

Protecting People Displaced by Disasters in the Context of Climate Change: Challenges from a Mixed Conflict/Disaster Context

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I. INTRODUCTION

Climate science has provided unchallenged evidence that climate change has enhanced and will continue to enhance the frequency and intensity of natural hazards.¹ The number of recorded natural disasters has doubled from approximately 200 to over 400 per year over the past two decades.² These hazards, when paired with poor preparedness and

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1. Cynthia Rosenzweig et al., *Assessment of Observed Change & Responses in Natural and Managed Systems*, in CLIMATE CHANGE 2007: IMPACTS, ADAPTATION AND VULNERABILITY (M.L. Parry et al. eds., 2007).

2. Int'l Strategy for Disaster Reduction (ISDR), *Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters*, U.N. Doc. A/CONF.206/6 (Mar. 16, 2005).

inadequate response strategies, result in disasters that disrupt human life, affect livelihoods, overwhelm capacities to respond, and cause forced displacement. The United Nations High Commissioner for Refugees (UNHCR) has warned that climate change will add to the scale and complexity of human mobility and displacement.³

Recent intense climate-related, sudden-onset disasters, including Pakistan's floods, India's monsoon season floods, Hurricane Katrina in the American Gulf Coast, and Cyclone Nargis in Myanmar, to name a few, have produced enormous, prolonged, and sometimes definitive forced population movements. At the height of Pakistan's 2010 floods, an estimated six million people were left in need for shelter; India's 2008 floods uprooted roughly six million people; Hurricane Katrina displaced more than half a million people; and Cyclone Nargis uprooted eight hundred thousand people.⁴ In 2008 alone, an estimated thirty-six million people were displaced by sudden-onset, climate-related disasters.⁵

In addition to highly intense hazards such as these, research has shown that weather-related hazards also take a heavy toll through small and medium-scale disasters, which doubled over the last twenty-seven years in a twelve-country sample.⁶ Such hazards, which are frequent and spread out geographically, in the aggregate configure an important risk factor in terms of displacement, particularly because they damage and destroy homes and livelihoods even if they do not produce high mortality rates.

As climate change scenarios materialize, the scale of disaster-induced forced displacement caused by climate-related hazards is due to grow. While accurately estimating the scale of forced population movements caused by slow-onset hazards such as environmental degradation and depletion of resources is difficult, the International Panel on Climate Change (IPCC) has estimated that by 2050, 150 million people could be displaced by climate change-related phenomena, such as desertification, increasing water scarcity, and floods and storms.⁷

3. U.N. HIGH COMMISSIONER FOR REFUGEES (UNHCR), CLIMATE CHANGE, NATURAL DISASTERS AND HUMAN DISPLACEMENT: A UNHCR PERSPECTIVE 1 (2009).

4. U.N. OFFICE FOR THE COORDINATION OF HUMANITARIAN AFFAIRS (OCHA) & INTERNAL DISPLACEMENT MONITORING CTR. (IDMC), MONITORING DISASTER DISPLACEMENT IN THE CONTEXT OF CLIMATE CHANGE (2009); Elizabeth Ferris, *Earthquakes and Floods: Comparing Haiti and Pakistan*, BROOKINGS, Aug. 26, 2010.

5. OCHA & IDMC, *supra* note 4.

6. U.N. INT'L STRATEGY FOR DISASTER REDUCTION SECRETARIAT (UNISDR), GLOBAL ASSESSMENT REPORT ON DISASTER RISK REDUCTION (2009).

7. INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, CLIMATE CHANGE 2007 (2007); see Informal Group on Migration & Climate Change of the IASC, U.N. Inter-Agency Standing Committee (IASC), Climate Change, Migration, and Displacement: Who Will Be Affected?

