

Disasters and Displacement: Gaps in Protection

By

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Introduction

Natural and human made disasters over the past decade have quickly become the leading cause of internal displacement. Although many persons can be expected in future to cross internationally recognized borders, especially when island states become submerged, the majority of those uprooted today by ‘sudden-onset’ disasters (floods, hurricanes, cyclones, landslides, earthquakes) are IDPs. In 2010, more than 42 million were reportedly displaced internally by such disasters, 90 percent by disasters associated with climate change.¹

If one were to add to these numbers those compelled to leave their homes by ‘slow-onset’ disasters or longer-term environmental problems (e.g. drought, desertification, rising sea levels, extreme temperatures, deforestation, land degradation), the total each year would be tens of millions more. Traditionally such migration has been considered ‘voluntary,’ but increasingly elements of coercion are being discerned. Indeed, environmental disasters have begun to challenge many of the long-standing conceptual, legal and organizational means of dealing with forced displacement. The international protection regimes set up for refugees and more recently IDPs either exclude or fail to focus sufficiently on environmentally displaced persons.

This article discusses the need to integrate human rights and protection concerns into disaster response and to better address the

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protection gaps arising for persons uprooted by slow onset disasters and for those seeking to cross international borders.

The Human Rights and Protection Framework

Introduced into the UN in 1998, the Guiding Principles² include as IDPs those displaced by natural and human made disasters, identify their rights and set forth the assistance and protection obligations of governments and other actors prior to, during and after displacement. The Principles encompass protecting the physical safety of IDPs, providing them with the basic necessities of life, and promoting the enjoyment of their fundamental economic, social, cultural, civil and political rights. 192 governments at the 2005 World Summit recognized the Principles “as an important international framework for the protection of internally displaced persons.”³

The Operational Guidelines,⁴ adopted in 2010 by the UN’s Inter-Agency Standing Committee (IASC), spell out the practical steps humanitarian actors can take to protect IDPs and other affected persons in environmental disasters.

Neither the Operational Guidelines nor the Guiding Principles apply to persons forced across borders by environmental disasters.

Challenges to Human Rights Protection

Lack of Conceptual and Definitional Clarity

To begin with, not all international experts and governments agree that persons uprooted by disasters are IDPs. An expert report to the UK government in 2005 recommended that the IDP concept be limited to persons displaced by violence because the causes and remedies of conflict-induced and disaster-induced displacement were different, making it “confusing” to include both in the IDP definition.⁵ A number of governments have also been reluctant to call persons uprooted by natural disasters IDPs because they basically perceive IDPs as those displaced by conflict⁶ or may not wish to apply the Guiding Principles to them.⁷

Even international organizations and NGOs that recognize disaster displaced persons as IDPs have largely preferred to focus on ‘conflict IDPs’. The UN High Commissioner for Refugees (UNHCR) did not, until the fall of 2009, propose expanding UNHCR’s role as lead coordinating agency for the protection of ‘conflict IDPs’ to include those uprooted by disaster.⁸ The IDMC, the premier agency for statistics on IDPs, counts only those uprooted by conflict in its annual report but since 2009 has begun to provide separate estimates for those uprooted by sudden-onset disasters.⁹

Excluded from these estimates are persons uprooted by slow-onset disasters because of the difficulty in determining at what point voluntary

migration from an area beset by rising sea levels, drought or desertification constitutes forced flight, requiring international attention. For the Representative of the UN Secretary-General on the Human Rights of IDPs (RSG), most persons in areas of environmental deterioration who decide to move can not really be said to be forcibly displaced. But “if the areas become uninhabitable because of complete desertification or sinking coastal zones, then population movements amount to forced displacement.” In short, inhabitants who “no longer have a choice but to leave” can be viewed as IDPs.¹⁰

When it comes to persons who cross borders, there is far less definitional clarity.¹¹ They may leave their countries for a variety of reasons or they may be outside their country when a disaster strikes but the terms denoting their predicament range from environmental displaced and ecological migrant to, most controversially, ‘environmental refugee’.

