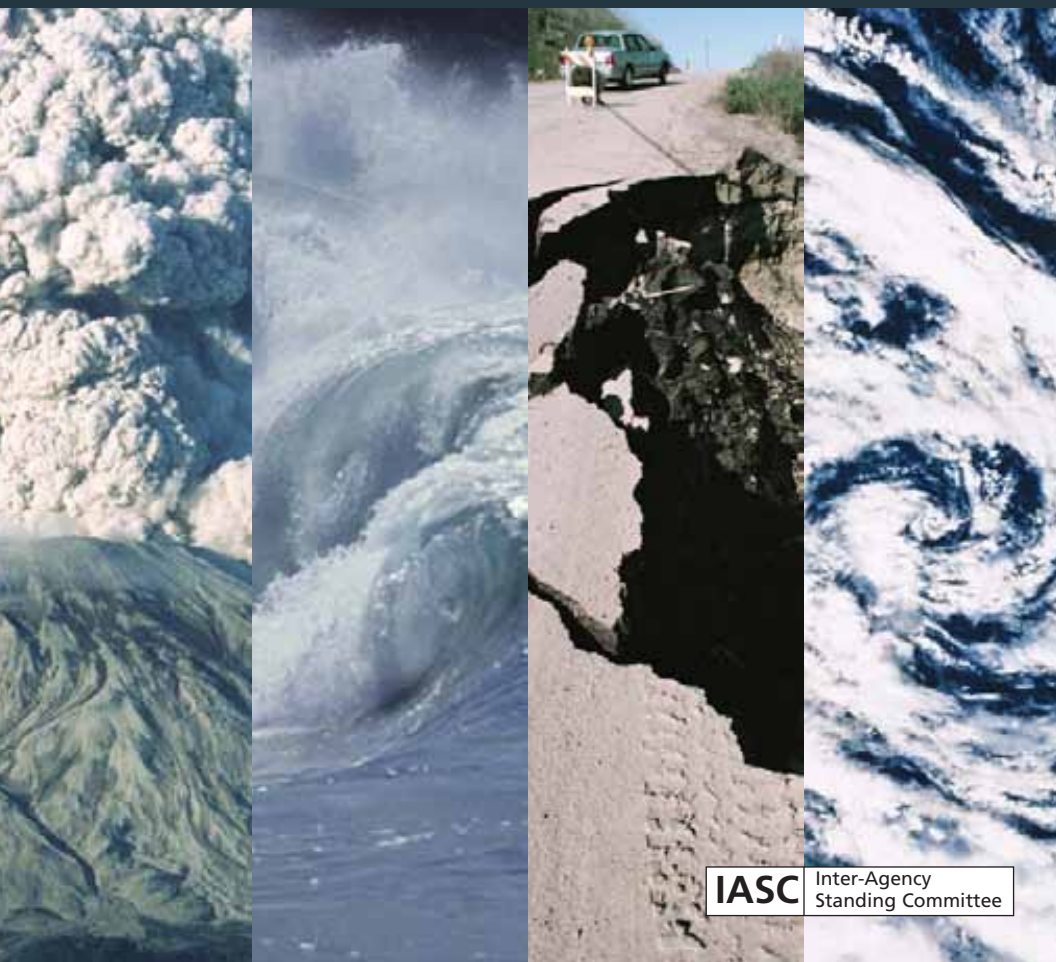


PROTECTING PERSONS AFFECTED BY NATURAL DISASTERS

IASC Operational Guidelines
on Human Rights and Natural Disasters





Published by:

Brookings-Bern Project on Internal Displacement

1775 Massachusetts Avenue, NW

Washington, DC 20036

Phone: (202) 797-6168

Fax: (202) 797-6003

E-mail: brookings-bern@brookings.edu

Web site: www.brookings.edu/idp

PROTECTING PERSONS AFFECTED BY NATURAL DISASTERS

IASC Operational Guidelines
on Human Rights and Natural Disasters

IASC Inter-Agency
Standing Committee

June 2006



Table of Contents >



Foreword 4

Introduction 7

General Principles 12

Operational Guidelines 14

A Protection of Life, Security of the Person, Physical Integrity and Dignity

A.1 Evacuations, relocations and other life-saving measures 18

A.2 Protection against the negative impacts of natural hazards 19

A.3 Protection against violence, including gender-based violence ... 19

A.4 Camp security 19

A.5 Protection against anti-personnel landmines and other explosive devices 20

B Protection of Rights Related to Basic Necessities of Life

B.1 Access to goods and services, and humanitarian action 22

B.2 Provision of adequate food, water and sanitation, shelter, clothing and essential health services 22

C Protection of Other Economic, Social and Cultural Rights

C.1 Education 26

C.2 Property and possession 26

C.3 Housing 27

C.4 Livelihood and work 28

D Protection of Other Civil and Political Rights

D.1 Documentation 30

D.2 Freedom of movement and right to return 30

D.3 Family life and missing or dead relatives 31

D.4 Expression, assembly and association, and religion 32

D.5 Electoral rights 32



Foreword >



Floods, earthquakes and storms have routinely displaced tens of thousands around the world. Over the past few years, the international community's response to these catastrophes has become ever swifter and more sophisticated. Until very recently, however, and in the rush to deliver life-saving aid, little attention was paid to the rights of these displaced people.

