CHAPTER –V

INTERNATIONAL LAW AND DISASTER MANAGEMENT

5.1 INTRODUCTION

This chapter critically examines the international conventions on disaster management and discusses the relationship between human rights and environment and also focuses the role of Red Cross Society in disaster management. Along with the continuity of the above, it also finds the role NGO’s in identifying the problem of disaster affected areas in India.

There has been an increase in the number of natural disasters over the past years, and with it, increasing losses on account of urbanization and population growth, as a result of which the impact. Devastations in the aftermath of powerful earthquakes that struck Gujarat and recently in Nepal, floods that ravaged many countries in Africa, Asia and elsewhere, droughts that plagued Central Asia including Afghanistan, Africa and Central America; the cyclone in Madagascar and Orissa; and floods in Bolivia are global events in recent memory. However, what is disturbing is the knowledge that these trends of destruction and devastation are on the rise instead of being kept in check.\(^{172}\)

Natural disasters are not bound by political boundaries and have no social or economic considerations. They are borderless as they affect both developing and developed countries. They are also merciless, and as such the vulnerable tend to suffer more at the impact of natural disasters. Those living in developing countries and especially those with limited resources tend to be more adversely affected. With

\(^{172}\) Kurowa, Julio Quebecore’s *Disaster reduction; Living harmony with nature*, World Peru publishers, yr-2005, p.435
the alarming rise in the natural disasters and vulnerability per se, the world community is strengthening its efforts to cope with it.

As a number of the most vulnerable regions are in India, natural disaster management has emerged as a high priority for the country. Going beyond the historical focus on relief and rehabilitation after the event, we now have to look ahead and plan for disaster preparedness and mitigation, in order that the periodic shocks to our development efforts are minimized.

5.2 INTERNATIONAL PERSPECTIVES ON DISASTER MANAGEMENT

As the incidence and severity of disasters are on the rise, disaster management deserves highest priority. Until recently disaster management was considered a post disaster activity focusing mainly on rescue, relief and rehabilitation with emphasis on state-centric approaches. In the face of challenges posed by the paradigm shift from rescue and relief operations to disaster prevention and preparedness, the policy paper makes a significant case for deliverable development objectives.

Disaster Management is an important issue that cannot be addressed by the Government alone. It calls for a convergence of efforts from both agencies and institutions to undertake various types of tasks at various stages of the disaster management cycle. The Policy distills key recommendations from international conventions and protocols on disaster management and adapts them to the overall country programme. This, in practical terms, should be reflected in a coordinated and harmonized disaster management approach that links national, regional and international strategies. The UN views such an approach as an extremely important issue because any national policy which is at variance with international standards.

can have serious implications for the conduct and realization of disaster management goals and strategies. Today, a malfunction in the disaster management mechanism in some remote community in the Upper River Region could have wider far reaching disastrous consequences elsewhere.  

At the UN, a series of policy documents and reforms underpinned the new disaster management agenda: ISDR 2002 publication entitled living with Risk: A Global review of disaster reduction initiatives. Prior to this publication, the UN General Assembly declared 1990-1999 the International decade for national disaster reduction and in 2000, the UN General Assembly founded the ISDR (International Strategy for Disaster Reduction), a coalition of governments, UN agencies, regional organizations and civil society organizations.  

In 2005, a major reform within the UN system resulted in some UN agencies, in particular the UNDP, becoming increasingly concerned about disaster risk issues by actively engaging in enhancing disaster risk programmes at country level. The road map towards the implementation of the United Nations Millennium Declaration (Secretary-General’s Report to the General Assembly) touches on areas which are closely linked to vulnerability to natural hazards such as ensuring environmental stability, the eradication of extreme poverty and hunger and promoting gender equality.

In Tandem with developments at the UN, several Governments and NGO’s championed issues of disaster reduction. During the world conference on disaster reduction held in Kobe, Hyogo, Japan, world Governments agreed on the Hyogo Framework for action 2005-2015 which was formulated as a comprehensive, action-

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175 Shaw. R and Krishnamurthy’s, Disaster Management: Global challenges and local solutions, Pub-University Press, Yr 2009, p.270-284
176 UN General Assembly (GA), International Conference of Economic and Social Council (ECOSOC) Resolutions, p 15
oriented response to international concern about disaster impacts on communities and national development.¹⁷⁸

For its part, the World Bank launched the prevention consortium in 2000, which works towards a more effective public–private dialogue on disaster risk. These normative and policy developments have been articulated in various government policy documents and development agenda. The Gambia Vision 2020 document, the National Disaster Emergency Relief and Resettlement, the Environmental Action Plan I & II. The National Environment Management Act, the Capacity building for sustainable development (CAP 2015) project,¹⁷⁹The MDG Reports 2003, 2004 and the PRSP are cases in point.

The Agency shall carry out the day to day administrative matters to ensure the full implementation of disaster management policies and strategies. A Technical Advisory Group made up of professionals shall be formed and it shall, through the National Disaster Management Organization, advice the National Disaster Management Council and will also prepare the National Disaster Management Plan and review Regional Disaster Management plans.¹⁸⁰

Organizational Chart of the National Disaster Management Organization.

- National Disaster Management Council.
- Central Operation Group (National Co-coordinator & Technical Team).
- National Disaster Managing Organization.
- National/Regional/District Technical Committees.
- Regional/Municipal/City Council Disaster Management Committees.
- District Disaster Management Committees.

• Village Development Committees.

Role and Responsibilities for Disaster Management at various levels.

A bill shall be passed establishing the National Disaster Management Organization which shall be the overall disaster management body in the country. There shall be established within the Organization an Agency that shall carry out the day to day administrative matters to ensure the full implementation of disaster management plans. The Organization shall have its operational office at the National, Regional, Municipal, City and District Council Levels. The Investigation and prosecution of international crimes including genocide, crimes against humanity and war crimes is a fundamental component of transitional justice.\textsuperscript{181}

It has roots in international legal obligations that can be traced back to the Nuremberg trials, and continue with the International Criminal Tribunals for the former Yugoslavia (ICTY) and Rwanda (ICTR).\textsuperscript{182} Investigations and trials of powerful leaders (Whether political or military) help strengthen the rule of law and send a strong signal that such crimes will not be tolerated in a rights respecting society.

