



The world turned  
upside down

A review of protection  
risks and UNHCR's  
role in natural disasters

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## Executive summary

International and national actors continue to explore the protection consequences of the growing number of natural disasters around the world. In 2010 alone, sudden-onset natural disasters forced an estimated 42 million people to flee within their own countries.<sup>1</sup> Such statistics underscore the need for clarity on the protection risks that arise in disaster contexts, and what can be done in response.

Building upon a 2010 independent review of UNHCR's experience in various recent natural disasters,<sup>2</sup> UNHCR's Policy Development and Evaluation Service (PDES) and Division of International Protection (DIP) commissioned this study to further develop the agency's understanding of what protection means in the context of natural disasters, as well as what an effective response protection requires for affected populations.

By identifying the most prevalent protection issues that arose in six major sudden onset natural disasters<sup>3</sup> in which UNHCR was operationally engaged, the study may better inform UNHCR's potential operational contributions in support of national governments which may request its assistance in the future. Results of the study may also provide a basis for further discussion within the Global Protection Cluster (GPC) on how best to support protection in disaster response.

The six case studies include massive earthquakes, flooding, a tropical cyclone, a tsunami, and a sequence of strong typhoons, each with their own operational challenges and protection risks. At the time the disasters struck, three of the countries were in the midst of active armed conflict (Indonesia, Pakistan, and Sri Lanka), another faced extreme political sensitivity (Myanmar), one had a large peacekeeping mission addressing generalised violence, crime, and insecurity (Haiti), and the last had relatively strong government disaster preparedness and response mechanisms (Philippines). Each country represents a unique combination of disaster preparedness and response capacity, experience with disasters, presence of humanitarian actors, pre-existing vulnerabilities, and political contexts.

### **Protection risks in situations of natural disaster**

A wide variety of protection risks and realities emerged in the case studies. Some arose from the disasters themselves, while others were linked to the implementation of humanitarian assistance and recovery plans. Still others pre-existed the disaster, but were exacerbated by the destruction of social and physical infrastructure, increased poverty, and a weakening of legal and policing institutions. In a few of the studies, disaster relief actors were forced to consider how to preserve humanitarian space in light of mixed conflict and disaster contexts,

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<sup>1</sup> IDMC, "Displacement due to natural hazard-induced disasters: Global estimates for 2009-2010," June 2011.

<sup>2</sup> Bryan Deschamp, Michelle Azorbo & Sebastian Lohse, . *Earth, Wind & Fire: A review of UNHCR's role in recent natural disasters*. June 2010. PDES/2010/06.

<sup>3</sup> The second part of the study consists of six detailed case studies where UNHCR was operationally engaged in natural disaster response efforts: Indonesia and Sri Lanka Earthquake and Tsunami (2004), Myanmar Cyclone Nargis (2008), Philippines Floods (2009), Pakistan Earthquake (2005) and Floods (2010), and Haiti Earthquake (2010).

or the prominent role of the military coordinating and/or participating in disaster relief efforts.

Many of the protection concerns in disaster contexts were the same as in conflict situations, yet may have had different sources or means for addressing them. In an attempt to isolate and understand these nuances, this study roughly organizes the protection risks from the case studies under four headings: 1) Disaster related effects; 2) Delivery of humanitarian assistance; 3) Creation and exacerbation of vulnerabilities; and 4) Early recovery and reconstruction.

In general, the natural disasters heightened the protection risks facing women, children, older persons, people with disabilities, and other vulnerable groups specific to a country context (religious or ethnic minorities, indigenous groups, landless, etc.). Another common protection concern throughout the relief efforts was the lack of consultation with affected communities, and the inconsistent provision of information about planning and response efforts. Overall, the studies underscored the central importance of strong government capacity to prevent and effectively respond to protection risks at all stages of the relief efforts.

### **Protection in natural disasters vis-a-vis complex emergencies**

The distinctions between protection risks in natural disasters and complex emergencies arise in three ways: 1) the source of the protection risks, such as the nature of the disasters themselves, 2) how emergency actors and mechanisms responded to disasters, and 3) how the protection risks could have been reduced or prevented.

Given the potentially vast destruction that can overwhelm national and international response capacity in a mega-disaster, disaster responses, particularly in the first hours and days following a sudden-onset disaster, generally have a clearer prioritization of protection needs in time, focusing first on lifesaving issues, and later on more procedural or legal issues. This approach often results in a clash amongst humanitarian actors on whether the humanitarian response should be based upon a “rights based” versus “needs based” approach.

Many disaster responders focus on the immediate lifesaving protection concerns (such as food, shelter and emergency medical care), but do not view other protection risks (such as sexual and gender-based violence and separated children) as lifesaving. Consequently, the speed of delivery is commonly prioritized over ensuring the most vulnerable groups are identified, resulting in the second group of protection risks that emerge from the way in which humanitarian actors provide assistance.

The case studies also highlighted the strong central role of national authorities in disaster response. National governments either had pre-existing disaster response mechanisms, or quickly established new government coordination bodies in the wake of the disasters. These were often different government counterparts than those UNHCR traditionally works with in complex emergencies.

Consequently, addressing protection risks in natural disaster contexts requires supporting the government’s leadership role, ideally by identifying and establishing effective links with appropriate government officials at the national, regional, and local level prior to a disaster.

This can help ensure that UNHCR's assistance supports rather than supplants national responsibilities, and that protection activities enhance rather than undermine local capacities, including those existing among affected populations themselves.

The large-scale disaster response efforts in this study were characterized by a massive and often immediate surge of humanitarian actors, including national and foreign militaries, spontaneous assistance from local communities, UN Disaster Assessment and Coordination (UNDAC) Teams, international humanitarian and development organizations, the Red Cross and Red Crescent Societies, international and national non-governmental organizations, and civil society.

Overall, the case studies highlight the tenuous acceptance of the concept of protection within disaster response efforts. From national governments to the traditional disaster responders described above, responses to "protection" language and activities varied between denial, hesitancy, and acceptance, with most standing on the side of hesitancy. The absence of a political conflict could lead one to expect that the protection principles would be easier to understand and less politicized.<sup>4</sup> Yet protection actors commonly encountered difficulty convincing humanitarian actors of the need to mainstream protection concerns in other sectors.

Disaster responders generally apply different labels to vulnerabilities than are commonly used in conflicts. The most prominent categories used to describe those in need of humanitarian assistance are "affected" populations, or "homeless." This potentially implies a much larger group of individuals in need of protection and highlights the importance of applying a human rights based approach as opposed to one based upon specific population groups according to agency mandate.

Perhaps the most problematic result of this terminology is the general failure or hesitancy of governments or humanitarian actors to identify and address the specific protection needs of internally displaced persons (IDPs). Disaster displacement in the case studies generally occurred suddenly (within hours and days), on a massive scale (with millions of people displaced), spanning huge swaths of geographic territory (in the case of the Pakistan floods, some 800,000 square kilometres). The majority of people were displaced for only a short period of time, as opposed to conflict situations where ongoing violence and insecurity preclude many from returning home or result in secondary, or repeated, displacement.

It is important to emphasize, however, that disaster-induced displacement is not necessarily brief in duration. In each of the mega-disasters addressed within this study, large numbers of IDPs remained displaced for many months or even years.

A key difference between conflict-induced displacement and natural disaster-induced displacement is the potential for preventive protection measures. Many disasters are seasonal, such as typhoons and flooding, and can be predicted in advance. In certain cases pre-emptive evacuations can be carried out if there is a protection imperative that does not conflict with the population's human rights.

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<sup>4</sup> In the 2005 Pakistan earthquake response, the absence of conflict or post-conflict operating environment meant that humanitarian concerns had priority, and did not need to be negotiated with political or peacebuilding priorities. Andrew Wilder, "Perceptions of the Pakistan Earthquake Response," Feinstein International Center, Tufts University, February 2008, p. 56.

Populations regularly affected by seasonal disasters such as typhoons, floods, and cyclones typically develop coping mechanisms to avoid exposure or mitigate the negative impacts of disasters. Consequently, protection actors should fully assess capacities and coping mechanisms throughout all phases of a humanitarian response (from contingency planning to durable solutions) to design proper protection programs.

### **Conclusion: UNHCR's role in natural disasters**

UNHCR Representatives in the disaster-prone Latin American region recently concluded that, "The most effective way of acting in displacement situations caused by natural disasters is ensuring preparedness, including capacitating the authorities to intervene with protection sensitive emergency responses."<sup>5</sup> This is consistent with the nine "Guiding Considerations" which have been elaborated to shape UNHCR's engagement in natural disasters.

These considerations emphasize, first and foremost, that any engagement by UNHCR in natural disasters "serves to support the role and responsibility of the state." Given this posture, UNHCR has recognized that "consultation and coordination [with state and local actors] is paramount" and that "'support' of the state implies two parallel elements: support during the humanitarian response, as well as enhancing the capacity of local actors."<sup>6</sup>

Institutionally, a significant challenge will be defining the appropriate scope and value added of UNHCR's potential participation in disaster risk reduction, disaster response mechanisms, and contingency planning processes. This could also mean including disaster risk reduction and populations' own resiliency efforts within protection activities even during the humanitarian relief phase, which is a challenge for all humanitarian actors.<sup>7</sup>

Recognizing the specific characteristics of a large-scale, sudden-onset disaster, namely the immediacy of the response and influx of a variety of actors, an effective Protection Cluster lead agency should support active engagement among relevant partners, as appropriate at various stages of the humanitarian response: from contingency planning to early recovery initiatives that anticipate future disasters.<sup>8</sup> This, in turn, requires sufficiently strong institutional relationships at the global, national and regional level to enable the Protection Cluster lead to effectively carry out its coordination, advocacy and field support responsibilities in relation to national Protection Cluster members.

To the extent that the protection risks are similar to those in conflict situations, UNHCR has the operational experience to develop protection activities in its areas of expertise as a strong contribution to the inter-agency protection response in support of national governments. These areas may include forced displacement, legal aid, documentation, identification of vulnerable groups, response to sexual and gender based violence (SGBV), ensuring access to aid, and participatory assessment.

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<sup>5</sup> UNHCR Bureau for the Americas Representatives Meeting: Summary of the Discussion, 14-18 February 2011.

<sup>6</sup> "UNHCR's role in support of an enhanced humanitarian response for the protection of persons affected by natural disasters," UNHCR Standing Committee 51<sup>st</sup> meeting, 6 June 2011, EC/62/SC/CRP.19.

<sup>7</sup> Nicole Rencoret, Abby Stoddard, Katherine Haver, Glyn Taylor & Paul Harvey. "Haiti Earthquake Response: Context Analysis," ALNAP, July 2010, p. 18.

<sup>8</sup> Many of the conclusions in this section are also shared with previous studies on UNHCR's potential role in protection in disasters. See for example, Roberta Cohen & Megan Bradley, "Disasters and Displacement: Gaps in Protection," *Journal of International Humanitarian Legal Studies*, vol. 1, 2010, p. 15-16, and Bryan Deschamp et al. *Earth, Wind & Fire: A review of UNHCR's role in recent natural disasters*.



UNHCR presently plans to expand access to the Global Protection Cluster's protection in natural disaster training module by increasing the number of training sessions and creating an e-module. This will help ensure UNHCR staff members, along with local, national and international partners, are aware of the specific nature of disaster response, and that deployed staff have the tools to quickly establish responsive protection programs.

This leads to what is likely to be the greatest challenge for UNHCR as a protection actor in disaster situations: simply establishing UNHCR as a credible actor within the natural disaster response framework of institutional actors and processes. This includes working with disaster actors unfamiliar with protection, or who choose not to apply a human rights based approach to disaster response. Policy challenges that currently exist within refugee and IDP operations in conflict settings relate to an expanded notion of "affected populations," responding to crises in urban settings, and assisting IDPs living with host families or in host communities will also need further reflection in light of disaster response.

Protection risks following disasters are increasingly recognized and identifiable. Consistent with their primary responsibility, it is national governments who ultimately determine the extent to which protection risks can be effectively prevented, identified, and addressed in disaster relief efforts.<sup>9</sup> Thus, UNHCR should continue conversations with national and local governments where it is operationally engaged and establish strong relationships prior to a disaster striking a country.

In order for a protection agency such as UNHCR to provide better support to national governments in their protection response, certain institutional and operational support would be necessary. Recommendations include the following:

#### **Institutional level**

1. Clarify the Office's position in relation to disaster risk reduction and contingency planning as protection activities, and join inter-agency efforts accordingly.
2. Adapt existing protection in natural disaster training for UNHCR staff members, ensuring it includes disaster risk reduction and contingency planning as protection activities.
3. Support UNDAC global and regional training initiatives.
4. Review UNHCR policies on urban displacement, durable solutions, populations of concerns and assistance to host communities in light of protection risks in disaster response contexts.

#### **UNHCR as Global Cluster Lead**

1. Continue to conduct inter-agency protection in natural disaster training courses, and further support protection mainstreaming within disaster response tools and guidance.
2. Initiate discussions with OCHA to incorporate protection issues within UNDAC assessments, tools and training programmes.

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<sup>9</sup> Roberta Cohen & Megan Bradley, "Disasters and Displacement: Gaps in Protection," *Journal of International Humanitarian Legal Studies*, vol. 1, 2010, p. 16.

3. Initiate discussions with OCHA's Civil Military-Coordination Unit to address protection issues associated with national militaries' engagement in disaster response.
4. Further engage with IFRC to discuss the role of protection in disaster response efforts.

### **UNHCR as Protection Cluster Lead at the country level in support of government**

Noting the importance of full coordination and consultation with governments:

1. When present in a disaster prone country, establish relationships with national Disaster Management Teams. At the level of the UN, participate in contingency planning processes to ensure protection issues are mainstreamed.
2. Identify protection counterparts with national, regional, and local governments.
3. Ensure the participation of key local and civil society organizations within the Cluster.
4. Publicize the protection activities of Cluster members, including UNHCR, to maintain operational credibility.

### **UNHCR as an operational protection partner to enhance local capacities**

1. Specify UNHCR's areas of expertise and added value in responding to protection risks in situations of natural disasters.
2. Develop sample UNHCR protection inventions and project proposals for inter-agency consolidated Flash Appeal to assist staff members at the immediate onset of a natural disaster.
3. When possible, contribute tents, non-food items, or Quick Impact Projects (QIPs) in response to identified discrimination or vulnerabilities in affected populations. Such activities can also build credibility for UNHCR as an operational partner and enhance the effectiveness of other protection activities.

## Introduction to the review

1. International and national actors continue to explore the protection consequences of the growing number of natural disasters around the world. In 2010 alone, sudden-onset natural disasters forced an estimated 42 million people to flee within their own countries.<sup>10</sup> Such statistics heighten the desire for clarity on the protection risks that arise in disaster contexts, and what can be done in response.
2. Building upon a 2010 independent review of UNHCR's experience in various recent natural disasters,<sup>11</sup> UNHCR's Division of International Protection (DIP) and the Policy Development and Evaluation Service (PDES) commissioned this study to further develop the agency's understanding of what protection in natural disaster means, as well as what response protection requires on behalf of affected populations, based on a review of operational experience to date.
3. By identifying the most prevalent protection issues that arise in natural disaster contexts and comparing them with complex emergencies, the study attempts to provide insight on the institutional and operational measures that would be required for a protection agency such as UNHCR to provide better support to national governments in their protection response.
4. Based upon an analysis of six major sudden-onset natural disasters in which UNHCR was operationally engaged, this review may also inform UNHCR's potential operational contributions in its areas of expertise. The study also considers disaster risk reduction (DRR) and contingency planning as potential protection activities.

### Natural disasters defined

5. The Inter-Agency Standing Committee (IASC) Operational Guidelines on the Protection of Persons in Situations of Natural Disasters define a "natural disaster" as a disaster, "caused by a sudden-onset natural hazard," which results in "a serious disruption of the functioning of a community or a society causing widespread human, material, economic or environmental losses which exceed the ability of the affected community or society to cope using its own resources."<sup>12</sup> As implied in the definition, the extent to which a natural hazard develops into a natural disaster is dependent upon several factors, including a state or region's level of disaster preparedness and response capacity, whether the location of the natural hazard is densely populated, and pre-existing levels of development.
6. This study addresses sudden-onset natural disasters, such as earthquakes or hurricanes, as opposed to slow-onset disasters such as drought.<sup>13</sup> This is not to diminish the potential

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<sup>10</sup> IDMC, "Displacement due to natural hazard-induced disasters: Global estimates for 2009-2010".

<sup>11</sup> Bryan Deschamp et al, *Earth, Wind & Fire*

<sup>12</sup> IASC *Operational Guidelines on the Protection of Persons in Situations of Natural Disasters*, The Brookings-Bern Project on Internal Displacement, January 2011, p. 55, 58.

