

# An institutional gap for disaster IDPs

Roberta Cohen

**Climate change is expected to sharply increase the number and severity of natural disasters, displacing millions on all continents. The international community needs to recognise ‘disaster IDPs’ – and establish new institutional arrangements to protect their human rights.**

When the Guiding Principles on Internal Displacement were drafted in the 1990s, there was little consensus over whether they should include the rights of people uprooted by natural disasters. Those opposed argued that only persons fleeing persecution and violence should be considered IDPs – in other words, persons who would qualify as refugees if they crossed a border. But the majority favoured including those uprooted by natural disasters because in responding to disasters, governments often discriminate against or neglect certain groups on political or ethnic grounds or overlook their human rights in other ways.

Nonetheless, not all experts, governments, international organisations and NGOs endorsed this broad formulation and even today many try to sidestep it. A report of experts to the UK government in 2005 recommended that the IDP concept be limited to persons displaced by violence because the causes and remedies of conflict-induced and disaster-induced displacement were different, making it “confusing” to include both in the IDP definition.<sup>1</sup> Some governments have also shied away from calling persons uprooted by natural disasters IDPs. In Aceh, Indonesia, the government preferred labelling those uprooted by the tsunami “homeless”, presumably to distinguish them from the more politicised “conflict IDPs” to whom the government had barred access.<sup>2</sup> In the US, government officials settled on every possible description of those uprooted by Hurricane Katrina except IDPs. They described them as “refugees”, “evacuees” and, finally, “disaster victims”, because IDPs in their view were people displaced by conflict

elsewhere. Nor does the Internal Displacement Monitoring Centre (IDMC) include people uprooted by disasters in its statistics, although it clearly acknowledges that such people are IDPs. Not dissimilarly, UNHCR made clear in 2005 that while it would serve as the lead agency for the protection of “conflict IDPs” in the UN’s new cluster approach, its role would not extend to those uprooted by disaster except “in extraordinary circumstances.”<sup>3</sup>

To be sure, there are many differences between IDPs displaced by conflict and by disaster but one of the consequences of separating out disaster IDPs is that they are often perceived as not having human rights and protection problems. Experience, however, shows that persons uprooted by natural disasters require not only humanitarian assistance but protection of their human rights. The 2004 tsunami in Asia brought into focus the protection concerns of those displaced, including:

- sexual and gender-based violence
- discrimination in access to assistance on ethnic, caste and religious grounds
- recruitment of children into fighting forces
- lack of safety in areas of displacement and return areas
- inequities in dealing with property and compensation.

After visiting the region, Walter Kälin, Representative of the UN Secretary-General on the Human Rights of IDPs, concluded that persons forced to flee their homes share many common

types of vulnerability regardless of the reasons for their displacement and that “it is no less important in the context of natural disasters than it is in cases of displacement by conflict to examine and address situations of displacement through a ‘protection lens.’”

Kälin developed Operational Guidelines for Human Rights and Natural Disasters which the Inter-Agency Standing Committee adopted in 2006. Noting that the longer a displacement situation lasts, the greater the risk of violations, they call for non-discrimination in access to aid and respect for the full range of human rights of those affected and they identify measures such as evacuations, relocations, steps to curb gender-based violence and protection against landmines to increase the security of affected populations.

A 2007 UN General Assembly resolution reinforced this approach by recognising that those displaced by natural disasters are IDPs with human rights and protection needs.

## **Institutional arrangements**

At the national level, institutional arrangements for protecting the human rights of disaster IDPs are weak. While primary responsibility to assist and protect disaster IDPs lies with the state, many governments do not have the capacity or willingness to carry out these responsibilities. In Pakistan, for example, after the 2005 earthquake, the government argued against applying international principles of protection to IDPs since they were not formally refugees and put pressure on them to leave camps without making adequate preparations for their returns. In the US, rescue, evacuation and reconstruction plans in the Gulf Coast were found to disadvantage poor people, in particular African-Americans. The UN Human Rights Committee, which monitors state compliance with the International Covenant on Civil and Political

Rights, had to call upon the US to ensure that the rights of the poor and in particular African-Americans are “fully taken into consideration” in reconstruction plans.<sup>4</sup>

Laws and policies are needed to protect against human rights abuse in disaster response. National human rights commissions can assist governments in drafting these documents and can monitor the extent to which the rights of disaster victims are protected. After the Indian Ocean tsunami, the Sri Lankan National Human Rights Commission took up hundreds if not thousands of cases of persons with human rights problems while India’s Commission sent out special rapporteurs to look into the human rights concerns of those affected by disasters in Orissa and Gujarat. The commissions, however, need increased resources, staff and training. With greater capacity, they could serve as models for commissions in Africa and the Americas, which have not yet engaged in monitoring and advocating for disaster victims.