The publication of these guidelines reflects an understanding of the need for the humanitarian system to provide to the people on the front lines of disaster response the guidance they need to ensure the protection of the rights of the people left homeless by natural disasters.

This document is the result of a collaborative approach that took place over more than a year. The Representative of the UN Secretary-General on the Human Rights of Internally Displaced Persons, Mr. Walter Kälin, prepared draft Operational Guidelines on Human Rights and Natural Disasters. These were shared with the members of the Inter-Agency Standing Committee Working Group. Each member of the IASC WG contributed its own expertise, operational experience and insights to the collaborative process. This ensured that the final product is one that meets the needs of those affected by disasters. This version of the Operational Guidelines was formally adopted by the IASC WG at a meeting in Geneva on 9 June 2006. We want to thank all the members involved for their work and participation.

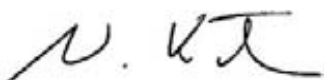
The Guidelines are short and easily accessible. They are complemented by a Manual that gives the human rights background which underpins them. The Manual also sets out practical operational steps to provide humanitarian workers with examples of how these Guidelines can best be implemented.

Human rights are as much a part of the lives of the people we are called upon to assist and to protect as are their needs for food and shelter. For the first time, these Guidelines will provide responders with the information they need to make a rights-based approach a part of the emergency response.



Jan Egeland

Under-Secretary-General
for Humanitarian Affairs
and Emergency
Relief Coordinator



Walter Kälin

Representative of the UN
Secretary-General
on the Human Rights of Internally
Displaced Persons (RSG)

The tsunamis, hurricanes and earthquakes which hit parts of Asia and the Americas in 2004/2005 have highlighted the need to be attentive to the multiple human rights challenges that persons affected by such disasters may face. All too often their human rights are not sufficiently taken into account.



Introduction >

Natural disasters,¹ i.e. the consequences of events triggered by natural hazards that overwhelm local response capacity and seriously affect the social and economic development of a region, are traditionally seen as situations creating challenges and problems mainly of a humanitarian nature. Less attention has been devoted to human rights protection which also needs to be provided in this particular context.

The tsunamis, hurricanes and earthquakes which hit parts of Asia and the Americas in 2004/2005 have highlighted the need to be attentive to the multiple human rights challenges that persons affected by such disasters may face. All too often their human rights are not sufficiently taken into account. The problems that are often encountered by persons affected by the consequences of natural disasters include: unequal access to assistance; discrimination in aid provision; enforced relocation; sexual and gender-based violence; loss of documentation; recruitment of children into fighting forces; unsafe or involuntary return or resettlement; and issues of property restitution. The affected populations are most often forced to leave their homes or places of residence because of the destruction of houses and shelter by volcanic eruptions, tsunamis, floods, drought, landslides, earthquakes and tornados. Thus, a high number of persons also become internally displaced as a result of such disasters or the fear of future damages.

Experience has shown that, while patterns of discrimination and disregard for economic, social and cultural rights may already emerge during the emergency phase of a disaster, the longer the displacement situation lasts, the greater the risk of human rights violations.

Normally, situations affecting the human rights of persons affected by natural disasters are not consciously planned and implemented, but result from inappropriate policies or simple neglect. The vulnerability of the people affected often is the result of inadequate planning and disaster preparedness. As stated by the Secretary General, "The risks and potential for disasters associated with natural hazards are largely shaped by the prevailing levels of vulnerability and the effectiveness of measures taken to prevent, mitigate and prepare for disasters."² Once the people have been affected by a disaster, however, they often encounter further challenges to the full realization of their rights. These challenges could be avoided if the relevant human rights guarantees were taken into account, at the very outset, by national as well as international actors.

¹ The term "natural" disaster is used for ease. It is important to understand, however, that the magnitude of the consequences of sudden natural hazards is a direct result of the way individuals and societies relate to threats originating from natural hazards. The magnitude of the consequences is, thus, determined by human action, or the lack thereof.

² Report of the Secretary General to the General Assembly "On international cooperation on humanitarian assistance in the field of natural disasters, from relief to development", A/60/227

Human rights are the legal underpinning of all humanitarian work pertaining to natural disasters. There is no other legal framework to guide such activities, especially in areas where there is no armed conflict. If humanitarian assistance is not based on a human rights framework, it risks having too narrow a focus, and cannot integrate all the basic needs of the victims into a holistic planning process. There is also the risk that factors important for recovery and reconstruction later on will be overlooked. Furthermore, neglecting the human rights of those affected by natural disasters effectively means no account will be taken of the fact that such people do not live in a legal vacuum. They live in countries with laws, rules and institutions that should protect their rights.