Disaster risk reduction and climate change adaptation efforts will go a long way towards curbing the impact of these projected hazards. However, as experience in disaster relief has shown, advancing a human rights lens in natural disasters preparedness and response is fundamental. This requires, for example, specifying the degree and content of the responsibility to protect those affected by disasters, including the displaced,⁸ showing that disaster relief is not neutral and should be guided by human rights standards, and affirming that responsibility does not begin with relief after disaster has struck. States have the obligation under human rights law to protect rights by guaranteeing the entire “cycle of protection.” Part II of this Article briefly describes the international protection normative framework for disaster internally displaced persons (IDPs) in the context of climate change.

Because the responsibility to protect lies primarily with states, translating these duties through various mechanisms of influence and persuasion into policy at the national level is also paramount. Even though this process is mediated by a myriad of factors, including the nature of regimes and political arrangements, level of development, and institutional strength, to name a few, we focus here on the existence of conflict as a condition strongly determining how states implement normative guidelines and frameworks for protection in disasters.

Focusing on the case of Colombia, Part III of the Article explores how protracted conflict influences the way in which these responsibilities are discharged and protection delivered to disaster IDPs. Even though each national context has its own particularities and these considerations are not necessarily applicable in other contexts, this Part may offer insights for other contexts confronting both conflict and disasters.

II. PROTECTION OF DISASTER IDPS: INTERNATIONAL NORMATIVE FRAMEWORK

The climate change debate has been a catalyst for action and advocacy for the protection of people affected by disasters, including the displaced. More specifically, climate change has provided an

(Oct. 31, 2008) (unpublished manuscript), *available at* <http://www.humanitarianinfo.org/iascweb2/pageloader.aspx?page=content-news-newsdetails&newsid=134> (click on link under “Relevant Links”) [hereinafter *Climate Change, Migration, and Displacement*].

8. GLOBAL PROTECTION CLUSTER WORKING GROUP, IASC HANDBOOK FOR THE PROTECTION OF INTERNALLY DISPLACED PERSONS (2010).

9. Representative of the U.N. Secretary-General on the Human Rights of Internally Displaced Persons, *Report of the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons*, 10-11, U.N. Doc. A/HRC/10/12/Add.1 (Aug. 11, 2010) (by Walter Kälin) [hereinafter *Report of the Representative*].

opportunity to affirm that response for people affected and displaced by disasters should be rights-based, should be driven by the needs of those affected, and should aim at fulfilling the entire range of their human rights. Even though these developments have taken place in the context of the climate change debate, they have also influenced response to nonclimate-related hazards.

In the context of climate change, an increasing number of advocacy and humanitarian organizations that have traditionally focused on conflict-induced forced displacement have expanded their scope of work to climate change, disasters, and displacement.¹⁰ Additionally, organizations typically focusing on environmental issues are now including displacement induced by climate change in their agendas.¹¹

The United Nations Inter-Agency Standing Committee (UN-IASC) has actively emphasized the rights and humanitarian dimensions of climate change and disasters within the context of the global climate talks.¹² In 2008, the Brookings-Bern Project on Internal Displacement published the *Operational Guidelines on Human Rights and Natural Disasters*,¹³ which were adopted by the UN-IASC as an official tool. In

10. For example, Refugees International's newly established Centre on Climate Displacement.

11. For example, Islands First and Friends of the Earth, which include climate displacement as one of their main concerns, have created projects related to the topic.

