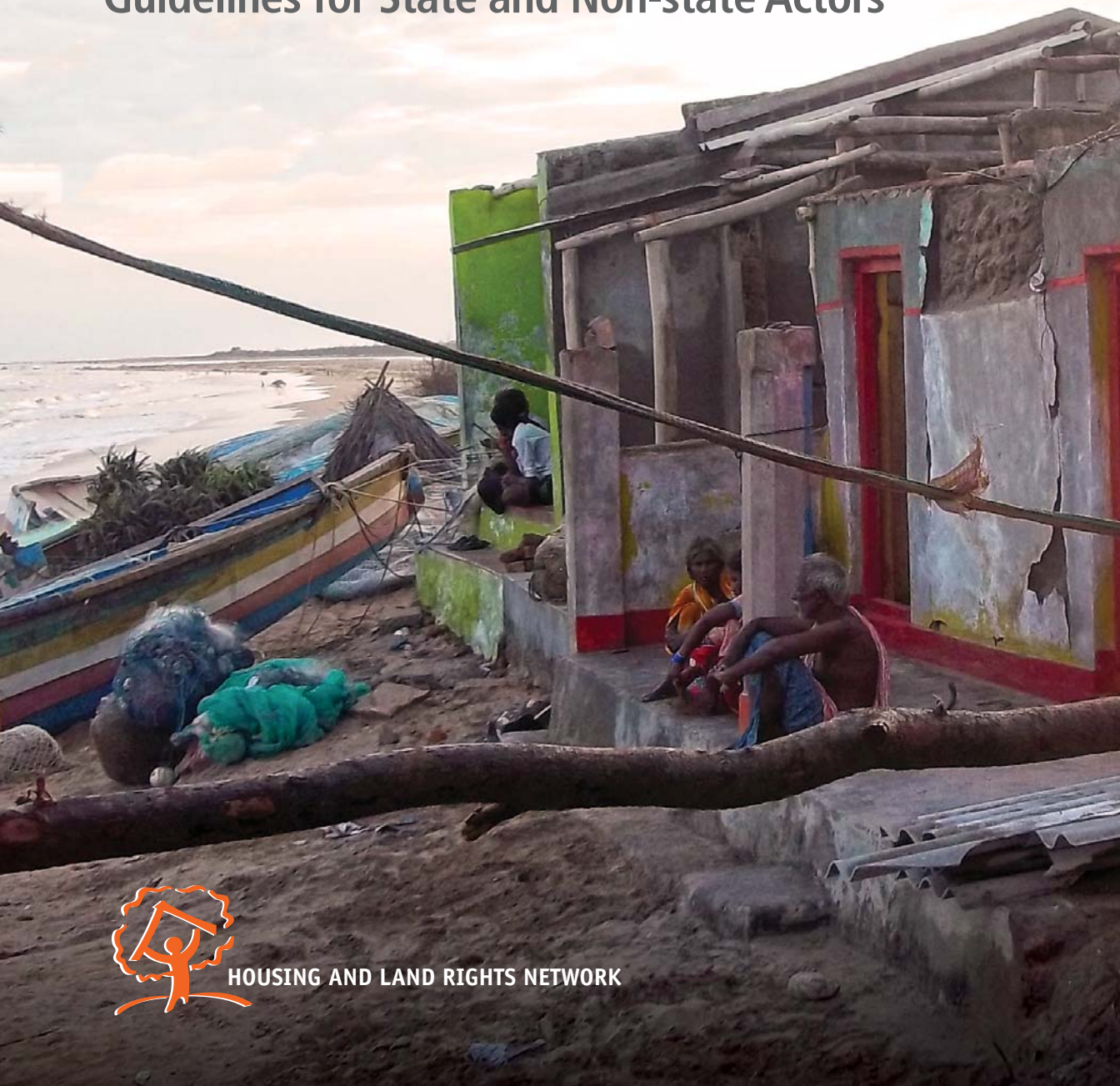


PROTECTING HUMAN RIGHTS IN DISASTER RESPONSE

Guidelines for State and Non-state Actors



HOUSING AND LAND RIGHTS NETWORK

Protecting Human Rights in Disaster Response: Guidelines for State and Non-state Actors

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NEW DELHI, INDIA

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I. Introduction

Disasters, including those resulting from and exacerbated by the effects of climate change and over-exploitation of natural resources, affect countries around the world. According to a report by the Internal Displacement Monitoring Centre, 22 million people were displaced in 2013 by disasters brought on by natural hazard events. Asia is the worst affected region, with 19 million people or 87 per cent of the global total displaced during 2013.¹ The report states that although both wealthy and poorer countries are affected, 'developing' countries bear the brunt, accounting for more than 85 per cent of the displacement.

The consequences of these disasters are generally severe and long lasting. Certain individuals, groups, and communities—on account of their existing marginalisation and vulnerability—disproportionately suffer the impacts of disasters, both in the immediate aftermath and in the long-term recovery process. These include people living in high risk areas, such as small islands, mountainous regions, high seismic zones, or along the coast; low income groups; those living in inadequate housing conditions; homeless, landless, and internally displaced persons; minorities; historically discriminated communities, such as Dalits/members of Scheduled Castes; indigenous and tribal peoples; women; children; persons with disabilities, and older persons.

The fundamental human rights that are violated in post-disaster situations include the rights to adequate housing, food, water and sanitation, health, work/livelihood, land, security of the person and home, information, participation, and education. Violations of these human rights are often exacerbated when relief and rehabilitation measures are not planned and executed from a human rights perspective; are not timely, adequate, and appropriate; and do not take into account the specific needs and concerns of women, children, and other marginalized and vulnerable groups within affected communities.

The onus, therefore, is on nation states and humanitarian organizations to ensure human rights-based disaster risk reduction, relief, and recovery. In the aftermath of a disaster, comprehensive and sustained efforts are needed to safeguard the human rights of the affected population; and, to ensure that relief, rehabilitation, and reconstruction are carried out in a gender-sensitive, culturally appropriate, non-discriminatory, participatory, and inclusive manner. Disaster-preparedness and rehabilitation are internationally recognized human rights that should be upheld by all involved agencies – national and international. Disaster response mechanisms

1 *Global Estimates 2014: People displaced by disasters*, Internal Displacement Monitoring Centre, Norwegian Refugee Council, Geneva, 2014.

and interventions must guarantee respect for the dignity and human rights of all survivors, especially the most marginalized.

Housing and Land Rights Network (HLRN), India, has compiled these guidelines for state and non-state actors to follow in the various stages of post-disaster relief, rehabilitation, reconstruction, and recovery. This document also includes a short section on disaster preparedness, risk reduction, mitigation, and protection, as they are important elements of a comprehensive human rights framework for disaster management. The recommendations presented here are derived from HLRN's extensive work—including fact-finding missions, research, and consultations—carried out after the 2004 Indian Ocean tsunami.² They are based on international law, human rights standards, and guidelines from the United Nations (UN),³ and include specific provisions of the Inter-Agency Standing Committee's Operational Guidelines on the Protection of Persons in Situations of Natural Disasters, 2011 (IASC Operational Guidelines), which clearly establish the rights of survivors as well as the duties of responsible agencies and operational procedures to be followed in disaster response.

Housing and Land Rights Network strongly believes that a human rights-based approach, incorporating the principle of 'indivisibility of human rights,' should underlie all disaster preparedness, relief, and rehabilitation work. Reconstruction and recovery efforts must aim to promote durable solutions by addressing the long-term needs and concerns of individuals and communities, including mitigation of the risk of future disasters.

Housing and Land Rights Network hopes that all national and international, state and non-state actors involved in all phases of disaster management—preparedness, relief, and recovery—will implement these recommendations, and ensure the respect, protection, and fulfilment of the human rights of all affected persons and communities, as stipulated by international human rights and humanitarian law.