States are directly responsible for respecting, protecting and fulfilling the human rights of their citizens and other persons on their territory or under their jurisdiction. Whereas national humanitarian organizations are bound by their national laws, international humanitarian organizations, while not directly bound by international human rights treaties, accept that human rights underpin all of their actions. Therefore, they should do their utmost to ensure that these rights are protected—even beyond the strict wording of their mandates and in the interest of the people directly affected. All humanitarian organizations are under the obligation not to promote, actively participate in, or in any other manner contribute to, or endorse policies or activities, which do or can lead to human rights violations by States. The challenge often is how to apply these rules in an operational context, not least given the many humanitarian and human rights dilemmas potentially faced in situations of humanitarian disasters.

There are guidelines on humanitarian action in emergencies, including situations of natural disaster. There are also standards on protecting human rights in situations of armed conflict, internal displacement and refugee situations. Guidance is lacking, however, on how to protect the human rights of individuals affected by natural disasters.

These Operational Guidelines are addressed to intergovernmental and non-governmental humanitarian actors when they are called upon to become active just before or in the aftermath of a natural disaster. The Operational Guidelines do not list the rights of persons as enshrined in international law. Rather, they focus on what humanitarian actors should do in order to implement a rights-based approach to humanitarian action in the context of natural disasters.³ They call on humanitarian actors to look beyond their core mandate and to have a holistic vision of the needs of the people they have been asked to serve. While these Guidelines have been drafted with the consequences of natural disasters in mind, most of them are also relevant in preparation for or after other kinds of disasters⁴ have struck.

³ Currently there are processes trying to address additional State responsibilities in the context of natural disaster relief, which run parallel to the immediate need of the humanitarian agencies for guidance.

⁴ Such as disasters that have set on slowly, e.g. drought, or so-called “man-made” disasters.

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

These Operational Guidelines are inspired by the following understanding of human rights protection during disaster relief:⁵

Those affected by natural disasters, including those displaced by such events, remain, as residents and most often citizens of the country in which they are living, entitled to the protection of all guarantees of international human rights subscribed to by the State concerned. They are also entitled to, if applicable, the protection of the guarantees of international humanitarian law or customary international law. People do not lose, as a consequence of their being displaced or otherwise affected by the disaster, the rights of the population at large. At the same time, they have specific needs, distinct from those of the non-affected population, which call for specific assistance and protection measures.

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 main duty bearers, thus, are the governments and administrations of the countries concerned.

Protection is not limited to securing the survival and physical security of those affected by natural disasters. It encompasses all relevant guarantees—civil and political as well as economic, social and cultural rights—attributed to them by international human rights and, where applicable, international humanitarian law. For practical reasons, these rights can be divided into four groups, namely: (A) rights related to physical security and integrity (e.g. protection of the right to life and the right to be free 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

⁵ See Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, E/CN.4/2006/71, paragraphs 4 – 8.

to religious freedom and freedom of speech, personal documentation, political participation, access to courts, and freedom from discrimination). The first two groups of rights may be the most relevant during the emergency, life-saving phase. Only the full respect of all four groups of rights, however, can ensure adequate protection of the human rights of those affected by natural disasters, including of those who are displaced.

In all cases States have an obligation to respect, protect and to fulfil the human rights of their citizens and of any other persons in their territory or under their jurisdiction. States are therefore under the obligation: (a) to prevent violations of these rights from occurring or from re-occurring; (b) to stop them while they are happening by making sure that its organs and authorities respect the rights concerned and protect victims against violations by third parties; and (c) to ensure reparation and full rehabilitation if a violation has happened.

Where the capacity and/or willingness of the authorities to fulfill their responsibilities is/are insufficient, the international community needs to support and supplement the efforts of the government and local authorities. The scope and complexity of many natural disasters call for the active involvement of organizations and groups both within and outside the UN system which possess special expertise and resources, including from among the displaced and host communities, as well as from civil society.

These Operational Guidelines constantly re-emphasize the need to ensure non-discriminatory humanitarian assistance, as well as the need to consult with the affected people. This is not only a matter of fundamental human rights. It is also in the interest of good humanitarian practise and accountability and can avoid creating sources of future conflicts.

Finally, in order to ensure that the protection of the human rights of those affected by natural disasters, including those who are internally displaced, is effectively implemented, it is essential to establish effective monitoring mechanisms, benchmarks and indicators. Disaster prevention, relief and recovery should be assessed as to whether they are being carried out in accordance with international human rights and humanitarian standards as outlined in these Operational Guidelines.

