

**Statement given at a meeting hosted by Women in International Security –
“Warning Systems, Reconstruction and Stability: Durable Solutions in the
Aftermath of the Tsunami Tragedy”**

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Post-Tsunami Human Rights Concerns

Often overlooked in emergencies are human rights concerns. Yet addressing these concerns are important to assuring the sustainability of recovery.

The most useful tool for identifying human rights concerns when the situation involves the massive uprooting of people, as in the tsunami, is the Guiding Principles on Internal Displacement. These are the first international standards for persons uprooted in their own countries by conflict or national disasters.

The Principles begin with prevention, making clear that governments have a responsibility to prevent or mitigate the conditions that lead to displacement. When it comes to natural disaster, that should translate into putting in place early warning systems, disaster preparedness plans at the village level, and housing standards that make buildings better equipped to withstand the effects of earthquakes. Not only do these steps constitute responsible governance but they are the fundamental rights of populations living in high-risk areas. In fact, such populations should be able to claim compensation when public officials fail to take reasonable measures to protect them.

A second important human rights concern is the right of people to have access to humanitarian and development aid. Displaced and other affected people have the right to expect their governments to provide such aid. If the governments do not have the capacity, they are expected to call upon the international community to reinforce their efforts. When to the contrary they announce that they will not accept international aid, or that foreign aid workers will have to leave by a certain date, even though all survivor needs have yet to be addressed, questions arise about whether they are fulfilling their obligations under international law to protect and assist their affected populations. Consider a few examples. The government of Burma, after minimizing the impact of the damage that occurred, failed to request international aid even though international agencies were ready to help its tsunami victims. The government of Thailand announced that it would not accept international emergency aid but it did not move to help the thousands of unregistered Burmese migrants living in Thai coastal areas who were made homeless by the tsunami. In the case of Indonesia, we have all just read that the UN High Commissioner for Refugees has been asked to depart even though the agency has not yet completed its \$60 million plan to build up to 35,000 homes in Aceh where 400,000 were made homeless.

A third human rights concern is discrimination in the distribution of aid. Such charges generally emanate from areas with pre-existing patterns of discrimination or ethnic conflict. For example, in India, the Dalits claim that their villages have not been restored as quickly as those of higher castes. In Sri Lanka, the national human rights commission is examining claims of

discrimination in aid distribution in the case of Muslims in the east and Tamils in the south. There have also been 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 claim to have been denied aid.

Discrimination can also take place among different groups of displaced persons. The Representative of the UN Secretary-General for the Human Rights of Internally Displaced Persons who just visited tsunami affected countries pointed to problems that would arise if long standing internally displaced persons uprooted by conflict were to receive less aid and help with housing than IDPs created by the tsunami. Indeed, there are newspaper reports claiming preferential treatment for tsunami victims and neglect of those uprooted by war. In other cases, there have been reports that aid has been provided to IDPs in camps or government-run relocation centers but not to displaced persons staying with host families who also are in need. Such inequities of course can create resentment and tensions among communities, which can complicate rehabilitation and reintegration.

A fourth human rights concern is involuntary relocation to settlements and camps. Of course it is to be expected that national and local authorities will direct displaced persons to temporary shelters or camps while homes are reconstructed. But it is not in keeping with humanitarian and human rights standards when this is done against their will, without providing other options such as the right to return home, or it is carried out to contain and restrict those suspected of sympathizing with insurgent forces. The Representative of the Secretary-General heard reports that in Aceh, Indonesia, freedom of movement was being restricted, but he was not in a position to confirm or deny these reports and would like to be able to visit Indonesia.

Fifth, the civilian character of IDP camps and settlements needs to be assured. While in the wake of disaster, military capacity can be invaluable to rescue and humanitarian response, continued military control of humanitarian aid and of camps poses risks to the beneficiaries, especially in situations of internal armed conflict. Camps can become military targets, children risk recruitment into fighting forces, and sexual and gender-based violence increase with military forces surrounding camps. Indeed, Oxfam reports the sexual harassment of Indonesian women by soldiers around the IDP camps.

Sixth is the importance of respecting the property rights of the victims. 70 to 90 percent of the survivors in some countries have lost their identity documents. This can prevent them from accessing basic services or from providing proof of ownership of land and property. In the absence of proof, it becomes easy for the authorities and for corporations to take over their land, rationalizing it on security and other grounds. In several of the tsunami countries, governments and international organizations have been working on registering people and undertaking efforts to replace lost documents, but there are also reports of land grabs.

Seventh, consultation with the displaced is an important way of protecting their rights. In the immediate aftermath of the tsunami, there was an understandable lack of consultation, given the imperative of providing basic assistance as quickly as possible. But in the present recovery and reconstruction phase, the Representative of the Secretary-General was told that the authorities in

some of the countries have been slow in setting up mechanisms for consultation. Exclusion from the decisions that affect their lives, especially for women, not only heightens helplessness but undermines the effectiveness of the aid provided.

Eighth, there is need to balance the creation of security zones or exclusion zones with the right to freedom of movement, property and the ability to make a living. The Representative of the Secretary-General heard reports that buffer zones were sometimes being established in a discriminatory manner. For example, in some areas it was reported that local residents would not be allowed to return and reconstruct their homes and that local fishermen would not be allowed to regain their livelihoods, but that corporations would be permitted to construct tourism facilities in the same areas. Indeed, there have been news reports of rampant opportunism in the wake of the tsunami, with particular risk to marginalized and vulnerable groups. In the case of property and land claims, natural disasters often wipe out landmarks and records; in other cases, long-standing residents may not have had formal title. This makes clearly framed policies and administrative bodies essential to review claims, to ensure that non-traditional forms of ownership are recognized, to arrange for assistance to be provided to people who lost their land and livelihoods, and to guarantee that women do not face discrimination in owning or inheriting land and property. In the wake of disaster, opportunities present themselves for reviewing and reforming past inequities in policies and laws. It is important to monitor the extent to which this happens.

One promising way for governments to ensure that human rights and protection concerns are taken into account in recovery plans is through national human rights commissions. These are quasi-governmental bodies that can monitor the situation, make the victims aware of their rights, receive and act upon complaints, and advise the government on policies and laws. Most of the affected countries in South Asia have such bodies, and earlier this month, the national commissions of India, Indonesia, the Maldives, Sri Lanka and Thailand met in Bangkok to discuss their roles and methodologies in addressing the human rights dimension of the tsunami. The Asia Pacific Forum of National Human Rights Institutions and the Brookings-Bern Project helped facilitate this meeting. Depending on how rigorously the commissions act, this could prove an important development for addressing human rights concerns. For optimum effectiveness, the commissions will need to work closely with civil society, local NGOs, and the displaced. And in at least two of the countries, they will have to work with non-state armed actors, where such cooperation could reinforce peace processes.

Integrating human rights and protection issues in national recovery plans and ensuring that the rebuilding of businesses, local economies, villages and homes is void of political, racial, religious or gender based discrimination will go a long way toward creating a strong foundation for recovery. Aid programs that pay attention to human rights have a better chance of becoming sustainable and contributing to the long-term stability of the countries concerned. For more on this subject, I would recommend your reading the just published Report of the Representative of the Secretary-General, entitled *Protection of Internally Displaced Persons in Situations of Natural Disaster*^{*}, from which this presentation draws.

^{*} Available at http://www.brookings.edu/dybdocroot/fp/projects/idp/20050227_tsunami.pdf.