

Post-Disaster Internally Displaced Populations (IDPs) Human Right & Gender Dimensions: *Considerations for Policy Makers*

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1. How to meet the particular needs of IDPs
 2. Extent to which the current humanitarian efforts fits into the human rights framework
 3. How IDP health rights were violated
 4. How to avoid mistakes which were made resulting in the violation of health rights and the sphere minimum standards when addressing the health of IDPs
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1. How to meet the particular needs of Internally Displaces Population's (IDPs):

The purpose of a humanitarian response is to reduce mortality and morbidity and return the population to a condition of normalcy. The first thing to understand is how to use coherent and consistent human rights terminology. Human rights obligations are voluntarily confirmed obligations of states or nations towards populations within their jurisdiction. The result of Vienna Conference on Human Rights in 1993 states clearly that "States declare that human rights are the *legitimate concern* of the international community." This obligates States or nations to have consistent efforts and strive towards a complete spectrum of human rights - starting from an effective 'right to health,' within the availability of States resources to the absolute prohibition of torture. The role of the State during disasters is paramount. States need to step up and deliver emergency aid at all levels and observe the UN covenants of Human Rights.

It is imperative that States as well as non-government organizations (NGOs) focus on *individual level*, by recognizing the IDPs, without gender or age discrimination, as "right-holders" and not just victims in need of assistance. Furthermore, from an organizational prospective during a complex emergency it needs to be recognized that the beneficiaries of humanitarian aid are the "right-holders."

2. Extent to which the current humanitarian effort fits into the human rights framework:

The human rights framework is conceptual without any artificial distinction between "assistance" and "protection" activities. Human rights laws are non-negotiable, meaning that NGOs must be consistent in applying and protecting them. It is not in the NGOs interests to undermine human rights law by ignoring them, nor to renegotiate human rights standards and make them weaker. The two critical questions to address are 1) how to meet the needs of IDPs within a human rights framework and what are the rights of IDPs?. NGOs have the obligation that their activities conform to the human rights framework from the planning stage. Human rights should not be a passive consideration, but an active consideration in planning. Table 1 describes the obligations of NGOs to recognize which IDP rights are affected by their activities according to the HR framework.

Table 1:

Sector of NGO activity	IDP Human Rights
Health	ICESCR ¹ , Article 12.1: the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
Shelter	ICCPR ² , Article 12.1: Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
Livelihood	ICESCR, Article 6.1: The Right to Work: "...the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right."

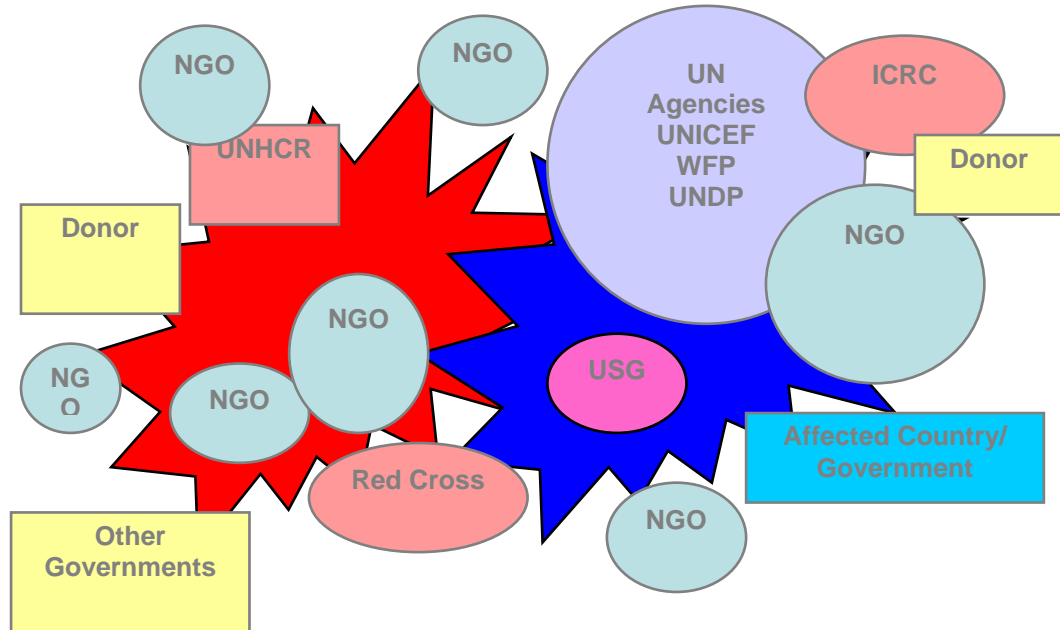
¹ICESCR = International Covenant of Economic, Social and Cultural Rights

²ICCPR = International Covenant on Civil and Political Rights

As described earlier it is imperative that NGOs have a clear understanding of *individual-level* human rights framework and use the appropriate human rights terms. At the *organizational-level* it is imperative that NGOs examine what it means to effectively apply them as an organization from the recruitment of staff, training, creating an analysis unit, translating human rights lessons to be learned from past into new standards procedures, training staff to apply them, etc.