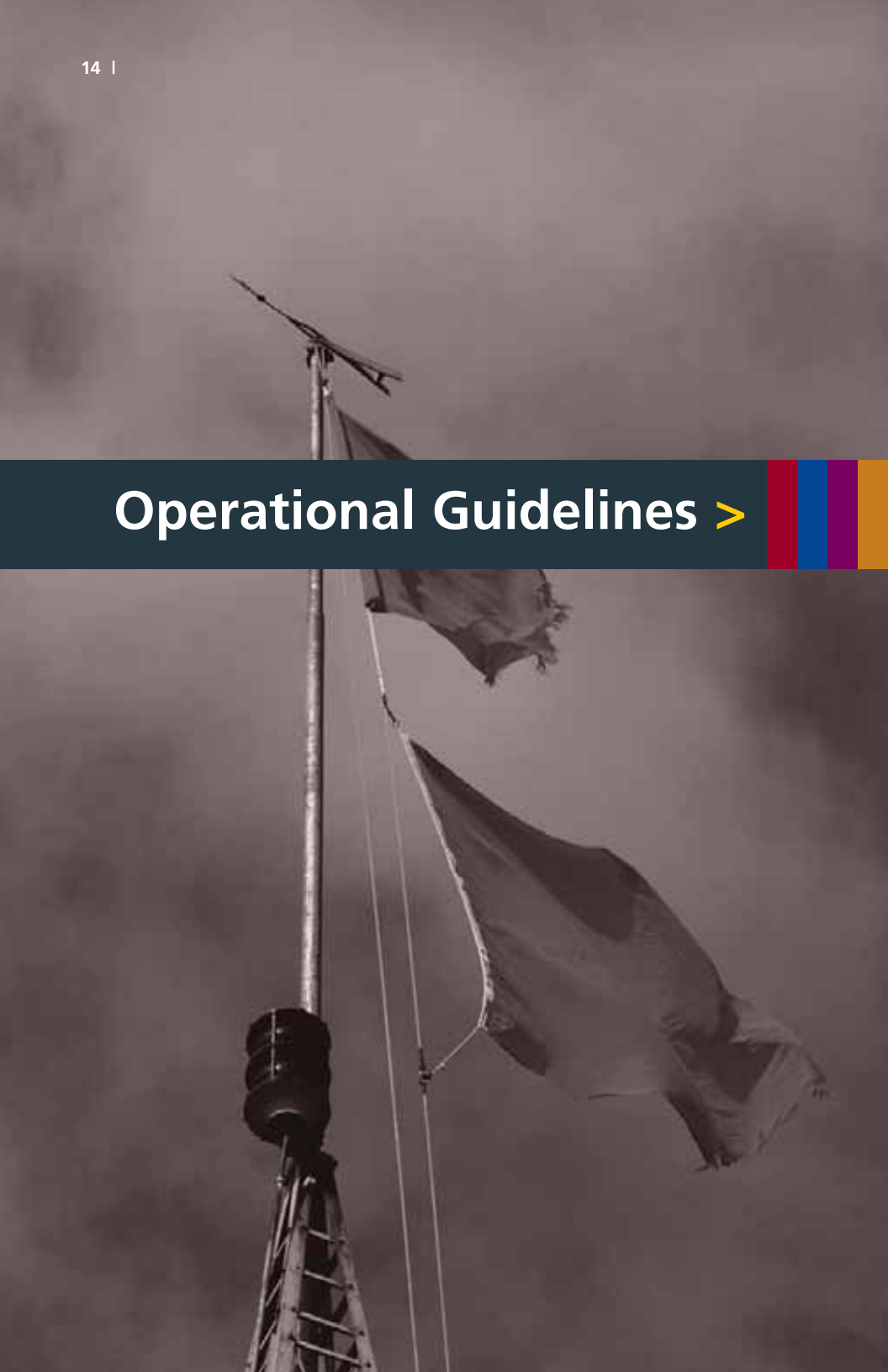
General Principles >



- I. Persons affected by natural disasters should enjoy the same rights and freedoms under human rights law as others in their country and not be discriminated against. Targeted measures to address assistance and protection needs of specific categories of affected populations do not constitute discrimination if, and to the extent that, they are based on differing needs.
- II. States have the primary duty and responsibility to provide assistance to persons affected by natural disasters and to protect their human rights.
- III. Organizations providing protection and assistance to persons affected by natural disasters accept that human rights underpin all humanitarian action. In situations of natural disaster they should therefore respect the human rights of persons affected by disasters at all times and advocate for their promotion and protection to the fullest extent. Humanitarian organizations shall not promote, actively participate in, or in any other manner contribute to, or endorse policies or activities, which do or can lead to human rights violations by States. They shall strive to enable the affected people to exercise their own rights.
- IV. Organizations providing protection and assistance in situations of natural disasters shall be guided by these Operational Guidelines in all of their activities, in particular when monitoring and assessing the situation and needs of affected persons, when programming and implementing their own activities as well as when entering into a dialogue with governmental authorities on the State's duties and responsibilities under international human rights and, where applicable, international humanitarian and refugee law. In doing so, they shall remain accountable to all of their relevant stakeholders, in particular to the persons affected by the natural disaster.
- V. All communities affected by the natural disaster should be entitled to easy accessible information concerning: (a) the nature and level of disaster they are facing; (b) the possible risk mitigation measures that can be taken; (c) early warning information; and (d) information on ongoing humanitarian assistance, recovery efforts and their respective entitlements. They should be meaningfully consulted and given the opportunity to take charge of their own affairs to the maximum extent possible and to participate in the planning and implementation of the various stages of the disaster response.
- VI. These Operational Guidelines seek to improve the practical implementation of international instruments protecting human rights. They shall not be interpreted as restricting, modifying or impairing the provisions of international human rights or, where applicable, international humanitarian and refugee law. They should be applied together with other relevant Codes of Conduct, Guidelines and Manuals.⁶
- VII. Organizations providing protection and assistance in situations of natural disasters shall endeavor to have adequate mechanisms established to ensure that the Operational Guidelines are applied and that the human rights of the affected are protected.