Although the latter term is widely used, it has been rejected on the grounds that it does not accord with the refugee definition set out in the 1951 Convention Relating to the Status of Refugees, which defines a refugee as a person who, owing to well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinions, is outside the country of his nationality and is unable or unwilling to avail himself of the protection of that country or is unwilling to return to it.¹²

Only in limited instances can those who have fled for environmental reasons fit the definition of a refugee. There are also refugee definitions in regional instruments that may potentially encompass those displaced by natural disasters. Both the 1969 Organization for African Unity (OAU) convention on refugees and the 1984 Cartagena Declaration on Refugees define refugees not only in terms of individualized persecution, but also as having to flee because of “events seriously disturbing public order.”¹³ However, it remains questionable whether these provisions may be used to ensure protection for those displaced across borders by disasters since the drafters of these agreements did not envisage natural disasters to constitute public order disturbances.¹⁴

There is also a lack of definitional clarity for those who will be displaced from small island states such as Tuvalu and Kiribati that are predicted to be completely inundated by rising sea levels. The 1954 convention on statelessness defines a stateless person as an individual “who is not considered a national by any State under the operation of its law.”¹⁵ However, small island states may continue to exist as legal entities even after being submerged if other countries do not officially withdraw recognition of their statehood. The former inhabitants might thus become *de facto* stateless,¹⁶ but might not be able to demonstrate *de jure* statelessness.

Limited Legal Protection

The problems of definitional clarity and limited legal protection are closely linked. In the case of IDPs displaced by sudden-onset disasters, international human rights law (HRL) provides a sound legal basis for protection, as set forth in the Guiding Principles. But for persons uprooted by slow-onset disasters, HRL applies, but not the Guiding Principles, under which movement must be forced. At present, no criteria exist for establishing at what point voluntary movement becomes forced, which would bring some of those displaced by slow-onset disasters under the IDP umbrella. Because of this disparity, the Parliamentary Assembly of the Council of Europe (CoE) has called for the Guiding Principles to be extended to persons uprooted by *both* sets of disasters.¹⁷

Sometimes state failure to use the Guiding Principles in disasters interferes with their potential to provide legal protection. Although at least 20 countries have adopted national laws and policies based on the Guiding Principles,¹⁸ some of these extend only to those uprooted by conflict. In Pakistan, in 2005, the government opposed applying international principles of protection to IDPs uprooted by the earthquake.¹⁹

Nor are all governments aware of the Guiding Principles, even though UN resolutions regularly call for their wide dissemination and application. In the Philippines, when Typhoon Durian struck, Oxfam said the authorities “had no awareness” of their obligations to displaced communities. Partly as a result, there was “discrimination and abrupt relocations.”²⁰

The adoption by the African Union in 2009 of a legally binding Convention for the Protection and Assistance of Internally Displaced Persons in Africa (hereinafter ‘the Kampala Convention’) should help increase governments’ awareness of their obligations to IDPs. The Convention specifically obligates States to “protect and assist persons who have been internally displaced due to natural or human-made disasters, including climate change.”²¹ At the same time, the Convention has not yet come into force and its enforcement machinery is weak.

In the case of environmentally displaced persons who cross international borders, they like IDPs enjoy the protection of HRL but in countries where they seek shelter, they lack clear legal status and often face a “legal and operational limbo.”²² There is no clear right under the 1951 Refugee Convention to remain even temporarily in countries where they have sought refuge. Nor can they claim protection under regional refugee agreements.

In the absence of a robust international agreement clarifying the status of environmentally displaced persons who cross international borders, one or two Scandinavian states have amended their asylum laws to cover

those displaced by natural disasters, including the effects of climate change.²³ Other countries have suspended deportation proceedings or extended *temporary* protection (TPS).²⁴ However, the efficacy of temporary protection has been limited. It is ad hoc and does not respond to those for whom return is not a secure or viable option, such as the citizens of small island states that will disappear. Even if these people are recognized as *de jure* stateless, there are no states with a clear legal duty to extend citizenship rights to them.²⁵

Gaps in Institutional Arrangements

The lack of legal and definitional clarity for the environmentally displaced is often reflected in the weak institutional arrangements for protecting their human rights. Indeed, laws, policies and implementation machinery that integrate human rights concerns into disaster response are largely non-existent at the national level.²⁶ The results can be life threatening.