2 Housing and Land Rights Network's post-tsunami fact-finding reports on Tamil Nadu, Sri Lanka, and the Andaman and Nicobar Islands are available at: www.hlrn.org.in

3 For a comprehensive listing of applicable human rights standards, see *International Human Rights Standards on Post-disaster Resettlement and Rehabilitation*, Habitat International Coalition – Housing and Land Rights Network, and PDHRE–People's Movement for Human Rights Learning, Books for Change, Bangalore, 2006.

II. General Guarantees for Persons Affected by Disasters

*Persons affected by disasters (affected persons) should be:*⁴

- Recognized and treated as persons entitled to enjoy the same rights and freedoms (under international human rights law) as others in their country, and not subjected to any discrimination.
- Given special protection on account of their increased vulnerability and suffering in the aftermath of the disaster.
- Provided with adequate, timely, and easily accessible information—in a language they understand—on all issues related to their safety and security, emergency relief provisions, and details on rehabilitation processes and actors.
- Entitled to and supported in claiming and exercising their human rights.
- Adequately consulted and given the opportunity to take charge of their own affairs, to the maximum extent, and as early as possible.
- Allowed to participate in the planning and implementation of activities in the various stages of disaster response.
- Considered as ‘internally displaced persons’ in case they have been ordered or forced to flee or to leave their homes or places of habitual residence or have been evacuated as a result of a natural disaster or its effects. They should be treated in accordance with the 1998 Guiding Principles on Internal Displacement.⁵
- Provided with access to timely and effective remedies, including unimpeded access to the justice system, in case of any violations of their human rights.

4 See, Section 1 of the Operational Guidelines on the Protection of Persons in Situations of Natural Disasters, Inter-Agency Standing Committee, 2011 (*IASC Operational Guidelines*).

5 Guiding Principles on Internal Displacement, 1998, UN Doc. E/CN.4/1998/53/Add.2. Provisions from the Basic Principles and Guidelines on Development-based Displacement and Evictions, 2007 (UN Doc. A/HRC/4/18), are also relevant, in particular Sections V and VI on ‘immediate relief and location’ and ‘compensation and rehabilitation.’

III. State Responsibility in Situations of Disasters

The General Principles of the IASC Operational Guidelines establish that:

II.1. States have the primary duty and responsibility to provide assistance and protection to persons affected by natural disasters. In doing so, they are obliged to respect the human rights of affected persons and to protect them from violations of their rights by private actors (e.g. individuals and groups committing crimes) as well as from dangers arising from the disaster (e.g. secondary impacts of natural disasters).

In addition, the state must ensure that:

- It is accountable to all disaster-affected persons and other relevant actors.
- All relief, rehabilitation, reconstruction, and recovery plans and processes meet international human rights standards, in particular those related to upholding the rights to life, equality, work/livelihood, adequate housing, land, health, food, water and sanitation, education, information and participation, freedom of association and movement, and security of the person and home.
- Every affected person, irrespective of class, caste, religion, linguistic group, ethnicity, gender, sexual orientation, marital status, disability, and age, at every relief camp, temporary/transitional/intermediate shelter site, and permanent housing site has:
 - Adequate housing;
 - Adequate water, food, and resources to access food;
 - Adequate healthcare facilities, including psychological counselling;
 - Access to education;
 - Access to livelihood options;
 - Access to adequate and timely information;
 - Opportunity for participation and representation;
 - Protection against violence;
 - Access to timely and judicial remedy; and,
 - All other rights normally available to citizens of the country.
- All agencies and actors involved in the relief and rehabilitation process, including government officials working at different levels, para-statal bodies, humanitarian organizations, and non-government organizations, coordinate their activities and work in a spirit of transparency and cooperation.
- The right to rehabilitation and resettlement is upheld as a human right, and that all affected persons are treated with respect and dignity, and guaranteed their human rights.

IV. Protection of the Human Rights of Survivors of Disasters

According to the Inter-Agency Standing Committee, protection is defined as: “... 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, international humanitarian law, refugee law).”

Affected persons may face multiple human rights challenges in the aftermath of natural disasters, such as:

- Lack of safety and security (for example, rampant crime and secondary impacts of natural disasters);
- Gender-based violence;
- Unequal access to assistance and basic goods and services, and discrimination in aid provision;
- Abuse, neglect, and exploitation of children;
- Family separation, particularly for children, older persons, persons with disabilities, and other individuals who may rely on family support for their survival;
- Loss/destruction of personal documentation and difficulties to replace it, in particular due to inadequate birth registration mechanisms;
- Inadequate law enforcement mechanisms and restricted access to a fair and efficient justice system;
- Lack of effective feedback and complaint mechanisms;
- Unequal access to employment and livelihood opportunities;
- Forced relocation;
- Unsafe or involuntary return or resettlement of persons displaced by the disaster; or
- Lack of property restitution and access to land.

(IASC Operational Guidelines, 2011)

It is, therefore, imperative that all actors involved in disaster response—including state agencies and civil society/humanitarian organizations—take concerted measures to safeguard the human rights of disaster-affected individuals, groups, and communities, and ensure that their interventions do not promote discrimination or suffering. This section provides detailed recommendations for the protection of various human rights of disaster-affected persons at different stages of the disaster response process.

1) Recommendations for the Emergency Phase – in Relief Centres and Camps

*The state and other actors involved in relief, rehabilitation, and reconstruction efforts must take adequate measures to:*⁶

- Ensure protection against violence, including gender-based violence, and guarantee the security of affected persons.
- Identify and protect persons particularly exposed to the risk of violence, including single women, girls, single parent households, single or non-accompanied children, older persons, persons with disabilities, and discriminated communities, including Dalits⁷ and indigenous and tribal peoples.
- Deploy additional law enforcement personnel able to provide the necessary protection for instances of gender-based violence, theft, or other acts of violence.
- Avoid the creation of very large or overcrowded shelters.
- Include representatives of affected populations, including women, persons with disabilities, and marginalized and excluded communities in the design and lay-out of relief camps and emergency shelters.
- Provide humanitarian goods and services on the basis of assessed needs, and without any discrimination on the basis of class, caste, gender, religion, ethnicity, linguistic group, sexual orientation, disability, political or other opinion, marital status, property, birth, age, or other status.
- Respect religious beliefs and cultural traditions—to the extent possible—when planning and implementing humanitarian assistance, in particular in the context of food assistance, healthcare services, clothing, and living and sanitary arrangements.
- Provide priority access to food, water, health, and other humanitarian services for children, persons with special needs, persons with disabilities, older persons, the wounded and sick, persons with mental illness, female-headed households, and women with infants and young children.
- Organize separate distribution of humanitarian assistance to women, children, older persons, and persons with disabilities and mental illness, at different times or places than for other beneficiaries.

6 Sections A.4, A.5, and B.1.2 of the IASC Operational Guidelines, 2011.

7 See, 'Addressing Caste Discrimination in Humanitarian Response', National Campaign on Dalit Human Rights, 2011.

Humanitarian goods and services provided to affected persons should be adequate.

Adequacy of such goods and services requires that they are:

- (i) **Available:** provided to the affected population in sufficient quantity and quality.
- (ii) **Accessible:** provided to all according to their needs and without discrimination; and are within safe reach and can be physically accessed by everyone, including persons with specific needs.
- (iii) **Acceptable:** respectful of the culture of individuals, minorities, peoples and communities, and sensitive to gender and age requirements.
- (iv) **Adaptable:** flexible enough to adapt to the change of needs in the different phases of emergency relief, recovery and, in the case of internally displaced persons, return, local integration or settlement elsewhere in the country.

(Section B.2.1, IASC Operational Guidelines, 2011)

- Ensure that to the extent possible food, medicine, and other goods such as clothing:
 - Are culturally acceptable to affected persons, particularly if they belong to indigenous or ethnic or religious communities; and
 - Correspond to the specific needs of older persons, pregnant and lactating women, infants, persons with disabilities, the wounded and sick, and others with special needs.
- Locate washing and communal sanitary facilities, water points, food distribution points, fuel sources, health, and education facilities in safe locations, and close to living and sleeping quarters.
- Ensure that all relief camps have adequate lighting, fencing, and other security measures.
- Ensure that relief camps and collective centres are located in areas that provide as easy access as possible to education, healthcare, and livelihood and employment sources.
- Ensure that conditions in relief camps and centres respect cultural traditions and practices of affected persons, in accordance with human rights principles.
- Ensure regular visits by national and state human rights institutions to areas of displacement and relief camps or collective centres.
- Inform affected persons about potential secondary impacts of the disaster and take appropriate measures, to the extent possible, to mitigate risks.

