also reduces vulnerabilities and improves their capacity to

³⁷ P.K. Pincha, "Disaster And Rights Of Persons With Disabilities," presentation, *Regional Workshop on Promoting and Protecting Rights in Natural Disasters in South Asia*, Chennai, India, April 9-10, 2009.

respond when disasters do strike.³⁸

3. Reproductive health care problems (lack of emergency birth supplies, early contraception pills, birth control methods, condoms, skilled health care providers to address obstetrical emergencies, sexual assault, etc³⁹

- Field examples:
 - Advocate with government health services and UN agencies such as UNIFEM and UNFPA to ensure availability of reproductive health care items, including birth kits, information regarding prevention of STDs, including HIV/AIDS, and the provision of training, where needed, on the management of deliveries and of abortion complications.
 - Work with health care workers, especially public health workers, midwives and others (form women's groups within community) to disseminate information about reproductive health care, including availability and location of birth control, information regarding about delivery options, abortion services, early contraception pills availability, etc.
 - Culturally appropriate counseling for women and girls (and boys and men as well) who have been sexually assaulted should be available and accessible while protecting the identity of these persons.
 - Create 'women-friendly spaces.' These dedicated spaces allow women to congregate, share their concerns and opinions, have access to literacy, legal aid, psycho-social counseling and development of skills and can be provided with information regarding health care, etc.

³⁸ Brookings-Bern Project on Internal Displacement, "Summary Report: Regional Protection and Response in Situations of Natural Disaster, Guatemala City, Guatemala, 28-29 May 2009."

³⁹ Many of the recommendations for this section adapted from Feryal Ali Gauhar, Former United Nations Goodwill Ambassador, "*Earthquake 2005 in Pakistan: Protecting the Reproductive Health and Rights of Women and Girls in Crisis Situations*," paper presented at the *Regional Workshop on Promoting and Protecting Rights in Natural Disasters in South Asia*, Chennai, India, April 9-10, 2009.

4. Interruption of treatment to persons living with HIV/AIDS, including lack of medication, counseling	▪ Special attention should be given to the prevention of contagious and infectious diseases, including HIV/AIDS, among the affected population, particularly among those displaced by the disaster.
5. “Survival sex” (a situation in which persons engage in sex in exchange for basic needs such as food)	▪ Ensure that food distribution is reaching populations at risk, e.g. women-headed or child-headed households, households reporting receiving an inadequate amount of food or non food items (NFIs) such as jerry cans, feminine hygiene products, soap, etc.

(C) Rights related to other economic, social, and cultural protection needs

Protection Problems	Possible Approaches to Protection Problems from Operational Guidelines and from the Field
1. Denial of the right to education or delay in right to education (e.g. due to use of school buildings for shelter).	▪ The return of children, whether displaced or not, to schooling should be facilitated as early and as quickly as possible after the disaster. Education should respect their cultural identity, language and tradition (Op Guidelines, C.1.1) ▪ Special efforts should be made to ensure the full and equal participation of women and girls in educational programs. (Op Guidelines, C.1.3) ▪ Field example in India: • A participant in the Chennai workshop pointed out importance of resuming routine for children for psychosocial well-being via school programs and that children could also receive a mid-day meal at school, bolstering

their nutrition,⁴⁰

- Early identification of viable school locations and qualified teachers, notices to teachers that their service will be needed.
 - Try to prevent schools/classrooms from being used for long periods as shelters for the displaced; temporary moratorium on documentation requirements for registration.
 - Creation of Child Friendly Spaces in collective centers (shelters)/IDP camps for early childhood activities and others as needed.
 - Obtain “School in a Box” kits from UNICEF when necessary and available.
 - Follow UNICEF’s “Child Friendly Schools” programming to make schools centers for child rights and positive learning experiences and to engage parents in school activities.
 - Because secondary school students are often not a priority, check into what can be done to allow students to continue their education at the secondary level.
 - Use “catch-up” school projects in areas where school has been seriously disrupted.
- Work toward pulling the community, authorities and relief organizations together to create disaster-resistant school buildings in safer locations. Many children die due to poorly constructed schools (China, Haiti).