At the regional level, organizations do not yet have a consistent or proactive rights-based approach in dealing with disasters. The Association of Southeast Asian Nations (ASEAN), in response to Cyclone Nargis in Burma, did become actively involved in diplomatic initiatives to open up access to survivors, but it did not engage in advocacy efforts for the rights of those being forcibly evicted from temporary shelters or pushed back into ruined villages. It is to be hoped that the Kampala Convention, once in force, will help promote more rights based approaches in Africa for those displaced by disasters. The Parliamentary Assembly of the CoE has begun to encourage its Member States to increase the “protection of people compelled to leave their homes mainly or exclusively for environmental reasons.”²⁷

At the international level, the RSG upon assuming office in 2004 added to the concerns of his mandate the rights of those uprooted by disasters, but he is but a single individual with limited resources and staff. Of the many international humanitarian and development agencies that become involved with disasters, only recently have they begun to consider the human rights and protection dimension of these crises, but there is no lead agency. As a result, the UN Resident or Humanitarian Coordinator in the field must consult with the protection-mandated agencies – UNICEF, the Office of the High Commissioner for Human Rights (OHCHR) and UNHCR – to determine which one, if any, will take the lead in protection in each new disaster. In most cases, UNICEF has volunteered but its protection role and skills are largely limited to child protection.²⁸ UNHCR as a result announced in 2009 that it would be willing to assume the lead protection role,²⁹ but donor governments have been discouraging on the grounds that UNHCR can hardly fill its role toward ‘conflict IDPs.’³⁰

When it comes to persons who cross borders for environmental reasons, UNHCR has remained largely aloof.³¹ However, it has recognized, given its mandate for stateless people, that it may need to support the protection and resettlement of those from inundated small island states, but it also admits that it is not yet prepared to discharge this role effectively.³²

The International Organization of Migration (IOM) has expressed readiness to increase its involvement with those crossing borders for environmental reasons, and it will likely play a key role in working alongside states to improve national and international response. It already serves as the “global cluster lead” for camp management and coordination in natural disasters.³³ But the agency gives insufficient attention to human rights protection in its work.³⁴

To date, UNHCR and IOM have not decided on a division of labor with regard to protecting environmentally displaced persons. Yet international organizations are needed to: encourage states to allow entry to people forced to cross borders; persuade states of origin to advocate for protected status for their nationals; and urge conditions for safe and sustainable return (unless displacement is permanent).

Inadequate Consultation with Disaster Victims

The effectiveness of national, regional and international institutional arrangements will largely depend on adequate consultation with affected populations. Too often there is insufficient consultation,³⁵ since governments find it easier to take a “top down” rather than a “bottom up” approach. The costs can be significant. In Indonesia, for example, lack of consultation led to the setting up of temporary housing for displaced people far from their livelihoods and transport,³⁶ and camp designs failed to protect women.³⁷ In Aceh, reconstruction and development projects had to be redone because the views of affected populations were not taken into account.³⁸

Insufficient Attention to the Needs of Vulnerable Groups

In disaster situations, just as in conflicts, certain groups are more vulnerable to human rights abuse -- poor people, single women and women heads of household, separated children, elderly, sick and disabled people, and marginalized groups (e.g. minorities, indigenous people). Yet governments and aid providers often overlook their needs.

Such neglect is reinforced by long standing cultural patterns of discrimination in many countries. More women in disasters, for instance, “tend to die or suffer injury than men because they are not warned, cannot swim or cannot leave the house alone.”³⁹ Further, government officials in some countries distribute compensation and relief packages only to male

heads of households and do not provide compensation payments, relief funds or pensions to women,⁴⁰ or include them in the design of relief programs.⁴¹

Discrimination against socially marginalized groups also comes to the fore. The Dalits (or 'untouchables') in India reported that their homes were not as quickly restored as others affected by the tsunami and that in some districts, officials refused to register them or provide them with adequate supplies in camps.⁴²

Nor do children or elderly and disabled people necessarily receive the help they need, while persons with HIV/AIDS have trouble accessing essential medication and have been reported to be expelled from camps and shelters in some countries.⁴³

Tensions between Disaster Affected and Other Communities

When those displaced by disasters relocate to other areas of their countries, tensions often develop with 'host communities,' especially when relocations last for long periods and competition arises over resources and livelihoods.⁴⁴ Resentments have also developed between disaster victims and those displaced by conflict. Because governments and donors may be more inclined to help disaster victims, disparities in treatment have resulted between the two groups, as was evident in Sri Lanka during the tsunami.⁴⁵

Government Failure to take Preventive Measures and Protect Victims

The failure to take preventive steps and provide protection is often not deliberate policy but the result of negligence, discrimination or lack of attention and may be remedied. India's Supreme Court, for example, helped reverse the inequities toward the Dalits during the tsunami. In the US, a 2009 court ruling held the Army Corps of Engineers responsible for the weak infrastructure, leading to flooding during Katrina, which could lead to compensation for survivors.⁴⁶ In many other countries, however, such remedies do not exist, creating a challenge for the international community of how to respond when governments fail to take preventive measures, deliberately neglect disaster survivors, and put large numbers at risk.