2) Recommendations to Protect the Human Rights to Food, Water, and Sanitation

The human rights to food, water, and sanitation must be upheld in all stages of disaster response.

United Nations Committee on Economic, Social and Cultural Rights

General Comment No. 12 (1999): The right to adequate food is realised when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.

General Comment No. 15 (2002): The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.

*The state and other actors involved in relief, rehabilitation, and reconstruction efforts must take adequate measures to:*⁸

- Ensure that the food distributed, whether cooked meals or dry rations, meets international nutritional standards and is culturally acceptable to the affected population.
- Ensure that persons with specific needs, including unaccompanied children, infants, older persons, persons with disabilities, persons living with long-term or chronic illnesses, and pregnant and lactating women, have unimpeded access to food.
- Provide sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use for all affected persons without discrimination and in a quantity that is necessary for a life in dignity.
- Provide for adequate, separate, and secure toilets and bathing facilities for men and women in all relief camps/centres and temporary/intermediate/transitional housing sites.
- Provide adequate sanitation facilities, including solid waste management, garbage disposal and drainage facilities, and maintain hygiene in all relief camps and temporary/intermediate/transitional housing sites.
- Ensure access to all water and sanitation facilities for persons with disabilities, older persons, children, women, and discriminated groups.

⁸ See, Sections B.2.1 and B.2.2 of the IASC Operational Guidelines, 2011.

3) Recommendations to Protect the Human Right to Health

The human right to health is recognized in Article 12 of the International Covenant on Economic, Social and Cultural Rights. It is defined as the right to enjoy the highest attainable standard of health conducive to living a life in dignity. The human right to health includes the provision of adequate healthcare, but also the underlying determinants of health, such as access to safe and potable water and adequate sanitation; an adequate supply of safe food, nutrition, and housing; healthy occupational and environmental conditions; and access to health-related education and information, including on sexual and reproductive health.⁹ All involved actors must ensure that the human right to health of disaster-affected persons should be safeguarded. This includes the right to timely and appropriate, accessible, culturally acceptable, and gender-sensitive healthcare without discrimination.

*The state and other actors involved in relief, rehabilitation, reconstruction, and recovery efforts should ensure that special attention is given to:*¹⁰

- The needs of affected persons requiring medical care, including mental health and psychosocial care, whether the problems and needs are pre-existing, emergency-induced or related to the humanitarian response.
- The health needs of women and girls, including access to health services and the provision of priority sexual and reproductive health services, including actions to prevent maternal morbidity and mortality, prevent and clinically manage cases of sexual violence, and prevent HIV; provision of appropriate medication and hygienic supplies; access to reproductive and specialized health services; including family planning and emergency obstetrical care.
- The prevention of, response to, and mitigation of, contagious and infectious diseases, including HIV/AIDS, among the affected population.
- The need for specialized services required for injured persons and persons with disabilities.
- The health needs of persons with chronic illnesses.
- Community-based psychosocial support.
- Specialized mental health services, as needed, for those among affected persons with mental disorders.
- Providing sufficient female doctors, healthcare staff and interpreters.
- Addressing the problem of alcohol and other substance use in the aftermath of disasters.

9 See, General Comment 14 of the United Nations Committee on Economic, Social and Cultural Rights, 'The Right to the Highest Attainable Standard of Health,' 2000.

10 Section B.2.5, IASC Operational Guidelines, 2011.

4) Recommendations to Protect the Human Right to Adequate Housing

The human right to adequate housing has been defined as, “The right of every woman, man, youth and child to gain and sustain a safe and secure home and community in which to live in peace and dignity.”¹¹ It is protected and guaranteed as a human right in international law, most explicitly in Article 11.1 of the International Covenant on Economic, Social and Cultural Rights.

Recommendations for Temporary / Transitional / Intermediate Housing

- Human rights-based participatory planning is required to assess the housing needs of affected persons and to provide durable solutions aimed at ensuring the full realisation of their human right to adequate housing. The focus should be on the provision of adequate permanent housing, as soon as possible, to all affected families.
- Governments, in consultation with civil society/humanitarian organizations and affected communities, should frame an enforceable timeline for completion of permanent housing and for the maximum permissible duration of stay in emergency and temporary/transitional/intermediate shelters. Terms such as ‘temporary’, ‘transitional’, ‘intermediate’, and ‘permanent’ housing need to be defined, not only in terms of their attributes but also in terms of time frames. Transitional housing must be viewed only as a short-term interim measure to access adequate permanent housing. Under no circumstances should transitional/intermediate housing become the end goal.
- Appropriate steps must be taken to allow for a speedy transition from temporary/transitional/intermediate shelters to permanent housing, without discrimination of any kind.
- All affected persons, irrespective of their tenure status pre-disaster, should have equal rights to shelter in the emergency and transitional phases.¹²
- All temporary/transitional/intermediate housing provided to disaster-affected persons should be accessible, habitable, culturally appropriate, situated in a safe and non-hazardous location, and should provide access to essential services such as water, sanitation, electricity, solid waste management facilities, transport, healthcare, and education.¹³
- Housing sites must provide safety and security for all residents, including protection against gender-based violence. Female law enforcement personnel should be deployed at all sites.

11 Report of the UN Special Rapporteur on adequate housing, Miloon Kothari, 2001, UN Doc. E/CN.4/2001/51.

12 Report of the UN Special Rapporteur on adequate housing, Raquel Rolnik, 2011, UN Doc. A/66/270.

13 See, General Comment 4, ‘The Right to Adequate Housing,’ of the United Nations Committee on Economic, Social and Cultural Rights, 1991. Also see, Section C.2.1 of the IASC Operational Guidelines, 2011, and paragraphs 52–58 of the Basic Principles and Guidelines on Development-based Evictions and Displacement, 2007.

- Shelters should be designed to allow maximum privacy and protection against intruders. Every independent shelter/housing unit should have adequate space, including a secure partition to provide privacy for women and girls.¹⁴
- Separate toilets, with adequate security and privacy, should be built for women close to the shelters.
- Fuel and water sources should be provided in all temporary/transitional/intermediate housing sites.
- Outlets for subsidized food should be located in the vicinity of the temporary/transitional/intermediate housing site.
- Temporary/transitional/intermediate housing sites should be located close to affected people's habitual residences, and in case this is not possible, the sites should be connected by subsidized and regular public transport to livelihood sources/work places, local schools, colleges, market places, healthcare centres, and hospitals.
- Crèches and safe spaces for children to play should be provided at all temporary/transitional/intermediate housing sites.
- Temporary/transitional/intermediate shelters should not be built in areas that are low-lying and susceptible to flooding or hazardous or on private land where residents are vulnerable to eviction.
- Risk assessment should be carried out in sites where affected persons continue to stay, and where necessary, technical adaptation or correction measures should be taken, for instance to prevent flooding and sanitation overflow.
- Adequate measures must be adopted to ensure the protection of human rights in temporary/transitional housing sites, including of host communities.
- The access of members of National Human Rights Institutions, ombudspersons, and other independent institutions to temporary/transitional/intermediate sites should be facilitated.¹⁵
- Any decision to move from emergency shelters to transitional or permanent housing must be carried out with the full, free, and prior informed consent of the affected persons.

Housing and property restitution must be understood as the restitution of any right to tenure related to housing or land prior to disaster, irrespective of tenure status or whether the land or housing is formally registered.¹⁶

¹⁴ See, Section A.5 of the IASC Operational Guidelines, 2011.