12. Climate Change, Migration, and Displacement, *supra* note 7; *see also* Informal Taskforce on Climate Change of the IASC & Int'l Strategy for Disaster Reduction, Disaster Risk Reduction Strategies and Risk Management Practices: Critical Elements for Adaptation to Climate Change (Nov. 11, 2008) (unpublished manuscript), *available at* <http://www.humanitarianinfo.org/iascweb2/pageloader.aspx?page=content-news-newsdetails&newsid=134> (click on link under "Relevant Links"); IASC, Climate Change, Migration, and Displacement: Impacts, Vulnerability, and Adaptation Options (Feb. 6, 2009) (unpublished manuscript), *available at* <http://www.humanitarianinfo.org/iascweb2/pageloader.aspx?page=content-news-newsdetails&newsid=134> (click on link under "Relevant Links"); Working Group on Long-Term Cooperative Action Under the Convention (AWG-LCA 6), IASC, In Search for Shelter: Mapping the Effects of Climate Change on Human Migration and Displacement (June 2, 2009) (unpublished manuscript), *available at* <http://www.humanitarianinfo.org/iascweb2/pageloader.aspx?page=content-news-newsdetails&newsid=134> (click on link under "Relevant Links"); IASC, Forced Displacement in the Context of Climate Change: Challenges for States Under International Law (May 19, 2009) (unpublished manuscript), *available at* <http://www.humanitarianinfo.org/iascweb2/pageloader.aspx?page=content-news-newsdetails&newsid=134> (click on link under "Relevant Links"); Working Group on Long-Term Cooperative Action Under the Convention (AWG-LCA 6), IASC, Protecting the Health of Vulnerable People from the Humanitarian Consequences of Climate Change and Climate Related Disasters (June 2009) (unpublished manuscript), *available at* <http://www.humanitarianinfo.org/iascweb2/pageloader.aspx?page=content-news-newsdetails&newsid=134> (click on link under "Relevant Links").

13. BROOKINGS-BERN PROJECT ON INTERNAL DISPLACEMENT, HUMAN RIGHTS AND NATURAL DISASTERS: OPERATIONAL GUIDELINES ON HUMAN RIGHTS AND NATURAL DISASTERS (2008).

2009, the Office of the High Commissioner on Human Rights released a report on the relationship between climate change and human rights.¹⁴

Human rights treaty bodies, including the Human Rights Committee (monitoring the International Covenant on Civil and Political Rights) and the Committee on the Elimination of Racial Discrimination (monitoring the International Convention on the Elimination of All Forms of Racial Discrimination), have also emphasized the obligation to protect rights in natural disaster preparedness and response when reviewing the United States' application of these treaties in the aftermath of Hurricane Katrina.¹⁵ On a similar point, the European Court of Human Rights has ruled that states have obligations to implement preventive measures to protect people from the risks posed by disasters in order to protect the right to life.¹⁶

The Special Representative of the U.N. Secretary-General on the Human Rights of Internally Displaced Persons (2004-2010) (Representative), Walter Kälin, has provided conceptual guidance and energetic advocacy for a human rights-based approach to disaster preparedness and response, focusing on situations in which disasters produce displacement.¹⁷ The Representative has underlined that protection risks arise in situations of natural disasters, which aggravate existing conditions of hardship and discrimination for vulnerable populations. Disasters impact the enjoyment of the whole range of rights, from physical security to access to education, health, and livelihoods.¹⁸ Thus, state action is required to protect these rights.

Even though human rights treaties do not include specific provisions on the protection of people displaced by disasters, under human rights law, states have the duty to promote universal respect for, and observance of, all human rights and freedoms without distinction as to race, sex, language, or religion for all people living in its jurisdiction.

14. U.N. OFFICE OF THE HIGH COMM'R FOR HUMAN RIGHTS, REPORT OF THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS ON THE RELATIONSHIP BETWEEN CLIMATE CHANGE AND HUMAN RIGHTS (2009).

15. ADVOCATES FOR ENVTL. HUMAN RIGHTS ET AL., THE HUMAN RIGHTS CRISIS IN THE AFTERMATH OF HURRICANE KATRINA 1 (2010).

16. Budayeva & Others v. Russia, App. Nos. 15339/02, 21166/02, 11673/02, 15343/02, Eur. Ct. H.R. (2008).

17. Representative of the U.N. Secretary-General on the Human Rights of Internally Displaced Persons, *Protection of Internally Displaced Persons in Situations of Natural Disasters* (Mar. 5, 2005) (by Walter Kälin), available at http://www.nhri.net/pdf/Tsunami_paper.pdf; see also WALTER KÄLIN, DISPLACEMENT CAUSED BY THE EFFECTS OF CLIMATE CHANGE: WHO WILL BE AFFECTED AND WHAT ARE THE GAPS IN THE NORMATIVE FRAMEWORKS FOR THEIR PROTECTION? (2008); *Report of the Representative*, supra note 9.