In the case of Burma, it took a diplomatic campaign led by the UN Secretary-General, ASEAN and an array of Asian and Western governments to persuade General Than Shwe to cooperate with the international community and allow in humanitarian aid. Significant numbers of the more than 140,000 Burmese who perished might have been preventable deaths. Other countries have refused aid as well,⁴⁷ leading to the question of whether it can be considered acceptable for governments to refuse aid on political grounds when lives are at stake. Although international humanitarian principles make clear that governments that reject aid

deliveries when they are unable to provide the required assistance are acting arbitrarily,⁴⁸ there has been no consistent, unified objection to the failure of governments to live up to such standards.

Addressing the Gaps

To promote better approaches by governments, international organizations, NGOs and local communities toward environmentally displaced persons, the following recommendations are offered.

Recognition of Environmentally Displaced Persons as People in Need of Human Rights Protection

Awareness needs to be increased of the protection needs of disaster victims, with local and national authorities regularly reminded that they have a responsibility to take preventive steps and ensure that their populations receive assistance and protection during and after disasters.

The authorities also must be made aware that failing to take steps to reduce disaster risks can prove costly. In Africa, the Kampala Convention makes governments “liable to make reparations” to IDPs when they refrain from protecting and assisting them in natural disasters.⁴⁹ Such decisions may in time also make governments like China more accountable. While it offered small cash payments for the children who died during the Sichuan earthquake, it harassed or imprisoned those who called for investigations into the faulty construction of the schools.⁵⁰

Greater Definitional Clarity Regarding Environmentally Displaced Persons

For those uprooted by sudden-onset disasters, it must be made clear that they are IDPs as confirmed by UN resolutions, the Guiding Principles, the Operational Guidelines, and most recently, the Kampala Convention. For those uprooted by slow-onset disasters, criteria are needed to determine at what point their displacement can be considered coerced and the people involved considered IDPs in need of national and international attention. The RSG and a group of international experts would be the best qualified to develop such criteria.

With regard to those who cross borders for environmental reasons who cannot claim refugee status under the 1951 Convention, there may be some possibility that they may qualify as refugees under the OAU Convention and the Cartagena Declaration. To this end, governments and legal bodies should begin to clarify interpretations of these instruments as well as the Convention on stateless persons with a view to seeing whether

their coverage can be more expansive. Otherwise new agreements will be needed to protect environmentally displaced persons who cross borders.

Strengthened Legal Protection for Environmentally Displaced Persons

Greater dissemination and usage of the Guiding Principles, the Operational Guidelines and the Kampala Convention would add to the protection of IDPs forcibly uprooted by disasters. The RSG has urged states to incorporate the Principles into their domestic law and developed a Manual for Law and Policymakers to indicate what specifically to include in national legislation.⁵¹ Africa's 2008 Great Lakes Protocol on IDPs was the first binding instrument to oblige African states to incorporate the Principles into their domestic law.⁵²

For those who cross borders, a number of options are possible:

Hard law approach: With the support of the governments of the Maldives, Tuvalu and other small island states, the Living Space for Environmental Refugees has suggested expanding the 1951 Convention definition of a refugee to include those with well-founded "fear of life endangerment, harm or loss of life due to severe environmental impact."⁵³ However, UNHCR has opposed this, mainly because of the resistance of most states to the expansion of asylum rights and the risk a renegotiation of the Convention might pose to the international refugee system. Drafting a new, binding agreement on the rights of environmentally displaced persons, including those who cross borders, has therefore been recommended.⁵⁴

Soft law approach: For others, carefully drafting, circulating and building international support for a set of guidelines is the most promising route.⁵⁵ This of course will require clarifying the implications of existing laws and norms (as the drafters of the Guiding Principles did), and also potentially creating *new* rights, which would necessitate the involvement of states and would be challenging.

Protection from Forced Return: Just as the international refugee regime bans *refoulement* and requires that repatriation take place voluntarily and in conditions of safety and dignity, criteria for environmentally displaced persons should make it impermissible to return people to situations where "life or limb is at risk" or assistance is non-existent.⁵⁶ Disaster victims should be granted temporary protection, while those from inundated island states should benefit from permanent resettlement.