¹⁵ Section A.4.4 of the IASC Operational Guidelines, 2011. Also see, Section B.2.3 and Section C.2 for more recommendations on shelters.

¹⁶ Report of the Special Rapporteur on adequate housing, Raquel Rolnik, 2011, UN Doc. A/66/270.

Recommendations Related to Land and Property Rights

The right to property should be respected and protected.¹⁷ It should be understood as the right to enjoy one's house, land, and other property and possessions without interference and discrimination.¹⁸

- Property rights, individual or collective, should be respected whether they are based on formal titles, customary entitlements or prolonged and uncontested possession or occupancy.
- All those who lost property/land in the disaster, irrespective of whether they held formal titles to it, should be entitled to compensation and alternative land. This includes individuals and communities who are not land-owners but depend on the land for their livelihood/income/survival.
- Property and possessions left behind by individuals and communities displaced by disasters should be protected, to the maximum extent possible, against looting, destruction, and arbitrary or illegal appropriation, occupation or use.
- Individual owners or communities, whose land deeds or property documents have been lost or damaged during the disaster or whose land boundaries have been destroyed, should have equal and non-discriminatory access to procedures to reclaim ownership of their original land and property without undue delay. They should receive adequate and timely information concerning such procedures.
- Special mechanisms with simplified procedures to consider competing claims to land and property should be put in place and made accessible without discrimination. These procedures should include due process guarantees and decide such claims without delay.
- Affected women, particularly widows and single women, as well as orphaned children should be assisted in (re-)claiming their housing, land or property or possessions or in acquiring housing or land title deeds in their own names.
- Urgent steps should be taken to amend patriarchal land laws and the administrative practices carried out under them in order to safeguard women's rights to land and housing. Women must be granted ownership over alternative land allocated by the state. If the land/house title was in a man's name before the disaster, new property rights or certificates given to affected households for the purpose of reconstructing damaged houses or moving to alternative houses/land should be given in single (in the name of the woman) or joint (in the name of both the woman and man of the household) title.

17 Also see, Principles on Housing and Property Restitution for Refugees and Displaced Persons, 2005, UN Doc. E/CN.4/Sub.2/2005/17.

18 See, Section C.1 of the IASC Operational Guidelines, 2011.

- Where possible, the ‘right to return’ of affected persons must be protected. The state should facilitate and provide the means, including financial, for voluntary return in safety and security, and with dignity to places of habitual residence.¹⁹
- Where return is not possible, on account of permanent damage to the landmass or submergence or threats to the security and safety of residents, the state should ensure that alternative land commensurate in quality, size, and value (or better) is acquired and provided to affected families/individuals as close to their original places of residence as possible. Alternative land provided, especially in rural areas, should include homestead land, to enable disaster-affected families to develop subsistence livelihood support. Security of tenure must be provided over the alternative land in the names of the adult woman/women of the household.
- Traditional claims of indigenous peoples and ethnic minority groups to land title and ownership in the absence of land title documents should be respected.

Recommendations for Permanent Housing

- It is important for all actors involved in post-disaster rehabilitation and reconstruction to recognize that housing is a human right and not just an economic asset. The provision of a mere structure, therefore, is not sufficient. Concerted efforts must be undertaken to adopt a holistic approach in which housing is viewed as an integral component of the restitution and rehabilitation process. All involved agencies must work to restore affected persons’ right to an adequate standard of living, while attempting to rebuild the social, cultural, economic, and political fabric of affected and displaced communities.
- All those who lost their houses in the disaster or whose houses have been severely damaged must be provided with alternative permanent housing and adequate compensation for rebuilding, where required. This must include not just owners but also tenants/those staying in rental accommodation.
- States, with international organizations, must assess the tenure rights of all people affected by disasters and take measures to protect and ensure secure tenure post-disaster, whether at a former place of residence or elsewhere, should people be unable or unwilling to return.²⁰
- To the extent possible, and in compliance with safety standards, the alternative permanent housing should be provided at the same site or in areas as close as possible to the original sites of residence of the affected families.

19 Basic Principles and Guidelines on Development-based Displacement and Evictions, 2007, paragraph 65, UN Doc. A/HRC/4/18.

20 Report of the Special Rapporteur on adequate housing, Raquel Rolnik, 2011, UN Doc. A/66/270.

- Adequate consultations should be held with affected persons to determine the best durable solutions regarding housing. Options for self-building with adequate financial support should be provided, if affected persons express the need for it.
- All permanent housing must fulfill the criteria of ‘adequacy’ as established by international human rights standards and guidelines. It also should be disaster-resistant and should be constructed using appropriate technology while meeting international safety standards.

Elements of Adequate Housing²¹

1. **Legal security of tenure** – legal guarantees and protection against forced eviction and harassment.
2. **Availability of services, materials, facilities and infrastructure** – facilities essential to health, security, comfort and nutrition must be made available. These include but are not limited to, safe drinking water, sanitation and washing facilities, energy for cooking, heating and lighting, and transportation.
3. **Habitability** – there should be adequate space and protection from the elements.
4. **Accessibility** – adequate housing must be accessible to all, especially marginalized and disadvantaged persons and communities.
5. **Location** – adequate housing must allow for access to employment options, healthcare, schools, and other social services. There must not be excessive financial demands on the household with respect to transportation.
6. **Affordability** – expenditures for housing should be commensurate with income levels and should not threaten or compromise the attainment of basic needs.
7. **Cultural adequacy** – housing should respect cultural rights, expression, and ways of life.
8. **Access to natural resources** – including land, water, forests.
9. **Information, participation, and capacity-building** – people must have adequate and timely information on all aspects of housing, and should be able to participate in decision-making and planning processes.
10. **Resettlement, restitution, compensation, non-refoulement, and return** – the rights to resettlement and freedom of movement should be ensured and protected.
11. **Freedom from dispossession, damage, and destruction.**
12. **Physical safety and security.**
13. **Freedom from violence against women.**
14. **Access to remedies** – adequate legal and other remedies must be made available to protect the right to adequate housing.

21 See, General Comment 4, ‘The Right to Adequate Housing,’ UN Committee on Economic, Social and Cultural Rights, 1991. Also see, ‘Questionnaire on Women and Housing,’ in report of the UN Special Rapporteur on adequate housing, Miloon Kothari, 2007, UN Doc. A/HRC/4/18.

- All plans regarding permanent housing and the resettlement site must be adequately discussed with affected individuals and communities, before being finalized.
 - Affected persons must have a say in the choice of permanent housing, including the final design, material, layout, and location of the housing site;
 - Periodic consultations must be held with adequate representation of all sections of the affected communities, especially women;
 - People must be provided adequate information on disaster-resistant technologies and practices. They should also be given options of using indigenous technology, including building materials and designs, that meet their cultural requirements;
 - Permanent housing plans must not be finalized without the full, free, and prior informed consent of affected persons; and,
 - Affected persons must be provided complete information on the implications of choosing a certain design or plan over another.
- The number of family members in a house must be considered into consideration when building and allocating new houses. Extended families that lived in one large house should not be given the same amount of space meant for a single nuclear family. The size of the new house and space provided should be based on an adequate needs assessment.
- Permanent housing must include sufficient rooms to ensure privacy for women and girls, and provide for a separate kitchen and attached bathroom and toilet. Women must be involved in decision-making regarding the location, material, design, and layout of housing.
- In order to protect women from arbitrary eviction and to uphold their equal rights to land, property and adequate housing, the government and other involved actors must provide legal security of tenure over the alternative house as well as the house plot/land in the names of the adult woman/women of the house. Diverse tenure options should be recognized, including ownership, long-term leases, and community tenure arrangements.
- The government should develop and disseminate comprehensive guidelines for permanent housing construction in post-disaster situations. These should be based on international human rights standards and must stipulate the use of disaster-resistant technology. Mechanisms should be established to ensure adherence to these guidelines by all agencies involved in constructing and providing permanent housing to disaster-affected persons.
- Where private actors are involved in housing reconstruction and where communities are involved in self-building initiatives, the state should develop procedures to regularly monitor and assess housing construction to ensure that it meets international standards of adequacy and disaster-resistance.