2. Relocation to areas where there are no livelihoods.

- Where individuals are unable to return to previous sources of livelihood due to the natural disaster, appropriate measures—including

⁴⁰ N. Srimati, “People: The Key Resource in Managing Disasters,” presentation at the AIDMI/Brookings-Bern Project on Internal Displacement Conference

provision of re-training opportunities or micro-credits—should be taken. Opportunities created by such measures should be available without any discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, age, disability or other status (Op Guidelines, C.4.2)

3. Access to livelihoods/work; discriminatory practices against women, minorities, persons with disabilities, etc.

- Access to livelihoods and employment opportunities should be ensured when planning temporary camps and relocation sites, as well as permanent re-housing for individuals displaced by the natural disaster. (Op Guidelines, C.4.3)
- Field example in India:
 - The Self-Employed Women’s Association (SEWA), an organization for poor women in India, provides a wide variety of services to its membership following natural disasters and in other crises to address poverty and other issues in society.
 - SEWA’s response to the 2001 earthquake was rapid and effective due to active participation of affected women and their ownership. According to SEWA, the appropriate response to disaster is to rebuild livelihoods, not simply provide relief.
 - In order to sustain economic activities and to increase income, an employment cell was set up to establish linkages with traders and employers. This cell also forges partnership with technical institutions to continuously upgrade members’ skills or encourage learning new skills so that the women and their activities could compete and survive in

the market. The cell also studies managerial and planning skills on costing, pricing and procurement planning and teaches business planning.

- SEWA has found that livelihood security interventions such as insurance and banking services has been crucial in alleviating the problems of disaster-prone and affected areas in the informal sector.
- Other SEWA services have included:
 - Building a force of trained mid-wives
 - Providing education for children, and temporary day care following disasters to permit mothers to return to work as soon as possible
 - Housing support
 - Offering affordable insurance
 - Nutritional food security
 - Trauma counselling
 - Vocational guidance
 - Awareness-raising
 - Teaching illiterate women technical skills to enable them to perform such tasks as: the use of mobile phones by women grain merchants and scrap sellers for price discovery, by vegetable vendors to serve a larger clientele, to record dairy transactions with respect to quality, amount and price, to check the fat content in milk, etc. In remote villages, communications technology is employed by illiterate women to inform

others of impending disasters.⁴¹

- Field example in Pakistan:
 - Women in IDP camps in Pakistan as a result of the earthquake of 2005 had the following suggestions:⁴²
 - Employing female service providers
 - Involving women in management of camps
 - Distributing personal hygiene items to or by women
 - Mobilizing older women with birthing knowledge
 - Providing space for children
 - Ensuring availability of sewing machines
 - Establishing a vocational center that we can run ourselves

4. Relocation/resettlement without compensation or restitution for destroyed housing; gender discrimination in compensation for housing or lost property

- Loss of documents proving land tenure and ownership should not be used to impede property rights (See Op Guidelines Section D.1.6.)
- Field example in Bangladesh:
 - Proshika, a Bangladeshi NGO, provides **PROSHIKA Savings Scheme (PSS)**:
 - A life and property risk coverage policy for group members, is unique in Bangladesh. If a member dies or loses the homestead through a natural disaster, she is reimbursed double the amount of her/his savings as damages.

⁴¹ Mumtazben Baloch, Self Employed Women's Association (SEWA), "Rehabilitation Strategy for Livelihood Generation of Women," presentation for workshop, *Protecting and Promoting Rights in Natural Disasters in South Asia: Prevention and Response*, Chennai, India, April 9-10, 2009. See www.sewa.org for more information.

⁴²Feryal Ali Gauhar, "Earthquake 2005 in Pakistan: Protecting the Reproductive Health and Rights of Women and Girls in Crisis Situations," *Regional Workshop on Promoting and Protecting Rights in Natural Disasters in South Asia*, Chennai, India, April 9-10, 2009.

Succor to a deceased members family in such cases is quite substantial. The family gets their savings deposit multiplied by the number of years of savings. A compensation fund under PSS has been created to compensate for the death of group members, damages to their houses or homesteads caused by river erosion, tornado, cyclones, floods etc.

- o 2 % of the savings balance of the groups is transferred to this compensation fund on 30th June every year. In case of the death of a group member, the member's family receives the savings deposit multiplied by the number of years of savings with PROSHIKA. But the amount is never less than double the deceased's savings balance. The compensation will have to be paid, completing all the related steps, within 3 months of the death of a member.⁴³

5. Loss of property or land rights/possessions due to theft, misappropriation.

- Legal procedures should be put into place to consider competing claims to land and property with due process guarantees and without delay. Access to an independent tribunal should be guaranteed if the decision is not accepted by both parties. (Op Guidelines C.2.5)

⁴³ Qazi Khaze Alam, "Protection in Practice-Early Recovery- lessons from Proshika's Disaster Management Programme," presentation to *Regional Workshop on Promoting and Protecting Rights in Natural Disasters in South Asia* Chennai, India, April 8 – 10, 2009.