Responding to Statelessness

Beyond determining whether the citizens of inundated island states will be recognized as legally stateless, more international resettlement options will be needed and obligations toward the potentially stateless clarified. Island communities, for example, could move to similar but more secure territories, or negotiate a degree of autonomy within other countries, or buy other islands outright, and re-establish there.⁵⁷ Forums in which islanders can discuss the alternatives and participate in decision-making about their futures are essential.

Incorporation of Human Rights Protection into National Policy Frameworks

National policies on disaster response can be effective ways of ensuring that survivors are protected and do not feel compelled to flee across borders. The policies should begin with preventive measures, such as early warning systems, disaster risk reduction strategies, the dissemination of information about impending disasters, evacuation plans, and the building of infrastructure that can withstand impact.⁵⁸

During disasters, adherence to non-discrimination is critical in distributing food and supplies; water and sanitation is essential and protection from assault, gender violence and other human rights abuse must be assured. In post-disaster situations, policies must seek to prevent persons from being forcibly returned or relocated to unsustainable or unsafe areas, promote access to jobs, training and livelihoods, provide assistance in regaining housing, land, property or compensation and assure political rights.

Policies should cover both disaster and conflict IDPs and extend to families and communities hosting displaced persons to encourage greater community support for the displaced.⁵⁹ The designation of government focal points and offices will be important to monitor implementation of the policies, ensure their wide dissemination, and assure that adequate resources are allocated.

Special Attention to Vulnerable Groups

All vulnerable and marginalized groups should be a priority concern in disaster response, and governments should design programs to ensure their protection. Placing separated children, for example, with extended families and communities is a preventive measure against trafficking. Similarly, making children aware of how to protect themselves and others during disasters can help them survive.⁶⁰ In the case of women, teaching them coping strategies, such as how to swim, can enable their survival.

Practical steps are needed as well to reduce sexual abuse against women and girls, together with arrests and prosecution of the perpetrators of such violence. Women further need safe access to personal supplies, reproductive health packages, and measures to prevent transmission of sexually transmitted diseases. In the recovery phase, they need to be included in the design, development and implementation of programs to enhance their capacity to earn income, save assets, learn new skills and benefit their households and communities.⁶¹

The vulnerability of men must also elicit attention. In Nepal, after large-scale floods, most psycho-social counselling was provided to women and children but not to men who also needed it.⁶² And after the tsunami, men whose wives perished found themselves ill equipped to fend for themselves.

Although cultural sensitivities sometimes impede help for vulnerable groups, international organizations must regularly remind governments that their mission is to support the most marginalized in emergencies. In India, the many abuses reported during the tsunami against vulnerable groups led the National Disaster Management Authority to take steps to improve protection for them.⁶³

Increased Consultation with Affected Populations

The most effective means of informing persons about what to expect from their governments and the international community in natural disasters is through consultative mechanisms. While it is not always possible to establish such mechanisms in the immediate aftermath of a disaster, they should be built into relief and recovery programs so that the displaced can make known their concerns and also learn how their protection and basic material needs will be addressed.⁶⁴

Consultative processes work best when both women and men are represented and when people of different age groups, socio-economic backgrounds, religions and ethnicities are involved. They should extend to local communities to ensure the successful integration of the displaced.

Training in Human Rights Protection in Disasters

The large number of actors that become involved in disasters – community leaders, government authorities, military forces, international organizations, the private sector and NGOs – all require training in the practical measures to protect affected populations and prevent discrimination in aid distribution. Philippine government authorities acknowledged after Typhoon Durian that without training, “they would have been faced with significant unrest amongst evacuees.”⁶⁵

Monitoring of Compliance with Human Rights Standards

National human rights commissions, which are quasi governmental bodies, can play an important role in monitoring the extent to which the rights of disaster victims are protected. In Sri Lanka, the national commission investigated 17,000 complaints about tsunami response. In India, the national commission sent out special rapporteurs to look into the human rights concerns of those affected by disasters in Orissa and Gujarat while the Thai commission submitted recommendations to its government for compensation and reparation for families and communities.⁶⁶ National commissions, however, need increased resources, staff and training.

NGOs can play an important role as well in monitoring, advising survivors on how to report complaints, and helping them to organize into advocacy groups.