18. See *Report of the Representative*, supra note 9, for a full analysis of the impact of disasters on rights focusing on IDPs.

This obligation extends to preventing and mitigating the effects of disasters and to assuring enjoyment of rights during and after emergencies when emergencies are unavoidable.¹⁹

Furthermore, the Guiding Principles on Internal Displacement fully apply to these situations, because they include disasters as a cause of displacement, spelling out the special vulnerability of IDPs and specifying state responsibility to protect them from displacement.²⁰

In contrast to the regime that protects IDPs, the international protection regime for the protection of moving across state lines as a result of natural hazards has a number of vacuums. People in this situation are not covered by refugee law. The definition of “refugee,” according to the 1951 Refugee Convention, includes a well-founded fear of being persecuted for reasons of race, religion, nationality, and membership of a particular social group or political opinion. The UNHCR has advised against revising the Refugee Convention or using the term climate refugee.²¹ Instead, seeking subsidiary protection mechanisms such as temporary protection status, the mechanism extended by countries such as Finland and Sweden, has been signaled as the best approach to assure protection to people moving across state lines as a result of natural disasters. However, this option would not work in situations in which the expectation of possibility of return does not exist, including people leaving eventual “sinking island states” and people moving as a result of their place or origin being designated a high-risk zone.²²

Another situation in which a legal protection vacuum would emerge is the case of people moving inside or outside their country as a result of slow-onset disasters induced by climate change, such as droughts or depletion of resources, where the linkage between the cause (slow-onset disaster) and displacement would not be readily evident.

Nevertheless, even in those cases when the existing international normative framework adequately covers the protection of people affected by disasters—particularly situations at sudden-onset disasters where people are displaced within their own country—myriad conditions at the national level ultimately determine the degree of its application.

19. *Report of the Representative*, *supra* note 9.

20. U.N. Guiding Principles on Internal Displacement, U.N. Doc. E/CN.4/1998/531 Add.2 (1998).

21. UNHCR, *supra* note 3, at 8.

22. KÄLIN, *supra* note 17; *see also* Climate Change, Migration, and Displacement, *supra* note 7.

Of those conditions, Part III examines how the existence of armed conflict impacts protection in natural disasters, focusing on the case in Colombia. In view of the increasing intensity and frequency of natural disasters, what are the challenges ahead for protection in natural disasters in contexts in which a protracted conflict exists? How may a protection lens to disaster relief come about in such contexts, and what will such a process require?

III. NATIONAL RESPONSIBILITY TO PROTECT DISASTER IDPS: NORMS, INSTITUTIONS, AND POLITICS IN A PROTRACTED- CONFLICT CONTEXT

The impact of natural hazards in Colombia is high, has increased over the years, and is bound to get worse due to climate change. The rainy season in 2010 was the worst recorded in decades, affecting roughly two million people throughout the country. Data show that climate-related hazards in Colombia, notably rains and floods, have gotten more intense over time; an analysis of a thirty-nine-year period conducted for the United Nations International Strategy on Disaster Reduction's 2009 Global Assessment Report showed that small and medium-scale hazards in Colombia, most of which are hydro-meteorological hazards, have shown a pattern of increase, particularly in the last decade.²³ Hydro-meteorological hazards are more numerous and more spread geographically than other types of hazards, particularly geological hazards, which tend to be more intense but happen rarely, such as earthquakes and volcano eruptions. Hydro-meteorological hazards, in the aggregate, have a strong correlation with damaged and destroyed homes,²⁴ which are drivers of displacement.