- Specific arrangements should be made to enable women, particularly widows, as well as orphaned children to reclaim housing, land or property and to acquire housing or land title deeds in their own name. (Op Guidelines C.2.6). Specific arrangements should be made to enable and facilitate recognition of claims to land title and ownership based on prolonged possession, in the absence of formal land titles, especially for indigenous peoples. (Op Guidelines, C.2.7)
- Should evictions become unavoidable in the course of measures mentioned [in A.1.3 and C.2.3], the following guarantees should be put in place: a) an opportunity for genuine consultation with those affected; b) adequate and reasonable notice prior to the scheduled date of eviction; c) the timely provision of information on the eviction and future use of land; d) the presence of government officials during an eviction; f) the proper identification of all persons carrying out the eviction; f) the prohibition of evictions during bad weather or at night; g) provision of legal remedies; and h) provision of legal aid where needed, to seek redress from the courts. (Op Guidelines C.2.10)

(D) Rights related to other civil and political protection needs

Protection Problems	Possible Approaches to Protection Problems from Operational Guidelines and from the Field
1. Integrity of the family (preventing forced or accidental separation of	▪ Separated and unaccompanied children should be assisted in accordance with the best interests of the

family members) and management of missing or deceased family members

child. In particular, the placement of children in institutions should be avoided whenever possible [should be used only as a last resort]. (Op Guidelines, D.3.3)⁴⁴

- Appropriate measures should be taken to collect and identify the mortal remains of those deceased, to prevent their despoliation or mutilation, and to facilitate the return of the remains to the next of kin. If remains cannot be returned—for example, when the next of kin cannot be identified or contacted – they must be managed in a manner that will help in future recovery and identification. Cremation should be avoided (Op Guidelines D.3.5 and D.3.6).
- Family members should be fully informed about the location of gravesites, and have full access to them. They should be given the opportunity to erect memorials and conduct religious ceremonies as needed (Op Guidelines D.3.9)
- Family members should have the opportunity to recover the remains of their dead for further forensic investigations and to dispose of them according to their own religious and cultural beliefs and practices (Op Guidelines D.3.10)
- First responders should receive training/information on how to manage human remains.⁴⁵
- Field examples:
 - Guatemala has created a Law on Comprehensive Protection for Separated,

⁴⁴ See Inter-Agency Standing Committee (IASC), *Inter-Agency Guiding Principles on Unaccompanied and Separated Children*, 2004 for guidance.

⁴⁵ International Committee of the Red Cross, “Management of dead bodies after disasters: a field manual for first responders,” ref. 0880, 2006.

Unaccompanied, or Orphaned Children and Adolescents in Disasters.

- Use posters, radio announcements, and early warning systems to inform families to agree upon meeting places in case of separation. For very young children, it is suggested that Save the Children, UNICEF or other child protection organizations distribute bracelets (like hospital ID tags) for young children that include identifying data (name, date of birth, parents' names, place of origin, height, weight etc.) *before* disaster strikes – when there is warning about disaster – or provide kits for families to create their own so that children can be identified should they become separated.
- Ensure that the communities are aware that the national Red Cross/Red Crescent Society provides Family Tracing Services and Family Reunification Services; provide information regarding how to access these services.
- Ensure culturally appropriately trained grief counselors/clergy are identified and available.

2. Denial of freedom of expression, speech, association, and religion

- Persons affected by the natural disaster should be protected against adverse reaction for exchanging information or expressing their opinions and concerns regarding the disaster relief, recovery, and reconstruction efforts. Opportunity should be provided for affected persons to conduct peaceful assemblies or to form associations for this purpose (Op Guidelines D.4.1)
- Religious traditions should be respected, as appropriate, when planning and implementing