⁶ See the detailed references to codes of conduct, guidelines and manuals that are relevant in the context of natural disasters in the accompanying Manual.

Operational Guidelines >



A	Protection of Life, Security of the Person, Physical Integrity and Dignity	
A.1	Evacuations, relocations and other life-saving measures	18
A.2	Protection against the negative impacts of natural hazards	19
A.3	Protection against violence, including gender-based violence . . .	19
A.4	Camp security	19
A.5	Protection against anti-personnel landmines and other explosive devices	20
B	Protection of Rights Related to Basic Necessities of Life	
B.1	Access to goods and services, and humanitarian action	22
B.2	Provision of adequate food, water and sanitation, shelter, clothing and essential health services	22
C	Protection of Other Economic, Social and Cultural Rights	
C.1	Education	26
C.2	Property and possession	26
C.3	Housing	27
C.4	Livelihood and work	28
D	Protection of Other Civil and Political Rights	
D.1	Documentation	30
D.2	Freedom of movement and right to return	30
D.3	Family life and missing or dead relatives	31
D.4	Expression, assembly and association, and religion	32
D.5	Electoral rights	32

Persons affected by natural disasters should enjoy the same rights and freedoms under human rights law as others in their country and not be discriminated against.



A. PROTECTION OF LIFE, SECURITY OF THE PERSON, PHYSICAL INTEGRITY AND DIGNITY



A.1 Evacuations, relocations and other life-saving measures

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

A.1.7 Persons affected by the natural disaster should not, under any circumstances, be forced to return to or resettle in any place where their life, safety, liberty and/or health would be at further risk.

A.1.8 Unless it is necessary for the protection of affected persons against very serious and imminent threats to their lives, their physical integrity or health, evacuations against their will, or prohibitions against their return, should not be supported by organizations providing protection and assistance to persons affected by natural disasters, even if they have been ordered by the competent authorities. Such organizations should not become involved in involuntary evacuations in any manner.

A.2 Protection against the negative impacts of natural hazards

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

A.3 Protection against violence, including gender-based violence

A.3.1 During and after the emergency phase, law enforcement personnel and local authorities should be encouraged to take effective measures to ensure the security of populations affected by the natural disaster.

A.3.2 Mechanisms which are appropriate to address instances of violence and other violations of human rights, as well as of relevant guarantees under international humanitarian law, should be established without delay. In particular, the deployment of law enforcement personnel to areas at risk of or with a break down of law and order—including sexual and gender-based violence, robberies, or looting—should be requested.

A.3.3 Appropriate measures should be taken as early and as quickly as possible to protect affected populations, in particular women and boy and girl children, against trafficking, forced labour and contemporary forms of slavery such as sale into marriage, forced prostitution, and sexual exploitation.

A.3.4 Should the natural disaster have occurred in a country with an armed conflict, appropriate measures should be taken as soon as possible to ensure that children affected by the natural disaster are protected against being recruited or associated with armed forces or groups.

A.4 Camp security

A.4.1 Persons displaced by the disaster should, to the maximum extent possible, be provided with the means to recover as quickly as possible and become self-sustainable (even in places of temporary displacement) or with fast rehabilitation assistance for return. Camps are a last resort and should only be estab-



lished where, and until, the possibility of self-sustainability or fast rehabilitation assistance do not exist.