Trials remain a key demand of victims. When conducted in ways that reflect victim’s needs and expectations, they can play a vital role in restoring their dignity and delivering justice. But prosecutions cannot achieve justice in isolation. The large-scale nature of such crimes means that they often cannot be processed through the ordinary criminal justice system generating an “impunity gap” Effective


prosecution strategies for large-scale crimes often focus on the planners and organizers of crimes, rather than those of lower rank or responsibility.\textsuperscript{183}

Implementing prosecution strategies with other initiatives, such as reparations programs, institutional reform, and truth-seeking can help fill the “impunity gap” by addressing crimes with large numbers of victims and perpetrators.

5.3 INTERNATIONAL CRIMINAL COURT.

In 2002, the Rome Statute established the International Criminal Court (ICC). The ICC investigates and prosecutes individuals responsible for genocide, war crimes and crimes against humanity committed since July 1, 2002 in cases where countries are unwilling or unable to do so.\textsuperscript{184} Under the Rome Statute’s “complementarily” principle, domestic courts continue to have the duty to deliver justice so that the ICC remains a court of last resort. In recent years, domestic courts have increasingly taken up this role.

5.3.1 ICTJ’s ROLE

ICJ provides expert assistance, analysis and advice to governments, civil society, and justice actors or institutions. It shares lessons learned and best practices from criminal justice initiatives worldwide. It has particular expertise on how domestic legal systems can adapt to investigate and prosecute large-scale or systematic crimes such as war crimes, crimes against humanity and genocide.

In Uganda, Kenya’s and DRC we analyze and recommend ways in which to strengthen domestic prosecutions.

\textsuperscript{183} Id. p.14
In Colombia, it has been provided legal support to justice actors and victim representatives in Criminal proceedings against former paramilitaries under the justice and Peace Law (2005).

In Argentina, it provides technical advice to state prosecutors and local NGOs working on criminal prosecutions.

In Bangladesh, it is analyzed and provided input into the International Crimes Tribunal initiative to try widespread crimes that happened in 1971.

In Afghanistan, assisted the Afghan Independent Human Rights Committee in documenting war crimes and crimes against humanity from 1978-2001.

It was analyzed and reported on, or provided amicus briefs in important domestic trials of former political leaders and their impact on the transitions, such as the trials of Saddam Hussein or Alberto Fujimori.

It was done comparative research on the political, legal and policy aspects of hybrid tribunals in Sierra Leone, Bosnia, Cambodia, Kosovo, East Timor and Lebanon and prepared various policy tools, including briefs for the office of the UN High Commissioner for Human Rights on domestic and hybrid prosecutions.185

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5.4 INTERNATIONAL CONVENTIONS:

There is a selection of International conventions relevant to disaster preparedness, including on issues regarding the safety of UN Staff etc., of all the normative instruments that are in this section, these are the only ones that represent actual international law as States have signed up to and ratified them. However, due to the nature of international law, they only represent law for the States that have actually ratified them. The status of ratification of a convention or agreement should therefore always be kept in mind.

- **Tampere Convention on the provision of Telecommunication Resources for Disaster Mitigation and Relief Operations, 1999.**

The Tampere Convention is a treaty aimed at facilitating the use of telecommunication resources and assistance for disaster mitigation and relief. It

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186 ICTJ’s Criminal Justice program seeks to strengthen criminal justice initiatives worldwide, Available at www.icj.org, visited on 12-08-2012, at 04.30p.m
establishes an international framework for states to co-operate among themselves and with non state entities and intergovernmental organizations. It is binding on the States who have signed or acceded and ratified to it. So far (September 2007), only 37 States have ratified the Tampere Convention.\textsuperscript{188} Among other things, the convention seeks to simplify and strengthen the procedures by which international disaster responders may bring telecommunications equipment across borders during and after an emergency and use them in their operations. It requires state parties to reduce or remove regulatory barriers and to confer the necessary privileges, immunities, and facilities for international relief providers. However, the convention also recognizes the sovereign interests of state parties, providing substantial flexibility as to how to carry out their obligations and ensuring that they maintain primary authority in relief co-ordination in their own borders.

- **Model Customs Facilitation Agreement 1994.**

The Model Customs Facilitation Agreement was developed by OCHA and approved by the world customs organization in May 1994. It is a model agreement intended to serve as a basis for the conclusion of a bilateral agreement between the UN and a particular State with the aim of speeding up and simplifying existing national customs clearance procedures. The Model Agreement includes recommended measures to expedite customs clearance procedures, such as simplified documentation and inspection procedures, the temporary or permanent waiving of duties and taxes on imports, and arrangements for clearance outside official working hours and locations.\textsuperscript{189}


\textsuperscript{189} International Disaster Response Law and the Coordination of International Organizations United States of America Exchange of Notes Constituting an Agreement Relating to Emergency. Available at www.wcom.org, visited on 02-03-2012, at 03.05p.m
• UN Convention on the privileges and immunities of the United Nations, 1946.

The UN Convention on the privileges and immunities of the United Nations was adopted by the GA in 1946 and entered into force the same year. It currently has 153 States party to it (September 2007). The convention elaborates further on articles 104 and 105 of the Charter of the United Nations in view of determining and clarifying the legal status, rights, privileges and immunities of the United Nations and its personnel as are necessary for the fulfillment of their function.