<sup>13</sup> For further discussion on sudden-onset versus slow-onset disasters, see Elizabeth Ferris, "Humanitarian Perspectives on 'Protection of Persons in the Event of Disasters,'" Speech for Canada and International Law: DFAIT, Brookings Institute, 15 July 2011.

severity of slow-onset disasters – at the time of writing UNHCR was heavily engaged in regional efforts in the Horn of Africa in response to a famine linked to drought. Both forms of disasters have the potential to displace large numbers of people, create significant protection risks for affected populations, and exacerbate pre-existing human rights concerns or discrimination within the population.

7. However, UNHCR’s most significant engagement to date has been in response to sudden-onset emergencies, including flooding, monsoons, tsunamis, and earthquakes. Therefore, this study attempts to understand the specific nature of these disasters – in terms of the protection risks that commonly arise, the speed and way in which humanitarian assistance is delivered, and who are key disaster responders – to understand how these specific characteristics impact protection activities.

## **Legal framework**

8. International human rights law and international humanitarian law guide the analysis for the study. The study also draws heavily upon the non-binding 1998 Guiding Principles on Internal Displacement,<sup>14</sup> which cite “natural or human-made disasters” as a cause of forced internal displacement.<sup>15</sup> Based upon international human rights and international humanitarian law, the Guiding Principles on Internal Displacement set out the rights of internally displaced persons, as well as the obligations of national authorities and non-state actors to respect and uphold these rights.

9. Despite the absence of a universal binding treaty on internal displacement, two binding regional legal frameworks also include specific references to internal displacement caused by natural disasters. The Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons,<sup>16</sup> and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa are both useful references. Finally, the 2005 Hyogo Framework and accompanying Guiding Principles also set out states’ responsibilities to mitigate the risks of natural disasters, and prevent or protect their citizens from rights violations following such events.

10. At the global level, humanitarian organizations through the IASC have adopted the IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters, which provide examples of concrete actions that humanitarian actors can undertake to identify and protect the rights of individuals and communities in disaster-affected areas.

11. Keeping with the definition used by the Global Protection Cluster, this review applies the 1999 IASC definition of protection, which states, “the concept of protection encompasses 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 law, humanitarian law, refugee law).”<sup>17</sup>

12. More specifically, the former Representative of the Secretary General on the Human Rights of Internally Displaced Persons, Walter Kälin, cited four categories of rights that must

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<sup>14</sup> UN Doc E/CN.4/1998/53/Add.2 (1998).

<sup>15</sup> Guiding Principles on Internal Displacement, introductory paragraph 2.

<sup>16</sup> Pact on Security, Stability and Development in the Great Lakes Region, Protocol on the Protection and Assistance to Internally Displaced Persons, 30 November 2006.

<sup>17</sup> Definition of protection as developed by the International Committee of the Red Cross, Third Workshop on Protection, 1999.

be protected in respect of affected populations and displaced persons in the context of natural disasters. These categories are: 1) physical security and integrity (e.g. right of life, protection from sexual and gender based violence); 2) necessities of life (e.g. water, food, shelter); 3) economic, social and cultural rights (e.g. work, education) and; 4) civil and political rights (e.g. personal documentation, political freedom).<sup>18</sup>

### **UNHCR role in disaster response**

13. UNHCR potentially has three different roles to play in support of national government authorities' natural disaster response efforts.<sup>19</sup> As Global Protection Cluster lead, UNHCR is responsible for ensuring that global protection standards, tools, policy guidance, and operational field support are available to support Humanitarian Country Teams and national Protection Clusters.

14. If designated as lead of a country level inter-agency Protection Cluster, UNHCR is responsible for coordinating an effective protection strategy and response that includes key protection actors – both international and local. As an operational protection actor, UNHCR draws on its expertise to address identified protection risks, as prioritized within the Protection Cluster or other protection coordination body, by developing and delivering protection programming. This study considers operational protection response as it may bear on any one of these potential roles.

### **Structure**

15. The first section of the study provides an overview of the key protection risks identified across six disaster case studies where UNHCR significantly participated in the humanitarian response. While almost all of the protection risks identified in this study also commonly arise in conflict situations, this study attempts to identify and analyze the risks within a framework that highlights the specific characteristics and context of disaster response. Thus, recognizing the specificity of disaster response, the protection analysis is not limited to displacement.

16. It then highlights potential differences and similarities in relation to protection risks that commonly arise in complex emergencies. The study also considers the implications of these protection risks in relation to UNHCR's potential engagement in natural disaster response, whether solely as an operational actor, or as a country-level Protection Cluster lead. Finally, the paper ends with conclusions and recommendations.

### **Methodology and constraints**

17. This review was initiated jointly by DIP and PDES and conducted by a consultant, Hannah Entwisle, in late 2011 and early 2012. Support was provided by Karen Gulick (DIP) and by UNHCR staff working with PDES, DIP, and the Regional Bureaux. Special thanks are due to Larry Bottinick (PDES) for initial work on the project, to Josep Zapater (DIP) for his

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<sup>18</sup> *Promotion and Protection of all Human Rights, Civil, Political, economic, Social and Cultural Rights, including the Right to Development. Addendum Protection of Internally Displaced Persons in Situations of Natural Disaster.* Report of the Representative of the Secretary General on the Human Rights of Internally Displaced Persons, Walter Kälin, A/HRC/10/13/Add. 1. 5 March 2009

<sup>19</sup> "UNHCR's role in support of an enhanced humanitarian response for the protection of persons affected by natural disasters," UNHCR Standing Committee 51<sup>st</sup> meeting, 6 June 2011, EC/62/SC/CRP.19.

contributions and insight, to Karim Amer (Asia and Pacific Bureau) for commenting on multiple case study drafts, and for the research assistance and initial drafts of PDES and DIP interns: Hilary Bowman, Lucia Cipullo, and Anneen de Jay.

18. The findings and analysis are based upon a desk review of public and internal UNHCR operational and policy documents, as well as public reports from a range of sources including documents available on ReliefWeb, reports of international and national NGOs and Inter-Agency Assessments. This research was complemented by interviews and consultation with senior UNHCR colleagues working in headquarters and field operations. The findings of the study also reflect feedback and discussion gained through additional meetings and discussions with headquarters and field-based staff after an initial draft of the document had been shared.

19. Given its temporal and geographical scope and the short duration of the study, the report does not purport to constitute a comprehensive analysis of UNHCR's operational experience with protection in disaster situations. Particularly for older operations that have had significant staff turnover, comprehensive operational information was not consistently available.

20. The concentration of the case studies in the Asia and Pacific region reflect where UNHCR has had the most significant operational experience to date with natural disasters. The vast majority of natural disasters do not overwhelm national capacity to such a great extent as those selected for this study. Thus, the disasters selected for this study represent the extreme of what protection risks can arise, and do not reflect UNHCR's protection support provided to national authorities for smaller scale disasters, or in a severe disaster where UNHCR has been requested to provide specific assistance to support strong national response efforts.

21. Also, the case studies present a varying depth of identification of protection risks. While this may suggest the absence of particular protection risks in the operational response, it may also reflect that protection was not uniformly recognized or addressed within the humanitarian response. It should also be noted that while the research focused on UNHCR's country-based activities, field visits were not conducted as part of the study.

22. In light of these constraints, the report simply seeks to contribute concrete examples of protection risks that commonly arise in situations in natural disaster, and explore the potential consequences of these risks for protection actors, and humanitarian actors generally.

## Protection risks in natural disasters

23. The six case studies include massive earthquakes, flooding, a tropical cyclone, a tsunami, and a sequence of strong typhoons, each with their own operational challenges and protection risks. The disasters also occurred amidst a spectrum of pre-existing social and economic factors, with national disaster response capacity varying significantly.

24. At the time the disasters struck, three of the countries were in the midst of active armed conflict (Indonesia, Pakistan, and Sri Lanka), another faced extreme political sensitivity (Myanmar), one had a large peacekeeping mission facing generalised violence, crime, and insecurity (Haiti), and the last had relatively strong government disaster preparedness and response mechanisms (Philippines). Each country represents a unique combination of disaster preparedness and response capacity, experience with disasters, presence of humanitarian actors, pre-existing vulnerabilities, and political contexts.

25. Within these contexts, a wide variety of protection risks and realities emerged. Some arose from the disasters themselves, while others were linked to the implementation of humanitarian assistance and recovery plans. Still others pre-existed the disaster, but were exacerbated by the destruction of social and physical infrastructure, increased poverty, and a weakening of legal and policing institutions. In a few of the studies, disaster relief actors were forced to consider how to preserve humanitarian space in light of mixed conflict and disaster contexts, or the prominent role of the military coordinating and/or participating in disaster relief efforts.

26. In general, the natural disasters heightened the protection risks facing women, children, older persons, people with disabilities, and other vulnerable groups specific to a country context (religious or ethnic minorities, indigenous groups, landless, etc.). Another common protection concern throughout the relief efforts was the lack of consultation with affected communities, and the inconsistent provision of information about planning and response efforts. Overall, the studies underscored the central importance of strong government capacity to prevent and effectively respond to protection risks at all stages of the relief efforts.

27. Many of the protection concerns in disaster contexts are the same as in conflict situations yet may have different sources, or means for addressing them. In an attempt to isolate and understand these nuances, this study roughly organizes the protection risks from the case studies under four headings: 1) Disaster related effects, 2) Delivery of assistance, 3) Exacerbation of pre-existing vulnerabilities, and 4) Recovery programming.

### **Disaster related effects**

28. The disasters in this study are exceptional in their level of death, displacement, and destruction. Combined, the six disasters killed roughly 700,000 people, internally displaced 15 million others, and caused billions of dollars in infrastructure damage and economic loss. The level of disaster preparedness and contingency planning affects the ultimate impact of a disaster. However in the examples explored in this study, even those countries with frequent exposure to a wide range of natural disasters were inadequately prepared to respond to disasters of this magnitude.

29. The disasters did not only kill and injure individuals. Some pushed entire villages into the sea, debilitated government response capacity by destroying capital cities, or salinated huge tracts of agricultural land. Others decimated roads, ports, and bridges within a matter of days or even seconds. With destruction on such a massive scale, protection risks from natural disasters do not disappear immediately after the emergency phase. Disasters pose both primary and secondary hazards, the first being the direct risks caused by the principal disaster, with the second stemming from hazards like flooding, landslides, aftershocks, or industrial accidents such as chemical spills or nuclear leakage.

30. Different disasters pose varying threats. In many cases, the effects of cyclones and typhoons can be predicted with people in affected areas warned and evacuated in advance. However, tropical storms and floods can impact larger numbers of people due to their wide geographic scale, as was the case in the Pakistan floods, which affected 20 million people. Others disasters, such as earthquakes and tsunamis give only seconds in terms of warning, and often result in the greatest number of deaths and injuries.

#### *Death or injury*

31. The location of the disaster also affects the potential impact. Recalling the definition presented earlier, a natural hazard is not considered a disaster if it does not result in casualties or infrastructure damage. However, when disasters strike densely populated urban areas, as was the case in the Haiti earthquake, the impact can be devastating. Within 60 seconds the earthquake in Haiti killed over 230,000 people and injured 300,000 others. The 2005 earthquake in Pakistan killed 73,000 people, while the Indian Ocean Earthquake-Tsunami killed over 300,000 people in nine countries. In general, women and children are 14 times more likely to die from a natural disaster than men.<sup>20</sup>

32. Particularly following earthquakes, people are commonly trapped beneath rubble and collapsed buildings. Rescuing trapped or stranded individuals to save as many lives as possible is the primary protection concern in the immediate aftermath of a disaster. For example, during the immediate response to the Pakistan earthquake, rescue workers attempted to free people trapped under debris or in isolated areas, with rescue efforts measured in hours and days. Thousands also suffered from severe injuries, including paralysis and lost limbs.<sup>21</sup>

33. In other disasters, such as flooding or hurricanes, potentially affected populations may have warning to avoid death or injury. While in some situations individuals flee of their own accord, in other situations, authorities may facilitate individuals and communities to leave disaster prone or affected areas through evacuations. While governments first have a responsibility to try to prevent the displacement through information and preparedness measures, in the event of imminent danger, evacuations should be facilitated. In many situations, it is the poorest people who are in most need of evacuation assistance.<sup>22</sup> Individuals should not be forced to leave against their will except under extreme situations

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<sup>20</sup> ISDR, "Disaster Through a Different Lens: A Guide for Journalists Covering Disaster Risk Reduction," 2011.

<sup>21</sup> Approximately 700 people had spinal cord injuries, requiring on-going support. "Forgotten 2005 quake victims still need help," IRIN, 12 August 2011. <http://reliefweb.int/node/440546> (accessed: 2 September 2011)

<sup>22</sup> Elizabeth Ferris, "Protecting Civilians in Disasters and Conflicts" The Brookings Institution, Policy Brief #182, March 2011, p. 3.



justified by law and where it is absolutely necessary to save their health or life. If possible, affected individuals should be informed about the evacuation.<sup>23</sup>

34. In all of the case studies, humanitarian actors were concerned about the risks associated with secondary hazards such as aftershocks, landslides, or flooding. After earthquakes, the potential of strong aftershocks further damaging already weakened buildings and infrastructure ensured that physical security remained a priority throughout the relief and recovery phase. For example, in Indonesia, a severe aftershock on Nias Island killed 960 people, and damaged or destroyed some 45,000 houses.

35. Relief actors also attempted to guard against a potential second wave of deaths from a lack of food or shelter, and insufficient medical care for injuries. In flooded areas in the Philippines, Myanmar, and Pakistan, specific concerns arose about the health risks arising from stagnant water, cramped living conditions, and a lack of sanitation facilities in affected communities, some of which remained flooded for more than five months.<sup>24</sup> In almost all of the disasters, humanitarian assistance prevented a second wave of deaths or illness. Unfortunately in Haiti, inadequate water and sanitation facilities contributed to a cholera outbreak that began in October 2010, and ultimately killed over 5,000 Haitians.<sup>25</sup>

36. In conflict zones, unexploded ordinances or dislodged mines may pose additional risks. In Sri Lanka, mine clearance experts conducted rapid assessments in eight heavily mined districts and began recovering dislodged mines and unexploded ordinances. In the end, however, the risk was not as great as expected.

#### *Internal displacement*

37. Each year, natural disasters force millions of people to seek safety from affected areas. Following a disaster, IDPs generally stay in relatively close proximity to their homes in officially designated evacuation centres or camps, public buildings such as schools, spontaneous camps and settlements, or with host families. Although the majority of IDPs are able to return home as soon as the immediate effects of the disaster no longer pose security risks, it is not uncommon for some IDPs to remain displaced for months or even years, pending a durable solution.

38. Although disaster-induced internal displacement is clearly included within the Guiding Principles on Internal Displacement, many governments and even some humanitarian actors do not explicitly recognize IDPs within disaster contexts. For example, while the Government of Sri Lanka did not object to applying the IDP label to disaster-displaced populations, the Government of Indonesia, stated that internal displacement only referred to conflict displaced persons. Similarly, the Government of Pakistan generally reserved the IDP description for conflict-affected internally displaced persons.

39. During the 2005 earthquake, the Government of Pakistan only officially recognized displaced people living in the 48 camps comprising over 50 tents, but still referred to the inhabitants as “affected populations” as opposed to internally displaced persons. Likewise,

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<sup>23</sup> IASC *Operational Guidelines on the Protection of Persons in Situations of Natural Disasters*, p. 15-16.

<sup>24</sup> OCHA, “Philippines Flash Appeal 2009 (Revision),” 16 November 2009, p. 1.

<sup>25</sup> The cholera outbreak was an Asian strain, likely carried inadvertently into Haiti by international workers. Haitians had no immunity to the disease.

Pakistanis displaced by the floods in 2010 were grouped with other affected populations, and collectively called “flood affectees.”<sup>26</sup>

40. Some international humanitarian actors also hesitate to draw attention to the human rights concerns of IDPs. Rather than being differentiated as a sub-group, IDPs are included in many reports as “homeless” or “affected populations.” This practice has changed over the years towards a wider recognition of disaster-induced displacement, as reflected in the case studies. Even so, reluctance remains. For instance, while greater attention was paid to IDPs in the 2010 Pakistan flood response as compared to the earthquake, detailed descriptions of IDP protection concerns were still limited, particularly those living with host families or spontaneous camps.

41. Regardless of the label, IDP populations frequently move between government run camps, host families, spontaneous shelters, and their areas of origin. In Sri Lanka, for example, some IDPs had moved two to three times within only a few months. This constant movement makes assistance extremely difficult to plan, with IDPs living with host families the hardest to locate. In many countries, IDPs moved to avoid being a burden on host families and to access humanitarian and recovery assistance. Some IDPs, particularly in Sri Lanka and Pakistan, had been previously displaced due to conflict.

