

**INTER-AGENCY STANDING COMMITTEE WORKING GROUP
60th MEETING**

**21-22 March 2005
WFP Rome**

**IDPs:
Protection of Internally Displaced Persons in situations of Natural Disasters**

Circulated: 9 March 2005

From 27 February to 5 March 2005 the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, Dr. Walter Kälin, traveled to Colombo, Sri Lanka, and Bangkok, Thailand, to attend a number of meetings and seminars addressing the issue of the protection of IDPs in situations in the context of the tsunami of 26 December 2004. During the mission he met with representatives of Governments, National Human Rights Institutions, international and local NGOs as well as United Nations agencies. In Bangkok he also met with the Special Coordinator of the Secretary-General, Ms. Margareta Wahlström, and discussed with her a number of recommendations for follow-up.

The Representative was generally impressed with the effective response of Governments, NGOs, civil society and UN agencies to the tsunami. He noted that it was understandable that a human rights focus had been absent in the initial emergency phase of the response to. However, now that the immediate emergency phase was over, it was important to include human rights in the next phases, since there was an inherent risk for the response to be unsuccessful if the human rights dimension was neglected.

The Representative stressed that International Human Rights Law provides the general legal and normative framework and the Guiding Principles on Internal Displacement, restating existing rights protected by International Human Rights Law, was the fundamental tool and standard in addressing the protection of internally displaced persons in the context of natural disasters.

In particular, the Representative highlighted a number of key human rights issues, which are of particular relevance in the context of natural disasters (A more detailed paper on these issues is available on request):

- a. Consultation of the affected populations is absolutely essential, in order to ensure an effective, efficient and durable impact.
- b. The principle of non-discrimination among affected populations must be respected at all times. There is also a need to safeguard against discrimination among different groups of internally displaced persons, for instance where assistance is provided to internally displaced persons uprooted by a natural disaster but not to those displaced by conflict.

- c. Rights to personal liberty and to move freely within their own countries must be respected, including the right to move freely in and out of IDP camps and settlements.
- d. It is essential to establish and maintain the civilian character of IDP camps and settlements as well as in the distribution of humanitarian aid.
- e. Displaced women and children face a range of particular risks which must be taken into account. They experience heightened vulnerability to sexual and gender-based violence, especially in camps, where the risks also include increased levels of domestic violence and child abuse. Trafficking and child recruitment are other serious risks. Family members who are separated by displacement should be reunited as quickly as possible, with expedited measures taken whenever children are involved.
- f. Internally displaced persons should obtain, without unreasonable requirements, all necessary documentation for the enjoyment and exercise of their legal rights. Registration of the displaced population is a key element in a coordinated and consistent response.
- g. Where they are used, property records, both individual and those maintained by authorities, may have been destroyed as a result of the disaster. Rules on registration and inheritance may discriminate against women, who then experience particular difficulty regaining their homes and property, especially when their husbands have been killed. Governments may consider special arrangements to address issues regarding property, so as to identify durable solutions without delay.
- h. Internally displaced persons have the right to return voluntarily, in safety and dignity, to their places of origin or to resettle in another part of the country. When considering the establishment of so-called security buffer-zones in areas of possible return, authorities need to balance all relevant aspects.

The Representative stressed that all involved actors have important roles to play in ensuring that human rights are effectively integrated and protected in the response to natural disasters.

National authorities have the primary duty and responsibility to protect internally displaced persons.

National Human Rights Institutions play an important role in providing advice to Governments and other actors, assist in policy-making and the drafting of legislation, assist in the training and education of involved actors, and particularly in monitoring the human rights situation of affected populations and can thus providing crucial information to authorities for appropriate actions.

Civil society and international humanitarian and human rights organizations and mechanisms can provide crucial technical assistance in ensuring a comprehensive human rights response to natural disasters, and can assist in providing assistance, information and

advice as well as monitor the human rights situations of affected populations. International donors can play an important role in ensuring a rights-based approach to the response.

Next Steps

The Representative noted that there was a need for all involved actors to be more proactive with regard to the protection of IDPs in the next phases of the response.

The Representative discussed with Ms. Wahlström the need to strengthen the UN and inter-agency human rights dimension of the response to the Tsunami, and the Representative suggested that it be useful if OHCHR and OCHA would develop concrete operational guidelines in this regard. Ms. Wahlström welcomed this suggestion.

Based on the recommendation of the Representative, the National Human Rights Institutions of the affected countries (India, Maldives, Sri Lanka, Indonesia and Thailand) agreed to develop a common methodology for their role with regard to internally displaced persons in the context of natural disasters based on the Guiding Principles on Internal Displacement.

Proposed Actions by the IASC WG members:

- Support the recommendation of RSG for OHCHR and OCHA to jointly develop guidelines on human rights for humanitarian and human rights actors in situations of natural disasters, in particular with regard to the human rights of IDPs, to provide practical operational guidance to IASC members on the ground