The convention determines

I) The jurisdictional personality of the organization (Legal Personality)

II) The status of property, funds and assets of the UN,

III) The facilities in respect of communications (conditions for the use of official communications, use of codes, etc.,)

IV) The status of the representatives of Member States (While exercising functions in relation to the organization)

V) The status of officials of the organization:

VI) The status of experts on mission for the UN,

VII) The rules applying to the UN. Laissez Passer (LP); and

VIII) The specific rules regarding the settlement of disputes arising out of contracts or other disputes of a private law character to which the UN is a party; and disputes involving any official of the UN who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General.\(^{190}\)

\(^{190}\) Privileges and Immunities of the United Nations, opened for signature 13 February 1946, (entered into force 17 September 1946), p.32
• **UN Convention on the privileges and Immunities of the Specialized Agencies, 1947.**

The UN Convention on the privileges and immunities of the specialized agencies was adopted by the GA in 1947 and entered into force in 1948. It currently has 115 states party to it (September 2007).

The Convention is the equivalent of the Convention on the privileges and Immunities of the United Nations but in relation to Specialized Agencies, ie., the International Labor Organization (ILO), the Food and Agriculture Organization (FAO); the United Nations Educational, Scientific and Cultural Organization (UNESCO); the International Civil Aviation Organization (ICAO); the international monetary Fund (IMF); the International Bank for Reconstruction and Development (IBRD); WHO; the Universal Postal Union (UPU), the International Telecommunications Union (ITU); and “any other Agency in relationship with the United Nations in accordance with Articles 57 and 63 of the Charter” (article I, section .ii).191

• **UN Convention on the Safety of United Nations and Associated Personnel, 1994**

The UN Convention on the safety of United Nations and associated personnel was adopted by the General Assembly on 9 December 1994. It entered into force on 15 January 1999 and has been ratified so far by 81 states (September 2007).

Scope of legal protection: It is important to note that the scope of legal protection of UN and Associated Personnel provided by the Convention is rather limited. The Convention only applies in situations of “UN operations” (“an operation established by the competent organ of the United Nations in accordance with the Charter of the United Nations and conducted under United Nations authority and

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191 Schwartz and Worthington, *International Disaster Response Law and the Coordination of International Organisations*, 155
control”) where (i) the operation is for the purpose of maintaining or restoring international peace and security; or (ii) Where the Security Council or the General Assembly has declared, for the purposes of this Convention, that there exists an exceptional risk to the safety of the personnel participating in the operation (article 2, of the Convention).

In other words, the Convention only covers peacekeeping operations and operations for which the GA or the SC has made a declaration of “exceptional risk”. The Convention does not cover “normal” humanitarian operations.


This Optional Protocol was adopted the General Assembly in on 8th December 2005 with the aim of expanding the scope of the 1994 “Convention on the safety of United Nations and Associated Personnel” which covers only peace keeping operations or operations which were declared by the General Assembly or the Security Council to present “an exceptional risk to the safety of the personnel participating in the operation” (See relevant entry above on the “Convention on the Safety of United Nations and Associated Personnel”). The optional protocol has not yet entered into force as it was so far ratified only by 7 States (September 2007). In order for the protocol to enter into force, it needs to be ratified by 22 States (See article 6).

Optional protocol to the 1994 Convention expands legal protection to U.N. and associated personnel “delivering emergency humanitarian assistance or providing humanitarian, political or development assistance in peace building


193 Resolution on integrated and coordinated implementation of and follow-up to the outcomes of the major United - Nations conferences and summits in the economic and social fields, GA Res 57/270B, UN GAOR, 57th UN Doc A/RES/57/270B (2003), Para 53-56.
(Article II.1). The Protocol does not, however, cover personnel working in permanent U.N. Offices, overseas. (Article II.2).

If should be noted that the scope of legal protection can be further limited by a State if the said State makes a declaration to the UN Secretary General, in accordance with article II.3 of the Optional protocol, pursuant to which the State decides not to apply the provisions of the Protocol to an emergency humanitarian assistance operations “which is conducted for the sole purpose of responding to a natural disaster”. However, “such a declaration shall be made prior to the deployment of the operation.”

5.4.1 Regional Co-Operation Agreements

- EUR-OPA Major Hazards Agreement (Partial Agreement on the prevention of, Protection Against, and Organization of Relief in Major Natural and Technological Disasters), 1987.

The “EUR-OPA major Hazards Agreement” is an intergovernmental platform for co-operation part of the Council of Europe- In the field of Major natural and technological disasters between Eastern Europe, the South of the Mediterranean and Western Europe. Its field of competence covers the major natural and technological disasters knowledge, prevention, risk management, post-crisis analysis and rehabilitation. It was set up by the Committee of Ministers of the Council of Europe in 1987 and has to date 25 Member States.

The main objectives of the “EUR-OPA Major Hazards Agreement” are to reinforce and promote co-operation between Member States in a Multi-disciplinary context to ensure better prevention, protection and organization of relief in the event of major natural or technological disasters by calling upon present day resources and knowledge to ensure an efficient and interdependent management of Major Disasters.

It is worth mentioning that the “EUR-OPA Major Hazards Agreement” is a so-called “Partial Agreement”, which is a terminology used within the Council of Europe to distinguish them from “Conventions” and “agreements” which are formal international treaties. “Partial agreements” are merely a particular form of cooperation within the organization, not an international treaty. They allow member states of the Council of Europe to abstain from participating in a certain activity advocated by other member states. From a statutory point of view, a partial agreement remains an activity of the Organization in the same way as other programme activities, except that a partial agreement has its own budget and working methods, which are determined solely by the members of the partial agreement.

- ASEAN Agreement on Disaster Management and Emergency Assistance, 2005.

All ten ASEAN Member Countries Signed the Agreement on 26th July 2005 in Vientiane, Lao PDR. However, the Agreement will only enter into force after all of the ten countries ratify it. So far (September 2007) four countries, namely Malaysia, Lao FDR, Myanmar and Thailand have ratified the Agreement. Once entered into force, the Agreement will to provide a frame work for the development of operational procedures to respond collectively and expeditiously to disasters.