42. In Haiti, approximately 600,000 IDPs left Port-au-Prince to live with families in the countryside as recommended by the government, which was seeking to reduce urban congestion. Those without host families sought shelter in the Provinces’ public buildings such as schools. However, protection monitoring found that IDPs living outside of camps received less assistance than those in camps, and faced overcrowded living conditions, which later prompted many IDPs to seek aid in urban camps.

### *Psychological impacts*

43. In a matter of seconds, a person could lose their entire family, home, social support network, and economic livelihood in the aftermath of a disaster. Men, women, and children may all face severe psychological trauma from losing family members and friends, and surviving the large-scale destruction. Five years after the Pakistan earthquake, one man named Zahoor Khan recalled the events, and said, “I will never be able to forget my wife and teenage daughter who were killed after our house collapsed. The sounds of their screams haunt me, but my priority now is to care for my younger daughter and son who survived. I have moved on with life.”<sup>27</sup>

44. The cyclical nature of disasters such as typhoons, hurricanes, and flooding also cause additional stress, as affected populations anticipate future destruction and losses. In Myanmar, for example, survivors faced significant psychological stress in the days, months, and even years following the cyclone. An inter-agency real time evaluation found that for the first few months following the disaster survivors were in a state of shock. However, over

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<sup>26</sup> Riccardo Polastro, Aatika Nagrah, Nicolai Steen & Farwa Zafar, “Inter-Agency Real Time Evaluation of the Humanitarian Response to Pakistan’s 2010 Flood Crisis,” DARA, March 2011, p. 26. The IDP definition continues to be disputed by some Government of Pakistan institutions, most notably the MFA and the Economic Affairs Division, that deny the existence of such of IDPs in the country. NDMA, on the contrary, makes reference to IDPs in most of its official documents. See <http://www.ndma.gov.pk/>

<sup>27</sup> “Forgotten 2005 quake victims still need help,” IRIN, 12 August 2011. <http://reliefweb.int/node/440546> (accessed: 2 September 2011)

time this developed into nervousness of future disasters.<sup>28</sup> Likewise, given the large economic and social stress caused by the effects of the typhoons, protection actors in the Philippines identified the need to provide community based psychosocial assistance, particularly since the typhoons recur annually.

*Lost or destroyed legal documentation and records*

45. Large-scale disasters frequently destroy both government and personal documentation and legal records. Displaced individuals also often leave behind personal identity documents, residency permits, birth and marriage certificates, and land title records.

46. Not having legal documentation can result in serious problems, as witnessed in every case study. In Myanmar, inability to present appropriate documents meant that people could not receive travel permits, enrol their children in school, apply for jobs, or access vital services, such as medical care.<sup>29</sup> Similarly, of the 10 percent of Haitians who lost their national identity cards in the earthquake,<sup>30</sup> many still had not received replacements one year later, creating obstacles for receiving state services and participating in elections. Pakistani government compensation schemes during both the earthquake and the floods also required national identity cards. There, protection assessments found that women (particularly single women and female heads of household) were the most likely to lack appropriate documentation.

47. Replacing these documents following disasters was often a time consuming process as governments generally lacked expedited procedures for replacement. In Myanmar, as in other countries, individuals were asked to pay administrative fees even for the replacement of normally free documents such as national identity cards. There were also reports of Indonesian IDPs commonly being forced to pay bribes to receive new national identity cards or other documentation that should have been free.<sup>31</sup>

48. Without land title deeds, residency permits, marriage certificates, or birth certificates, land ownership and property disputes may be difficult to resolve, since families may find it hard to prove ownership or residency rights. Problems with legal documentation may also delay or prohibit IDP return. Lost documentation was a particular problem in Indonesia, where all of the government held land deeds were lost in the earthquake-tsunami.

49. Finally, failure to register children's births in the aftermath of a disaster can potentially result in *de facto* statelessness, among other issues. In Haiti, the majority of children born during the post-earthquake chaos did not immediately receive birth certificates. While legal assistance is not formally required to register births at a later date, the process is administratively complicated and most people lacked the financial resources to pay for assistance to navigate the system.

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<sup>28</sup> Robert Turner, Jock Baker, Zaw Myo Oo & Naing Soe Aye, "Myanmar: Inter-Agency Real Time Evaluation of the Response to Cyclone Nargis." OCHA, 17 December 2008.

<sup>29</sup> Susanne Ringgaard Pedersen, "End of Mission Report, SPO OCHA Myanmar," p. 7.

<sup>30</sup> Walter Kaelin "Droits des personnes déplacées dans leur propre pays à Haiti: Mémorandum fondé sur une visite de travail à Port-au-Prince", 12-16 Octobre 2010.

<sup>31</sup> Laurel Fletcher, Eric Stover & Harvey Weinstein, *After the Tsunami: Human Rights of Vulnerable Populations*, Human Rights Center, UC Berkeley, 2005, p. 94.

## *Livelihoods*

50. The destruction of infrastructure has severe consequences for livelihoods. Businesses, government buildings, and agricultural fields can be damaged beyond repair, or require significant investments to return them to pre-disaster capacity. The cumulative impact of several smaller disasters, such as the series of tropical storms that hit Haiti prior to the earthquake, can also destroy livelihoods. As a result, even people who have remained in their homes may be in desperate need of humanitarian assistance.

51. Following the tsunami, aid agencies reported that after overcoming the initial shock of the disaster, many people were able to quickly start reopening small businesses and restaurants.<sup>32</sup> Thus, early support provided through quick impact projects (QIPs) by humanitarian and development actors in disaster response efforts can play an important role in supporting individual and community efforts to restart livelihoods.

52. Even so, protection concerns linked to lost livelihoods were common in the case studies. For example, following the typhoons in the Philippines, some 500,000 farmers in Northern Luzon also lost their livelihoods when floodwaters destroyed agricultural fields.<sup>33</sup> In Sri Lanka, ensuring access to livelihoods was more of a concern during the relocation of communities to create buffer zones to avoid the effects of a future tsunami, with fishermen expressing concerns about being moved far away from shorelines. Amnesty International also reported that livelihoods activities in Sri Lanka primarily focused on male-oriented income generating activities, rather than those for women.<sup>34</sup> In the absence of livelihood opportunities, women and girls, in particular, may resort to negative coping mechanisms, such as exchanging sex for food, which is discussed below.

## **Delivery of humanitarian assistance and programming**

53. The previous section outlined the protection risks that emerge as a direct consequence of a natural disaster. This section explores protection risks that may develop in the way governments, international and national actors, including NGOs and civil society, deliver emergency relief and assistance.

## *Humanitarian access*

54. Although the majority of the humanitarian relief efforts in this study were well funded, precisely because of the scale and visibility of the disasters,<sup>35</sup> various factors still limited humanitarian access to affected populations. These factors include devastation from the disaster itself, government policies restricting humanitarian actors' access, and pre-existing security concerns due to ongoing armed conflict.

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<sup>32</sup> OCHA, "Indian Ocean Earthquake-Tsunami 2005 Mid-Term Review of the Flash Appeal," p. 44-46, and 118.

<sup>33</sup> OCHA, Philippines Flash Appeal 2009 (Revision), p. 7.

<sup>34</sup> Amnesty International, "Sri Lanka: Waiting to Go Home: the plight of the internally displaced," June 2006, p. 33.

<sup>35</sup> For more information about funding disparities between disasters, please see Elizabeth Ferris and Daniel Petz, "A Year of Living Dangerously: A Review of Natural Disasters in 2010," Brookings Institution, April 2011, and Elizabeth Ferris, "Natural Disasters and Human Rights: Comparing Responses to Haiti and Pakistan," The Brookings Institution, Presentation at the Centre for Human Rights and International Justice, Boston College, 3 November 2010, p. 2-3.

55. Following the earthquake in Pakistan, humanitarian assistance in the emergency phase was greatly hindered by mountainous terrain, aftershocks, and landslides that blocked roadways. In Indonesia, many international aid workers had difficulty obtaining visas, while in Sri Lanka, clearance of humanitarian assistance through customs was slow.<sup>36</sup> The Government of Sri Lanka was also hesitant to have humanitarian actors associated with the tsunami-affected tourist areas in the south and southwest for economic reasons. In Myanmar, the Government was initially slow to allow international staff access cyclone-affected areas.

56. Armed conflict had an impact on relief efforts in both tsunami-affected countries. Although national authorities were officially open to international aid workers, the lingering effects of the conflict and the UN's own security rules restricted access to some areas and increasingly affected access over time.

57. In Indonesia, during the first months following the tsunami, Aceh Province was still in a state of civil emergency. Under UN security rules, Banda Aceh was in Phase III, with other areas of Aceh placed under Phase IV for essential staff only. Due to stated fears about potential security incidents, the Indonesian military required humanitarian organizations working outside of Banda Aceh to travel with military escorts. There were also incidents of harassment and shootings of humanitarian workers by unknown assailants.<sup>37</sup> In Sri Lanka, despite initial cooperation, the Government and the Liberation Tigers of Tamil Eelam (LTTE) ultimately failed to reach an agreement on the distribution of tsunami aid, which in turn posed difficulties for aid actors to access LTTE-dominated areas in the north and east.<sup>38</sup>

#### *Identification of most vulnerable individuals and groups*

58. Given the humanitarian imperative to provide assistance as quickly as possible, speed was often prioritized over common assessments to identify vulnerable groups needing additional support. Protection monitoring systems were also difficult to establish.

59. The logistical challenges in accessing populations had a direct impact on humanitarian organizations' ability to accurately identify vulnerable groups or individuals. For example, during the initial days of the tsunami operation, the wide geographic scale of the disaster, lack of telecommunications equipment, and challenges in directly accessing communities forced aid agencies to rely on estimates and data largely provided by military actors, since local actors generally lacked baseline information given destruction of records and reduced staff capacity.<sup>39</sup> In Haiti, initial needs assessments were conducted remotely through rough estimates and aerial surveys using satellite imagery.<sup>40</sup> In Myanmar, the delay in allowing international humanitarian access meant that aid agencies were not able to immediately establish data collection mechanisms.

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<sup>36</sup> OCHA, "Indian Ocean Earthquake-Tsunami 2005 Mid-Term Review of the Flash Appeal," p. 118.

<sup>37</sup> Two aid workers were shot during the relief efforts in the summer 2005. Laurel Fletcher et al, *After the Tsunami*, p. 38.

<sup>38</sup> *Ibid*, p. 93.

<sup>39</sup> For example, in Indonesia, "Initially the US military turned down UNHCR's requests to make one of its helicopters available for assessment missions. This situation eventually changed after 12 January when the US military began carrying out its own assessment flights and sharing data with other actors on the ground." UNHCR Regional Representation, "UNHCR's Emergency and Reconstruction Programme in Aceh and Nias," Jakarta, Indonesia, 30 November 2007, p. 18.

<sup>40</sup> Nicole Rencoret et al. "Haiti Earthquake Response: Context Analysis." p. 23.

60. Another systematic challenge across all of the case studies was that even when needs assessments were conducted, the data was not disaggregated by age and gender. Most operations also lacked the capacity to identify IDPs living in host families or in urban areas. The large number of actors collecting multiple sets of data also posed challenges, given overlapping information and difficulty in identifying and prioritizing vulnerable groups.<sup>41</sup>

61. Humanitarian actors also commonly disagreed over the content and target populations of the assessments, resulting in additional delays, confusion, and multiple data sets.<sup>42</sup> In Haiti, a more detailed set of inter-cluster Rapid Initial Needs Assessments for Haiti (RINAH) was conducted in the following months. However, the large amount of data was expensive to collect and slow to be released.<sup>43</sup>

62. The prevalence of poverty in Haiti, and the urban displacement also made it difficult to distinguish those in need of humanitarian assistance due to the earthquake from the urban poor, as both groups displayed significant vulnerabilities. Agencies also struggled to agree upon displacement criteria in light of the complexity of IDPs living in urban and rural environments, host families, and camps.

63. Combining these factors with the normal logistical challenges following a major disaster, it proved extremely difficult for agencies to identify vulnerable groups or individuals in need of special assistance and support. During the Pakistan earthquake response, in part due to the limited number of protection actors, the identification of vulnerable groups largely correlated to agency mandates and the geographic location of operations. As a result, protection activities primarily concentrated on women and children, and displaced people living in officially designated camps, despite thousands of Pakistanis living in unorganized settlements and with host families.

64. Notably, the protection actors in the Pakistan flood response identified older persons and people with disabilities as a priority group requiring specific support. Protection actors in the Philippines also developed a Displacement Tracking Matrix for people displaced in officially recognized evacuation centers, but humanitarian agencies as a whole lacked a system to identify people with special needs and respond to their specific protection and assistance requirements.

#### *Accessibility of humanitarian assistance*

65. Difficulty in identifying vulnerable groups had a direct impact on protection challenges that arose during distributions of food, shelter, and NFIs. In an effort to distribute assistance quickly, particularly early on in a disaster relief operation, aid distributions mechanisms were often not set up to address the specific needs of women, child-headed families, older persons, or people with disabilities.

66. For example, in Haiti, distribution mechanisms, such as airdrops, initially did not take into account the more vulnerable members of society who were not strong enough to carry

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<sup>41</sup> OCHA, "Indian Ocean Earthquake-Tsunami 2005 Mid-Term Review of the Flash Appeal," p. 43.

<sup>42</sup> For example, the Pakistan flood response as described in Ann Kristin Brunborg, "End of Mission Report (PROCAP), SPO UNHCR Pakistan," 18 August 2010 to 10 February 2011, p. 3.

<sup>43</sup> The 128 staff members, 18 assessors, 23 helicopters, and 51 vehicles involved reportedly cost 3 million USD. Nicole Rencoret et al. "Haiti Earthquake Response: Context Analysis." p. 25.

large food parcels or struggle amidst large crowds.<sup>44</sup> The practice of dumping distributions in the Pakistan flood response commonly excluded women and children from accessing non-food items (NFIs) during distributions. Older persons and people living with disabilities also had challenges receiving assistance.

67. Aid distributions also commonly failed to adapt to local cultural considerations. During both emergencies in Pakistan, distribution mechanisms were inconsistent with the local practice of “purdah,” which requires separating men and women. As a result, women were largely dependent on male elders, guardians or extended families members to access assistance. Distribution times and locations were also not widely communicated.

### *Discrimination*

68. Discriminatory access to assistance, both intentional and unintentional, emerged as a common protection concern throughout the case studies. Discrimination resulted from a variety of reasons, including practical operational restrictions, government policies identifying certain groups, political affiliations, corruption, ethnic or religious affiliation, and impacts of ongoing armed conflict. Protection actors during the Pakistan flood response identified twelve different groups that had been subjected to discrimination.<sup>45</sup> Because many of these groups are based upon pre-existing protection vulnerabilities, they are discussed in more detail in the next section.

69. A common, and understandable, occurrence throughout the case studies was to prioritize communities based upon geographic accessibility. For example, in Pakistan, humanitarian agencies faced restrictions due to massive infrastructure damage as well as insecurity in conflict-affected areas.<sup>46</sup> As a result, isolated communities within KPK and other provinces received less aid than those closer to major cities, such as Peshawar.<sup>47</sup>

70. IDPs living outside of official government camps also commonly received different levels of assistance than those living in unofficial or spontaneous camps, or with host families. For example, during the Pakistan earthquake, the Government of Pakistan only officially recognized displaced people living in official camps, leaving hundreds of thousands of Pakistanis living in some 1,000 spontaneous camps without official assistance.

71. In Haiti, displaced people living in urban areas with host families, or with families in rural areas did not receive the same level and standard of assistance as those in camps. As a result, within three months after the disaster, many people returned to camps in Port-au-Prince to access services, causing further congestion and making it difficult to encourage IDPs to find solutions outside of the camps.<sup>48</sup>

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<sup>44</sup> Francois Grunewald & Andrea Binder, “Inter-agency Real-Time Evaluation in Haiti: 3 Months after the Earthquake” Global Public Policy Institute, 31 August 2010

<sup>45</sup> Rapid Protection Assessments reported systemic discrimination against 12 different groups. These include: 1) women, 2) children, 3) people with disabilities, 4) older people, 5) Afghan refugees, 6) chronically ill people, 7) low caste groups, 8) Christians, 9) Hindus, 10) landless or other land related problems, 11) Pakistani citizens without national ID cards, and 12) other socially marginalized groups such as people living with HIV/AIDS. See Ann Kristin Brunborg, “End of Mission Report (PROCAP), SPO UNHCR Pakistan,” p. 4.

<sup>46</sup> Notably, humanitarian space was compromised in KPK, FATA, and Baluchistan. Riccardo Polastro et al , “Inter-Agency Real Time Evaluation,” p. 37.