	humanitarian assistance, in particular in the context of food assistance, health care, and living and sanitary arrangements (Op Guidelines D.4.2) ▪ Opportunity should be provided for the exercise of religious faith in a manner that respects the rights and beliefs of others and does not incite discrimination, hostility or violence (Op Guidelines D.4.3)
3. Inability to obtain personal identification documentation (necessary for education, health care, employment, etc.). Note: Some persons may never had had proper documentation in the first place	▪ Humanitarian organizations providing assistance to affected persons should grant access to life-saving goods and services even in the absence of relevant documents or should issue such documents without delay even during the emergency phase of the humanitarian operation. Personal data collected, and records established in this context, shall be protected against misuse of any kind. (Op Guidelines D.1.1) ▪ Appropriate measures should be taken as early as possible, including during the emergency phase, to restore personal documentation that has been lost or destroyed in a natural disaster...(e.g. birth, marriage, death, insurance, education and health certificates; passports; personal identification and travel documents (Op Guidelines D.1.2) ▪ Women and men should be treated equally when documents of any kind are issued. Women should be issued documentation in their own names. Unaccompanied and orphaned children should be issued documentation in their own names. (Op Guidelines D.1.3 and D.1.4)
4. Restrictions on rights to political participation (taken to include community participation/consultation in decisions	▪ Field examples from Nepal and Myanmar: • In Nepal, various methods were used to ensure disaster awareness of marginalized communities

and action relating to disaster preparedness, response and early recovery action, including training, hiring as members of disasters teams, etc.). (Community members are always the first responders in any case).	through radio programs, posters and pamphlets, door-to-door outreach, mural paintings on walls in neighborhoods, street theater and other modalities.⁴⁶ • In Myanmar, a local NGO conducted village level training in order to create groups to manage disaster preparedness, early warning, evacuation, first aid, disaster mitigation, a mangrove committee, livelihood committee, shelter and WASH committee. Representation included women and men. Training materials were created in the local language. Trainings were designed to include active and shared learning, without long monologues or lectures; group activities and discussion encouraging full participation [with idea that] every participant is equal and everyone has something to contribute.⁴⁷
6. Denial of electoral rights	▪ Measures should be taken to ensure that persons affected by the natural disasters can exercise their right to vote in elections and to be elected, in particular if they have been displaced. Such measures may include voter registrations and arrangements for absentee voting (Op Guidelines D.5.1)
7. Arbitrary restrictions on freedom of movement, including punitive curfews or roadblocks that prevent access to fields, markets, jobs, or separate persons from	▪ In accordance with their right to freedom of movement, persons displaced by natural disaster should be provided with the information necessary to exercise their right to decide freely where they

⁴⁶ Dinesh Singh, “Advocacy for Protection of Victims and Marginalised Groups,” presentation at workshop, *Protecting and Promoting Rights in Natural Disasters in South Asia: Prevention and Response*, Chennai, India, April 9-10, 2009.

⁴⁷ Phone Win, “Methodologies to Increase Community Participation in Risk Reduction,” presentation at workshop, *Protecting and Promoting Rights in Natural Disasters in South Asia: Prevention and Response*, Chennai, India, April 9-10, 2009.

family, friends, social services etc. ⁴⁸	want to live—whether they want to return to their homes, to integrate [permanently into the community] where they are staying during their displacement or to resettle in another part of the country. (Op Guidelines D.2.1)
8. Forced/involuntary return or denial of the right to return	▪ Appropriate measures should be taken as soon as possible to establish conditions conducive to sustainable return in safety and dignity. Conditions are considered sustainable if: (i) people feel safe and secure, free from harassment and intimidation, as well as from unmitigated risks of further calamitous effects produced by natural hazards; (ii) people have been able to repossess their properties or homes, and these have been adequately reconstructed or rehabilitated; (iii) people can return to their lives as normally as possible, with access to services, schools, livelihoods, employment, markets, etc. without discrimination. (Op Guidelines D.2.2)
9. Forced evacuations/ resettlement/ relocation; Right to choose one's place of residence/relocation whenever possible	▪ Field examples: • A participant in the Guatemala workshop noted the difficulties that often ensue when ethnic minorities are asked to abandon their land by authorities they do not trust. Evacuations are easier to carry out, another participant observed, when people from the affected communities are involved in planning and

⁴⁸ Freedom of movement and the right to choose one's residence are recognized in many human rights treaties, but they are not absolute rights. Authorities can limit these rights under specific conditions: if they have a legal basis, they can justify the limitation with legitimate objectives, if the limitation constitutes the least intrusive method, and if the authorities communicate the restriction to those affected in a language that these persons understand. See Walter Kälin, "Protection in natural disasters, Johannesburg, 10 July 2008," <<http://ochaonline.un.org/OchaLinkClick.aspx?link=ocha&docId=1092330>>.

carrying out the evacuations themselves.