The Agreement includes general provisions on disaster risk identification, assessment and monitoring, on disaster prevention and mitigation, on preparedness, emergency response and rehabilitation as well as specific provisions for the movement of relief assistance, expedited customs and immigration clearance, etc., The Agreement also provides for the establishment of an ASEAN Co-ordination

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196 ASEAN Agreement on Disaster Management and Emergency Response, (2005), arts 14-16; Tampere Convention, arts 9(2)(c); Inter-American Convention to Facilitate Disaster Assistance, (1984), art VII; and Resolution on strengthening of the coordination of emergency humanitarian assistance of the United Nations, GA Res 46/182, UN GAOR, 47th, 78th UN Doc A/RES/46/182 (1991), paras 6-7: calls on affected and transit states to facilitate the access of humanitarian organisations.
Centre for Humanitarian Assistance (AHA-Centre) for the purpose of facilitating co-operation and co-ordination among the parties and with relevant UN and international organizations. It also includes provisions for setting up an ASEAN Disaster Management and Emergency Relief Fund, administered by the ASEAN Secretariat.

- **Inter-American Convention to facilitate Disaster Assistance, 1991.**

  The Inter-American Convention to Facilitate Disaster Assistance provides rules for situations in which countries request receive, offer, or provide and related to a natural or man-made disaster. Only a three of the OAS countries (Panama, Peru, and Uruguay) have become parties to this treaty so far (September 2007). The Convention was adopted in 1991 and entered into force in 1996 for the states, which ratified it.\(^{197}\)

  Natural disasters, deeply ingrained din our historical and contemporary conceptualization of the environment, are rapidly increasing in frequency and severity. There has, however, never been a comprehensive legal frame work on the provisions and/or facilitation of assistance in peacetime situations of natural, industrial or technological disaster. Rather, a body of International Disaster Response Law (IDRL) has developed from a mélange of binding and non-binding instruments with varying purpose, scope and content. This examines the patch work body of IDRL and outlines the need for improved co-ordination within the Sector. Two shortcomings of and potential solutions to Co-ordination of international organizations at the inter-international level is investigated through a legal frame work. The interaction of the international and domestic levels of co-ordination is then

\(^{197}\) Inter-American Convention to Facilitate Disaster Assistance, (1991)

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examined, and co-ordination of national and international legal structures to improve the response capacities of both spheres is proposed.198

The Recent horrors of the Haiti earthquake and Australian bush fires are etched in our memories, easily recalled along with the images of destruction caused by the Myanmar Cyclone, Hurricane Katrina on the United States Gulf Coast and the Indian Ocean Tsunami. Such memories reflect the exponential upward trend in the prevalence and impact of disasters.

Despite the obvious prevalence and severity of disasters, there has never been a comprehensive legal frame work on the provision and/or facilitation of assistance in peacetime situations of natural, industrial or technological disaster. Rather, a body of International Disaster Response Law (IDRL) has developed from a mélange of binding and non-binding instruments.199 With varying purpose, scope and content, IDRL has thus become a minefield of legal barriers and omitted regulation, as deadly as bush fires and earthquakes themselves.

Of the many gaps left in IDRL, Co-Ordination /difficulties are a ‘systemic’ problem for the humanitarian aid regime. Indeed, inadequate co-ordination ‘is probably the most discussed issue’ and its failures ‘remain a constant complaint’ among both international actors and between International actors and their domestic counter parts in affected states. The costs of co-ordination failures are serious. Uncoordinated responses lead to duplication, confusion, increased expenses, inefficient use of resources, inappropriate aid and sometimes fatally result in disaster affected persons not receiving ‘the right’ aid at the right time, delivered in the right way.200

199 International Disaster Response Law and the Coordination of International Organizations p.28
200 IDRL describes the body of rules and principles for international humanitarian assistance in the wake of peacetime disasters of natural, technological or industrial origin.
As a body of law, IDRL is necessary to fill the gap left by International Humanitarian Law (IHL).


Examples: Resolution on strengthening of the co-ordination of emergency humanitarian assistance of Resolution on strengthening the effectiveness and co-ordination of international urban search and rescue.

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For example, Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance, 30th International Conference of the Red Cross and Red Crescent, adopted 20th November 2007”.


Geneva Conventions offers a universally recognized set of rules and humanitarian protections designed to alleviate human suffering in response to catastrophic international and internal armed conflict. Unlike JHL, IDRL applies to (usually) unintended disasters in a co-operative peacetime context when states or intergovernmental humanitarian or other organizations offer, request, provide or accept cross-border disaster assistance.\(^{205}\)

Taking cues from IHL, the spatial scope of IDRL can be productively applied far from a disaster’s point of impact (such as in agreements facilitating information sharing and establishing early warning systems) and its temporal scope may extend beyond the emergency phase of a Disaster to the pre-disaster (for example, pre-positioning relief supplies) and post-disaster (for example, Procedures for review of Lessons learned and information sharing) stages.

5.4.2 Role of Space Technology and challenges in the spirit of Rio+20 ‘The Future we want’.

The Rio+20 outcome document recognized the importance of early warning systems as part of effective disaster risk reduction at all levels in order to reduce economic and social damages, including the loss of human life, and in this regard encourage States to integrate such systems into their national disaster risk reduction strategies and plans. In this context, the conference promotes international cooperation in support of disaster risk reduction in developing countries by offering

opportunities to plan technical assistance, technology transfer, capacity building and training programmes.\textsuperscript{206}

Lastly, the conference will offer a wealth of information on data, data discovery and access, tools, best practices and opportunities for bilateral and multilateral co-operation through specific side meetings and breakout sessions.

- **Climate change and disaster risk.**

  The Intergovernmental Panel on Climate change (IPCC) predicts that global temperatures will rise between 1.8 C and 4.0 C by the last decade of the 21\textsuperscript{st} Century. The impacts of global warming on the climate, however, will vary in different regions of the world. The character and severity of impacts from climate extremes depend not only on the extremes themselves but also on exposure and vulnerability.\textsuperscript{207} Several countries are already experiencing extreme weather events and major disasters in recent years. This session welcomed presentations on research outcomes, new findings and national efforts to deal with the disaster risks in the context of changing climate conditions. The session also discussed current advantages in use of space based information to study climate change and disaster risks.