The organization during the initial phases of a disaster or complex humanitarian emergency needs to be prepared to work within the framework of human rights. *Organizational-level* response is required to ensure consistency within its own organization at all levels as well as with other organizations and UN agencies that are participating in the emergency response and have core corporate capacities. Communication between players is critical as with the number of actors involved confusion could be detrimental for a successful humanitarian operation whether it is a small NGO or a large multinational organization.

Need for Communication during Disaster Relief



There has to be quality control which can be internal as well as external. For running an efficient organization it is recommended to involve specialists in human rights law and practice from the very beginning, and not waiting till the organization faces a road-block, in order to analyze how to operationalize the framework.

3. How IDP health rights were violated post-tsunami:

The right to health dictates that:

“Everyone has the right to a standard of living adequate for the health and wellbeing of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same protection.” (Universal Declaration of Human Rights, Article 25)

In Aceh, martial law was declared in 2003 to crush the massive pro-independence movement. The martial law was downgraded to civil emergency in May of 2004. This downgrading did not result in the elimination of human right abuses. Since 2003, NGOs have operated in Aceh under severe restrictions.

Post-tsunami, UN agencies as well as NGOs were permitted to enter Aceh but had to seek permission to operate outside Banda Aceh and Meulaboh. This limited NGOs to provide much needed assistance to areas outside these parameters. This not only prevented critical community input according to Sphere standards but was in violation of the right to health. A few of the larger NGOs, and one or two smaller NGOs, were politically astute enough to judge the political situation and establish their neutrality with both parties so that they were able to conduct their operations in ‘restricted’ areas (which was initially essentially all area outside Banda Aceh and Meulaboh) where large numbers of IDPs existed.

obligation that their activities conform to the human rights framework from the planning stage. Human rights should NOT be a passive consideration, but an active consideration in planning. Table 2 lists some of the activities neglected according to the HR framework.

Table 2.

Sector of NGO activity	Activities that were neglected according to the HR framework
Health	<ul style="list-style-type: none"> • Although access to 'Politically Sensitive' areas was restricted these areas were often neglected and underserved by NGOs. • NGO meetings were held in English, which prevented the participation of local groups that represented IDPs.
Shelter	<ul style="list-style-type: none"> • IDPs have not been consulted before the implementation of relocation plans. • IDPs were not given the choice between rebuilding of their homes, relocation to a new area or another choice of their liking. • Many NGOs made assumptions about relocation and are working with the government without assessing the wants of the IDPs.
Livelihood	<ul style="list-style-type: none"> • Women have been largely neglected from the major sector rehabilitation activities. For example, their role in the development of the fisheries and agriculture sector has not been addressed in the sectoral meetings between NGOs and the government's agriculture and fisheries ministers.

The major relationship between the humanitarian efforts and the human rights situation in Aceh, in particular, is the role of the NGOs in mitigating the political conflict in the region. It was largely due to the presence of international NGOs that the Helsinki conference between the GAM and the Indonesian government was convened. International NGOs are in the unique position that their presence is neutral and beneficial to all sides of the conflict. It is in the best interest of all regional parties to keep the NGOs involved in Aceh. From the government's perspective the NGOs bring investment and will contribute immensely to the reconstruction of the region. Their involvement not only allows the government to save money but profit from the NGO presence in terms of infrastructure and investments. Furthermore, it is also in the government's interest to limit the presence of NGOs lest the 'separatists' gain international support and sympathy. The last thing the government wants is a replay of East Timor. From the 'separatists' perspective the NGO-presence is advantageous politically and economically. Politically, because their cause can be appealed before an international audience; economically because the foreign investment is within their own land and for their people. The people of Aceh are also content with the NGOs because it largely means greater infrastructure and economic development.

4. How to avoid mistakes which were made resulting in the violation of health rights and the sphere minimum standards when address the health of IDPs:

The first and foremost thing is avoiding violation of sphere guidelines. Though many NGOs carry out the needs assessment in a timely manner, the sense of urgency at times tends to surpass their sense of adherence to internationally accepted standards of NGO response, particularly regarding community participation.