Greater Regional Involvement

The role of regional organizations needs to be expanded beyond aid coordination to include human rights and protection issues and cooperation with human rights and humanitarian actors. One promising development has been in Africa, where the Kampala Convention calls for the sharing of information on the protection of displaced persons with the African Commission on Human Rights and Peoples' Rights and gives the African Union an important role in promoting government compliance with the Convention.⁶⁷

More Effective International Institutional Arrangements

The UN should identify a lead agency for protection in disasters to bring predictability to the response. If it is UNHCR, it should train its staff in the human rights dimension of disasters, expand protection presence in the field, and persuade donors to provide increased funding.

The organizations UNHCR will coordinate with, whether OHCHR or UNICEF, will also have to develop greater protection skills. Relationships with non-UN organizations such as IOM will have to be strengthened. Because displaced persons will need assistance beyond the emergency phase, UNHCR should develop effective partnerships with UNDP, the World Bank and other development agencies to ensure a smooth transition to early recovery and reintegration for displaced people.

New forms of inter-state cooperation will also be required to ensure that those who cannot return to their home countries benefit from effective temporary protection while those whose island states have disappeared find permanent resettlement.

Making Humanitarian Aid an Imperative when People's Lives Are at Stake

Although states have the primary responsibility for providing humanitarian assistance to their displaced populations, they also have an obligation to accept international aid when they are unable to provide such assistance. Indeed, refusal without good reason constitutes arbitrariness and a violation of the right to life.⁶⁸

In providing aid, donor governments have an overriding obligation to help those at risk irrespective of their relationship with the government in question (that is, 'hunger knows no politics'). By the same token, *recipient governments must know no politics in receiving humanitarian aid*. When they can not provide it, they must be ready to accept it from all parties. Without such understandings, more and more countries will believe that it is acceptable to arbitrarily refuse aid on political grounds. Burma's government relented under regional and international pressure to allow in outside aid. But there should be an overall international understanding that acceptance of aid from certain countries, but not others, on political grounds that are unreasonable when populations are at risk, contravenes international obligations to the victims of disasters.

Conclusion

Climate change promises to create massive new waves of people uprooted from their homes, and is already challenging established international concepts, norms and institutional arrangements for dealing with forced displacement. Important steps have been taken to identify the protection needs of disaster victims and the institutions responsible for meeting these needs. Yet critical gaps remain, especially regarding those who are displaced by slow-onset disasters and those who cross international borders. To date, it has proven difficult to attract sufficient attention to these issues on the international stage. However, as the frequency and severity of disasters increase, the importance of effective, rights-based responses will undoubtedly become all too clear.

Notes and References

¹ IDMC/NRC, Press Release, 6 June 2011.

² UN Commission on Human Rights, *Guiding Principles on Internal Displacement*, Doc. E/CN.4/2998/53/Add.2, 11 February 1998.

³ World Summit Outcome 2005, UNGA Res. 60/1, 24 October 2005, para. 132.

⁴ IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters, Brookings-Bern Project on Internal Displacement, January 2011.

⁵ S. Castles and N. Van Hear, 'Developing DFID's Policy Approach to Refugees and Internally Displaced Persons, Volume I: Consultancy Report and Policy Recommendation', Refugee Studies Centre, Oxford, February 2005, at 12.

⁶ In Colombia, the law protecting 'conflict IDPs' does not cover those displaced by disasters whereas in Armenia, the government did not see those displaced by the 1988 earthquake as IDPs.

⁷ M. Couldrey and T. Morris, 'Post-tsunami Protection Concerns in Aceh', *Forced Migration Review* 28 (2005); and C. Kromm and S. Sturgis, 'Hurricane Katrina and the Guiding Principles on Internal Displacement', Institute for Southern Studies, January 2008.

⁸ See Opening Statement. Antonio Guterres, 60th Session of Executive Committee (Excom), Geneva, 28 September 2009.

⁹ See *supra* note 1.

¹⁰ W. Kälin, Background Paper, 'Displacement Caused by the Effects of Climate Change: Who will be Affected and what Are the Gaps in the Normative Frameworks for their Protection?', 10 October 2008.

¹¹ UNHCR, 'Climate Change, Natural Disasters and Human Displacement: A UNHCR Perspective', 2009, at 4.

¹² Convention Relating to the Status of Refugees, art. 1A (2), as modified by the 1967 Protocol.

¹³ OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, art. 1(2); and Cartagena Declaration on Refugees, 22 November 1984, art. III (3).

¹⁴ A. Lopez, 'The Protection of Environmentally-Displaced Persons in International Law', 37 *Env. L. Rev.* 365 (2007), at 390; and G.S. McCue, 'Environmental Refugees: Applying International Environmental Law to Involuntary Migration', 6 *Geo. Int'l Env'tl. L. Rev.* 151 (1993), at 153.