<sup>47</sup> Ibid, p. 38.

<sup>48</sup> Francois Grunewald & Andrea Binder, “Inter-agency Real-Time Evaluation in Haiti”. Nicole Rencoret et al. “Haiti Earthquake Response: Context Analysis. “

72. In Sri Lanka, discrimination between IDPs displaced due to the natural disaster and those previously displaced by the conflict was a central concern of the tsunami relief operations. For example, even within Tamil areas, IDPs displaced by the tsunami in Sri Lanka received relief packages and more assistance finding durable solutions than conflict IDPs with similar needs.<sup>49</sup>

73. By December 2005, all tsunami IDPs had received transitional shelter with basic sanitation, washing facilities and paths. However, conflict IDPs were still living in substandard “welfare centres,” where many had been living for over ten years. This disparity also contributed to tensions within local communities such in as Batticaloa District, where transitional shelters built for tsunami IDPs were destroyed, supposedly by conflict IDPs.<sup>50</sup>

74. Political affiliations and personal relationships also resulted in a prioritization of certain groups over others. Pakistanis in both disasters were concerned about political or personal interests influencing aid distribution to particular provinces or communities. In the Philippines, aid agencies reported that aid distributions at the local level were often influenced by political affiliations, and created challenges for aid agencies attempting to prioritize assistance to vulnerable groups.<sup>51</sup> In the weeks immediately following the disaster, there were reports of the Indonesian military and local government officials either keeping the best assistance for themselves, or not delivering the assistance at all. In Sri Lanka, southern tourist areas of the country received disproportionately more assistance than Tamil areas.<sup>52</sup> While some of the disparity can be explained by challenges in securing access, political and economic considerations also played a role.

#### *Conditions in evacuation centres, collective centres or camps*

75. Ensuring that evacuation centres and camps met international standards was found to be difficult in each of the case studies. The challenge is understandable. Particularly following a sudden-onset emergency, hundreds of thousands, if not millions, of people immediately need safe places to seek shelter.

76. Haiti, with the epicentre of the earthquake so close to the capital city, faced extreme challenges in relation to living conditions in camps. The earthquake displaced approximately 2 million people, with the majority living in over 1,000 spontaneous camps in Port-au-Prince. Given the amount of rubble and debris, large-scale camps were impossible to plan. Not unlike other case studies, hundreds of overcrowded spontaneous camps formed, almost all with substandard conditions in terms of sanitation, lighting, and shelter. The majority of the IDP camps also lacked sufficient child-friendly areas. Even after six months, only a few of the camps had dedicated camp managers.

77. Limited joint patrols by the United Nations Stabilization Mission in Haiti and Haiti National Police following the earthquake did not curb the violence and insecurity in the camps that included rape, theft, and assaults by gangs and escapees from prison. Some IDPs

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<sup>49</sup> Amnesty International, “Sri Lanka: Waiting to Go Home”, p. 19.

<sup>50</sup>Ibid, p. 18.

<sup>51</sup> Riccardo Polastro et Al, “Inter-Agency Real Time Evaluation,” p. 35.

<sup>52</sup>Laurel Fletcher et al, “After the Tsunami,” p. 63.



complained that military and civilian police prioritized the security of humanitarian aid workers and distribution convoys over the security of Haitians.<sup>53</sup>

78. During the Indian Ocean earthquake-tsunami, government-run camps in both Indonesia and Sri Lanka were overcrowded and failed to meet international SPHERE standards for shelter, water, and sanitation. Inadequate lighting and toilet facilities for women were a common concern, as was ensuring equitable distribution of assistance amongst the different camps.<sup>54</sup>

79. The long duration of the displacement, as IDPs waited for organizations to construct permanent shelter, also resulted in dilapidated tents that needed to be replaced pending transitional and permanent shelter. Security was also a concern, with reports of attempts by the LTTE to abduct children, and attempted sexual violence.<sup>55</sup> A UNICEF and UNHCR survey reported that some families would send women and girls to sleep in the homes of friends and relatives, rather than staying in the camps at night.<sup>56</sup>

#### *Preservation of humanitarian space*

80. Logistical challenges in the aftermath of a major disaster often prove beyond the operational capacity of humanitarian agencies and civilian responders, particularly in the first hours and days. As such, national and foreign militaries often play a prominent role in early relief efforts. While some quickly hand over coordination responsibilities to civilian authorities once the situation has stabilized, in some contexts such as the Pakistan earthquake, the military remained largely in control of national coordination efforts even during the recovery phase. The case studies highlighted potential protection challenges in maintaining humanitarian space for, particularly in operational contexts amidst an ongoing conflict.

81. Prior to the tsunami, the Indonesian military was known to have committed human rights abuses during the conflict. During the tsunami response, the military controlled some aid distribution, which potentially intimidated disaster victims. Aid organizations reported incidents when IDPs and other civilians were harassed or beaten because they did not support the military.<sup>57</sup> In Indonesia, the military administered barracks were located next to military and police posts.<sup>58</sup> During the early stages of the response, given security conditions, the military also required international aid organizations to travel outside of Banda Aceh with a military escort.

82. In Sri Lanka, following the tsunami, Amnesty International reported that, “the Deputy Inspector General Eastern Range claimed that camps for tsunami-displaced people [had]

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<sup>53</sup> Patrick Duplat & Emilie Parry, “Haiti: From the Ground Up,” p. 2.

<sup>54</sup> OCHA, “Indian Ocean Earthquake-Tsunami 2005 Mid-Term Review of the Flash Appeal,” p. 117.

<sup>55</sup> Laurel Fletcher et al, “After the Tsunami,” p. 62.

<sup>56</sup> UNICEF and UNHCR, “Rapid Assessment: Concerns and Preferences of Tsunami Affected IDPs in Ampara, Galle and Jaffna Districts”, April 2005, p. 20.

<sup>57</sup> According to one report, the military forced survivors to clear dead bodies and debris from the streets, prioritized assistance and rescue for their own family members, looted stores, stole gold off the bodies of victims, restricted freedom of movement by forcing IDPs to stay in military constructed barracks. Laurel Fletcher et al, “After the Tsunami,” p. 37.

<sup>58</sup> Ibid, p. 36.

become common sites for shooting or grenade attacks on the security forces by the LTTE, as it [was] easy for those responsible to hide among the residents of the camp.”<sup>59</sup>

### *Participation of affected populations*

83. In all of the case studies, affected populations, and IDPs in particular, were consistently denied a meaningful and inclusive opportunity to contribute to planning and response activities. The absence of the affected population’s views may have also contributed to the unequal distribution of assistance, discussed above.<sup>60</sup>

84. In his report on the protection of IDPs following the tsunami, Walter Kälin emphasized the importance of consulting IDPs throughout all stages of the response. He acknowledged that consultations were difficult in the early stages of a relief effort, given that populations were often in a state of shock. However, he noted the consultations are essential during the recovery and reconstruction phase to ensure that humanitarian and development actors find durable solutions to displacement.<sup>61</sup>

85. As it became clear that the displacement in the Philippines would be protracted, the Camp Coordination and Camp Management (CCCM) Cluster noted the need for enhanced IDP registration, improved camp management structures, and a plan that linked camp closures with a sustainable durable solutions strategy.<sup>62</sup> Yet IDPs in evacuation centres were generally not consulted on their preferences and means for finding a durable solution.

86. Similarly, in spring 2009, the Government of Myanmar began implementing a policy to relocate and combine villages, either because they were in disaster prone areas or too thinly populated to justify administrative support. This policy, however, was not expressly communicated to affected communities, who were not permitted to participate in the planning process.<sup>63</sup> It was also implemented without consulting or coordinating with the UN and other humanitarian partners.

### **Creation and exacerbation of vulnerabilities**

87. Four of the six countries included in the study had pre-existing insecurity in the disaster-affected areas, which complicated the post-emergency setting. For example, the general breakdown in social structures and economic stress in Haiti following the earthquake contributed to exacerbating the insecurity. Most perpetrators of violence could act with impunity since both the Haitian Nation Police and the judicial system lacked the strength and resources to enforce the rule of law effectively.

88. The delivery of aid to certain individuals and communities also exacerbated local tensions, and in some situations ended in violence. In Indonesia, following the severe aftershock on Nias Island, groups of men reportedly threatened villagers in Bozihona demanding a share of the financial assistance received.<sup>64</sup> Perceived disparities in assistance

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<sup>59</sup> Amnesty International, “Sri Lanka: Waiting to Go Home,” p. 14.

<sup>60</sup> Laurel Fletcher et al, “After the Tsunami,” p. 95.

<sup>61</sup> Walter Kalin, “Protection of Internally Displaced Persons in Situations of Natural Disaster,” 27 February to 5 March 2005, p. 21.

<sup>62</sup> OCHA, Philippines Flash Appeal 2009 (Revision), p. 11.

<sup>63</sup> Susanne Ringgaard Pedersen, “End of Mission Report, SPO OCHA Myanmar,” p. 8.

<sup>64</sup> UNHCR Regional Representation, “UNHCR’s Emergency and Reconstruction Programme in Aceh and Nias,” Jakarta, Indonesia, 30 November 2007, p. 46.

also contributed to tensions within local communities in Batticaloa District, Sri Lanka, where transitional shelters built for tsunami IDPs were destroyed, supposedly by conflict IDPs, who had generally received a lower level of assistance.<sup>65</sup>

### *Gender based violence*

89. Psychological stress, increased poverty, cramped living conditions, and the general environment following large scale natural disasters often contribute to a rise in sexual and gender based violence (SGBV), both in camp settings as well as in host families. Over time, as food and other assistance began to end, there were reports in all of the case studies that some women increasingly turned to “survival sex” as a coping mechanism.

90. The precarious social and economic living conditions following the earthquake in Haiti exacerbated the countries’ widely recognized pre-existing challenges of SGBV and domestic violence. Inadequate camp management, insufficient lighting, and the lack of gender separated bathrooms increased the risk of SGBV.<sup>66</sup>

91. Similarly, though on a much lesser scale, protection monitoring in Myanmar indicated increased incidents of sexual and domestic violence, forced prostitution, and sex and labour trafficking in cyclone-affected areas.<sup>67</sup> Field assessments with affected populations also noted incidents of forced early marriage and the perception that women were increasingly compelled to exchange sex for food or money.<sup>68</sup>

92. SGBV issues were very sensitive in Pakistan, with some protection actors concerned that a poorly executed protection response could exacerbate problems, and in extreme circumstances perhaps result in honour killings.<sup>69</sup> Despite concerns, only a few cases of sexual and gender-based violence were reported during both the earthquake and flood response.

93. Some NGOs in Sri Lanka claimed that violence against women did occur, but that women did not report the incidents to the police.<sup>70</sup> More commonly recognized in Sri Lanka was the exacerbation of violence against women in the home commonly linked to men who were unemployed and traumatized by the tsunami and conflict, facing increased poverty, stress, and higher use of alcohol.<sup>71</sup> NGOs also reported sexual abuse within extended families living together in cramped conditions.

### *Children*

94. In the immediate chaos following both earthquakes and cyclones, the separation of families and children was a key protection risk. During the emergency phase children also faced a heightened risk of malnutrition or disease from a lack of appropriate food or poor

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<sup>65</sup> Amnesty International, “Sri Lanka: Waiting to Go Home”, p. 18.

<sup>66</sup> For example in one clinic alone, Médecins Sans Frontières reported 68 cases of rape during March 2010.

<sup>67</sup> Susanne Ringgaard Pedersen, “End of Mission Report, SPO OCHA Myanmar,” p. 10.

<sup>68</sup> “Women’s Protection Assessments: Post Cyclone Nargis, Myanmar,” May 2010.

<http://reliefweb.int/node/361181> (Last accessed: 23 September 2011)

<sup>69</sup> Michelle Berg, “End of Mission Report (PROCAP),” UNHCR Pakistan, 10 April to 2 August 2011, p. 12.

<sup>70</sup> Amnesty International, “Sri Lanka: Waiting to Go Home”, p. 17.

<sup>71</sup> For example, a local government official in Batticaloa acknowledged link between alcohol violence and sexual abuse, but said that problems would be reduced when families moved to single family transitional shelters. Ibid, p. 17.

sanitation. Protection actors also sought to maintain access to education and to prevent child labour and trafficking.

95. In Haiti, over 100,000 children were left without parental support because they were either orphaned or separated from their families. The Protection of Children and Women Cluster in Myanmar registered 1,884 separated and unaccompanied children, with some 800 of the children reunited with close or extended family members.<sup>72</sup>

96. Over time, financial constraints or family separation also put children at greater risk of being placed in social institutions.<sup>73</sup> For example, in Myanmar, as economic conditions worsened in the weeks following the disaster, Save the Children reported a rise in the number of parents or caregivers putting children in the care of the Department of Social Welfare or religious institutions in the hope that they would receive education and assistance.<sup>74</sup>

97. Child trafficking and illegal international adoptions also emerge as key risks immediately following the disaster, but also as time passes and economic conditions worsen. For example, in Pakistan during the flood response, two incidents of organized sexual abuse and trafficking of boys and girls in camps eventually compelled UNHCR, working with the Pakistani military, to close and relocate the entire camp after other interventions were unsuccessful.<sup>75</sup>

98. While the open Haiti-Dominican Republic border was helpful in facilitating the distribution of humanitarian aid and access to urgent medical attention, incidents of child trafficking also increased.<sup>76</sup> Even before the earthquake, it was not uncommon for Haitian children to be sent to the Dominican Republic as domestic servants (“restaveks”), to beg, or for sex work.<sup>77</sup> However, after the earthquake, ongoing economic pressures forced even more parents to give their children to traffickers with the promise of education and a better life.

99. Child trafficking or abduction was not reportedly a problem in Indonesia. However, in Sri Lanka, pre-tsunami trafficking of girls and boys continued, although data did not indicate a spike following the disaster.<sup>78</sup>

100. Family separation and post-disaster conditions also place children at greater risk of forced recruitment into armed forces. While child abduction in the aftermath of the tsunami was rare, there were reports in Sri Lanka of LTTE efforts to abduct children from IDP camps in Northeastern Province.

101. During the reconstruction phase, the protection risks often shifted to concerns about child labour and the disruption of education. Three months after the Indian Ocean Tsunami,

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<sup>72</sup> Susanne Ringgaard Pedersen, “End of Mission Report, SPO OCHA Myanmar,” p. 11.

<sup>73</sup> Save the Children, Child Protection in Emergency Report, 3 May – 28 June 2008

<sup>74</sup> Ibid.

<sup>75</sup> Ann Kristin Brunborg, “End of Mission Report (PROCAP), SPO UNHCR Pakistan,” 18 August 2010 to 10 February 2011, p. 5.

<sup>76</sup> Nicole Rencoret et al. “Haiti Earthquake Response: Context Analysis” ; Zapater, J. “End of Mission Report: Earthquake Situation in Haiti” 15 February 2010-13 March 2010; Bryan Schaff, “Trafficking, Sexual Exploitation of Haitian Children in the Dominican Republic on the rise,” Haiti Innovation, 24 October 2010.

<sup>77</sup> Prior to the earthquake, an estimated 2,500 children were trafficked per month. Since the earthquake, the rate is estimated to have increased. United States State Department, “Trafficking in Persons Report 2010.”

<sup>78</sup> Laurel Fletcher et al, “After the Tsunami,” p. 67.

authorities reported that 90 percent of Indonesian<sup>79</sup> and 85 percent of Sri Lankan children had returned to school. However, in Sri Lanka one year later, a significant number of children had dropped out of school to work, reportedly because the transitional shelter sites were too far away from schools.<sup>80</sup> In Haiti, school attendance also fell given the distance of schools from the camps or an inability to pay school fees.<sup>81</sup>

102. In Pakistan, boys in particular were found to undertake employment, such as brick making or working in small hotels and mechanic shops, to supplement family incomes.<sup>82</sup> Resuming education was also difficult due to the large number of schools damaged by the floods, or which continued to be occupied by IDPs.<sup>83</sup>

#### *Older persons*

103. Older persons often require caregivers in light of limited mobility and chronic illnesses. As a result, they may require special assistance during evacuations, and if separated from their families or caregivers, may require assistance to access distributions in evacuation centres and camps. Older persons may also have specific nutritional requirements, need transportation to access medical care, or need accommodation in shelter structures.

104. In Myanmar, although older persons were generally well looked after by the affected population, the death or displacement of family members and caregivers meant that many older people required special assistance to help erect tents, access medical care, and receive food and other relief items.<sup>84</sup>

105. With the loss of family members, a number of older persons also became primary caregivers to children. Therefore, they may require additional support and livelihood opportunities.