Local NGOs can help mobilise national awareness of IDP rights in disasters. In the US, NGOs have called upon the government to recognise disaster victims as IDPs and protect them in line with the Guiding Principles. In Sri Lanka, NGOs brought to light the disparity in treatment between those uprooted by the tsunami and those uprooted by civil strife – leading to remedial action.

At the regional level, the Association of Southeast Asian Nations (ASEAN), in response to Cyclone Nargis in Burma, became actively involved in diplomatic initiatives to open up access to survivors. But it did not engage in advocacy efforts for the rights of those being forcibly evicted from temporary shelters or pushed back into ruined villages without supplies. A more proactive rights-based approach will have to be developed by this and other regional organisations.

At the international level, the Representative of the UN Secretary-General on the Human Rights of IDPs has added IDPs uprooted by disasters to the concerns of his mandate. The UN Human Rights Council confirmed this new role in 2007 and Kälin has been visiting different parts of

the world to examine how best “to promote the protection of human rights of IDPs in the context of natural disasters.” However, he is but a single individual with limited resources and staff, whose mandate also covers the 26 million persons uprooted by conflict. If he is to be truly effective, the UN must come up with the human and material resources to enable him to undertake this new role.

Most importantly, the UN’s operational agencies need to become more actively involved. At present there is no agency assigned to the protection of disaster IDPs. The Resident or Humanitarian Coordinator in the field is supposed to consult with UNICEF, the Office of the High Commissioner for Human Rights (OHCHR) and UNHCR when a natural or human-made disaster occurs in order to determine which body will take the lead responsibility for protection.

In most cases UNICEF has assumed the lead but its protection role is limited. It has received high marks in child protection, tracing families, helping separated children and preventing their exploitation in disasters. But other vulnerable groups, such as the elderly, the disabled, ethnic or religious minorities, or those with HIV/AIDS, have not received as strong a focus. In the Mozambique floods, evaluators found that the plight of the elderly without families was often overlooked as were women, although there were many initiatives centred on children.<sup>5</sup> UNICEF itself has acknowledged the narrowness of its protection focus and did an in-house study to determine the kind of resources, personnel and training it would need to take on a broader protection role. Staff within the agency, however, fear that its child protection role could become diluted in a broader protection perspective. Yet if UNICEF is to successfully serve as a protection lead for UN agencies and NGOs in disasters, it will need to cover the entire IDP population.

Other agencies should also consider becoming involved. UNHCR made known in 2005 that it would not involve itself with ‘disaster IDPs’ except in extraordinary circumstances but, given its experience and skills in protection, it should re-examine its own capacity for playing a more

active role, especially when natural disasters strike areas of conflict where UNHCR is already on the ground and engaged with IDPs. UNHCR was indeed involved after the tsunami and the Pakistan earthquake but more usually stands on the sidelines as the international community mobilises to deal with disasters. Similarly, OHCHR needs to explore how it could become more relevant to disaster protection through the deployment of human rights monitors, the undertaking of advocacy and the setting up systematic training programmes for national and local authorities on integrating human rights in disaster management. Finally, the UN Emergency Relief Coordinator should ensure that field coordinators make protection an automatic part of emergency response and, when need be, assign protection responsibilities in disasters.

The UN needs to ensure that the new field manual on how to promote human rights in disasters<sup>6</sup> is widely disseminated so that the human rights of IDPs become an integral part of the programmes of all UN agencies, NGOs and governments. Recognition that people displaced by disasters need protection of their human rights is long overdue. So are effective institutional arrangements.

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1. See Castles, S & Van Hear, N 2005, ‘Developing DFID’s Policy Approach to Refugees and Internally Displaced Persons’, Refugee Studies Centre, p12. <http://tiny.cc/DFIDPolicy>.

2. Couldrey, M & Morris, T, ‘Post-tsunami protection concerns in Aceh’, *Forced Migration Review*, July 2005 <http://www.fmreview.org/FMRpdfs/Tsunami/12.pdf>

3. UNHCR, *Internally Displaced People: Questions and Answers*, September 2007 <http://www.unhcr.org/basics/BASICS/405ef8c64.pdf>.

4. UN document CCPR/C/USA/CO/3/Rev.1, para. 26 <http://tiny.cc/UNCivilPolitical>.

5. See, for example, Inter Agency Standing Committee, Inter-Agency real-time evaluation of the response to the February 2007 floods and cyclone in Mozambique, May 2007 <http://tiny.cc/MozambiqueRTE>.

6. *Human Rights and Natural Disasters: Operational Guidelines and Field Manual on Human Rights Protection in Situations of Natural Disaster*, Brookings-Bern Project on Internal Displacement, April 2008 <http://tiny.cc/NaturalDisasters>.