- The sites of permanent housing/resettlement should be planned appropriately²² and should respect the preferences, needs, culture, religion/s, and ways of life of affected families, including their means of community participation, methods of worship and last rites, and social interaction. The goal should be to enable affected families to not just return to their pre-disaster ways of life, but to improve their quality of life and to realise their human right to an adequate standard of living.
- The state should take special care to ensure religious and communal harmony while providing resettlement, rehabilitation, and reconstruction.

While disaster response will not—and should not—replace development efforts, it provides an occasion to redress the inequalities that either exacerbated the natural disaster’s impacts or were made visible by it, and to contribute to efforts to progressively realise the right to adequate housing for all, notably by improving tenure security.²³

5) Recommendations to Protect the Human Right to Education

The human right to education should be respected and protected. It should be understood as the right to receive, without discrimination, an education in all its forms and at all available levels that is accessible, acceptable and inclusive.²⁴

The state and other actors involved in relief, rehabilitation, and reconstruction efforts should ensure that:

- The return of children and youth to school or education programmes in safe learning environments is facilitated without discrimination, as early and as quickly as possible after the disaster, even if documentation which is usually required has been destroyed.
- Girls and women have full and equal access to education.
- Access to secondary and higher education, to the extent possible, is not disrupted, in particular when students can no longer afford studies as a consequence of the disaster.
- Children with disabilities or HIV/AIDS, and others belonging to disadvantaged or marginalized groups, including Dalits and indigenous and tribal peoples/*adivasis*, who have been affected by the disaster have equal access to education and training opportunities, without discrimination of any kind.
- Psycho-social support programmes, public health information, and issues related to protection are incorporated into school curricula in the aftermath of a disaster.

22 For more information on resettlement standards, see, Basic Principles and Guidelines on Development-based Displacement and Evictions, 2007, paragraphs 52–58, UN Doc. A/HRC/4/18.

23 Report of the UN Special Rapporteur on adequate housing, Raquel Rolnik, 2011, UN Doc. A/66/270 (special focus on housing and natural disasters).

24 Section B.2.6, IASC Operational Guidelines, 2011.

- Efforts are made to provide special study grants for disaster-affected students; waive or reduce fees for disaster-affected students; and provide special courses and special examination periods to allow disaster-affected students to make up for missed examinations.

6) Recommendations to Protect the Human Right to Work / Livelihood

The state and other actors involved in relief, rehabilitation, reconstruction, and recovery should:

- Ensure that access to livelihoods and employment opportunities as well as projects to restore economic activities, employment opportunities, and livelihoods disrupted by the disaster are facilitated, without discrimination, and as comprehensively as possible.²⁵
- Develop community-based strategies to ensure that all sections of the affected population are fully informed and consulted, and are able to participate in decision-making related to the rehabilitation of disrupted livelihoods and re-training options.
- Ensure that compensation for lost livelihoods is based on a comprehensive needs assessment and is well coordinated and well planned to avoid arbitrariness and negligence, to minimize duplication, and to ensure that benefits reach the affected persons in order to enable them to resume working and earning.
- Undertake adequate and independent economic assessments to determine accurate compensation for destruction and loss of agricultural crops, trees, and livestock.
- Ensure that rehabilitation and reconstruction also benefit persons with special needs and economically active women of all ages and social groups. Measures to support women's multiple responsibilities as economic providers and family workers should be undertaken. Women's income generating options should be incorporated into livelihood rebuilding plans. A gender analysis should be included in all empirical assessments.
- Provide access to grants and loans to rebuild lost livelihoods and to replace damaged or destroyed tools, workspace, equipment, supplies, credit, capital, markets, and make available other economic resources.
- Ensure that affected persons gaining access to livelihoods and employment opportunities are protected against unfair, unhealthy and unsafe working conditions.
- Take special measures to ensure that opportunities are provided not just to help people regain their pre-disaster lifestyles, but also to improve their lives and standard of living.

25 See, Section C.3 of the IASC Operational Guidelines, 2011.

7) Recommendations to Protect the Human Rights to Information and Participation

The state and other actors involved in disaster preparedness, relief, rehabilitation, reconstruction, and recovery processes must ensure that the human rights to information and participation of all affected persons are protected and upheld.²⁶

“We strongly believe that the full participation and involvement of the communities concerned, including women, in the reconstruction of their lives and homes is of the utmost importance for sound, appropriate, and quick resettlement and rehabilitation. Coordinated and participatory planning processes will be essential in securing a place for the human rights and sustainable development agenda, which is vital for ensuring a safe future for the people of the region. They will also help to ensure full transparency and accountability in bringing resources to those people and areas most in need.”

From the statement of 26 UN Special Procedure mandate holders: ‘Human Rights Experts Call for Focusing Attention on Most Vulnerable Tsunami Survivors, Full Participation,’ 11 January 2005, Geneva

- Survivors must not be viewed merely as victims but as active participants in the post-disaster relief and recovery process. They must be involved and consulted in all plans and processes related to rehabilitation and reconstruction.
- All actors—government and non-government—involved at various stages of the relief, rehabilitation, and reconstruction process, especially the implementing agencies, must provide affected persons with complete and timely information on *inter alia*:
 - Assistance that will be provided, including when and where;
 - Initiatives and procedures related to locating missing persons, identifying bodies, and carrying out last rites;
 - Points of access for food, water, and other essential goods and services;
 - Immediate relief and long-term rehabilitation and reconstruction plans and processes;
 - Funds received and amount disbursed on relief, rehabilitation, and compensation;
 - Procedures for allotting housing, land, property, resettlement, and for determining compensation;
 - Timelines for completion of rehabilitation and reconstruction work; and,
 - Responsible authorities, agencies, and mechanisms available for participation, complaint, and remedy.

26 See, *Do People’s Voices Matter? The Human Right to Participation in Post-tsunami Housing Reconstruction*, Housing and Land Rights Network, New Delhi, 2006.

- Information must be made available in local languages and through appropriate media in order to reach the maximum number of people in every community:
 - Special provisions must be made to ensure that information reaches all affected persons and communities, including women, children, minorities, persons with disabilities, older persons, historically discriminated groups such as Dalits, and indigenous and tribal peoples; and,
 - All information must be accessible even to semi-literate and non-literate people.
- Affected persons' human right to participate in relief and rehabilitation planning and implementation must be respected and promoted:
 - Mechanisms must be established to allow for participation of the affected communities at every stage of the relief and recovery process; and,
 - These mechanisms must provide adequate space for representation from marginalized and vulnerable groups including women, children, minorities, Dalits, indigenous and tribal peoples, older persons, and persons with disabilities.
- Rehabilitation, reconstruction, and recovery plans, including durable solutions, should be discussed with affected persons using sensitive and innovative means in order to reach the most vulnerable and marginalized:
 - Adequate time should be given to affected persons to provide suggestions regarding permanent housing, land, resettlement, livelihood restoration, education, health, and other issues of concern;
 - Implementing agencies should try and accommodate people's suggestions and opinions, as much as possible.
- Where rehabilitation involves relocation, it must be done only with the full, free, and prior informed consent of the people concerned.

8) Recommendations to Protect the Human Right to Freedom of Movement

The right to freedom of movement of affected persons, whether or not displaced, should be respected and protected. This right should be understood as including the right to freely decide whether to remain in or to leave an endangered zone.²⁷

- After the emergency phase, internally displaced persons²⁸ should be supported to find a durable solution to their displacement. Durable solutions should be understood as sustainable integration of internally displaced persons:

²⁷ Section D.2 of the IASC Operational Guidelines, 2011.

²⁸ Also see, Guiding Principles on Internal Displacement, 1998, UN Doc. E/CN.4/1998/53/Add.2.