Colombia's National System for the Prevention and Attention of Disasters (SNAPD) publishes a global figure of people affected by floods that includes data for, inter alia, total number of people affected, dead, injured, and disappeared, and the number of homes damaged and homes destroyed.²⁵ No data are collected for people displaced by natural hazards. However, the numbers of homes partially and totally destroyed

23. ISDR, *Manifestaciones del Riesgo Intensivo y Extensivo en Colombia* (Sept. 2008), http://www.preventionweb.net/english/hyogo/gar/background-papers/documents/Chap3/LAC-overview/OSSO/4_Informe-Colombia-v0.doc.

24. *Id.*

25. SISTEMA NACIONAL PARA LA PREVENCIÓN Y ATENCIÓN DE DESASTRES, <http://www.sigpad.gov.co> (last visited Apr. 8, 2011).

by floods (in 2010, for instance, 326,362 and 2449, respectively) serve as an indication that people are displaced because of floods.²⁶

Given that these hazards are geographically spread across the country, they often coincide in location with conflict hotspots. Areas prone to floods are the La Mojana region, the Magdalena Medio region, Southern Magdalena, and the Pacific Coast. The La Mojana region comprises the departments of Sucre, Bolívar, Córdoba, and Antioquia, all of which have been hard-hit by conflict-induced displacement, notably Antioquia and Bolívar, with 506,504 and 264,161 conflict IDPs by 2010.²⁷ The departments of Chocó and Magdalena had 176,503 and 228,193 conflict-induced IDPs by 2010.²⁸ Additionally, ninety-three percent of conflict IDPs arrive in towns and cities and generally settle in locations exposed to risk resulting from precarious infrastructure,²⁹ making them more vulnerable to floods.

A. Norms and Institutions

Even though conflict and disaster displacement happen alongside and impact people's lives simultaneously, the institutional response systems are entirely different and have a different normative framework and principles. The response system and the normative framework for the protection of conflict-induced displacement have been developed over the years to protect the rights of conflict IDPs progressively. Up until 1997, victims of conflict were not seen as victims or IDPs, but as economic migrants.³⁰ In fact, early frameworks for IDP response were based on existing disaster response structures, which saw IDPs as objects of care, not as rights-holders.³¹ Protection of conflict IDPs progressively moved towards the creation of specialized agencies and laws for internal displacement informed by international human rights law.

Thus, the conflict protection system forked away from the existing disaster response structures, which were inadequate to protect rights in the conflict context. Evidence of this forking away is the 1997 law on

26. The methodology used by the OCHA-IDMC study on disaster displacement used numbers of homes destroyed or people in need of shelter as proxies for displacement. See OCHA & IDMC, *supra* note 4.

27. ACCIÓN SOCIAL, <http://www.accionsocial.gov.co/contenido/contenido.aspx?catID=383&conID=556> (last visited Apr. 8, 2010).

28. *Id.*

29. Sebastián Albuja & Marcela Ceballos, *Urban Displacement and Migration in Colombia*, in FORCED MIGRATION REVIEW 34 (2010).

30. Interview with Colombian Human Rights Activist (who asked not to be identified), in Bogotá, Colombia (Sept. 2, 2009).

31. ROBERTO VIDAL, DERECHO GLOBAL Y DESPLAZAMIENTO INTERNO 181 (2007).

internal displacement (Law 387), which predates the United Nations Guiding Principles on Internal Displacement,³² and was adopted in the context of the Permanent Consultation on Internal Displacement in the Americas. This law does not include disasters as a cause of displacement. The law also excludes people affected by other phenomena, like violent drug mafias, aerial chemical fumigations to eradicate coca, development projects, or mono-crop cultivation.³³

Thanks to Law 387, IDPs were identified as victims of human rights violations, distinguished from economic migrants, and entitled to certain specific rights emanating from that situation of vulnerability.³⁴ The situation of being internally displaced was given a specific legal definition linked to conflict, violence, human rights violations, and violations of International Humanitarian Law.³⁵ For someone to be an IDP under the law, there must be a perpetrator and a conflict-related violent action (or threat) that leads to displacement committed before a victim can be called “displaced.”³⁶ As a result, people being forced to move for different reasons, like disaster IDPs, were left outside this framework of protection. Disaster IDPs remained the subjects of the preceding disaster protection system.