- A**
- A.4.2** The location and lay-out of camps and settlements for persons displaced by the disaster should be situated in areas with a low natural hazard risk. They should be designed so as to maximize the security and protection of displaced persons, including women and others whose physical security is most at risk (e.g. children, older persons, persons with disabilities, single-headed households and members of religious and ethnic minority groups or indigenous peoples).
- A.4.3** Security should be provided in camps, in particular by monitoring, through law enforcement personnel and camp committees drawn from among the displaced communities. Appropriate mechanisms to address instances of violence and other violations of the human rights of camp residents should be established.
- A.4.4** Persons affected by the disaster should be allowed to move freely in and out of camps. Such movement should not be restricted or prohibited unless it is necessary for the protection of the security or health of camp residents, or that of the population in the vicinity. If there are restrictions, they should not remain in force any longer than absolutely necessary.
- A.4.5** In order to maintain the civilian character of camps at all times, appropriate measures should be taken to avoid the presence of uncontrolled armed elements in camps and settlements. Where such elements are present, they should be separated from the civilian population in the camp. The presence of armed State police or security forces should be limited to the extent strictly necessary to provide security.
- A.4.6** Once the immediate emergency phase is over, camps set up by armed forces or groups should be managed by civilian authorities or organizations. The role of police and security forces should be limited to providing security.
- A.5** *Protection against anti-personnel landmines and other explosive devices*
- A.5.1** Access for specialized organizations should be facilitated as soon as possible, so that they can take appropriate measures—including information and awareness campaigns and fencing off and marking relevant areas—to protect persons affected by natural disasters, displaced or not, against the dangers of anti-personnel landmines and other explosive ordnance that may have been dislodged, concealed or obscured in the course of the natural disaster.



B. PROTECTION OF RIGHTS RELATED TO BASIC NECESSITIES OF LIFE



B.1 Access to goods and services, and humanitarian action

B.1.1 Measures should be taken to ensure that persons affected by natural disasters, in particular those displaced, have unimpeded and non-discriminatory access to goods and services necessary to address their basic needs.

B.1.2 Humanitarian action should be based on assessed need and provided to all persons affected by the natural disaster without adverse distinction of any kind other than that of differing needs.

B.1.3 Safe and non-discriminatory access to available humanitarian assistance should be secured for all persons in need. In particular, measures should be taken to grant priority access to such vulnerable groups as minorities, single-headed households, elderly, people with disabilities, and unaccompanied and separated children.

B

B.1.4 In particular, when the authorities concerned are unable or unwilling to provide the required humanitarian assistance, international humanitarian organizations and other appropriate actors should offer their services in support of persons affected by natural disasters and in need of humanitarian assistance.

B.1.5 Humanitarian action should be carried out in accordance with the principles of humanity, impartiality and, in countries with armed conflict, neutrality. Humanitarian assistance should not be diverted.

B.1.6 International organizations and agencies and other actors providing humanitarian assistance, should ensure coordination of their actions among themselves and with national and local authorities. The responsibilities for certain areas of activities assigned to specific agencies and organizations should be taken into account.

B.2 Provision of adequate food, water and sanitation, shelter, clothing and essential health services

B.2.1 During and after the emergency phase of the disaster, adequate food, water and sanitation, shelter, clothing, and essential health services should be provided to persons affected by natural disasters who are in need of these goods and services. Provision of goods and services should be 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. Adequacy of these goods and services means that they are (i) available, (ii) accessible, (iii) acceptable, and (iv) adaptable:

(i) *Availability* means that these goods and services are made available to the affected population in sufficient quantity and quality;

(ii) *Accessibility* requires that these goods and services (a) are granted without discrimination to all in need, (b) are within safe reach and can be physi-

cally accessed by everyone, including vulnerable and marginalized groups, and (c) are known to the beneficiaries;

(iii) *Acceptability* refers to the need to provide goods and services that are culturally appropriate and sensitive to gender and age;

(iv) *Adaptability* requires that these goods and services be provided in ways flexible enough to adapt to the change of needs in the different phases of emergency relief, reconstruction and, in the case of displaced persons, return. During the immediate emergency phase, food, water and sanitation, shelter, clothing, and health services are considered adequate if they ensure survival to all in need of them.

- B.2.2** If food, water and sanitation, shelter, clothing, and health services are not available in sufficient quantities, they should be provided first to those most in need. The definition of need should be based and assessed on non-discriminatory and objective criteria.
- B.2.3** If the host population, which has not been directly affected by the natural disaster, suffers from similar shortages of water and sanitation, shelter, clothing, and essential health services as those affected by the natural disaster, relief should also be provided to it on an equitable basis.
- B.2.4** The right to shelter should be understood as the right to live somewhere in security, peace and dignity. These criteria should be used as benchmarks in planning and implementing shelter programmes, taking into account the different circumstances during and after the emergency phase.
- B.2.5** Those affected by the natural disaster should be given access to psycho-social assistance and social services, when necessary. Special attention should be given to the health needs of women, including provision of appropriate clothing and hygienic supplies, access to female health care providers and such services as reproductive health care.
- B.2.6** Special attention should be given to the provision of psycho-social care for victims of sexual and other abuses.
- B.2.7** 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.

Experience has shown that, while patterns of discrimination and disregard for economic, social and cultural rights may already emerge during the emergency phase of a disaster, the longer the displacement situation lasts, the greater the risk of human rights violations.