- At the place of origin (“return”);
 - In areas where they took refuge (“local integration”); or
 - In another part of the country (“settlement elsewhere in the country”).
- Internally displaced persons should be granted the right to choose freely whether they want to return to their homes and places of origin, to integrate locally in the area to which they have been displaced, or to settle elsewhere in the country. Appropriate measures, such as consultation, information campaigns, and exposure visits should be undertaken to enable affected persons to take an informed decision in this regard.
 - Efforts should be made to ensure that return, local integration, or settlement elsewhere in the country is sustainable. Conditions are considered sustainable if internally displaced persons:
 - Are safe and secure, free from harassment, intimidation, and unmitigated risks of further natural disasters;
 - Have been able to access adequate housing, including in the case of return, to repossession of and adequate reconstruction/rehabilitation of their homes; and,
 - Can return to their lives as normally as possible, with access to inter alia, water, basic services, schools, livelihoods, employment, markets, and healthcare facilities without discrimination.
 - Relief operations should be designed so as to preserve family unity. Members of internally displaced families who wish to remain together should be allowed and assisted to do so during all phases of the disaster response, and their separation should be prevented.

9) Recommendations to Protect the Human Right to Remedy

All affected persons have the right of access to timely remedy. Appropriate remedies include a fair hearing, access to legal counsel, legal aid, return, restitution, resettlement, rehabilitation and compensation, and should comply, as applicable, with the Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.²⁹

- Reparation includes restitution, compensation, rehabilitation, satisfaction, and guarantees of non-repetition for victims of human rights violations. Reparation is full and effective when it is proportional to the gravity of the violations and the harm suffered, and victims have relevant information concerning reparation mechanisms and equal and effective access to them.³⁰

29 Basic Principles and Guidelines on Development-based Displacement and Evictions, 2007, paragraph 59, UN Doc. A/HRC/4/18.

30 Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 2006, UN Doc. A/RES/60/147.

- Affected persons and communities should be allowed and enabled to give feedback and raise complaints or grievances on the disaster relief and recovery process.
- Grievance redress mechanisms should be set up at the lowest administrative levels with adequate powers to address problems that may arise in the course of the relief and rehabilitation process.

Recommendations on Determining Compensation

- A comprehensive human rights-based impact assessment should be carried out by the state government in order to determine the accurate and real extent of losses incurred by individuals, families and communities, as a result of the natural disaster.
- This should include both material losses, such as loss of housing, property, personal possessions, livestock, and crops, as well as non-material losses such as loss of education, loss of livelihoods and earning potential, loss of access to food and healthcare, and psychological trauma and mental harm.

Housing and Land Rights Network has developed an 'Eviction Impact Assessment Tool' that provides a human rights-based framework for carrying out impact assessments under various conditions, including natural disasters. This tool or similar assessment mechanisms could be used to determine the real loss and damage from the disaster in order to ensure adequate compensation for the affected persons.³¹

- Women should be entitled to their own compensation.
- Special provisions should be made to ensure that orphaned children who are minors are able to access compensation that they are entitled to.

Recommendations Related to Documentation³²

- Personal documentation for identification and other purposes (for example birth, marriage and death certificates, travel documents, education and health certificates) that has been lost or destroyed in a natural disaster should be restored to affected persons as early as possible. The following principles should be respected:
 - Women and men should be treated equally when documents of any kind are issued. Women should be issued documentation in their own names;

³¹ For more information on the impact assessment tool, write to: landhousing@gmail.com. See an example of the use of the tool in the publication, *Unjust Compensation: An Assessment of Damage and Loss of Private Property in Kandhamal, Odisha*, Centre for the Sustainable Use of Natural and Social Resources, and Housing and Land Rights Network, Bhubaneswar, 2012.

³² Section C.3 of the IASC Operational Guidelines, 2011.

- Unaccompanied, separated and orphaned children should be issued documentation in their own names; and,
 - Attention should also be paid to the documentation needs of non-citizens.
- Loss of personal documentation should not be used:
 - To justify the denial of essential food and relief services;
 - To prevent individuals from travelling to safe areas or from returning to their homes;
 - To impede their access to employment opportunities; or
 - To deny access to basic services such as education or essential healthcare.
 - Loss of documents proving land tenure and ownership should not be used to impede the exercise of property rights.

10) Recommendations on Accountability, Monitoring, and Follow-up

Post-disaster relief, rehabilitation, reconstruction, and recovery processes require accountability as well as regular assessment and monitoring.

- All agencies—including government, non-government, national and international—must operate on the principle of cooperation and transparency, and must be accountable to the constituencies they claim to be working for. The state also should develop mechanisms to ensure accountability of humanitarian and other involved organizations.
- All actors involved in post-disaster relief and recovery, especially those working on similar issues, should meet regularly, share information, and coordinate their activities to ensure that their interventions are not conflicting, duplicative or negating of one another.
- The government should set up special oversight mechanisms, based on human rights standards, to ensure timely implementation and monitoring of relief and rehabilitation work.
- All implementing agencies must have effective mechanisms for regular follow-up, complaint registration, and grievance redress, even after people have returned to their homes or shifted into new houses.
- Joint task forces comprising of affected persons and members of implementing agencies should be set up. All monitoring mechanisms must have adequate representation of women, older persons, persons with disabilities, Dalits, indigenous and tribal peoples, minorities, and members of other marginalized and vulnerable groups.

- Special mechanisms to assess relief and rehabilitation work of government and non-government agencies vis-à-vis human rights standards should be established.

11) Recommendations to Ensure Gender-sensitive Relief and Rehabilitation, and to Protect the Human Rights of Women

The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) protects the rights of women and legally binds state parties to implement its provisions.

Commission on the Status of Women (2002)

Gender is a highly significant factor, both in the construction of social vulnerability to risk and in people's organized responses to hazards and disasters. Gender inequalities with respect to enjoyment of human rights, political and economic status, land ownership, housing conditions, education, health, in particular reproductive and sexual health, and exposure to violence, make women more vulnerable before, during and after disasters.

*In addition to recommendations made in the previous sections, in order to ensure the protection of women's rights, the state and other actors involved in relief, rehabilitation, reconstruction, and recovery processes must take concerted measures to:*³³

- Identify and respect the specific needs and concerns of women.
- Ensure special protection for marginalized women, including women from Dalit, indigenous/tribal/*adivasi* communities; single women, including single mothers; older women, women from religious and sexual minority communities; and, women with disabilities, mental illness, and chronic and long-term illnesses, including HIV/AIDS.
- Provide special care for pregnant and lactating women, and women with infants and young children.
- Ensure that relief material contains items required by women and is distributed in a gender-sensitive manner that protects their safety, security, and dignity.
- Include women in the relief distribution teams, in particular for distribution to women.
- Ensure that relief material, including food, is distributed separately to women.
- Design shelters, living/sleeping quarters, and toilets and sanitation facilities to ensure the maximum degree of privacy and protection for women and girls. Provide for separate and

³³ The IASC Operational Guidelines, 2011, contain strong provisions on women's rights. Also see, *Guidelines for Gender-Sensitive Disaster Management*, Asia Pacific Forum on Women, Law and Development, 2006.

secure toilets and bathing facilities for women in camps, relief centres, and temporary/transitional/intermediate housing sites.

- Provide secure access to all sites in relief camps and temporary/transitional/intermediate housing sites, especially at night, including through the presence of guards and adequate lighting for all walkways and toilets/bathing facilities.
- Ensure protection against gender-based violence by:
 - Establishing safe and secure spaces for women and children;
 - Providing female law enforcement personnel at all sites; and,
 - Investigating and prosecuting offenders responsible for acts of gender-based violence in a timely manner.
- Ensure access to gender-sensitive and confidential services (including health, security, and legal and psycho-social support).
- Ensure that women's rights to health, including their reproductive rights, are protected, and that women's health services are appropriate and culturally sensitive. Ensure the presence of female healthcare providers and counsellors at all sites.
- Consider women as independent units to receive compensation and rehabilitation. For cash compensation, ensure that it is deposited in the bank accounts of women.
- Ensure that legal security of tenure is provided to women. Any titles provided to alternative housing/land should be in the names of the adult woman/women of the household.
- Provide easily accessible, gender-sensitive counselling and care services for survivors of sexual violence.
- Take concerted steps to prevent trafficking, child labour, forced sex work, sexual exploitation, and other forms of exploitation in the aftermath of the disaster.
- Ensure that women are provided adequate and timely information, are consulted, and are able to participate in all stages of the relief and recovery process, including in decisions regarding housing, resettlement, livelihood restoration, education of children, healthcare, and transport.
- Provide legal support to women, and assist them in accessing legal aid and other remedies.
- Promote awareness on the human rights of women and the need for gender-sensitive relief and rehabilitation processes to officials of disaster management authorities, the government, and other involved agencies, including humanitarian and civil society organizations.
- Develop a manual for gender-sensitive disaster management and translate it into local languages.