¹⁵ 1954 Convention Relating to the Status of Stateless Persons, art. 1.

¹⁶ I. Goris, J. Harrington and S. Köhn, 'Statelessness: What it Is and why it Matters', 32 *Forced Migration Review* 4 (2009), at 4; and C. Batchelor, 'Statelessness and the Problem of Resolving Nationality Status', 10(1/2) *IJRL* 156 (1998), at 171.

¹⁷ Council of Europe Recommendation 1862, para. 6.5 (2009).

¹⁸ E. Ferris, 'Assessing the Impact of the Principles: An Unfinished Task', GP10 *Forced Migration Review* 10 (2008).

¹⁹ A. Wilder, 'Perceptions of the Pakistan Earthquake Response', Humanitarian Agenda 2015 Pakistan Country Study (February 2008), at 40-1.

²⁰ S. McHattie, 'Guiding Principle 27 and Philippine Typhoon Response', GP10 *Forced Migration Review* 30 (2008).

²¹ African Union, Convention for the Protection and Assistance of Internally Displaced Persons in Africa, 22 October 2009 (heretofore Kampala Convention).

²² Kälin, *supra* note 10.

²³ S. Martin, 'Managing Environmentally-Induced Migration', in F. Laczko and C. Aghazarm (eds.), *Migration, Environment and Climate Change* 353 (2009).

²⁴ Kälin, *supra* note 10; and Martin, *ibid.*

²⁵ Kälin, *ibid.*; M.J. Gibney, 'Statelessness and the Right to Citizenship', 32 *Forced Migration Review* 50 (2009), at 50; and Batchelor, *supra* note 17, at 156.

²⁶ See Brookings-Bern Project on Internal Displacement, 'Protecting and Promoting Rights in Disasters in South Asia: Prevention and Response', 9-10 April 2009; and

Regional Workshop on Protection and Response in Situations of Natural Disaster, Guatemala City, 28-29 May 2009.

²⁷ Council of Europe Recommendation 1862, para. 3.

²⁸ R. Cohen, 'An Institutional Gap for Disaster IDPs', 32 *Forced Migration Review* 58 (2009), at 58-59; and IASC, 'Child Protection Coordination within Cluster Approach: An Inter-Agency Survey', March 2008.

²⁹ Guterres, *supra* note 8.

³⁰ Interview with UN staff, 5 April 2010.

³¹ Interview with Claudine Haenni Dale, Interim UN Focal Point for Protection in Natural Disasters for the Protection Cluster, 5 December 2009.

³² UNHCR, 'Climate Change, Natural Disasters and Human Displacement: A UNHCR Perspective', 2009, at 7; IASC Informal Group on Migration/Displacement and Climate Change, 'Climate Change, Migration and Displacement: Who Will Be Affected?', Working Paper, 31 October 2008, at 3.

³³ IOM, 'Migration, Climate Change and the Environment: Policy Brief', 2009, at 6.

³⁴ IOM, 'A Sample of IOM's Activities in Migration, Climate Change and Environmental Degradation', 2009.

³⁵ See 'Relief and Rehabilitation Efforts Remain Problematic One Year after Asian Tsunami, Say UN Experts',

http://www.brookings.edu/speeches/2005/1219tsunami_kalin.aspx; Brookings-Bern Project,

South Asia Workshop, *supra* note 27, at 11; R. Mathai-Luke, 'HIV and the Displaced: Deconstructing Policy Implementation in Tsunami Camps in Tamil Nadu', 32 *Refugee Watch* (December 2008), at 46-47; Brookings-Bern Project, 'Moving Beyond Rhetoric, Consultation and Participation with Populations Displaced by Conflict or Natural Disasters', October 2008, at 39-40, 31-32; and Brookings-Bern Project, Guatemala Workshop, *supra* note 27 at 15.

³⁶ See R. Cohen, 'Measuring Indonesia's Response to the Tsunami', *One Year after the Tsunami: Policy and Public Perceptions*, Asia Program Special Report, Woodrow Wilson International Center for Scholars, May 2006, at 14.

³⁷ T. Bacalla, 'Women and Disaster: Resilience amid Ruin', 4 *The Investigative Reporting Quarterly* (November 2005); and D. Cohen *et al.*, 'Indonesia' in L.E. Fletcher *et al.* (eds.), *After the Tsunami: Human Rights of Vulnerable Populations* (2005), at 39.