- **Open source data and space based resources to support disaster management.**

  A range of open source data and space-based information is becoming increasingly available which can be used to support all stages of disaster management. There are number of existing platform/projects/initiatives that provides open source data (mainly geo-data).\textsuperscript{208} Some of these initiatives take advantage of


\textsuperscript{207} Nguyen H and Shaw R., *Climate change impacts and Disaster risk management*, (2010), Research Publishers, p.323.

\textsuperscript{208} Shaw R., Sharma A. and Takeuchi Y, *Indigenous Knowledge and Disaster Risk Reduction*, NOVA Publisher, Yr 2009, p. 490
open source data. The initiatives such International Charter Space and major Disasters, Sentinel Asia and GMES Emergency Response Service are also advancing into new stage where access to the data by end user is given due consideration. This Session discussed the platform/ projects/ initiatives that have been taking advantage of open source data and space based resources and will highlight wide range of opportunities for accessing the geospatial data”.

- **Risk assessment and mapping.**

  With the climate change related risks, every country is becoming more prone to the disaster risk. Based on disaster risk assessment, national disaster managers could develop more reasonable disaster risk reduction plan and implement action. Risk mapping is the output of risk assessment which provides visualized information for both disaster managers and the community.²⁰⁹ This session offered discussion and information exchange on the models, methods, systems, standards, good practices and Lessons learned on space technology applications for disaster risk assessment and mapping. The issues related to the risk assessment and mapping, especially the experiences on how to improve the efficiency of the mapping service, will also be discussed during this session.

- **Networking Building.**

  With the support of member countries and other partners, UN-SPIDER has build a wide network of Government agencies, international/ regional agencies, NGOs, scientific societies, private companies etc., As a part of technical advisory support service of the UN-SPIDER, several technical advisory missions, capacity building programmes and outreach activities have been carried out in Asia, the pacific, Africa and Latin America. This session provided an insight into the activities supported by the UN-SPIDER in partnership with national disaster management

agencies and discusses the ways and means of making these activities more effective and relevant to the needs of the member.

5.5 DISASTER MANAGEMENT AND LAW: HUMAN RIGHTS PERSPECTIVES:

The term disaster as defined by United Nations is a serious disruption of the functioning of a Society, causing widespread human, material or environmental loss, which exceed and ability of the affected society to cope using its own resources. “The recent humanitarian crisis caused by disaster situations have raised new challenges, in particular in relation to the protection of the basic human rights of disaster affected populations and victims at times of disasters. The need for ensuring human security in disaster management through the protection of human rights and promotion of good governance policies is one of the important aspects in development of rights based approach.\textsuperscript{210}

This adds a new dimension to the existing studies relating to the preparedness, response including relief and rehabilitation, mitigation and ensures effective steps for disaster management. The human rights frame work creates empowerment through legal tools and institutional structures in formulating ways by judicial and other forms of institutional intervention to protect the rights of people who could be affected by disasters as well as the victims of disasters. The disasters caused to mankind have proved that the repercussions that arise from all kinds of disasters would establish a co-relationship between sustainable development and disaster management. The integral fact of development implies the urging need for protection of human rights of individuals during disaster which is enshrined in the constitutional

methods. This paper attempts to analyze and highlight on the key areas of legal framework of disaster management from a human rights perspective.\footnote{Dr.S.K.Kapoor, \textit{Constitutional Law and Human Rights} (Central Law Agency, Allahabad 15thEdn, 2004) p.415-416}

\subsection*{5.5.1 A Human Rights Approach to Disaster Management: International Legal Framework:}

The climate science has provided unchallenged evidence that climate change has enhanced and will continue to enhance the frequency and intensity of natural hazards. These hazards, when paired with poor preparedness and 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.\footnote{Advocates for Environmental Human Rights, \textit{The Human Rights Crisis in the Aftermath of Hurricane Katrin} (2010) p.1}

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. The 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.\footnote{U.N. High Commissioner for Refugees (UNHCR), \textit{Climate Change, Natural Disasters and Human Displacement: UNHCR Perspective} 1 (2009)}

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. 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.

The International Strategy for Disaster Reduction (ISDR), guided by the internationally agreed Hyogo Framework for Action, aims to build the resilience of communities and nations through building capacities to use proven tools for reducing disaster risk. The Hyogo Framework for Action has three strategic goals in disaster management viz, \(^\text{214}\) integration of disaster risk reduction into sustainable development policies and planning, development and strengthening of institutions, mechanisms and capacities to build resilience to hazards, systematic incorporation of risk reduction approaches into the implementation of emergency preparedness, response and recovery programmes.

The concept of Human Rights protection is widely acknowledged as a crucial element of humanitarian strategies at times of emergency and disaster situations, the longer-term aspects linked to the promotion and definition of a human rights-based approach in disaster prevention and reduction is still limited.

5.5.2 Disaster Management and Reduction – A Human Rights Perspective

The critical issues that arise in disaster management and reduction inter alia include the following key areas of concern is, non-discrimination of disaster affected victims based on gender, age, ethnicity etc., right to equality in matters of legal protection, shelter and housing, right to security, access to health services, clean water education, compensation etc., which are considered as integral facet of fundamental rights as enshrined under the Constitution of India. In a landmark case of Vincent Parikurlangara V. Union of India, the Hon’ble Supreme Court held that

\(\text{214}\) Hyogo Framework for Action 2005-2015: Building the resilience of nations and communities to disasters p.6
the right to maintenance and improvement of public health is included in the right to live with human dignity enshrined in Article 21.\textsuperscript{215}

A healthy body is the very foundation of all human activities. In a welfare State it is an obligation of the State to ensure the creation and sustaining of conditions congenial to good health.\textsuperscript{216} The liberal interpretation of this Judgment on lines of human rights based approach would explicitly mean that during the times of disaster it is the prime duty and responsibility of the State to provide medical care and access to health services to the victims of disaster.