12) Recommendations to Protect the Rights of Children

Special efforts must be made by the government and all agencies involved in relief and recovery efforts to protect the rights of children, as they are most severely impacted by disasters and disproportionately suffer its consequences. The long-term effects of disasters on children, including psychological trauma, especially need to be addressed.

The Convention on the Rights of the Child (1989) makes it mandatory for state parties to implement its provisions, in all circumstances.

Adequate measures must be adopted to:

- Prioritize the needs of children in all stages of disaster prevention, relief, and recovery, and ensure their safety and security.
- Prevent trafficking and sexual exploitation/abuse of disaster-affected children.
- Enroll children in formal or informal educational activities or provide other child-friendly spaces, including in relief camps.
- Ensure that schools are quickly reconstructed, that teachers come regularly, that educational materials are provided to children, and that exams are held as scheduled.
- Recognize orphaned boys and girls as separate and independent units, and enable them to receive entitlements to land, housing, and compensation so that they are not merely absorbed into the family units that have temporary guardianship.
- Integrate adequate and culturally appropriate psycho-social support services and long-term counselling programmes for children and adolescents into school curricula and play activities, as well as in health clinics.
- Ensure access to adequate mental healthcare, as needed.
- Coordinate activities of all agencies working on children's issues to prevent competition, duplication of efforts, and waste of resources.
- Ensure that crèches and safe play areas are provided for children at all sites.
- Conduct, as soon as possible, thorough investigations and prosecution of perpetrators of trafficking, sexual abuse, violence, child labour, and recruitment of children.

According to the 'State of the World's Girls 2013', a report of Plan International, nearly 80 per cent of adolescent girls affected by disasters in the Indian states of Uttar Pradesh, Bihar, and Andhra Pradesh reported that disasters impact their access to safe shelter. Adolescent girls also suffer from lack of privacy and adequate sanitation in relief camps. According to the report, one-third of the girls reported gender bias in terms of access to food. While 45-58 per cent adolescents feared being married off early, more than a fourth of the girls in Bihar and Andhra Pradesh reported being afraid of being sold or trafficked after a disaster.³⁴

13) Recommendations on Disaster Risk Reduction, Preparedness, Mitigation, and Protection

Violations of the human rights of disaster-affected persons are often exacerbated as a result of inadequate planning and disaster preparedness, and neglect. While it may not be possible to prevent all natural disasters, preparedness can often reduce the severity of impacts. It is, therefore, essential that the human rights to disaster risk reduction and preparedness are protected, especially in disaster-prone areas.³⁵

The Sendai Framework for Disaster Risk Reduction 2015-2030, adopted in March 2015, states that: "Managing the risk of disasters is aimed at protecting persons and their property, health, livelihoods and productive assets, as well as cultural and environmental assets, while promoting and protecting all human rights, including the right to development."

The responsibility for disaster risk reduction, preparedness, mitigation, and protection lies with the state and its agencies. According to the 2005 Hyogo Declaration, "States have the primary responsibility to protect the people and property on their territory from hazards and ... to give high priority to disaster risk reduction in national policy, consistent with their capacities and resources available to them."³⁶ Each State has the primary responsibility to prevent and reduce disaster risk, including through international, regional, subregional, transboundary and bilateral cooperation.³⁷

34 *Because I Am a Girl: State of the World's Girls 2013, Double Jeopardy: Adolescent Girls and Disasters*, Plan International, October 2013.

35 See, 'The Risk of Disaster-Induced Displacement in South Asia,' Internal Displacement Monitoring Centre, Norwegian Refugee Council, 2015.

36 Hyogo Declaration, World Conference on Disaster Reduction, 2005, UN Doc. A/CONF.20/L.3/Rev.1.

37 Sendai Framework for Disaster Risk Reduction 2015-2030, March 2015, UN Doc. A/CONF.224/CRP.1.

*The state should assume primary responsibility and adopt the following measures to protect human rights and minimize the risk and impacts of potential disasters:*³⁸

General Human Rights Safeguards

- Ensure the equal protection of human rights of all residents within the country.
- Ensure that all national laws and policies are consistent with the state's international human rights obligations.
- Incorporate international human rights standards, guidelines, declarations, and recommendations of international human rights mechanisms into national laws and policies.
- Promulgate and implement a national housing law—based on international human rights standards—to guarantee the human right to adequate housing for all, which includes legal security of tenure and disaster-resistant housing. The law should also protect the rights to resettlement and to return.³⁹
- Implement legislation aimed at eliminating discrimination against specific groups and communities, and where necessary, promulgate laws to protect the rights of marginalized and discriminated individuals, groups, and communities.
- Develop adequate legislative and policy measures aimed at protecting human rights in situations of disasters – both natural and human-induced.
- Ensure the participation of women, and members of minority communities and marginalized groups in all law and policy-making processes.
- Make adequate budgetary allocations for the realisation of human rights.
- Ensure better coordination between different government agencies/departments/ministries to address human rights and environmental issues, including in disasters.
- Fulfil state commitments to international human rights bodies and mechanisms, and comply with international reporting guidelines.

Environmental Safeguards

- Guarantee the protection of the human right to a safe and healthy environment for all.
- Ensure compliance with national and international environmental laws, including on climate change, biodiversity, forests, and 'environmental impact assessment.'

38 Also see, IASC Operational Guidelines, 2011.

39 See, Basic Principles and Guidelines on Development-based Evictions and Displacement, 2007, UN Doc. A/HRC/4/18. Also see, Guiding Principles on Security of Tenure for the Urban Poor, 2014, UN Doc. A/HRC/25/54.

- Meet internationally agreed upon targets for reduction of emissions, and develop national plans of action for reducing the impacts of climate change, especially on the most vulnerable populations.
- Incorporate safeguards to ensure that climate change-related mitigation and adaptation policies are human rights-based, and do not exacerbate discrimination and inequality.
- Incorporate principles of environmental sustainability, inter-generational equity, the precautionary approach, and international assistance and cooperation, in national laws and policies, including for disaster management.
- Develop an accountability framework to hold states responsible for reducing vulnerability to disasters, including those resulting from climate change.

Vulnerability is defined as: "The conditions determined by physical, social, economic and environmental factors or processes, which increase the susceptibility of a community to the impact of hazards."⁴⁰

Specific Risk Reduction and Preparedness Measures

Policy Development and Planning

- Develop human rights-based national action plans for disaster management, including for risk reduction, in collaboration with legal and human rights experts. These should include timescales with targets, indicators and time frames, aimed at preventing the creation of risk, the reduction of existing risk, and the strengthening of economic, social, health and environmental resilience.⁴¹
- Involve national human rights institutions (NHRIs) in disaster management efforts, including the development of national action plans. Encourage NHRIs to investigate violations of human rights related to disaster preparedness, relief, and recovery processes.
- Develop human rights-based assessment tools in order to adequately assess post-disaster losses and violations, and to determine accurate compensation. Incorporate these tools in national and local disaster management laws, policies, and plans.
- Develop mechanisms to assess, monitor, and report on disaster risk reduction plans and targets. Regulate and monitor compliance with international standards and norms for disaster-resistant planning and construction.