- Still another problem with evacuations is the lack of confidence people living in areas of risk have in early warnings about disasters. The idea is still widespread that natural disasters are acts of God. Kälin responded that a declaration of risk by a high-level scientific community may help in these cases, especially when the President or Congress can declare a state of emergency that permits forced evacuations.

Conclusion

The suffering brought about by natural disasters may include death or separation from family; loss of home, community and livelihood; loss of or damage to shelter; recruitment of children into fighting forces; unequal access to assistance; discrimination in aid provision; forced relocation; sexual and gender-based violence; loss of documentation; unsafe or involuntary return or resettlement; and issues of property restitution.⁴⁹ These are similar to the problems experienced by those displaced by conflicts.

Yet there is still a lack of awareness of protection needs and problems in natural disasters. While first responders and others are understandably focused on immediate life-saving measures, critical issues such as discrimination against those viewed as having low social status, women, persons with disabilities and others too often goes unnoticed. Once introduced to human rights issues, however, aid workers tend to recognize examples of discrimination from their own experiences right away. Workshop participants became very keen to “get the word out” about the existence of the Operational Guidelines, believing that many disaster workers would look at situations with new eyes once they were introduced to the concepts and made the connection to the human rights framework behind them. Questions remain about how best to disseminate the IASC Operational Guidelines and the accompanying manual, especially given the sensitivity in

⁴⁹ *IASC Operational Guidelines on Human Rights and Natural Disasters*, Washington: Brookings-Bern Project on Internal Displacement, June 2006, p. 8.

some countries related to discussions around human rights, but there were a number of suggestions such as including the Guidelines with SPHERE training, ensuring that UNDAC Team members were made aware of protection issues, using Protection Clusters to launch the Guidelines or certain parts of the Guidelines, etc.

The approach to protection in natural disasters continues to be ad hoc. In many cases, when governments are unable or unwilling to take on the responsibility to protect in a natural disaster, no agency is willing to step up to coordinate a protection response, even when there is a sizeable UN presence (with some notable exceptions such as Nepal, Mozambique and Madagascar).

Under the framework of the UN humanitarian reform process,⁵⁰ UNHCR is the lead agency for the Protection Cluster under what is called the “Cluster Approach” in situations of armed conflict or complex emergencies. In disaster situations or in complex emergencies without significant displacement, however, the three core protection-mandated agencies (UNHCR, UNICEF and OHCHR), under the overall leadership of the Humanitarian/Resident Coordinator in the affected country, are asked to consult closely with one other and decide which of the three will assume the role of lead agency for protection.

Unfortunately, the number of natural disasters, combined with the magnitude of the responsibility and resources required to take the lead role, has led to reluctance to commit to taking the lead. The problem remains unresolved at this time, but we suspect that as awareness of the importance of protection in natural disaster grows, there will be an increasing demand for a more predictable form of support from the UN in assisting governments to meet protection needs—especially when governments are unable or unwilling to meet their protection responsibilities. The rationale for applying the Cluster Approach to situations of armed conflict also applies to natural disasters: people affected by natural disasters deserve predictable and accountable leadership in all sectors, including protection.

⁵⁰ See www.humanitarianreform.org for a description of the Cluster Approach, the various Clusters and a wealth of reference materials related to the Protection and other clusters.

Even when a Protection Cluster does exist, major gaps still occur. One colleague reported that despite the Protection Cluster, protection action often focused only on women and children and not other vulnerable groups, there was no comprehensive response to sexual and gender based violence and there was a lack of intra-cluster coordination.

Participants in the South Asia workshop thought that governments and relief agencies should comply with the IASC Operational Guidelines and should be held accountable for non-compliance. As it stands now, there is no mechanism for accountability.

In addition to the responsibility gap noted above, there is also a distinct ‘participation gap.’ Despite the considerable emphasis placed in humanitarian training and literature on participatory approaches, workshop participants revealed there is still far too little consultation with persons and communities affected by natural disasters. One of the most important observations they made about their own work with affected communities was that the more organized the community, the more the people seemed to benefit from assistance and the more assertive they were about their rights. Thus, awareness of rights and advocacy become critically important, but this is not always without risk given the oppressive nature of some regimes. In these cases, knowledge about protection and human rights on the part of the responder becomes all the more important.