Disasters cause mass destruction taking away lives, livelihoods and shelters and leave a profoundly destabilizing effect on the social fabric of communities in the aftermath manifesting itself in increased vulnerabilities of the most marginalized communities. The foremost concern in disaster management in these circumstances is to organize urgent relief to address immediate needs and to provide support to the affected population.

These measures also require to be fore sighted in terms of rehabilitation and development as disaster management transition from emergency disaster response, to relief operations, to rehabilitation, and ultimately, to reconstruction and development. Humanitarian assistance therefore is a complex process involving diverse stakeholders and critical decision-making in volatile situations fraught with several ethical dilemmas posing a significant challenge to planning and executing relief and rehabilitation work in post disaster contexts, is it floods, earthquakes or social aggression and these decisions have lasting impacts on the affected communities.

The rights available to every individual who is affected by any disaster would include a wide range of rights and a comprehensive human rights protection ranging

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215 AIR (1989) SC 142
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from the right to protection and assistance at times of emergencies under the protective shield of the international humanitarian laws and national legislations. The communities living in Disaster–prone areas have the right to protect their development efforts and achieve sustainable Development. The Yokohama World Conference on Natural Disaster Reduction (1994), a mid-term review of the International Decade for Natural Disaster Reduction,\textsuperscript{217} placed greater emphasis on the role of social sciences in research, policy development and implementation and emphasized the links between disaster reduction and sustainable development.

The incidence of natural, as well as related environmental disasters has increased in the 1990s. In 1999 alone, there were more than 700 disasters with widespread economic and social damage leading to the death of approximately 100,000 people. When disasters strike, the poor and socially disadvantaged suffer the most, and are least equipped to cope with the impact. There is a direct link between environmental management and risk reduction, disaster preparedness, mitigation and recovery, as natural disasters have a long-lasting adverse impact on the environment which is directly proportionate to the human rights issues of disaster affected persons. This can be achieved through effective disaster risk reduction. As such, a specific human rights based approach for disaster risk reduction should be developed.

The human rights perspective of disaster management would further encompass in itself certain other basic rights such as right to development, right to an equal access to education for all in particular access to school for those living in disaster affected areas, provision for safe schools and disaster-resilient education infrastructures, to allow all children to learn about disasters and risks to be more aware of surrounding threats and be better prepared at times of disasters. The Newly

\textsuperscript{217} ISDR- International Strategy for Disaster Reduction (2002), \textit{Living with Risk: A global review of disaster reduction initiatives}, Prepared as an inter-agency effort coordinated by the ISDR, Available at www.unisdr.org/wcdr, visited on 10-09-2012, at 2-30 p.m
emerging challenge with reference to human rights based issues of climatic and environmental refugees and internally displaced populations. The impact of climate change on increased frequency and intensity of disasters has led to wider movements of populations to safer areas. There is an urgent need to address on the vital issues regarding the protection of environmental refugees and internally Displaced People’s (IDP) Human rights.\textsuperscript{218}

The human rights perspective in disaster management programme implementation include certain elements like fixing up benchmarks, targets and indicators in Disaster Risk Mitigation and Disaster Risk Reduction that can capture the real dimension of human rights oriented issues. The promoting of human rights, especially the protection of fundamental ones as the non-discriminatory principle, in front-line agencies mandates as well as in national Disaster Risk Mitigation and Disaster Risk Reduction policies can make the legal frame work more efficient and effective. The existing legislation, codes and guidelines must be expanded in order to include a human right perspective in Disaster Risk Mitigation and Disaster Risk Reduction measures.

The Disaster management programmes typically focus on relief distribution and rehabilitation in a time bond projectivized manner rather than with a long-term sustainable development approach embedded within a broader human rights perspective. The reasons for such lacunae range from sheer ignorance to lack of knowledge and skills working with a human rights frame work. A comprehensive disaster management programme must reflect sensitivity to the complex human and cultural contexts, international relations, technological developments, environmental vulnerability and interdependency and tensions and shifts in the fundamental

\textsuperscript{218} Walter Kalin Report to the Representative of the UN SG on the human rights of the IDPs:“Protection of Internally displaced persons in Situations of Natural Disaster” - 5 March 2009 p.9
concepts are articulated and understood in a programmatic framework. This is done because all humanitarian assistance is oriented to sustainable development; to protect the rights of vulnerable groups must inform all stages of the rehabilitation process from early recovery through to long-term reconstruction and development. The key objective of such assistance is to transform the status of the surviving communities from extreme vulnerability and dependency to self-sufficiency and well being.\textsuperscript{219}

\subsection*{5.5.3 Human Rights and Disaster Risk Reduction}

No person shall be deprived of his life or personal liberty except according to procedure established by law.

- The International Strategy for Disaster Risk Reduction (ISDR).

- The ISDR system is a broad network of partners including UN agencies, NGO’s, governments, international financial institutions, universities and technical institutions.

The International Strategy for Disaster Reduction (ISDR), guided by the internationally agreed Hyogo Framework for Action, aims to build the resilience of communities and nations through building capacities to use proven tools for reducing disaster risk.\textsuperscript{220}

The UN International Strategy for Disaster Reduction (UNISDER) is the secretariat to the ISDR system. In Europe, UNISDR has been very active in promoting coordinated actions towards DRR in collaboration with partners such as EUR-OPA (Council of Europe), the EC, the National Platforms and HFA Focal points, the WB and GFDRR and other UN Partner agencies.\textsuperscript{221}

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\textsuperscript{219} Id p.09 \\
\textsuperscript{220} ISDR- International Strategy for Disaster Reduction (2002), \textit{Living with Risk: A global review of disaster reduction initiatives}, Prepared as an inter-agency effort coordinated by the ISDR \\
\textsuperscript{221} UNEP and UNISDR (2008)
\end{flushleft}
5.6 Hyogo Framework for action 2005-2015

Hyogo Framework for action has the building the resilience of nations and communities to disasters to substantially reduce disaster losses, in lives, social economic and environmental assets. It has the following strategic goals.