40 The Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters.

41 See, Sendai Framework for Disaster Risk Reduction 2015-2030, March 2015, UN Doc. A/CONF.224/CRP.1.

- Allocate the necessary resources, including finance and logistics, as appropriate, at all levels of administration for the development and the implementation of disaster risk reduction strategies policies, plans, laws, and regulations in all relevant sectors.⁴²
- Activate early warning and alert systems, and preventive protection measures.
- Plan for specific relief measures for people with special needs, and for women and children.
- Include safeguards for women's and children's physical and personal security in disaster management plans.
- Undertake community/village-based disaster risk management planning.
- Create disaster management committees at the local level, and include women in all disaster management processes.
- Develop a clear understanding of land, housing, and property issues in areas that are prone to disasters, including the nature of property management systems and decision-making structures.
- Involve communities in the identification of suitable alternatives and of measures to be taken to safeguard their homes and assets.
- Undertake periodic community evacuation exercises/training.
- Establish community centres to promote public awareness and to stock necessary materials to implement rescue and relief activities.⁴³
- Supply protective measures for communities and households, such as maps with evacuation routes and emergency communication devices.
- Ensure that all actors engaged in disaster management have human rights-based operating procedures in place – in compliance with international standards and guidelines.

Mapping, Assessment, and Documentation

- Carry out a comprehensive nation-wide human rights assessment of vulnerability and analysis of disaster-prone areas. This should include mapping populations experiencing marginalisation and discrimination (including caste-based discrimination).
- Identify groups at greatest risk of violence, such as non-accompanied children, single women, persons with disabilities, and others.
- Identify and map potential sources of violence and discrimination outside and within the affected population. Also map potential sources of security concerns.

42 Sendai Framework for Disaster Risk Reduction 2015-2030, March 2015, UN Doc. A/CONF.224/CRP.1.

43 Ibid.

- Map cultural needs of populations in terms of food, housing, clothing, and other needs. Use disaggregated data to assess needs in terms of age, gender, disability, chronic illness or other factors.
- Carry out an assessment of the technical, financial, and administrative disaster risk management capacity to deal with the identified risks at the local and national level.⁴⁴
- Map different types of land and property rights systems in disaster-prone areas, including common property. Update records of land cadastres and other documents relevant for establishing property and ownership rights, and keep copies in disaster-resistant locations.
- Encourage community participation to create up-to-date records of property and belongings.
- Secure copies of vital documents, especially of persons in disaster-prone areas, and information relevant for their restitution.

Information and Training

- Inform people, in a language they understand, about expected risks, proposed precautions, and available facilities in the event of a disaster.
- Develop and implement community awareness raising programmes on the nature of risks and basic protection techniques, including circumstances that may require forced evacuation.
- Provide adequate information including on evacuation routes/location of protective shelters in areas at a particularly high risk of disasters, such as earthquakes, tsunamis, landslides, or floods.
- Integrate disaster awareness modules into educational curricula.
- Promote awareness among persons exposed to new specific protection needs and risks, as a consequence of the disaster, such as exploitation and trafficking.
- Disseminate public information on entitlements to families in order to help them prepare household disaster preparedness plans and survival kits.
- Provide basic first aid training and human rights education for all humanitarian actors.
- Train law enforcement personnel to work in emergency situations.
- Train members of monitoring and ombud-mechanisms to identify the specific risks that disaster situations create or exacerbate.

44 Sendai Framework for Disaster Risk Reduction 2015-2030, March 2015, UN Doc. A/CONF.224/CRP.1.

International Cooperation and Assistance

An effective and meaningful global partnership and the further strengthening of international cooperation, including the fulfilment of respective commitments of official development assistance by developed countries, are essential for effective disaster risk management.⁴⁵

- States should engage in inter-governmental efforts, including United Nations processes, to strengthen mechanisms aimed at disaster risk reduction and human rights protection in situations of disasters. This includes developing stronger regional mechanisms and working with existing regional and international human rights institutions.
- States should incorporate reporting on disaster prevention as well as the status of human rights of disaster-affected populations to international human rights mechanisms, including treaty bodies and the Universal Periodic Review mechanism of the UN Human Rights Council.

Promoting a human rights approach to disaster risk reduction, preparedness, mitigation, and protection would help ensure that marginalized and vulnerable individuals, groups, and communities are prioritized, and have greater resilience against future disasters.

V. Conclusion

All actors—state and non-state, national and international—involved in disaster management, including response, must strive to ensure that adequate measures are adopted to guarantee that the human rights of all affected persons and communities are respected, protected, and fulfilled. In disaster preparedness as well as in post-disaster relief, rehabilitation, reconstruction, and recovery efforts, special attention must be paid to marginalized and vulnerable groups. Pre- and post-disaster interventions must not, under any circumstances, perpetuate discrimination or exploitation of any individual, group, or community. States must take special precautions to prevent opportunism and profiteering during post-disaster situations.

It is only through the adoption of a human rights approach, including in national laws and policies on disaster management, and the implementation of the principles of: indivisibility of human rights; non-discrimination; equality; meaningful participation; inclusion; transparency and accountability; cooperation; non-retrogression; and, environmental sustainability, that disaster response will be adequate and will enable affected persons and communities to restore their lives and livelihoods, to return to a situation of normalcy, and to live with dignity.⁴⁶

45 Sendai Framework for Disaster Risk Reduction 2015-2030, 2015, UN Doc. A/CONF.224/CRP.1.

46 For more information/feedback, write to: landhousing@gmail.com

Annexure

Relevant Resources

Operational Guidelines on the Protection of Persons in Situations of Natural Disasters, Inter-Agency Standing Committee (IASC), 2011

<http://www.ohchr.org/Documents/Issues/IDPersons/OperationalGuidelines.pdf>

Guiding Principles on Internal Displacement, 1998

<http://www.ohchr.org/EN/Issues/IDPersons/Pages/Standards.aspx>

Basic Principles and Guidelines on Development-based Displacement and Evictions, 2007

<http://www.ohchr.org/EN/Issues/Housing/Pages/ForcedEvictions.aspx>

Principles on Housing and Property Restitution for Refugees and Displaced Persons, 2005

<http://www.unhcr.org/50f94d849.html>

Sphere Project – Humanitarian Charter and Minimum Standards in Disaster Response, 2011

<http://www.spherehandbook.org/>

IASC Framework on Durable Solutions for Internally Displaced Persons, 2010

<https://docs.unocha.org/sites/dms/Documents/IASC%20Framework%20DS%20for%20IDPs.pdf>

IASC, Women, Girls, Boys and Men. Different Needs – Equal Opportunities, Gender Handbook in Humanitarian Action, 2006

[http://www.humanitarianinfo.org/iasc/documents/subsidi/tf_gender/IASC%20Gender%20Handbook%20\(Feb%202007\).pdf](http://www.humanitarianinfo.org/iasc/documents/subsidi/tf_gender/IASC%20Gender%20Handbook%20(Feb%202007).pdf)

ICRC/IRC/SCUK/UNICEF/WVI, Inter-Agency Guiding Principles on Unaccompanied and Separated Children, 2004

http://www.unicef.org/violencestudy/pdf/IAG_UASCs.pdf

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Housing and Land Rights Network (HLRN) works for the recognition, defence, promotion, and realisation of the human rights to adequate housing and land, which involves securing a safe and secure place for all individuals and communities to live in peace and dignity. A particular focus of HLRN's work is on promoting and protecting the human rights of marginalized communities as well as the human rights of women to housing, land, property and inheritance. HLRN aims to achieve its goals through advocacy, research, human rights education, and outreach through network-building at local, national and international levels.

In this compilation, HLRN presents recommendations for the protection of the human rights of disaster-affected individuals, groups, and communities, including their rights to disaster preparedness and rehabilitation. These guidelines are for state and non-state actors (national and international) involved in various stages of disaster management. It is only through the adoption of a human rights framework and the implementation of human rights principles such as non-discrimination, equality, meaningful participation, and accountability, that disaster response efforts will be adequate and will enable affected persons to recover and live with dignity.



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