#### *People with disabilities*

106. As with older persons, persons with disabilities may require special support in relation to evacuation, accessing assistance, and adapting to emergency and transitional shelter. These special needs were often ignored in disaster response efforts. In Myanmar, some 86,000 people with disabilities were affected by the cyclone, and needed special assistance for transportation, housing, medical care, livelihoods, and psychosocial care. Yet, the majority of sectors did not mainstream the specific needs of people with disabilities or older persons within their emergency response.<sup>85</sup>

107. Sudden-onset disasters such as earthquakes and tsunamis also cause a large number of injuries, and can subject thousands of people to new disabilities. In Haiti, some 5,250 people suffered disabilities due to earthquake injuries. This included a significant number of injuries from the earthquake that required amputations, as well as an estimated 400 cases of tetraplegia (paralysis from the neck down). People with new disabilities need prioritized

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<sup>79</sup> OCHA, "Indian Ocean Earthquake-Tsunami 2005 Mid-Term Review of the Flash Appeal," p. 52.

<sup>80</sup> Amnesty International, "Sri Lanka: Waiting to Go Home," p. 37.

<sup>81</sup> Ibid.

<sup>82</sup> Protection Cluster Pakistan, "Rapid Protection Assessment Khyber Pakhtunkhwa Province," 22-29 September 2010, p.23.

<sup>83</sup> Ibid, p. 24.

<sup>84</sup> Susanne Ringgaard Pedersen, "End of Mission Report, SPO OCHA Myanmar," p. 11.

<sup>85</sup> Ibid, p. 12.

access to medical assistance and physical therapy, specific transitional shelter solutions, and support to access humanitarian assistance.

#### *People living with HIV/AIDS*

108. The severe disruption of social services following a disaster places individuals in need of continual medical care at risk, particularly people living with HIV/AIDS, who require carefully regimented access to anti-retroviral therapy.

109. At the time of the earthquake, two percent of Haitians were living with HIV/AIDS, with some 19,000 people receiving anti-retroviral therapy.<sup>86</sup> The earthquake interrupted these important treatments. Camps also lacked the appropriate facilities and privacy to receive and store the medication. Medical workers were also concerned that HIV positive people may turn to sex work to meet their basic needs, putting the larger population at greater risk of contracting HIV.

#### *Other pre-existing vulnerabilities and inequalities*

110. In addition to the groups described previously, each country in the study had its own specific pre-existing vulnerable groups. The disasters served only to exacerbate these inequalities and protection risks. For example, in the Philippines, the typhoons aggravated discrimination against indigenous peoples<sup>87</sup> and the urban poor, who lost their housing, property and livelihoods during the disaster.

111. Tenants and landless people were also at a particular disadvantage during relief and recovery efforts in many of the countries, including Pakistan, Sri Lanka, and Indonesia. During the reconstruction phase in Pakistan, national authorities only provided reconstruction funds to landowners, not tenants. As a result, a large number of tenants faced long-term displacement given a lack of financial support to rebuild homes and access livelihood opportunities.<sup>88</sup>

112. Forced labour existed in Myanmar prior to the cyclone. The ILO's pre-existing memorandum of understanding with the Government allowed it the possibility to continue to monitor this practice, record the extent to which it was exacerbated by the cyclone, and develop a mechanism to respond to incidents of forced labour. However, despite national level policies eliminating forced labour, local level administrators did not consistently implement the policies.<sup>89</sup>

### **Early recovery and reconstruction**

113. After the immediate relief phase, governments are often keen to quickly restore a sense of normalcy. In smaller scale disasters, this can happen within days or weeks. However, in the mega-disasters reviewed in this study, recovery and reconstruction was a long-term effort, even spanning years. In addition to rebuilding essential infrastructure and re-

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<sup>86</sup> UNAIDS. "Building Haiti's AIDS Response Better." 29 January 2010.

<sup>87</sup> Specifically, these included the Aeta indigenous people, previously displaced by the 1991 Mount Pinatubo eruption.

<sup>88</sup> International Federation of Red Cross and Red Crescent Societies, *World Disaster Report 2010*, p. 65.

<sup>89</sup> Susanne Ringgaard Pedersen, "End of Mission Report, SPO OCHA Myanmar," p. 9.

establishing social services, national governments also commonly undertook disaster risk reduction initiatives.

114. While this study does not comprehensively review disaster recovery, reconstruction, and risk reduction strategies, it will address four principal protection concerns related to these activities that begin within the humanitarian and early recovery phase. These include the four inter-connected issues of: 1) durable solutions for IDPs, 2) forced evictions and camp closure, 3) housing, land and property issues, and 4) rezoning.

#### *Durable solutions for internal displacement*

115. Experience has shown that careful planning and consultations with IDPs are essential to ensure that return, local integration, or relocation to another part of the country ultimately result in durable solutions. In the case studies, governments often prematurely implemented camp closure and return strategies without taking the necessary steps to ensure the process was voluntary, coordinating the strategy with humanitarian actors, or adequately addressing potential protection risks in return or relocation areas.

116. Following both disasters, the Government of Pakistan wanted to return to normalcy as quickly as possible, and declared an end to the relief phase with little consultation with international partners. As a result, durable solutions planning focused primarily on return for those in officially recognized camps, excluding those in unofficial camps or living with host families.

117. Many IDPs wanted to return home to reclaim their land, protect housing rights, or preserve remaining structures. Others were eager to leave the crowded conditions in host families' homes or in other temporary housing situations. However, IDPs in Pakistan, as in many of the other case studies, faced a number of challenges in return areas, including destroyed infrastructure and damaged housing.

118. Some areas were simply uninhabitable due to residual flooding, or ongoing insecurity in some flood-affected return areas. Land tenure or property disputes, road conditions and lack of accessibility, lack of health care and sanitation facilities in the area, limited access to food and water, and the threat of future disasters, also posed significant challenges to sustainable returns.

119. Similarly, in Myanmar, one month after the disaster, the Government began closing the IDP camps and settlements to prepare for the upcoming school year, the rice planting season, and the national referendum.<sup>90</sup> The cyclone had rendered many fields unsuitable for farming, destroying large amounts of food stock, seed, and agricultural equipment. Yet, the Temporary Settlements Group reported that all of the camps had been dismantled by the end of June 2008, although it was not clear whether the returns had been voluntary, and no long-term durable solutions strategy had been prepared.<sup>91</sup> Instead, reports indicated that IDPs were encouraged to leave the camps without information as to whether the return areas had suitable levels of social services and shelter to support durable returns.

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<sup>90</sup> Ibid, p. 4.

<sup>91</sup> Ibid.

120. Notably in Sri Lanka, the Government, UNHCR, and other partners had developed a national strategy to find durable solutions for all tsunami-affected IDPs.<sup>92</sup> A UNICEF and UNHCR joint survey team met with tsunami-affected IDPs to understand their wishes for durable solutions.<sup>93</sup> As of April 2005, the majority consulted said that return was not an option because of the Coastal Buffer Zone policy, lack of housing, fear of another tsunami, or the stress of losing a loved one. Fishermen who relied on close access to the sea for their livelihoods were most likely to want to return. As for relocation, IDPs expressed concerns about ensuring access to livelihoods, education, and assistance, and remaining in close proximity with their community members.

121. Even assuming a durable solution was found for a majority of IDPs, in many of the case studies a residual number of IDPs remained displaced. In Haiti, according to one report, three months after the earthquake, host families in rural Papaye still had an average of 20-26 people living in their homes.<sup>94</sup>

122. <sup>95</sup> One month after the typhoons hit the Philippines, the Government reported that return was not a durable solution for 350,000 displaced people because their homes, many of which had been significantly damaged or destroyed, were in flood prone areas. However, despite the absence of alternative relocation sites,<sup>96</sup> there was still pressure to close evacuation centres to return public buildings, particularly schools, to their normal use.<sup>97</sup> Consequently, in some instances slum dwellers were prematurely returned to areas that lacked sustainable levels of water, electricity and livelihood opportunities. <sup>98</sup> By April 2010, some 25,000 people were still living in evacuation centres or other facilities, with the Government and international actors lacking a clear resettlement strategy.<sup>99</sup>

#### *Forced evictions and camp closures*

123. In some cases, IDPs and other affected communities were forcibly evicted from camps, public buildings or other inhabited buildings. Forced eviction was a particular problem in Haiti's urban areas. As of September 2011, approximately 70,000 people had been forcibly evicted from IDP camps despite UN attempts to work with the Government to stop the practice.<sup>100</sup> Many of the camps were on private land, and property owners want to avoid camp dwellers from gaining unofficial rights to the land, and thus prohibiting owners from

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<sup>92</sup> UNHCR and others noted that similar political will to support durable solutions for conflict IDPs did not exist in June 2005. Amnesty International, "Sri Lanka: Waiting to Go Home", p. 38.

<sup>93</sup> UNICEF and UNHCR, "Rapid Assessment: Concerns and Preferences of Tsunami Affected IDPs," p. 13.

<sup>94</sup> Patrick Duplat & Emilie Parry, "Haiti: From the Ground Up," p. 3.

<sup>95</sup> Approximately 24 percent of the homes in flood-affected areas (190,000) had been seriously damaged, with 16 percent of the damaged homes beyond repair. OCHA, "Philippines Flash Appeal 2009 (Revision)," p. 12.

<sup>96</sup> OCHA, Philippines Flash Appeal 2009 (Revision), 16 November 2009, p. 6.

<sup>97</sup> The Education, Protection, CCCM, and Shelter Clusters initially held competing positions on school closures. While education actors wanted schooling to begin as quickly as possible, others argued for the need to find durable solutions for the displaced families. Riccardo Polastro, et al. "Inter-Agency Real Time Evaluation," p. 37.

<sup>98</sup> The Government reportedly relocated a total of 1,286 families.

<sup>99</sup> Interestingly, UNHCR reported that IDPs from the 1991 Pinatubo volcanic eruption had also still not found a durable solution, emphasizing the challenge of protracted displacement in disaster situations.

<sup>100</sup> "Haiti: UN concerned at forcible evictions of quake survivors from camps," UN News Centre, 13 September 2011. <http://www.un.org/apps/news/story.asp?NewsID=39526&Cr=haiti&Cr1=> (last accessed: 16 September 2011)



rebuilding or returning the land to its prior use. Landowners reportedly used armed guards or gangs to threaten people into abandoning the camps.<sup>101</sup>

124. Some IDPs following the Pakistan floods faced pressure from the local government and the military to return home. In some locations, local authorities reportedly cut off food assistance in an attempt to force IDPs to leave camps.<sup>102</sup> Others were told to evacuate schools or other public buildings so that services could resume.<sup>103</sup>

#### *Housing, land and property*

125. Ensuring adequate housing is a primary protection concern during the early recovery phase. However, many housing, land and property challenges develop when actors attempt to implement transitional and permanent housing programs. Political, social, and other factors may also create barriers.

126. In Pakistan, IDPs faced significant property losses from the floods, including destroyed homes, businesses, and other sources of livelihoods, such as farmland and livestock. The disasters only exacerbated Pakistan's pre-existing land and housing disputes, an extremely complicated Land Act, the lack of squatter's rights, and the practice of bonded labour. A continued lack of dispute resolution mechanisms, lost documents, and destroyed government records exacerbated these challenges.

127. In Sri Lanka, land and property challenges, a highly disputed issue within the conflict, were central obstacles to finding durable solutions for both the tsunami and conflict-affected IDPs. According to Amnesty International, "Concerns within government authorities and among other parties to ensure particular ethnic population balances in particular areas have been one of the main barriers to the effective resettlement or local integration of many conflict displaced people."<sup>104</sup>

128. In most countries, post-disaster housing plans favoured homeowners. In Indonesia, a clear land title was the basis of receiving permanent housing from many aid agencies. In Sri Lanka, although the Government insisted that compensation for tenants previously living in the buffer zone would receive the same resettlement compensation as landowners, there were reports that in areas such as Batticaloa, this policy was not systematically implemented.<sup>105</sup> Tenant farmers in Pakistan were also not able to benefit from compensation schemes for damaged land following either disaster, since the Government only deemed landowners eligible for assistance.<sup>106</sup> Six months after the earthquake, only 50 percent of Haitian renters whose homes were deemed safe for habitation had returned, primarily because they could no longer afford the rent.<sup>107</sup>

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<sup>101</sup> Vincent Kwesi Parker, *Mission to Haiti and the Dominican Republic*, 1-6 October 2010.

<sup>102</sup> Ann Kristin Brunborg, "End of Mission Report (PROCAP), SPO UNHCR Pakistan," p. 5, 13.

<sup>103</sup> Protection Cluster Pakistan, "Rapid Protection Assessment Khyber Pakhtunkhwa Province," p. 12.

<sup>104</sup> Amnesty International, "Sri Lanka: Waiting to Go Home," p. 27.

<sup>105</sup> *Ibid*, p. 31.

<sup>106</sup> Patrick Duplat & Emilie Parry, "Haiti: From the Ground Up," p.14.

<sup>107</sup> Elizabeth Ferris, "Haiti: Six Months On".

*Rezoning as a disaster risk reduction strategy*

129. Government policies to rezone territory in an attempt to mitigate death and destruction from future disasters also posed protection issues for IDPs, despite their well-meaning intention. In his report following the 2004 earthquake and tsunami, Walter Kälin noted that “the creation of such buffer-zones has to be done in a fair and non-discriminatory manner, balancing all relevant aspects, including geographical features, concerns for environmental protection, and impact on the livelihoods of traditional communities or indigenous peoples.”<sup>108</sup>

130. Government rezoning policies addressed multiple factors in an attempt to reduce future disaster risks. For example, following the earthquake-tsunami, Indonesia’s Coastal Design and Tsunami Mitigation Report had six key elements: 1) tsunami early warning system, 2) evacuation program, 3) construction outside tsunami inundation zones, 4) prohibition on housing within 500 meters from high tide, 5) places of safe refuge more than 5.5km from coast, and 6) land policies to facilitate transferring land titles for land in safer areas.<sup>109</sup>

131. While perhaps well intentioned, the implementation of these policies produced additional risks for relocated communities. In Sri Lanka, the implementation of the Coastal Management Zone policy forced thousands to move to transitional shelter as they waited for alternative permanent shelters. IDP homeowners from the affected areas were promised permanent housing close to their original home with access to essential social services. However, the government faced challenges in identifying land to build these homes.

132. The policy against rebuilding within the buffer zone was also inconsistently applied in that it barred small scale businesses and homes, but permitted hotels to rebuild if less than 40 percent had been damaged by the tsunami.<sup>110</sup> In February 2006, following numerous concerns, a Government agency revised the Coastal Management Zone plan to permit an additional 11,000 people to rebuild their homes rather than being relocated. However, as of June 2006, hundreds of thousands of others were still waiting for permanent shelter or relocation to a new area.<sup>111</sup>

133. Sri Lanka’s buffer zone policy also complicated existing challenges over land and property rights stemming from the conflict. Relocations affected sensitive ethnic distributions of the voting electorate. Amnesty International reported that in the early stages of the process more Sinhalese had been resettled than Tamils, exacerbating pre-existing tensions and challenges. There were also reports of Tamils land grabbing in areas that had been designated as a relocation site for tsunami-affected Muslim communities.<sup>112</sup>

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<sup>108</sup> Walter Kalin, “Protection of Internally Displaced Persons in Situations of Natural Disaster,” p. 23.

<sup>109</sup> UNHCR Regional Representation, “UNHCR’s Emergency and Reconstruction Programme in Aceh and Nias,” Jakarta, Indonesia, 30 November 2007, p. 26.

<sup>110</sup> Laurel Fletcher et al, “After the Tsunami,” at p. 64.

<sup>111</sup> Amnesty International, “Sri Lanka: Waiting to Go Home,” p. 6.

<sup>112</sup> *Ibid*, p. 28.

## Natural disasters and complex emergencies

134. The previous section outlined the broad range of protection concerns that arose in the six case studies, many of which commonly arise in both disaster and conflict emergency settings. This section will attempt to isolate the distinct characteristics of protection concerns in a disaster response, highlighting not only the most prominent protection risks, but also discussing how the broader humanitarian response to disasters differs from conflicts in crucial respects.

135. Many of the protection concerns outlined in the previous section are similar or the same as in conflict situations. These include problems of access to assistance by vulnerable/marginalised persons, lost documentation, disputed land and property rights, child protection concerns (e.g. separated children, loss of education), missing family members, and forced displacement. Increased risk of SGBV and psychological trauma, and exacerbation of pre-existing protection concerns caused by the stress and survival responses in natural disasters (e.g. increased harmful child labour, early marriage, domestic violence, survival prostitution) are also common in complex emergencies.

136. The distinction between these risks in natural disasters and complex emergencies arise in three general ways: 1) the source of the protection risks, such as the nature of the disasters themselves, 2) how emergency actors and mechanisms responded to disasters, and 3) how the protection risks could have been reduced or prevented.