- The integration of disaster risk reduction into sustainable development policies and planning.
- The Development and strengthening of institutions, mechanisms and capacities to build resilience to hazards.
- The systematic incorporation of risk reduction approaches into the implementation of emergency preparedness, response and recovery programmes.
- Governance; ensure that disaster risk reduction is a national and local priority with strong institutional basis for implementation.
- Risk identification. Identify, assess and monitor disaster risks and enhance early warning.
- Knowledge use knowledge, innovation and education to build a culture of safety and resilience at all levels.
- Reducing the underlying risk factors in various sectors (environment, health, construction, etc)
- Strengthen disaster preparedness for effective response words into action

5.7 REFUGEES AND DISPLACED PERSONS:

The impact of climate change on increased frequency and intensity of disasters has led to wider movements of populations to safer area there is an urgent need to address the protection of refugees and Internally Displaced People.
Disaster Management Cycle and Human Rights.

What is the current situation?

- The UN Inter-agency standing committee (IASC) highlighted that national authorities as well as international organizations and NGOs are at loss as to how incorporate Human Rights Based Approach (HRBA) into response and, most of all prevention.

- The UN (IASC 2008) recognizes that HRBA shall guide DRM “Including pre-disaster mitigation and preparedness measures” and there are international guidelines which focus on the inclusion of human rights in disasters”.

“What can be done more by the ISDR system?

- Promoting Human Rights, especially the fundamental ones as the non-discriminatory principle, in front-line agencies mandates as well as in national DRM and DRR policies.

- Do not re-invent the wheel principle: expand existing legislation, codes and guidelines in order to include a human right perspective in DM and DRR measures.

- Including benchmarks, targets and indicators in DRM and DRR (i.e. HFA monitor) elements that can capture the human rights dimension in disaster management programme implementation.

“What can be done more at national level?

- National platform for DRR shall consider HRBA in its disaster management planning. This include mapping institutions and organizations that are duty bearers in ensuring human rights in disaster and profiling the right holders, in particularly those that are at risk and vulnerable (See critical issues discussed before).

- National platforms should involve legal officers and Human Rights specialists to mainstream Human Rights to Disaster Risk Reduction programmes.
National Governments should be encouraged to promote Human Rights Based National Actions plans for Disaster Risk Reduction.\textsuperscript{222}

India, the world’s most populous democracy, continues to have a vibrant media, an active civil society, a respected judiciary, and significant human rights problems.

Custodial killings, police abuses including torture, and failure to implement policies to protect vulnerable communities married India’s record in 2011 as in the past. Impunity for abuses committed by security forces also continued, particularly in Jammu and Kashmir, the northeast, and areas facing Maoist insurgency.\textsuperscript{223} New state controls over foreign funding of NGOs led to restrictions on legitimate efforts to protect human rights. However, killings by the Border Security Force at the Indo-Bangladesh border decreased dramatically. Social unrest and protests depend in resource-rich areas of central and eastern India, where rapid economic growth has been accompanied by rapidly growing inequality. Mining and infrastructure projects threaten widespread displacement of forest-dwelling tribal communities. The Government has yet to enact comprehensive laws to protect, compensate, and resettle displaced people, although a new land acquisition law has been drafted.

Although at this writing deaths from terror attacks had decreased significantly from earlier years, there were serial bomb explosions in Mumbai on July 13, 2011. On September 7, 2011, a bomb explosion outside the Delhi High Court killed 15 people. The perpetrators remain unidentified.\textsuperscript{224} Progress was made in restraining the police from religious profiling of Muslims after bombings.

\textsuperscript{223} Eric Schwartz & Samuel Worthington, NGO Impact Initiative: An Assessment by the International Humanitarian Community (2009)
\textsuperscript{224} Economic and Political weekly, Vol-41, sep-2011 p.04
Despite repeated claims of progress by the government, there was no significant improvement in access to health and education. An anti-corruption movement erupted into public view in August and brought the government to a standstill, with widespread street protests and sit-ins demanding legal reform and prosecutions. Activists working with two prominent efforts to address poverty and accountability—India’s rural employment guarantee scheme and right to information laws—came under increasing attack, facing threats, beatings, and even death.

5.8 RIGHT TO INFORMATION LAW

Citizens and activities have increasingly been using the right to Information Act (RTI), passed in 2005, to expose official corruption and promote transparency and accountability. In a sad testament to the rampant corruption that exists in India, at least 12 RTI activities have been killed and several others assaulted over the past two years, according to the Asian Centre for Human Rights.225

5.8.1 Bombings and other Attacks:

Three bomb explosions in Mumbai on July 13, 2011 killed 29 people and injured 130. On September 7, 2011, a bomb explosion outside the Delhi High Court claimed 15 lives and injured 50. Security and intelligence agencies did not conduct mass arrests of suspects based on little evidence, which in the past resulted in the torture of suspects for information and confessions. However, the failure of the authorities to identify alleged perpetrators led to widespread criticism of the Agencies and calls for police reform and training.

5.8.2 Death Penalty.

Capital punishment remains on the status books. Although India has not carried out an execution since 2004, many death sentence appeals have been allowed to languish, some for decades. In 2011 the president rejected clemency petitions in

225 Right to Information Act 2005  p.45
five cases, including on behalf of three persons convicted for assassinating Rajiv Gandhi, the former prime minister.