³⁸ See Cohen, *supra* note 38.

³⁹ Women's Environment and Development Organization, 'What it Means for Women', 31 *Forced Migration Review* 56 (2008).

⁴⁰ Mathai-Luke, *supra* note 37, at 47; and Brookings-Bern Project, South Asia Workshop, *supra* note 27, at 11-12.

⁴¹ Mathai-Luke, *ibid.*, at 55. See also the Pakistan Government-World Bank study, 'Earthquake Rehabilitation and Reconstruction Authority, Social Impact Assessment: 8 October 2005 Pakistan Earthquake', May 2007.

⁴² Mathai-Luke, *supra* note 37, at 47; see also Brookings-Bern Project, South Asia Workshop, *supra* note 27, at 10.

⁴³ Brookings-Bern Project, *ibid.*

⁴⁴ See tensions in the Maldives, *ibid.*, at 12.

- ⁴⁵ For Sri Lanka, see Calcutta Research Group, *Voices of the Internally Displaced in South Asia* (2006), at 78; for Indonesia, see Cohen, 'Measuring Indonesia's Response', *supra* note 38, at 12-13.
- ⁴⁶ 'A Win for New Orleans', Editorial, *Washington Post*, 23 November 2009.
- ⁴⁷ For China, see R. Cohen, 'Disaster standards are needed in Asia,' Brookings Institution Northeast Asia Commentary, June 2008, at 1; for the US, see A.C. Richard, *Role Reversal: Offers of Help from Other Countries in Response to Hurricane Katrina* (2006), at 42.
- ⁴⁸ See The Guiding Principles on Internal Displacement, No. 25(2), and W. Kälin, *Guiding Principles on Internal Displacement: Annotations* (2000), The American Society of International Law and the Brookings Institution Project on Internal Displacement, at 64-65.
- ⁴⁹ The Kampala Convention, art. 12(3).
- ⁵⁰ See E. Wong, 'Parents of Schoolchildren Killed in China Quake Confirm Lawsuit', *New York Times*, 23 December 2008.
- ⁵¹ Brookings-Bern Project on Internal Displacement, *Protecting Internally Displaced Persons: A Manual for Law and Policymakers*, October 2008.
- ⁵² Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons, paras. 76-79.
- ⁵³ Boana *et al.*, *supra* note 41, at 25. ADD
- ⁵⁴ Lopez, *supra* note 15, at 365, 402-408.
- ⁵⁵ See C. Boana *et al.*, 'Environmentally Displaced People', Refugee Survey Centre Forced Migration Policy Briefing 1, 2008, at 26; and R. Zetter, 'Legal and Normative Frameworks', 31 *Forced Migration Review* 62 (2008).
- ⁵⁶ *Ibid.*
- ⁵⁷ I. Kelman, 'Island Evacuation', 31 *Forced Migration Review* 20 (2008).
- ⁵⁸ See *Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters*, International Strategy for Disaster Reduction, A/Conf.206/6, 2005.
- ⁵⁹ C. Hudspeth, 'Accessing IDPs in Post-tsunami Aceh', Special Issue *Forced Migration Review* 20 (2005).
- ⁶⁰ See E. Back, C. Cameron and T. Tanner, *Children and Disaster Risk Reduction: Taking Stock and Moving Forward*, Institute of Development Studies (November 2009).
- ⁶¹ Women's Environment and Development Organization, *supra* note 41, at 56.
- ⁶² Brookings-Bern Project, South Asia Workshop, *supra* note 27, at 16-17.
- ⁶³ *Ibid.*, at 3.
- ⁶⁴ See Brookings-Bern Project, 'Summary of Meeting on Consulting IDPs', at 15-16, November 2007; Brookings-Bern Project, 'Moving Beyond Rhetoric', *supra* note 37, at i-ii, 21, 26, 32, 36-37, 42-45, 61-2, 65; and Brookings-Bern Project, Guatemala Workshop, *supra* note 27.
- ⁶⁵ McHattie, *supra* note 21.
- ⁶⁶ See Brookings-Bern Project, 'Moving beyond Rhetoric,' *supra* note 37, at 45-6; and R. Cohen, *supra* note 30.
- ⁶⁷ The Kampala Convention, art. 8(3e).
- ⁶⁸ Kälin, *Guiding Principles*, *supra* note 50, at 64-65.