137. This section discusses how protection risks commonly emerge in natural disaster situations, who the key disaster responders are, and how disaster relief efforts are commonly coordinated. The paper will then build on this analysis to explore the potential implications for how protection actors can develop strategies and activities to prevent or mitigate common protection risks in light of current disaster response mechanisms.

### **Characteristics of sudden-onset disasters**

138. The effects of a sudden-onset disaster, or one as large scale as the floods, are not unlike a sudden and severe aerial bombing attack. However, disasters make no distinctions between combatants and civilians, or military targets and civilian infrastructure. Natural disasters cause widespread destruction in a matter of seconds, rather than days or weeks of a military campaign. In less than 60 seconds, the 2010 Haiti earthquake left 230,000 people dead and still more severely injured. Statistically, women are more likely than men to be killed by the effects of natural disasters, particularly in contexts where women lack social and economic equality.<sup>113</sup>

139. Generally speaking, disasters differ from conflicts in two ways. First, in a natural disaster the protection concerns described above can all arise almost simultaneously across huge tracts of geographic territory. Some disasters such as typhoons, flooding, and landslides are generally seasonal, recurring each year with predictable effects, but can also cover large expanses of country. Rarely will a conflict instantaneously break out across such

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<sup>113</sup> Eric Neumayer & Thomas Plumper, "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, in the *IASC Handbook for the Protection of Internally Displaced Persons*, p. 484.

large territories, or to such an extent that all major infrastructure is simultaneously destroyed. Nor are conflicts as predictable in terms of timing or the clear identification of affected areas.

140. Secondly, threats to life and physical security do not immediately disappear after natural disasters. In the example of the two Pakistan disasters, following the earthquake, the humanitarian community faced the ongoing threats of aftershocks and mudslides. In 2010, while the floodwater receded in a matter of days in some locations, other areas were left submerged for weeks or even months, with stagnant water creating threats of waterborne and airborne diseases.<sup>114</sup> Both disasters partially damaged or destroyed about the same number of homes, over 1.5 million each, and devastated infrastructure and agricultural lands across a massive geographical area, creating immediate and long-term protection needs such as livelihoods and education.

### **Nature of protection risks**

141. Given the potentially vast destruction that overwhelms national and international response capacity, disaster response, particularly in the first hours and days following a sudden-onset disaster, has a clearer prioritization of protection needs in time: focusing first on lifesaving issues, and later on more procedural or legal issues. Accordingly, the IASC Operational Guidelines on the Protection of Persons in Natural Disasters outline the protection risks described in the previous section according to the priority in which they should be addressed by humanitarian actors. Lifesaving measures such as evacuations have first priority, while other protection concerns such as lost documentation and family unity can be addressed later once the immediate risks of the disaster have been averted.

142. Generally speaking, the potentially extended nature of the emergency response in a conflict situation does not demand such a highly prioritized response as in disasters. Instead, protection actors address multiple risks simultaneously. For example, during an armed conflict, continued fighting over months or even years poses a constant risk of bodily harm or gender based violence. Protection actors thus need to take steps to mitigate such risks, while at the same time address longer-term issues such as land and property rights or lost documentation.

143. This difference in the prioritization of protection risks in disasters leads to its own protection concerns. As discussed above, many of the protection concerns, at least in the initial period of the response, relate to the way humanitarian assistance is delivered and prioritized. Part of the problem relates to the clear operational urgency to deliver assistance as quickly as possible to all affected areas.

144. However, it is also partially due to the potential clash amongst humanitarian actors on whether the humanitarian response should be based upon a “rights based” versus “needs based” approach. Many disaster responders focus on the immediate life threatening needs (such as food, shelter and emergency medical care), but do not view other protection risks (such as sexual and gender-based violence and separated children) as lifesaving. Consequently, the speed of delivery is prioritized over ensuring the most vulnerable groups are identified, resulting in the second group of protection risks that emerge from the way in which humanitarian actors provide assistance. For example, in Haiti, one report found that in general, the majority of aid workers assumed that the needs of the older persons were

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<sup>114</sup> Riccardo Polastro et al, “Inter-Agency Real Time Evaluation”, p. 19.

mainstreamed into the general response, and as such, they did not receive specific assistance to meet their needs.<sup>115</sup>

145. The intensity of the early phase of the emergency response in disasters also places more focus on the initial phase of the response to the potential detriment of other protection concerns. As will be described in more detail below, literally thousands of humanitarian actors descend on disaster-affected areas, often diminishing in force after one to three months when the immediate threats of a disaster have been addressed.

146. Finally, both conflicts and natural disasters exacerbate pre-existing vulnerabilities. However, given the seemingly non-political nature of disasters, many disaster responders do not acknowledge or adequately address this fact, whereas humanitarian actors in a conflict situation are well aware of the potential consequences of religious, ethnic, or geographic discrimination in aid distribution or assistance. Disaster responders new to a country context may also simply be unaware of pre-existing social or political dynamics, focusing solely on the immediate effects of the disaster.

### **Role of national authorities**

147. With the exception of Haiti, the case studies highlighted the strong central role of national authorities in disaster response. National governments either had pre-existing disaster response mechanisms, or quickly established new government coordination bodies in the wake of the disasters. These highly centralized bodies, many run from within the Executive Office, also worked in close collaboration with the national military, a spectrum of line ministries, and national Red Cross and Red Crescent Societies.

148. According to an Overseas Development Study report, states have four roles and responsibilities for humanitarian assistance following natural disasters:

they are responsible for 'calling' a crisis and inviting international aid; they provide assistance and protection themselves; they are responsible for monitoring and coordinating external assistance; and they set the regulatory and legal frameworks governing assistance.<sup>116</sup>

149. Thus, as in conflict situations, the state has the primary responsibility to provide protection and assistance to its own citizens. Before international organizations can provide support, the government must request international assistance. The greatest distinction in disaster situations, however, is the fact that the state is not itself an actor in an armed conflict, unless the disaster occurs in a conflict zone.

150. Consequently, while the government may be an active perpetrator of human rights abuses in an armed conflict, in disaster situations the government generally assumes an active coordination and response role. Even so, in some situations, political factors, mistrust, or the desire to protect national sovereignty may make some governments reluctant to request international assistance.<sup>117</sup>

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<sup>115</sup> Nicole Rencoret et al. "Haiti Earthquake Response: Context Analysis," p. 29.

<sup>116</sup> Paul Harvey, "Towards good humanitarian government: The role of the affected state in disaster response," Overseas Development Institute, HPG Report 29, September 2009, p. 6.

<sup>117</sup> Ibid, p. 6-7.

151. The government's leadership role becomes more complicated in mixed conflict and disaster situations, as was shown in the examples of Sri Lanka, Pakistan, and Indonesia. A particular challenge in Myanmar was the initiative of some UN member states to draw on the "Responsibility to Protect" doctrine, usually reserved for situations of armed conflict, as the basis for providing international humanitarian assistance following the cyclone.<sup>118</sup>

152. However, protection actors working in disaster response generally have the opportunity to establish non-confrontational, collaborative relationships with government actors on protection advocacy, prevention and response issues. Even so, in the case studies, such as in the Philippines and Indonesia, where protection actors were not previously in the country, protection agencies found it difficult to identify suitable government counterparts, particularly amidst the chaos of the disaster. By comparison, UNHCR's longstanding relationship with the government in Sri Lanka allowed protection actors to initiate a wide range of protection activities for IDPs.

153. The case studies also showed the importance of local governments as the closest body to the affected populations. The large geographic scope of a major natural disaster often makes it difficult for aid agencies to reach all levels of government, particularly the local level. The challenge of establishing strong government working relationships is compounded by the fact that donor states are more likely to provide direct bilateral assistance to affected governments, as opposed to donating money through humanitarian organizations in a conflict. As a result, states have less of an incentive to coordinate activities and policies with international actors and processes.<sup>119</sup>

154. All of these factors point to the importance of establishing strong government relationships prior to a disaster striking a country, and ensuring that government actors are aware of and support potential protection activities in future situations of natural disasters.

### **Key actors in disaster response**

155. Disaster response efforts are characterized by a massive and often immediate surge of actors, including national and foreign militaries, civil authorities, international humanitarian and development organizations, the Red Cross and Red Crescent Societies, international and national non-governmental organizations, civil society, and the affected populations themselves. While security concerns and political sensitivities may restrict humanitarian access in conflict situations, these issues may be less prominent in natural disasters. Identifying and analyzing key international and national disaster actors is important in terms of understanding how certain protection concerns arise and the potential actions that may be needed to address protection risks, particularly when attempting to mainstream protection within other sectors of the humanitarian response.

#### *National and foreign militaries*

156. The most striking difference between complex emergencies and disaster response efforts is the prominent coordinating and assistance role of national and foreign militaries in the latter. Whereas humanitarian actors attempt to maintain separation from militaries in a conflict response, immediately after a disaster aid agencies may be dependent upon national and military forces for transportation, logistics and telecommunications support, and

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<sup>118</sup> For a discussion, see Paul Harvey, "Towards good humanitarian government," p. 12-13.

<sup>119</sup> OCHA, *UNDAC Handbook*, 2006

assessment information, as seen in the case studies. This dependence emerged due to the logistical challenges of collapsed physical infrastructure, but also because national militaries were the very first responders to a disaster, after the affected populations themselves.

157. In the major disasters considered in the study, international military assets and personnel contributed by other governments also played an essential role in the early stages of the response, particularly in countries such as Haiti, where national response capacity was weak.

158. Among disaster responders, the role of the military in coordinating the response is commonly accepted in the early phases. National and military actors conduct search and rescue operations, set up mobile health clinics, transport and deliver humanitarian assistance, collect initial data on affected populations, clear rubble and make immediate infrastructure repairs, and manage transportation hubs, such as airports and ports.

159. For humanitarian actors, and protection actors in particular, this collaboration can be challenging when trying to maintain humanitarian space, particularly in mixed conflict and disaster contexts. While the Oslo Guidelines provide guidance on how to engage with foreign militaries, with the Office for Coordination of Humanitarian Affairs (OCHA) providing support on civil-military relations, there are no equivalent international rules of engagement for collaborating with national militaries.<sup>120</sup>

160. This challenge was most prominent in the Pakistan emergencies, where the Pakistani military played a strong, central role during both the relief and recovery phase. For example, the UN Humanitarian Air Service collaborated with the Pakistani military and the US Navy to establish the Air Operations Cell.<sup>121</sup> During the early phase of the 2005 earthquake, international humanitarian actors felt uncertain about collaborating with the military, while many national organizations were not aware of humanitarian principles and the implications of working closely with the military.

161. A Feinstein International Center report found that in Pakistan UN organizations and international NGOs generally, over time, “‘put aside’ rules of engagement between the international aid community and the military,” primarily because humanitarian issues remained preeminent in the response over political considerations.<sup>122</sup> The report argues that this was possible because the Pakistani military quickly adapted to humanitarian “sensitivities,” and prioritised building relationships through coordination and communication.<sup>123</sup> Notably, the coordination in the 2005 response between aid agencies and the military was consciously downplayed to the public.<sup>124</sup>

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<sup>120</sup> Paul Harvey, “Towards good humanitarian government,” p. 11., and Stockholm International Peace Research Institute, *The Effectiveness of Foreign Military Assets in Natural Disaster Response*, 2008, p. 115.

<sup>121</sup> Andrew Wilder, “Perceptions of the Pakistan Earthquake Response,” p. 66.

<sup>122</sup> Wilder noted that compared to other countries in the Tufts study, “humanitarian objectives remained preeminent in the response to the devastating earthquake in Pakistan, whereas political objectives often trumped humanitarian objectives in the case studies conducted in conflict settings. Other difference, efforts to promote integrated or semi-integrated UN missions, whereas in the earthquake response the focus was on the Pakistan Army’s role in leading one of the largest and more integrated civil-military humanitarian operations ever conducted.” Ibid, p. 5-6, 59.

<sup>123</sup>Ibid, p. 6.

<sup>124</sup>Ibid, p. 59-60.

### *Other national and local actors*

162. Particularly in the early stages of disaster relief efforts, when humanitarian access to affected areas may be severely restricted or impossible, the role of local actors cannot be overstated. First responders in every case study included the affected population itself, local religious organizations, pre-existing civil society organizations, and new organizations which were spontaneously created. It is also important to recognize the scale of this support following a disaster, which can quickly turn into hundreds of organizations, whose participants may or may not have previous experience with disaster relief or protection.<sup>125</sup>

### *International Federation of the Red Cross and Red Crescent Societies*

163. The International Federation of the Red Cross (IFRC) and its national societies are the largest natural disaster humanitarian response network in the world.<sup>126</sup> Often officially cooperating with national governments as their “auxiliaries in the humanitarian field,”<sup>127</sup> the Red Cross is frequently one of the first responders to disasters, and their presence may continue well into the development phase. IFRC and the national societies’ activities range from community-based disaster preparedness through to long-term recovery and resilience.

164. Notably, IFRC and its national societies’ approach to disaster response is “based on needs but informed by rights.”<sup>128</sup> Thus, while IFRC is “convinced that human rights must be considered a crucial component of the regulatory framework for disaster response,” it has also taken the position “that not all practical problems can be solved through a rights-focused lens.”<sup>129</sup> However, while IFRC is not a member of the Global Protection Cluster, it has “called for national laws to prevent discrimination and human rights abuse in disaster response.”<sup>130</sup>

### *UN Disaster Assessment and Coordination Teams (UNDAC)*

165. Often within hours of a major disaster, governments request the UN to deploy a UN Disaster Assessment and Coordination (UNDAC) team. UNDAC teams sent by OCHA establish early coordination mechanisms for international assistance, conduct initial assessments, and may even draft the first Consolidated Appeal for the disaster. For example, the UN Emergency Relief Coordinator deployed an UNDAC team to Pakistan within 24 hours of the earthquake to establish international humanitarian coordination mechanisms. After three days, it had facilitated the launch of the Flash Appeal, a six-month emergency response plan.

166. Notably, protection is not mainstreamed with UNDAC tools, such as the UNDAC Handbook, which provides UNDAC teams with guidelines about how to conduct initial multi-sector assessments or to draft multi-sector situation reports. This has implications for

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<sup>125</sup> Elizabeth Ferris, “Humanitarian Perspectives on ‘Protection of Persons in the Event of Disasters’”

<sup>126</sup> For example, the International Federation received an unprecedented amount of money for the 2004 Indian Ocean Earthquake and Tsunami operation, totalling some 3.1 billion CHF, with 402 million (15 percent) spent during the emergency and relief phase. IFRC, “Federation-wide Tsunami 6.5-Year Progress Report,” 27 September 2011, p. 5-6.

<sup>127</sup> IFRC, “IDRL: Protection of persons in the event of disasters,” 30 October 2009. (Last accessed: 22 July 2011) [www.ifrc.org](http://www.ifrc.org)

<sup>128</sup> Ibid.

<sup>129</sup> Ibid.

<sup>130</sup> Roberta Cohen, “For Disaster IDPs: An Institutional Gap,” The Brookings Institution, 8 August 2008.



protection assessments, and planning for the first three to six months of a disaster response, since protection issues may not be represented in the first draft of the inter-agency strategy and appeal, as was the case in the Philippines, when broad protection issues were raised within international response plans only after UNHCR deployed protection staff.

#### *Development and disaster risk reduction actors*

167. Again, in all of the case studies, governments were eager to return to normalcy as quickly as possible. International development organizations are also eager to support. The absence of longer term political and security issues commonly found in conflict settings means that development actors such as UNDP, the World Bank, and regional development institutions such as the Asian Development Bank can initiate programming even as the immediate relief programming is taking place. This programming may or may not be undertaken in collaboration with humanitarian actors, or in consideration of potential protection issues such as finding durable solutions for IDPs.

168. Disaster risk reduction actors such as the UN International Strategy for Disaster Reduction (ISDR) have pre-established relationships with governments, and coordinate contingency planning and risk reduction activities for future disasters. However, protection analysis and tools, such as an age, gender and diversity mainstreaming approach, are not systematically applied within these tools and processes. For example, ISDR's 2011 Global Assessment Report on Disaster Risk Reduction, "Revealing Risk, Redefining Development," speaks broadly of "social protection," only briefly mentions internal displacement and children, and states that "gender and public awareness are not being adequately addressed" within disaster risk reduction strategies.<sup>131</sup>

#### **Concept and acceptance of protection**

169. Overall, the case studies highlight the tenuous acceptance of the concept of protection within disaster response efforts. From national governments to the traditional disaster responders described above, responses to protection language and activities varied between denial, hesitancy, and acceptance, with most standing on the side of hesitancy.