After this split, the disaster response system, which went down a separate track, has had its own normative and institutional development. Colombia has been a pioneer at shifting disaster response from emergency response to disaster prevention through disaster risk reduction (DRR). In 1998, it passed Decree 93,³⁷ which adopted the National Plan for the Prevention and Attention in Disasters and incorporates best practices for disaster prevention and response. Furthermore, in the context of the Hyogo Framework for Action (HFA), Colombia has advanced mainstreaming DRR into the national development plan and in the national budget.³⁸

In fact, the former National Development Plan³⁹ includes a chapter on DRR, acknowledging that previous risk management had focused on

32. U.N. Guiding Principles on Internal Displacement, *supra* note 20.

33. L. 387, julio 18, 1997, DIARIO OFICIAL [D.O.] (Colom.).

34. *Id.*

35. *Id.*

36. *Id.*

37. D. 93, enero 13, 1998, DIARIO OFICIAL [D.O.] (Colom.).

38. MINISTERIO DEL INTERIOR Y DE JUSTICIA DE COLOMBIA, DIRECCIÓN DE PREVENCIÓN Y ATENCIÓN DE DESASTRES: INFORME NACIONAL DEL PROGRESO EN LA IMPLEMENTACIÓN: DEL MARCO DE ACCIÓN DE HYOGO (2009).

39. DEPARTAMENTO NACIONAL DE PLANEACIÓN (DNP), PLAN NACIONAL DE DESARROLLO 2006-2010, ESTADO COMUNITARIO: DESARROLLO PARA TODOS (July 24, 2007).

emergency attention rather than prevention.⁴⁰ The chapter states the need to identify geographical, financial, and social vulnerabilities in case of disaster. The new National Development Plan (2010-2014) also includes a chapter on risk prevention and a section devoted to climate vulnerability and risk reduction.⁴¹ Even though such significant inroads with DRR are a way to promote and protect human rights, particularly the right to life, the disaster response system and local authorities implementing response lack a protection perspective.

Contrarily to the conflict-induced displacement framework, international human rights law has not directly informed disaster response norms and procedures. For example, the Directorship for Risk Management (DRM), the highest coordination entity in the disaster response system, emphasizes that it focuses on assistance, not on vulnerability of human rights, because human rights is an issue related to conflict.⁴² The absence of a rights-based lens in disaster response is also visible in the “action protocols” used to guide immediate response in disasters.⁴³ These protocols are the coordination tool for all the institutions involved in disaster response. They hardly incorporate protection procedures.⁴⁴

While in principle it is not inadequate that both systems have discrete norms and institutions, there is no reason why both systems should not be rights-based, given that outcomes of both disasters and conflict create humanitarian emergencies and challenge the fulfillment of rights. In fact, the Colombian Constitutional Court has acknowledged that the two frameworks carry differentiated responsibilities for the state vis-à-vis the victims, but has stated that in both conflict and disasters the human rights of victims need to be guaranteed.⁴⁵ However, while this constitutional rights-based umbrella has been strongly incorporated in the conflict-displacement system (at least at the normative level), it has not permeated the norms, institutions, and practices for disaster response.

The institution charged with the protection of human rights in Colombia, the Ombudsman’s Office, has created an issue-specific

40. *Id.*

41. DEPARTAMENTO NACIONAL DE PLANEACIÓN (DNP), PLAN NACIONAL DE DESARROLLO 2006-2014, PROSPERIDAD PARA TODOS (Feb. 4, 2011).