C. PROTECTION OF OTHER ECONOMIC, SOCIAL AND CULTURAL RIGHTS



C.1 Education

- C.1.1 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.
- C.1.2 Education should be compulsory and free at the primary level. Measures should be taken to ensure that education is not disrupted at higher levels when students, as a consequence of the disaster, can no longer afford such education.
- C.1.3 Special efforts should be made to ensure the full and equal participation of women and girls, affected by the natural disaster, in educational programmes.

C.2 Property and possession

- C.2.1 Competent authorities should be requested to protect, to the maximum extent possible, against looting, destruction, and arbitrary or illegal appropriation, occupation or use of property and possessions left behind by persons or communities displaced by the natural disaster.
- C.2.2 Unused private property and possessions may be temporarily, but no longer than absolutely necessary, allocated to those displaced by the natural disaster. Competent authorities should be requested to ensure that owners of affected property are adequately compensated for such use. Due process guarantees and access to fair and impartial legal procedures should be assured for all parties.
- C.2.3 The return of persons or communities displaced by the natural disaster to their property and possessions should be facilitated as soon as possible.
- C.2.4 Owners, whose land deeds or property documents have been lost or damaged during the natural disaster or whose land boundaries have been destroyed, should be provided with accessible procedures to re-claim ownership of their original land and property without undue delay.
- C.2.5 Legal procedures should be put in place to consider competing claims to land and property with due process guarantees and without delay. Access to an independent court or tribunal should be guaranteed if the decision is not accepted by both parties.
- C.2.6 Specific arrangements should be made to enable women, particularly widows, as well as orphaned children to (re-)claim housing, land or property and to acquire housing or land title deeds in their own name.
- C.2.7 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.

- C.2.8** Appropriate measures should be taken to protect persons or communities affected by natural disasters—in particular the poor, women, members of minority groups or indigenous peoples, or those displaced—against undue or illegal attempts by landlords, speculators, local authorities and other actors to deprive them of their property and possessions.
- C.2.9** Prohibitions on remaining in or returning to certain areas and/or rebuilding should not be supported unless they are based on law and, in the individual case, necessary for reasons of safety, health, disaster prevention, or the implementation of reconstruction and development schemes. In all cases of prohibitions on remaining, returning and rebuilding measures should be taken to provide owners with due process guarantees, including the right to be heard and the right of access to an independent court or tribunal, as well as just compensation.
- C.2.10** Should evictions become unavoidable in the course of measures mentioned above 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 the land; (d) the presence of government officials during an eviction; (e) 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.
- C.2.11** Evictions—in particular those ordered in the context of evacuations and of secondary occupants of property and possessions left behind by persons displaced by the natural disaster—should not render individuals homeless or vulnerable to the violation of other human rights. Appropriate measures should be taken to ensure that adequate alternative housing, resettlement and/or access to productive land is made available to those unable to provide for themselves.

C.3 *Housing*

- C.3.1** 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.
- C.3.2** The criteria for adequacy are: accessibility, affordability, habitability, security of tenure, cultural adequacy, suitability of location, and access to essential services such as health and education (see **B.2.1**). Respect for safety standards aimed at reducing damage in cases of future disasters is also a criterion for adequacy.

C.3.3 To ensure sustainable long-term planning of resettlement and reconstruction in the aftermath of a natural disaster, all affected groups and persons, including women, indigenous peoples and persons with disabilities, should be consulted and participate in the planning and implementation of housing programmes. To the maximum extent possible, and provided that necessary safety standards are met, owners of destroyed houses should be allowed to decide on their own how to rebuild them.

C.4 *Livelihood and work*

C.4.1 Projects to restore economic activities, opportunities and livelihoods that are disrupted by the natural disaster should start as soon and as completely as possible. To the maximum extent possible, such measures should already be taken during the emergency phase.

C.4.2 Where individuals are unable to return to previous sources of livelihood due to the natural disaster, appropriate measures—including 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.

C.4.3 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.

A black and white photograph of a man in a white long-sleeved shirt and grey trousers, seen from the back, looking at a wall covered with many small, identical-looking documents or forms. The documents are pinned to the wall with clips. The man is standing in a room with a dark background, possibly a hallway or a meeting room. The lighting is dramatic, highlighting the man and the documents against the dark wall.

**D. PROTECTION OF OTHER CIVIL
AND POLITICAL RIGHTS**

D.1 Documentation

- D.1.1** Organizations providing humanitarian assistance to persons affected by natural disasters 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 action. Personal data collected, and records established in this context, shall be protected against misuse of any kind.
- D.1.2** 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, to persons affected by the natural disaster (e.g. birth, marriage and death certificates, insurance certificates, passports, personal identification and travel documents, education and health certificates).
- D.1.3** Women and men should be treated equally when documents of any kind are issued. Women should be issued documentation in their own names.
- D.1.4** Unaccompanied and orphaned children should be issued documentation in their own names.
- D.1.5** Loss of personal documentation should not be used: (a) to justify the denial of essential food and relief services; (b) to prevent individuals from travelling to safe areas or from returning to their homes; or (c) to impede their access to employment opportunities.
- D.1.6** Loss of documents proving land tenure and ownership should not be used to impede property rights (see C.2).