170. It might be thought that protection principles would be easier to understand and less politicized in a natural disaster as compared to a conflict situation.<sup>132</sup> Yet protection actors commonly encountered difficulty convincing humanitarian actors of the need to mainstream protection concerns within the other sectors. Many disaster responders view a human rights lens as unnecessarily politicizing the otherwise purely "humanitarian" nature of disaster relief.<sup>133</sup>

171. In general, human rights language is largely absent from national disaster laws.<sup>134</sup> Similarly, while a human rights based approach to emergency response is increasingly recognized, it is not completely accepted in Disaster Risk Reduction schemes. Some

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<sup>131</sup> ISDR, "2011 Global Assessment Report on Disaster Risk Reduction: Revealing Risk, Redefining Development," p. 7-10.

<sup>132</sup> 2005 earthquake response: absence of conflict or post-conflict operating environment meant that humanitarian concerns had priority, and did not need to be negotiated with political or peacebuilding priorities Wilder, p. 56.

<sup>133</sup> For a general discussion on the concept of protection in conflict and disasters, see Bryan Deschamp et al *Earth, Wind and Fire* p. 26-30.

<sup>134</sup> Roberta Cohen & Megan Bradley, "Disasters and Displacement: Gaps in Protection," p. 14.

governments may wish to avoid human rights language to evade being sued by their citizens if these rights are violated.

172. In some countries, such as Pakistan and Indonesia, humanitarian actors avoided or rejected overtly applying a human rights based approach to the disaster response. According to a study by Andrew Wilder on the 2005 Pakistan earthquake response, “many [Government of Pakistan] officials were uncomfortable with the language of human rights, and were reportedly reluctant to recognize the protection rights of IDPs.”<sup>135</sup>

173. Many Pakistanis themselves viewed human rights as Western political or cultural tools,<sup>136</sup> and some international humanitarian aid workers questioned the relevance of protection activities within disaster response efforts.<sup>137</sup> In an attempt to adapt to this environment, one senior official interviewed by Wilder said, “We focused on developing a structure to deal with protection issues but there was not a lot of interest... We tried to get protection viewed as non-threatening as it was viewed as a threat. We tried to get consensus by calling it ‘working on citizens’ issues.”<sup>138</sup>

174. Following the tsunami in Indonesia, the Government opened up Aceh province to international humanitarian actors, but with restrictions on addressing protection related issues. As a result, UNHCR, was forced to leave the Province on 25 March 2005 at the end of the emergency phase because of its protection mandate for refugees, despite the fact that it was providing only emergency and permanent shelter and not actively conducting protection activities. Following a severe aftershock only days later, UNHCR was requested to resume its emergency relief operations. However, the Memorandum of Understanding between UNHCR and the central government specifically stated that UNHCR’s role was “to support the recovery process with a comprehensive house reconstruction programme for Indonesia citizens as an exceptional measure due to the gravity of the natural disaster, and that it did not involve any work with refugees.”<sup>139</sup>

175. In Sri Lanka, UNHCR had functional, well-established, pre-existing working arrangements with the Government, the LTTE, and NGOs to address IDP protection issues arising from the conflict.<sup>140</sup> These relationships allowed UNHCR, UNICEF, and UNFPA, among others, to raise protection concerns within the disaster response. Notably, despite having strong IDP protection initiatives, UNHCR did not appeal for funds within the Flash Appeal for protection activities, but instead re-prioritized among previously planned activities.

176. In the case of the Pakistan flood response, a key issue for protection actors was challenging the fact that the Protection Cluster was not included within the national definition of “lifesaving clusters.”<sup>141</sup> Although the importance of protection activities to identify and prioritize those most in need of assistance was later acknowledged, the

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<sup>135</sup> Andrew Wilder, “Perceptions of the Pakistan Earthquake Response,” p. 38.

<sup>136</sup> Ibid, p. 41.

<sup>137</sup> Ibid, p. 40-41.

<sup>138</sup> Ibid, p. 36.

<sup>139</sup> UNHCR Regional Representation, “UNHCR’s Emergency and Reconstruction Programme in Aceh and Nias,” Jakarta, Indonesia, 30 November 2007, p. 7.

<sup>140</sup> Bobby Lambert & Caroline Pougin de la Maisonneuve, “UNHCR’s response to the Tsunami emergency in Indonesia and Sri Lanka, December 2004- November 2006,” UNHCR Policy Development and Evaluation Service, April 2007, p. 20.

<sup>141</sup> The Government initially wanted only “life-saving” clusters: Food and Nutrition, Health and WASH, with Shelter added later, following dissatisfaction with two previous uses of the Cluster Approach in Pakistan. See Ann Kristin Brunborg, “End of Mission Report (PROCAP), SPO UNHCR Pakistan,” p. 5.

Government of Pakistan initially only wanted “lifesaving clusters” activated.<sup>142</sup> The Inter-Agency Real Time Evaluation concluded that this may have in part been due to a conflict between the UN’s “right-based” approach to the emergency response that includes early recovery and durable solutions, versus the Government of Pakistan’s more “focused, short-lived option” of concentrating primarily on immediate, lifesaving needs.<sup>143</sup>

177. In the wake of the cyclone in Myanmar, the country’s political environment led most international humanitarian actors to believe that the Government would prohibit programmes addressing broad protection concerns. As a result, a protection cluster was not formally activated, and many humanitarian actors had a strong aversion to raising protection issues or attending protection coordination meetings under the Humanitarian Coordinator (HC)-led Vulnerability Group.

178. Protection activities thus formally focused on “non-threatening” protection issues such as the protection of women and children, older persons, and people with disabilities. However, through ongoing advocacy to clarify the meaning of protection in disaster response and the deployment of protection experts, the protection environment grew more open over time. By the end of the response, humanitarian actors were able to effectively address a wide range of protection concerns, including internal displacement, forced labour, lost documentation, and combined villages.<sup>144</sup>

179. In some situations, the absence of human rights based approaches appeared to stem from a lack of familiarity with applying a protection lens in natural disaster situations. In the case of the Philippines, Government organized the legal, institutional and coordination mechanisms around the categories of disaster preparedness, logistics, emergency shelter, aid distribution and relocation measures. While the Government was supportive of humanitarian actors undertaking protection activities, the absence of a designated government interlocutor created difficulties when the Protection Cluster sought to advocate for the integration of protection across the humanitarian and recovery sectors.<sup>145</sup>

180. Similarly, national human rights actors seemed disengaged more out of a lack of knowledge of protection concerns in disaster situations, as opposed to an unwillingness to address human rights issues. However, after the Protection Cluster initiated conversations on the subject, the National Human Rights Commission adopted a formal position acknowledging the human rights of persons affected by natural disasters. There were also informal reports that human rights NGOs began to explore their potential roles in the disaster response.

181. Amongst other disaster responders, the concept of protection was also contentious or misunderstood. For example, during the Pakistan flood response, many humanitarian actors did not view protection as a priority in the immediate response phase, even to ensure that

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<sup>142</sup> The United Nations Emergency Relief Coordinator, addressing which activities are “life-saving” for purposes of eligibility for funding from the UN’s Central Emergency Response Fund, has found a wide range of protection activities to be included in this definition, including profiling, registration, and documentation for affected populations, support for community-based protection mechanisms, psycho-social support, access to justice activities and legal advice, family tracing and reunification, advocacy, livelihoods, child protection, and prevention and response to SGBV. OCHA, “Central Emergency Response Fund: Life-Saving Criteria”, 26 January 2010.

<sup>143</sup> See Riccardo Polastro et al, “Inter-Agency Real Time Evaluation, p. 34 and p. 26.

<sup>144</sup> Susanne Ringgaard Pedersen, “End of Mission Report, SPO OCHA Myanmar,” p. 5.

<sup>145</sup> Protection cluster members in the Revised Flash Appeal noted that, “rights-based standards need to be established not only in the relief response but also for early recovery and rehabilitation processes.” OCHA, “Philippines Flash Appeal 2009 (Revision),” p. 13.

emergency distributions reached those most in need. One aid worker observed that a common sentiment was, “We have to do this quickly, so quality doesn’t matter.” Broader human rights issues were also difficult to mainstream.

182. For example, some humanitarian actors viewed SGBV as a pre-existing protection issue, rather than recognizing that the effects of the flood could create new SGBV concerns.<sup>146</sup> While the protection environment improved over the course of the response due to the Protection Cluster’s expanded participation and scope, the Cluster still lacked sufficient expertise to address protection needs, particularly at the local level.<sup>147</sup>

183. Even protection actors themselves may be confused about their role in a disaster response. In the 2011 Haiti Consolidated Appeal, the Protection Cluster noted the need to redefine protection in a way that did not overlap with the work of other clusters.<sup>148</sup> Confusion about the precise meaning of terms such ‘displacement’ and ‘affected’ and ‘non-affected’ populations also posed challenges for protection actors when trying to identify vulnerable groups in need of protection, not only in terms of advocacy, but also in analysing data collected by humanitarian partners.<sup>149</sup> In 2011 the Protection Cluster refined its terms of reference and strategy to focus on human rights by shifting to a community-based approach and attempting to strengthen rule of law. Again, the Cluster noted that few of its members had the appropriate protection expertise.<sup>150</sup>

### **Categories of people in need of protection and assistance**

184. Disaster responders generally apply different labels to vulnerabilities than are commonly used in conflicts. The most prominent categories used to describe those in need of humanitarian assistance in a disaster are “affected” populations, or “homeless.” This potentially implies a much larger group of individuals in need of protection and highlights the importance of applying a human rights based approach as opposed to one based upon specific population groups according to agency mandate.

### **Internal displacement**

185. As described previously, internal displacement was a common protection challenge in all of the case studies. The *IASC Handbook for the Protection of Internally Displaced Persons* describes four key characteristics of disaster-induced displacement as compared to conflict-induced displacement:

1. Disasters can be predictable, and the effectiveness of risk reduction is much greater.
2. Sometimes, pre-emptive evacuations are possible.

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<sup>146</sup> Michelle Berg, “End of Mission Report,” p. 23.

<sup>147</sup> Ibid, p. 8.

<sup>148</sup> Notably, a comprehensive protection strategy for natural disasters had been developed by the Protection Cluster in March 2009 to address the protection gaps identified following the 2008 hurricanes that left at least 800 people dead. Yet even at that time, a senior ProCap officer noted a lack of protection capacity and will to recognize the rights of displaced persons and affected populations, and to address protection across the response. See: “Stratégie Protection Haïti: Situation post catastrophe naturelle,” Cluster Protection, Port-au-Prince and Gonaïves, 25 March 2009, and Caroline Ort, “End of Mission Report, Haiti,” October 2008 to March 2009.

<sup>149</sup> Nicole Rencoret et al. “Haiti Earthquake Response: Context Analysis,” p. 26.

<sup>150</sup> OCHA, Haiti 2011 Consolidated Appeal, p. 97.

3. Reconstruction process often begins sooner, with opportunities for durable solutions potentially beginning within days.
4. Return may never be possible if the disaster renders home areas uninhabitable, or authorities determine areas are at risk of future disasters.<sup>151</sup>

186. Thus, a key characteristic of natural disaster-induced displacement is the potential for preventive protection measures. Also notable is that the majority of people are displaced for only a short period of time, as opposed to conflict situations where ongoing violence and insecurity preclude many from returning home or result in secondary, or repeated, displacement. Finally, disaster displacement in the case studies generally occurred suddenly (within hours and days), on a massive scale (with millions of people displaced), spanning huge swaths of geographic territory (in the case of the Pakistan floods, some 800,000 square kilometres).

187. It is important to emphasize, however, that disaster-induced displacement is not necessarily brief in duration. Within each of the disasters addressed within this study, large numbers of IDPs remained displaced for many months or even years, and were displaced multiple times. For example, in Haiti the majority of the urban population in Port au Prince remained displaced in camps well over a year after the disaster. Similarly in Sindh Province, Pakistan, nearly seven million people remained displaced five months after the initial flooding. In the Philippines, the UNHCR Office reported that durable solutions had not yet been found for the 1991 Pinatubo volcanic eruption survivors.

188. Because states should assume strong leadership in disaster response, in exercise of their primary responsibility, national authorities have the potential to be an important ally in responding to internal displacement. This may differ from conflict situations, when the government may in fact be the cause of forced displacement. After a natural disaster, protection actors may be able to work closely with the government to register IDPs, or perhaps consult more closely with governments on the development of camp closure guidelines.

189. Even so, as within conflict situations, governments are often quick to promote return for IDPs as soon as possible, often before conditions are suitable for sustainable return, resulting in numerous protection concerns. While the immediate threats of a disaster may disappear quickly, making reconstruction possible at an early stage, actors often underestimated the time required to reconstruct affected areas to a level that enabled return to be both safe and sustainable (requiring re-establishment of livelihoods and basic services). In the case of the tsunami operations in Sri Lanka and Indonesia, geological shifts in terrain, logistical challenges in importing building materials, and land and property disputes delayed the construction of permanent shelter for years, despite adequate financial resources. Finally, return to disaster-affected areas may never be possible due to the scale of damage or the potential of future disasters.

190. In Pakistan following the 2009 violence, humanitarian agencies were primarily concerned about premature IDP return due to ongoing insecurity. Similarly in the disaster responses, the longer-term impacts of the disaster had not been fully addressed in the return planning, with protection actors voicing concerns about inadequate levels of shelter, infrastructure, and social services in return areas. There was also little planning for alternatives when IDPs could not return home due to the land being uninhabitable or at risk of future disasters. Again, the lack of government recognition of IDPs following the disaster

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<sup>151</sup> IASC, *Handbook for the Protection of Internally Displaced Persons*, p. 484-485.

made it difficult to advocate for their specific protection needs under the Guiding Principles on Internal Displacement.

### **Role of contingency planning and disaster risk reduction**

191. Many disasters are seasonal, such as typhoons and flooding, and can be predicted in advance. For example, seasonal flooding can be expected and prepared for in order to minimise the damage to livelihoods and infrastructure and loss of life. In certain cases pre-emptive evacuations can be carried out if there is a protection imperative that does not conflict with the population's human rights.

192. In the case of sudden-onset disasters, however, there is often little or no advanced warning before the crisis strikes. Even so, in most countries prone to earthquakes or tsunamis it is still possible to undertake contingency planning and disaster risk reduction activities to mitigate the potential effects of a sudden-onset disaster.<sup>152</sup> While many of the deaths from disasters are difficult to avoid in the more immediate term, other protection concerns can be prevented or reduced where strong contingency planning and disaster response mechanisms are in place that mainstream protection practices within assistance delivery strategies. For example, during the relief efforts in Pakistan, protection-sensitive planning could have ensured that distribution methods were adapted to the cultural traditions of *purdah*, or that disaggregated data by age and gender was collected to help prioritize protection needs across the affected population.

### **Urban setting**

193. Earthquakes, flooding, tsunamis and other natural hazards are classified as disasters only to the extent that they “overwhelm the local response capacity and seriously affect the social and economic development of a region.”<sup>153</sup> When disasters strike urban areas, the protection risks can be particularly grave in dense, poorly constructed zones, as was the case with Haiti. An ISDR report cautioned that the global increase in the number of natural disasters, while linked to climate change and global warming, was also due to the combination of growing urbanization and poor urban planning that often leaves poorer people in densely crowded disaster prone areas.<sup>154</sup>

194. With more than half of the world's population living in urban areas, including 1 billion in slums or informal settlements, the potential for disasters affecting urban areas is increasing.<sup>155</sup> The challenges of protection under such circumstances extend beyond the difficulty of distinguishing IDPs and other disaster-affected populations from the pre-existing urban poor.

195. Following the Haiti earthquake, an evaluation team noted that urban disasters have “distinctive features of scale, density, economic systems and livelihood strategies, resource availability, governance and public expectations, large informal settlements, likelihood for compound and complex disasters and potential for secondary impacts on rural or regional

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<sup>152</sup> For example, ensuring construction practices and building codes reflect potential disaster risks, or pre-emptively relocating communities from disaster prone areas.

<sup>153</sup> IASC *Operational Guidelines on the Protection of Persons in Situations of Natural Disasters*.

<sup>154</sup> United Nations, 2009 *Global Assessment Report on Disaster Risk Reduction: Risk and Poverty in a Changing Climate*.

<sup>155</sup> ISDR campaign kit: *Making Cities Resilient 2010-2011: My city is getting ready!*

producers.”<sup>156</sup> Urban settings are also prone to higher costs of living, complex land and property disputes, and require carefully tailored shelter solutions.<sup>157</sup>

196. In the case of the Philippines, millions of poor rural families have migrated to Manila over recent years. Due to lack of resources, they were forced to settle in low-lying areas around waterways or lagoons – precisely the same areas most at risk of flooding in the city. Such patterns establish a direct link between poverty and vulnerability to disasters, which may be clearer in natural disasters than in complex emergencies.