42. Interview with DRM Official in Bogotá, Colom. (Sept. 2, 2009).

43. SISTEMA NACIONAL PARA LA ATENCIÓN Y PREVENCIÓN DE DESASTRES—DIRECCIÓN DE PREVENCIÓN Y ATENCIÓN DE DESASTRES, GUÍA DE ACTUACIÓN Y PROTOCOLES DEL ALTO GOBIERNO EN CASO DE UN DESASTRE SUBITO DE COBERTURA NACIONAL (2006).

44. *Id.*

45. Corte Constitucional [C.C.] [Constitutional Court], diciembre 4, 2008, Sentencia C-1199, Gaceta de la Corte Constitucional [G.C.C.] (vol. 7) (Colom.).

Ombudsman subsection for collective and environmental rights. This subsection, however, does not include disaster displacement under its portfolio.⁴⁶ When asked about disaster displacement in Colombia, the officers at the collective and environmental rights office automatically referred us to the Ombudsman's displacement subsection for information.⁴⁷ But the officers in the displacement subsection, in turn, were not aware of displacement in disaster situations, and need not be, because the national law on displacement does not include disasters as a cause of displacement. No coordination with the system for disaster response exists, nor with the Directorship for Risk Management. Human rights assessments for situations of disaster are not currently conducted, either by the Ombudsman's Office or by the Directorship of Risk Management. So, in practice, the situation is an institutional vacuum for protection in natural disasters.

B. *Politics*

We now turn to existing political processes related to the presence of protracted conflict and their impact on advancing of a rights-based response for disaster IDPs. First, the historical presence of conflict and the development of protection structures for conflict IDPs downplays the need for protection in disasters and makes it a secondary issue. It was advocacy by civil society, human rights activists, and international actors that made it possible to veer towards a protection-based response for conflict victims, particularly IDPs. Much of this work was based on a human rights discourse, which gave it momentum. To this day, Colombian civil society continues to underscore the need to provide specialized and differentiated protection to conflict victims and IDPs.⁴⁸

In this context, arguing for protection for people displaced by disasters or for including disaster IDPs within the same protection framework as conflict IDPs partly implies undoing what has been painstakingly achieved over more than a decade of political engagement. Furthermore, it poses the risk of providing a scapegoat for inadequate conflict protection in the face of limited resources and providing an excuse to take away the heat from unsatisfactory protection for people displaced by a conflict of which the state is a party. Thus, the domestic human rights activism that has recently been critical to raising human rights concerns in natural disasters—the case of human rights activism in

46. Interview with Ombudsman's Office Officials in Bogotá, Colom. (Sept. 2, 2009).

47. *Id.*

48. Interview with Colombian Human Rights Activist, *supra* note 30.

the United States after Hurricane Katrina is paradigmatic—will most likely not surface in this context.

Furthermore, the separate normative and institutional structure for conflict and disasters, described above, has created two very different categories of people entitled to different rights and privileges. This legal and institutional design has deep consequences regarding IDPs and persons affected by natural disasters. Officials in charge of both systems have two clearly distinct concepts of conflict-affected and disaster-affected people. The former are seen as victims of rights violations, and the latter as victims of misfortune. Underlying this institutional and conceptual structure is the idea that situations where *bad* things happen to people, like natural hazards—as opposed to wrong doings committed by the state or by nonstate groups—have nothing to do with human rights violations or with protection.

Additionally, being a conflict IDP or a disaster IDP is a very different experience. Conflict IDPs in Colombia are seen by society and by themselves as a group defined by the violation of their rights resulting in displacement, which in turn entitles them to a set of special rights. The inclusion in this group of disaster IDPs may be seen as a threat to those acquired rights, as it would erode the concept of an internally displaced person as someone displaced by violence. At the same time, conflict IDPs are (fortunately) an organized group: they file complaints and lawsuits, they are vocal against the government and the armed actors, and they occupy parks and buildings in Bogotá.