Some national and local NGOs reported that they are often not consulted during disasters by international organizations that tend to ignore years of experience and reinvent the wheel rather than to support existing programs or to learn from those who have often had long-term relationships with people affected by the disaster. And once the emergency is “over,” international agencies may abandon the scene leaving few resources behind and even sometimes leaving things worse than when they arrived. Many Asia workshop attendees were critical of the way international relief organizations used power and influence in what was perceived as excessive and overwhelming of local relief efforts and initiatives.

The Operational Guidelines are also seen as a potentially valuable tool to open discussions with the military and other actors on protection and human rights in a less-threatening environment (e.g. natural disasters rather than armed conflict) by framing protection in

familiar concepts such as the need to protect families from separation, the (often-shared) cultural value of the need to demonstrate respect and ensure dignity for older people, the societal obligation of caring for persons with disabilities, etc.. These discussions could open up more difficult topics such as discrimination and human rights obligations.

Gender is often a difficult topic, but the statistics on gender and natural disasters are so shocking that they speak for themselves. Using such statistics may be useful in getting across the importance of addressing gender issues in the context of protection. For example, globally, for every one adult male who drowns in a flood, there are 3-4 women who die.⁵¹ The first statistical analysis of the effect of natural disasters on the life expectancy of men and women (a study of 4,605 natural disasters occurring in 141 countries) not only found that women were more likely to die in natural disasters and their aftermath, but discovered that this effect was strongest in countries with very low social and economic rights for women. In those countries where women in their everyday lives enjoy rights equal or almost equal to men, this effect disappeared.⁵²

Protection must be “factored in” when planning humanitarian activities, going beyond the narrow focus of traditional responses to natural disasters. There is a need to formulate ways to protect people’s rights and to plan ways to prevent discrimination *before* disaster strikes. An operational priority should be placed on protection in all phases of disaster preparedness, response and early recovery, adapting protection approaches to the changing situation as necessary. Protection monitoring mechanisms should be created and applied in natural disasters. At present monitoring is neglected or based on methodology that does not produce useful data for people in the field.⁵³ The community is too often not involved in

⁵¹ Lorena Aguilar, “Acknowledging the Linkages: Gender and Climate Change,” Presentation at the World Bank’s Workshop on Social Dimensions of Climate Change, March 2008.
http://siteresources.worldbank.org/EXTSOCIALDEVELOPMENT/Resources/244362-1170428243464/3408356-1170428261889/3408359-1202746084138/Gender_Presentation022808.pdf

⁵² Eric Neumayer and Thomas Plümper, “*The Gendered Nature of Natural Disasters: the impact of catastrophic events on the gender gap in life expectancy*,” 1981-2002, presented to the Royal Geographic Society, London, September 2006.

⁵³ Adapted from Shandeep Shaligram, “Monitoring Protection Issues during Response and Recovery: Analysis and Response,” *Regional Workshop on Promoting and Protecting Rights in Natural Disasters in South Asia*, Chennai, India, April 9-10, 2009.

monitoring and reporting. People don't know how to report incidents or where to go or whom to call to get help.⁵⁴

The South Asia workshop participants held that the three key pillars of a human rights-based approach are participation, transparency and social audit. This approach includes information-sharing and consultation with the affected community to ensure informed choice and consent; a willingness to combat discrimination and defend against challenges to legal entitlements; and to incorporate monitoring, evaluation and social audit into all disaster response work (in other words, accountability). Consistent with this approach, the participants suggested that the Operational Guidelines could benefit from the input of people affected by natural disasters .

It is time for the human rights community and the disaster response community to work together (they are often not the same and may work at cross-purposes) to understand how protection can be integrated into all phases of disaster management and how to include those affected by disasters as the most important allies in disaster prevention and mitigation. Thus in the Central American workshops, participants called for meetings at the national level between those involved in responding to disasters and organizations charged with promoting human rights. The UN, governments and non-governmental organizations must pull together to ensure a more consistent response to combat discrimination and other forms of human rights violations that only increase the terrible suffering that the victims of natural disasters already experience.

⁵⁴ For example, people should be made aware of how to report missing persons (usually via the Red Cross or Red Crescent Society), how and where to report sexual assault, domestic violence, harassment/discrimination, recruitment of children, suspected trafficking, etc.