### **Coping mechanisms and self-reliance**

197. Populations regularly affected by seasonal disasters such as typhoons, floods, and cyclones typically develop coping mechanisms to avoid exposure to or mitigate the negative impacts of disasters. Furthermore, although the trauma in the immediate days following a major disaster may make it difficult to actively include survivors in planning and response activities, research has shown that the participation of affected populations within planning facilitates overall recovery.<sup>158</sup> Consequently, protection actors should fully assess capacities and coping mechanisms throughout all phases of a humanitarian response (from contingency planning to durable solutions) to design appropriate protection support activities.

198. For example, in the Philippines, UNHCR observed the swift development of coping mechanisms soon after the disaster. Rural migrants in slums in Manila, having retained strong ties to their kin in their areas of origin, were able to temporarily or permanently return to these areas. Remittances to the Philippines by Filipino migrants increased dramatically shortly after the typhoons. Businesses in Manila and other areas not only donated extensively to relief efforts, but also did so in an organized and coordinated way. Inhabitants of flooded areas quickly developed alternative livelihoods, such as charging small amounts for transport in canoes. In terms of capacities, it is to be noted that a number of grassroots organizations in the slums of Manila belong to the International Federation of Slum Dwellers.

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<sup>156</sup> Nicole Rencoret et al, “Haiti Earthquake Response: Context Analysis,” p. 16.

<sup>157</sup> Ibid,

<sup>158</sup> Laurel Fletcher et al, “After the Tsunami,” at p. 99.





## UNHCR's role in natural disasters

199. UNHCR Representatives in the disaster-prone Latin American region recently concluded that, "The most effective way of acting in displacement situations caused by natural disasters is ensuring preparedness, including capacitating the authorities to intervene with protection sensitive emergency responses."<sup>159</sup> This is consistent with the nine Guiding Considerations which have been elaborated to shape UNHCR's engagement in natural disasters.

200. These considerations emphasize, first and foremost, that any engagement by UNHCR in natural disasters "serves to support the role and responsibility of the state." Given this posture, UNHCR has recognized that "consultation and coordination [with state and local actors] is paramount" and that "'support' of the state implies two parallel elements: support during the humanitarian response, as well as enhancing the capacity of local actors."<sup>160</sup>

201. To be most effective, such a response requires ongoing engagement with national and local government authorities before a natural disaster strikes. It also requires building stronger institutional relationships with key disaster response actors, such as IFRC, OCHA, and ISDR, to ensure protection mainstreaming in their response. It also means working closely with the disaster-affected communities themselves.

202. This section will explore how the specific nature of protection concerns in disasters potentially affect UNHCR institutionally, and in its three potential roles as a protection actor in natural disaster response efforts, whether as lead agency for the Global Protection Cluster, as a cluster lead at the national level, or as an operational partner.

### **Institutional implications**

203. Institutionally, a significant challenge will be defining the appropriate scope and value added of UNHCR's potential participation in disaster risk reduction, disaster response mechanisms, and contingency planning processes.

204. Currently, UNHCR is the only UN humanitarian actor not formally participating in disaster risk reduction efforts.<sup>161</sup> UNHCR staff members are also not systematically included in UNDAC training sessions or deployed in UNDAC teams. UNHCR will need to consider how best to include disaster risk reduction and populations' own resiliency efforts within protection programming even during the humanitarian relief phase, which is a challenge for all humanitarian actors.<sup>162</sup>

205. Policy challenges currently existing within refugee and IDP operations in conflict settings relate to an expanded notion of "affected populations," responding to crises in urban settings, and assisting IDPs living with host families or in host communities. These

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<sup>159</sup> UNHCR Bureau for the Americas Representatives Meetings: Summary of the Discussion, 14-18 February 2011.

<sup>160</sup> "UNHCR's role in support of an enhanced humanitarian response for the protection of persons affected by natural disasters," UNHCR Standing Committee 51<sup>st</sup> meeting, 6 June 2011, EC/62/SC/CRP.19.

<sup>161</sup> See ISDR, "Disaster Risk Reduction in the United Nations: 2011 Roles, mandates and areas of work of key United Nations entities," in which UNHCR is not mentioned. Notably, OCHA, OHCHR, UNICEF, WHO, and WFP all participate, with OHCHR providing substantive inputs on protection issues (p. 37-39).

<sup>162</sup> Nicole Rencoret et al, "Haiti Earthquake Response: Context Analysis," p. 18.

challenges will require further reflection in light of disaster response. Similarly, given the particular characteristics of disaster response, UNHCR will need to define the scope of its engagement in durable solutions, since strong national government capacity and the early presence of development actors could require a different level of institutional involvement to support durable solutions for internal displacement.

206. At the regional level, particularly in Asia and Latin America, UNHCR may need to work more closely with OCHA's Regional Offices that, among other responsibilities, support Resident Coordinator's offices with disaster response.<sup>163</sup> UNHCR could also participate in regional UNDAC training courses, or engage with disaster risk reduction processes to ensure that protection concerns are fully mainstreamed within policies and tools.

207. For example in Latin America, UNHCR Representatives concluded that to effectively engage on protection issues in disaster response, "Efforts should also be directed to consolidate the Regional Protection Working Group for Latin America and the Caribbean (RPWG-LAC) coordinated by UNHCR and to support of Humanitarian Networks and UN Emergency teams in high risk countries, such as Nicaragua and El Salvador."<sup>164</sup>

### **UNHCR as Global Protection Cluster Lead**

208. As lead of the Global Protection Cluster, UNHCR should continue its efforts to mainstream protection within the work of the other Global Clusters. To reach other key natural disaster response tools, the Global Protection Cluster should consider an initiative to work closely with OCHA to ensure disaster response tools such as the UNDAC Handbook include protection issues, and that UNDAC teams include protection experts. The Global Protection Cluster could also, for example, work with OCHA's Civil-Military Coordination Unit to discuss how best to respond to protection risks associated with the role of national and international militaries, particularly in mixed disaster and conflict settings, and the need to strengthen protection knowledge of military officials working in disaster relief efforts.

209. The Global Protection Cluster might also consider the extent to which it, as a collective entity (rather than as organizations in their separate capacities), may wish to contribute to global disaster risk reduction efforts coordinated by ISDR. An advantage of this preventative approach is its focus on building national capacity that, if effectively implemented, could reduce the need for large-scale protection assistance programmes in the event of natural disaster.

210. Initiating such activities is not an entirely new role for UNHCR. The Office is already participating in such processes in disaster prone areas. For example, UNHCR's Asia e-centre for training includes disaster training on protection issues, including the need to highlight protection considerations within disaster contingency planning processes. The Office also co-leads a regional Pacific Humanitarian Protection Cluster with the Office of the High Commissioner for Human Rights (OHCHR) as part of the Pacific Humanitarian Team in the Asia and Pacific.<sup>165</sup> In this capacity, UNHCR has deployed a protection expert to participate

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<sup>163</sup> See Kristine Peduto, "ProCap Madagascar End of Mission Report," 15 August 2010 to 14 February 2011, p. 13, which notes the importance of engaging with OCHA given its roles, responsibilities, and expertise in disaster response and internal displacement.

<sup>164</sup> UNHCR Bureau for the Americas Representatives Meetings: Summary of the Discussion, 14-18 February 2011.

<sup>165</sup> For a description and analysis of the Pacific Humanitarian Protection Cluster, see Susanne Ringgaard Pedersen, "End of Mission Report (PROCAP), SPO, OHCHR Fiji," 1 September 2009 to 29 February 2010, and

in national contingency planning processes and to advise on protection concerns in natural disasters. This is a model that could potentially be replicated in other regions, since the focus on prevention and protection mainstreaming prior to an emergency requires limited human and financial resources. Through the Global Protection Cluster, UNHCR has made available a 1.5 day training module for joint training of local, national and international actors in disaster response.

### **UNHCR as Protection Cluster Lead at the country level**

211. An effective Protection Cluster lead agency should support active engagement among relevant partners as appropriate at various stages of the humanitarian response: from contingency planning to early recovery initiatives that anticipate future disasters.<sup>166</sup> This, in turn, requires sufficiently strong relationships at the global, national and regional level to enable the Protection Cluster lead to effectively carry out its coordination, advocacy and field support responsibilities in relation to national Protection Cluster members.

212. Active engagement from a strategic planning and policy level is essential to reduce protection risks in the way humanitarian assistance is provided, as is the need to engage with government, military, Red Cross/Red Crescent Societies, ISDR, and other disaster actors to develop a dialogue and understanding of potential protection risks in a disaster. In addition to opening protection space, the case studies also showed the importance of having pre-established counterparts to address protection risks as they arise, either from the disaster itself, assistance delivery methods and policies, or the exacerbation of pre-existing vulnerabilities.

213. Thus, as cluster lead, this groundwork prior to an emergency requires strategic, but selective, participation in disaster related coordination and policy teams at global, regional, and national levels.

214. At a country level, mainstreaming protection into disaster response efforts at a strategic level may mean establishing relationships with Disaster Management Teams (where the Office is present), and participating in national contingency planning processes. Such contributions could facilitate the establishment of clearly defined roles and responsibilities within government line ministries for protection issues, mainstreaming of protection issues within other sectors' response plans, and identifying national protection actors with the capacity to provide protection assistance during an emergency.

215. Carrying out these activities does not mean that UNHCR would need to be present in every country, nor would it mean that UNHCR would need to lead the Protection Cluster in every national response. Instead, when requested, UNHCR protection advisors could be deployed from regional hubs to provide expertise, training, and advice during disaster planning and early warning processes.<sup>167</sup> In countries where it does take on cluster leadership, as noted in a previous study, it is important for the Office to dedicate the time

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OCHA, "The Pacific Humanitarian Team: An explanation of the structure and operations of the Pacific Humanitarian Team including the Cluster Approach, Humanitarian Reform, and the Inter Agency Standing Committee."

<sup>166</sup> Many of the conclusions in this section are also shared with previous studies on UNHCR's potential role in protection in disasters. See for example, Roberta Cohen & Megan Bradley, "Disasters and Displacement: Gaps in Protection," p. 15-16, and Bryan Deschamp et al. *Earth, Wind and Fire*

<sup>167</sup> UNHCR is already carrying out protection in disaster training exercises in Latin America working through the Regional Office in Panama. These kinds of activities were also supported by Roberta Cohen & Megan Bradley, "Disasters and Displacement: Gaps in Protection," p. 15.

and resources to fully execute its functions, noting that the response for a major disaster may extend over a year.<sup>168</sup>

216. Given the division of cluster leadership responsibilities in disaster situations, there is the strong likelihood that, as in the Philippines and Haiti, UNHCR will only lead the Protection Cluster. This could result in protection only being viewed as advocacy, and as a result the Protection Cluster lead as not having a clear operational and delivery role. In the Philippines, UNHCR invested time and effort to build positive and collaborative relationships with the CCCM, Shelter, and Education Clusters and to incorporate QIPs in its response strategy.<sup>169</sup> Thus, when it is acting as national Protection Cluster lead, UNHCR should also ensure visibility for its protection activities to establish credibility with other operational partners, and to support fundraising efforts for protection activities.

### **UNHCR as an operational protection partner**

217. To the extent that the protection risks are similar to those in conflict situations, UNHCR has the operational experience to develop protection activities in its areas of expertise as a strong contribution to the inter-agency protection response in support of national governments. These areas include forced displacement, legal aid, documentation, identification of vulnerable groups, response to SGBV, ensuring access to aid, and participatory assessment.

218. For example, the complex and diverse set of protection responses during the tsunami in Sri Lanka – from legal aid clinics to address land and property issues to advocacy to address discrimination in aid delivery – proved that the Office’s existing protection tools and expertise can identify protection risks in a post-disaster setting and develop effective protection activities in response.

219. UNHCR’s participatory approach, using age, gender and diversity mainstreaming, can help operational partners in a disaster response address many of the protection risks associated with the way humanitarian assistance is delivered, the exacerbation of existing vulnerabilities, and longer-term risks during the early recovery phase.

220. UNHCR’s expertise in IDP profiling and registration, durable solutions planning for IDPs, and its community based approach to assistance all respond to existing protection gaps in disaster settings. However, the diversity of those in need of protection and the specific nature of protection risks in a disaster generally require a broader community services approach than typically used in a conflict response, which some staff members may be unfamiliar with developing.

221. The Global Protection Cluster’s existing training module on protection in natural disasters, piloted twice in 2011, should now be widely offered to humanitarian country teams. The GPC has planned to turn the workshop-based training into an e-module as well. This will help ensure UNHCR staff members, as well as staff of national and international partners, are aware of the specific nature of disaster response, key operational actors, and the potential risks of disasters themselves. It will also raise awareness of how to incorporate contingency planning, disaster risk reduction (when appropriate), and recognition of affected populations’ own resiliency within protection activities.

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<sup>168</sup> Bryan Deschamp et al “*Earth, Wind and Fire*”, p. 43.

<sup>169</sup> Kate Pooler, Mission Report, 4 November 2009 – 28 January 2010.

222. It is equally important to have tools that allow deployed UNHCR staff to quickly establish protection programs and initiate activities. Providing staff with a list of potential protection programs and activities to include in a consolidated inter-agency Flash Appeal from the earliest stage of a disaster could greatly assist UNHCR to ensure funding for its protection projects, and their inclusion within the national response strategy. Precise descriptions of protection activities that transform the concept of protection into concrete activities will help demystify protection and build protection's visibility within the inter-agency response.

223. This leads to what is likely to be the greatest challenge for UNHCR as a protection actor in disaster situations: simply establishing UNHCR as a credible actor within the natural disaster response framework of institutional actors and processes. In an environment heavily focused on quickly saving lives, other operational partners have a tendency to brush protection inventions aside as "non-essential" or not "lifesaving." The case studies showed UNHCR's contributions of tents, non-food items, and Quick Impact Projects (QIPs) helped build UNHCR's credibility as an operational partner, and enhanced other protection activities.



## Conclusion

224. Protection risks following disasters are increasingly recognized and identifiable. Consistent with their primary responsibility, it is national governments who ultimately determine the extent to which protection risks can be effectively prevented, identified, and addressed in disaster relief efforts.<sup>170</sup> Thus, UNHCR should continue conversations with national and local governments where it is operationally engaged and establish strong relationships prior to a disaster striking a country.

225. As shown by the case studies, UNHCR's growing expertise on cluster leadership and internal displacement, in addition to its strong protection tools and capacity, have already enabled it to contribute meaningfully to an operational protection response in support of national authorities. Yet to enhance UNHCR's capacity to support to national governments, certain institutional and operational support would be necessary. Recommendations include the following:

### **Institutional Level**

- Clarify the Office's position in relation to disaster risk reduction and contingency planning as protection activities, and join inter-agency efforts accordingly.
- Adapt existing protection in natural disaster training for UNHCR staff members, ensuring it includes disaster risk reduction and contingency planning as protection activities.
- Support UNDAC global and regional training initiatives.
- Review UNHCR policies on urban displacement, durable solutions, populations of concern, and assistance to host communities in light of protection risks in disaster response contexts.

### **UNHCR as Global Cluster Lead**

- Continue to conduct inter-agency protection in natural disaster training courses, and further support protection mainstreaming within disaster response tools and guidance.
- Initiate discussions with OCHA to incorporate protection issues within UNDAC assessments, tools and training programmes.
- Initiate discussions with OCHA's Civil Military-Coordination Unit to address protection issues associated with national militaries' participation in disaster response.
- Further engage with IFRC to discuss the role of protection in disaster response efforts.

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<sup>170</sup> Roberta Cohen & Megan Bradley, "Disasters and Displacement: Gaps in Protection," p. 16.

## **UNHCR as Protection Cluster Lead at the country level in support of government's lead role**

Noting the importance of full coordination and consultation with governments:

- When present in a disaster prone country, establish relationships with national Disaster Management Teams. At the level of the UN, participate in contingency planning processes to ensure protection issues are mainstreamed.
- Identify protection counterparts with national, regional, and local governments.
- Ensure the participation of key local and civil society organizations within the Cluster.
- Publicize the protection activities of Cluster members, including UNHCR, to maintain operational credibility.

## **UNHCR as an operational protection partner to enhance local capacities**

- Specify UNHCR's areas of expertise and value-added in responding to protection risks in situations of natural disasters.
- Develop sample UNHCR protection interventions and project proposals for inter-agency consolidated Flash Appeal to assist staff members at the immediate onset of a natural disaster.
- When possible, contribute tents, non-food items, or Quick Impact Projects (QIPs) in response to identified discrimination or vulnerabilities in affected populations. Such activities can also build credibility for UNHCR as an operational partner and enhance the effectiveness of other protection activities.