Disaster-affected people, including IDPs, on the other hand, have none of these features and may not even want to be associated with conflict IDPs, as this may imply a political status and identification that they might want to avoid in a context where identification as an IDP automatically creates a link with conflict-related actors. Yet, in other cases, some groups of people can be both conflict and disaster IDPs. Thus, they may be entitled to benefit from protection given their condition as conflict IDPs, while the rest of the population also displaced by the same disaster, but not before by conflict, would not be able to benefit from protection, creating disparities among the population that finds itself in distress.

At another level, humanitarian and human rights agencies may find themselves in awkward situations when demanding preventative actions for recurring disasters, such as relocations, particularly when conflict IDPs have to be relocated as a safeguard from natural hazards after

already having been displaced by conflict.⁴⁹ This was a paradigmatic case highlighted by the Ombudsman's environmental rights subsection.⁵⁰ This situation arises when towns provide electricity, sewage, and other services to people settling in danger zones such as watersheds—including people displaced by conflict arriving to urban zones—without acknowledging or evaluating the risk. The Ombudsman's environmental rights subsection has found itself in the difficult situation of having to request relocations, which are seen as abusive and disruptive evictions by the population settling in those areas, which is mostly composed of conflict IDPs.⁵¹

Thus, situations where disaster and conflict coincide can provoke diverse political challenges for a variety of actors, including civil society organizations that advocate for the victim's rights, victims themselves, and agencies and institutions in charge of their protection. Disentangling these political dilemmas and moving forward towards full protection of vulnerable populations will be a highly complex task.

IV. CONCLUSIONS

The fact that natural disasters happen alongside armed conflict in Colombia creates a situation in which advancing towards the protection of victims of both phenomena is not straightforward. Despite the existence of an international framework on human rights in natural disasters, the protection lens in natural disaster response is still poorly understood at the national level, particularly by state agencies, which bar the principal duty to protect.

The existing normative, institutional, and political context, which has been shaped historically by the presence of a protracted internal armed conflict, influences and will continue to influence the way ahead towards implementing international norms that call for a rights-based response to disaster displacement.

Currently, there is a legal and institutional vacuum in the human rights protection of people displaced by disasters. While the Colombian system for disaster prevention and attention is advanced and promotes rights insofar as it incorporates DRR throughout, it does not inform disaster response with human rights. Given that the displacement law does not include disaster IDPs, this group does not benefit from the same

49. This tension was identified by the U.N. Representative of the Secretary-General on IDPs as one of the challenges of protecting human rights in the context of climate change. IASC, *supra* note 8.

50. Interview with Ombudsman's Office Officials, *supra* note 46.

51. *Id.*

protection mechanisms set in place for conflict IDPs. National human rights institutions, for their part, particularly the Ombudsman's office, currently do not play a key role in the protection of disaster victims and people displaced by disasters.

Including disaster displacement in the existing displacement law is not advisable, because that law was passed precisely to provide a more specific framework for conflict displacement and to separate conflict from disaster and economic scarcity. A more balanced solution would be to incorporate a protection lens in the existing national disaster framework and to promote a rights-based response among local authorities in charge of providing and managing disaster response. Local authorities should assure that shelters are not overcrowded and have adequate sanitation conditions, that safety and security are guaranteed while people remain displaced, that everyone benefits from access to support without discrimination, and that relocation programs, when necessary, are done in consultation with beneficiaries. A good place to start would be to provide training to local authorities on the human rights aspects of disasters and particular vulnerabilities of people displaced by them.

Nongovernmental organizations sensitive to a holistic human rights approach may see that advocating for protection of rights in disasters need not be a way to detach themselves from the political context and contested conflict-related issues. A way to do this could be to argue that conflict IDPs are often also affected by disasters and thus require equal levels of protection. Another needed step is conducting more systematic human rights assessments in natural disaster situations and adding the displacement variable to the SNPAD disaster system. Additionally, it would be necessary to begin to trace and describe the intertwined patterns of both types of internal displacement. Finally, more research is needed on the way that the different groups of victims in this mixed conflict/disaster context see themselves, on their self-identification to a certain group, and on their awareness about their own rights.