Sphere standards indicate that in a disaster response, *“the disaster-affected population actively participates in the assessment, design, implementation, monitoring and evaluation of the assistance programme.”*

In Aceh, it was noted that plans rapidly developed with a shortage of community inputs. This is especially relevant to Aceh where the government is the main authority deciding the continued presence of NGOs, while the community are the main beneficiaries but are, in many ways, diametrically opposite to the government.

Some NGOs may not have included community input as part of their needs assessment; time constraint prevented assessments beyond rapid, observational or key informant interviews. To ensure that humanitarian activities continue within the human rights framework the following policy recommendations should be considered by NGOs:

1. Prepared:
 - a. Encourage partnering with on-the-ground and local NGOs to have rudimentary presence in potential hot-spots around the world.
 - b. Contingency plans must be made to conduct the following during and in the aftermath of a natural disaster or humanitarian emergency:
 - i. Publicize and invite local NGOs, leaders and IDP groups to participate in meetings. Meetings should be arranged and conducted in such a manner as to allow participation. It may not be possible for all groups to attend meetings, but it is the responsibility of NGOs to ascertain the IDPs' perspectives and concerns and to have them represented and involved in the determination of their future by foreigners in their country.
 - ii. Translate international NGO meetings into local languages and ensuring that a translator is at hand for every meeting to allow local NGOs to efficiently express themselves as well as understanding the plans of the foreigners.
 - iii. NGOs must understand the political situation and the implications of working with the government in terms of their being used by the government as a tool to realize political aims. This is particularly important in the rehabilitation phase where

NGOs are scrambling to collaborate with the government in order ensure their continued presence. This appeasement of the government should not be done at the expense of the local population. All activities conducted by NGOs must be the design and desire of the IDPs, the victims of the disaster.

2. Training:
 - a. Familiarity with the international human rights covenants by all NGO officers who are in charge of developing administrative policies.
 - b. Training of all ground-zero staff in Sphere minimum standards.
 - c. Construction of needs assessment surveys within the HR framework
 - i. Availability and accessibility to instruments.
 - d. Conducting Appropriate Needs Assessments:
 - i. With comprehensive community participation.
 - ii. In restricted areas.
 - iii. Should evaluate what the actual needs of the community are and NOT what the NGO perceives to be their needs.
3. Identify political vulnerabilities of the IDPs in terms of human rights:
 - a. Identify marginalized population
 - b. Document
 - i. Housing without IDPs consent.
 - ii. Forced migration.
4. Coordination with other NGOs:
 - a. Establish/designate a body whose sole role is to conduct various needs assessments and to make them available to all other NGOs and UN agencies.
 - b. Make assessments data and results available to all actors in a timely fashion.
 - c. To assist other NGOs in collaboration and coordination.
 - d. Make better use of web-technology to allow inter- and intra-sectoral collaboration.
 - e. Publicize benefits of collaboration.
5. NGOs need to take the approach of addressing the prevention of human rights violations as a long term goal. According to the United Nations High Commissioner for Human Rights (UNHCR), "*Today's human rights violations are tomorrow's conflicts.*" The most important and effective strategy is to be prepared for and prevent emergencies or human rights crises.
 - a. On an *individual-level* it is imperative that humanitarian workers are trained and educated in the human rights framework
 - b. On the *organizational-level* NGO's must use human rights violation information and analysis to extrapolate strategies for "early warnings."

The analysis should have collective information with involvement of other partners in the system and should address:

- i. Why the situation or problems are occurring, i.e., understanding the mechanism of causation.
 - ii. Have pre-existing “contingency plans.”
 - iii. Must report and share data on human rights analysis with all actors.
- c. Involving the beneficiaries in the assessment by:
- i. Respecting the right to participate in public life (a humanitarian principle based on international human rights law, e.g. Article 12 of the CRC) by identifying issues and problems with the host society.
 - ii. Involving the local civil society, the rights-holders themselves, and the state whose obligations are at issue, from the local to the national level.
 - iii. Recognition by NGOs of their role in determining IDP concerns and wants. ensuring that those are an ingrained part of the rehabilitation.
 - iv. Participation of women wherever they are excluded in effect (even if not by law) through structural discrimination.
 - v. Recommending to the Government, from the NGOs perspective, what the needs of the community are based upon comprehensive and gender-equitable needs assessment surveys.
 - vi. Presentation of human rights framework based upon UN covenants for economic recovery based on gender equity.

“NGOs need to be all inclusive and not exclusive.”

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