D.2 Freedom of movement and right to return

- D.2.1** 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 want to live—whether they want to return to their homes, to integrate where they are staying during their displacement or to resettle in another part of the country.
- D.2.2** 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.

- D.2.3** Appropriate measures should be taken to provide the means to enable persons displaced by the disaster to return to their homes or places of habitual residence, or to remain or to resettle voluntarily in another part of the country.

D.3 Family life and missing or dead relatives

- D.3.1** Members of displaced families who wish to remain together should be allowed and assisted to do so during the emergency phase and in the context of return or resettlement.
- D.3.2** Appropriate measures should be taken as early and as quickly as possible to re-establish contacts between members of families that have been separated in the course of the disaster, and to reunite them without delay, particularly when children are involved.
- D.3.3** Separated and unaccompanied children should be assisted in accordance with the best interests of the child. In particular, the placing of children in institutions should be avoided whenever possible.
- D.3.4** Appropriate measures should be taken to establish the fate and whereabouts of missing relatives and to inform the next of kin on the progress of the investigation and results obtained.
- D.3.5** 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 disposed of respectfully and in a manner which will help their future recovery and identification.
- D.3.6** Cremation of unidentified bodies should be avoided. Instead, they should be stored or buried temporarily, pending future identification and return to families.
- D.3.7** All burials should be conducted in a manner that respects the dignity and privacy of the dead and of their living family members. Measures should allow for the possibility of recovery of the human remains for future identification and reburial if required. Local religious and cultural practices and beliefs should be taken into account.
- D.3.8** Measures should be taken to protect funerary sites and monuments from desecration or disturbance.
- D.3.9** Family members should be fully informed about the location of grave sites, and have full access to them. They should be given the opportunity to erect memorials and conduct religious ceremonies as needed.

D.3.10 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.

D.4 Expression, assembly and association, and religion

D.4.1 Mechanisms should be established to enable communities to give feedback and raise complaints or grievances on the disaster relief, recovery and reconstruction response. Efforts should be made to ensure that women and persons with special needs—e.g. children, older persons, persons with disabilities, single-headed households, and members of religious and ethnic minority groups or indigenous peoples—are specially consulted and can participate in all aspects of the disaster response. 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.

D.4.2 Religious traditions should be respected, as appropriate, when planning and implementing humanitarian assistance, in particular in the context of food assistance, health care services, and living and sanitary arrangements.

D.4.3 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.

D.5 Electoral rights

D.5.1 Measures should be taken to ensure that persons affected by the natural disaster can exercise their right to vote in elections and to be elected, in particular if they have been displaced. Such measures may include voter registration and arrangements for absentee voting.

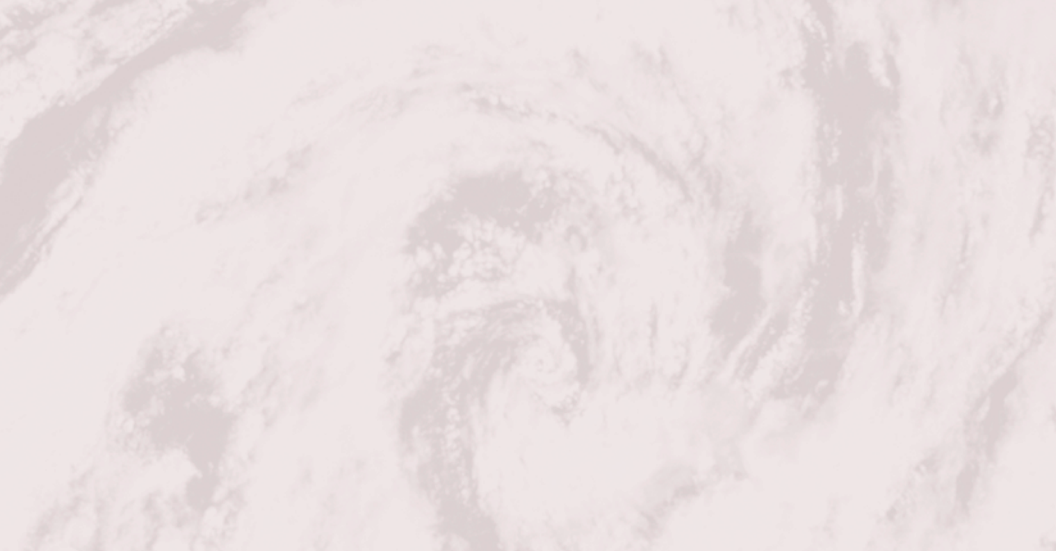


Photo Credits:

© Copyright 1999 PhotoDisc, Inc.: Cover images, pp. 4, 6, 10, 12, 20.

Courtesy of PAHO/WHO: pp. 2, 17, 21, 29.

Design: Miki Fernández/ULTRAdesigns.com