### 5.8.3 Women’s Rights.

2011 census data revealed a further decline in India’s female/male sex ratio, pointing to the failure of laws aimed at reducing sex selective abortions. A series of killings and rapes rocked the country in 20011 but there has been no effective action to prevent and effectively prosecute such violence. The government has yet to improve health services for survivors of sexual assault but has taken steps to provide compensation for rape survivors. At this writing the government was revising its medico legal protocols for evidence collection from rape survivors, excluding the degrading and inhuman finger test that classifies many rape survivors as habitual to sexual intercourse causing humiliations to victims and at times affecting the outcome of criminal trials. Despite considerable progress on maternal health, vast disparities remain and maternal deaths continue to be reported from many states in India.

As a member of the United Nations Security Council and the Human Rights Council (HRC), India in 2011 had an opportunity to align its foreign policy with the ideals it claims to stand for, but officials remained reluctant to voice concerns over even human rights violations in countries such as Sri Lanka, Burma, Syria and Sudan.  

Despite concerns over the safety of its nations in Libya and India did support UN Security Council resolution 1970 on Libya calling for protection of the Libyan people. India later abstained on resolution 1973, which authorized military force to protect civilians. During its presidency at the Security Council India was able to

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secure a consensus among sharply divided member states on Syria, leading to the first council statement condemning the violence. India did not support HRC resolution creating an International Commission of enquiry on Syria in August or called for the draft resolution that demanded to end the violence.

While India claims it has privately pressed the Sri Lankan and Burmese government on accountability for conflict–related abuses, it has not supported an independent international investigation into abuses in either country.

5.9 ENVIRONMENTAL MANAGEMENT FOR DISASTER REDUCTION

The clean up after the unprecedented tsunamis that ravaged South Asia last month is still on-going. In the weeks following this horrific human tragedy environmental concerns from widespread water pollution to the removal of debris and waste on a massive scale have been all too apparent. While the strongest earthquake in decades and the devastating tsunamis that followed could have been less tragic if warning systems had been in place, it is increasingly clear that the negative effects of this, and other kinds of natural disasters, could have been and can be lessened not only by the speed and efficiency of our relief efforts, but also by maintaining the proper environmental infrastructure.

It is premature to draw final conclusions on the South Asia Tsunami, but an earlier tragedy in the Caribbean, where floods and mudslides caused by Hurricane Jeanne killed up to 3000 people in Haiti and left another 200,000 affected, demonstrated all too vividly how natural disasters strike differently, depending on how the ground was “prepared for them” them.228

In Haiti, extensive deforestation left large hillsides bare, allowing rain water to run off directly to the settlements at the bottom of the slopes. In neighboring Dominican Republic, hit by the same storm, there were many fewer victims to

mourn, and part of the reason is that their hills are still covered by a protecting
forest.229

A similar disaster unfolded more recently when half a million people were
affected by successive storms in the Philippines. As in Haiti, the destruction and loss
of life wrought by the storms was made worse by deforestation in the hills above
villages and towns. In response to the crisis, President Arroyo banned all commercial
logging as rescuers rushed aid to wet and hungry survivors. These two examples
clearly show that taking care of our natural resources, and managing them wisely, not
only assures that future generations will find better living conditions, but it reduces
the risks that natural hazards pose to people today.

In this vein, and in close cooperation with our United Nations partners,
UNEP’s goal is to reinforce the centrality of environmental concerns in disaster
management, and to promote sound management of natural resources as a tool to
prevent disasters or lessen their impacts on people, their homes and livelihoods.230

Population growth, industrialization and environmental abuse have opened a
Pandora’s Box of catastrophes across the planet. From spectacular industrial
accidents like Bhopal and Chernobyl to the horrors of drought in Africa and the
extreme weather that battered Japan and the USA last year, the world is more and
more aware of natural and manmade disasters. The question is how to prevent them,
and if they should nevertheless happen, how to respond. It is these questions that the
Kobe World Conference on Disaster Reduction and the necessary follow up action,
must address.

This edition of the Environment Times illustrates the problems and
challenges before us, showing many practical examples on how useful preventive

229 Id 13
230 UNEP (2009b). The role of ecosystems management in climate change adaptation and disaster risk
action can be taken. It lays out why we must think “environment” at every stage of 
disaster management, be it in preparing, preventing, mitigating or reacting.

Today, we are sadly witness to a growing number of devastating hurricanes, 
typhoons, droughts and floods, across the globe which as a result of climate change 
are set to become more frequent and violent. As last year’s horrific pictures from 
Haiti and the Philippines show, and with the almost incomprehensible scale of the 
South Asia disaster unfolding before us, it has become painstakingly clear that 
without the environment firmly in the equation there will be no long term disaster 
risk reduction.

5.10 ROLE OF RED CROSS SOCIETY

5.10.1 Indian Red Cross Society

The Indian Red Cross Society is a voluntary humanitarian organization 
having a network of 700 branches throughout India, providing relief in times of 
disasters/emergencies and promoting health & care of the vulnerable people and 
communities. It is a leading member of the largest independent humanitarian 
organization in the world, the International Red Cross and Red Crescent Movement. 
The mission of the Indian Red Cross is to inspire, encourage and initiate at all times 
all forms of humanitarian activities so that human suffering can be minimized and 
even prevented and thus contribute to creating more congenial climate for peace.231

During the First World Ward in 1914, India had no organization for relief 
services to the affected soldiers, except a branch of the St. John Ambulance 
Association and by a Joint Committee of the British Red Cross. Later, a branch of the 
same Committee was started to undertake the much needed relief services in 
collaboration with the St. John Ambulance Association in aid of the soldiers as well 
as civilian sufferers of the horrors of that Great War. A bill to constitute the Indian

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231 International Federation of Red Cross and Red Crescent Society, International standards on customs and disaster relief (2006)
Red Cross Society, Independent of the British Red Cross was introduced in the Indian Legislative Council on March 3, 1920 by Sir Claude Hill member of the Viceroy’s Executive Council who was also Chairman of the joint Water Committee in India. The Bill was passed on March 17, 1920 and became Act XV of 1920 with the assent of the Governor General on the March 20, 1920. On June 7 1920 fifty members were formally nominated to constitute the Indian Red Cross Society and the first Managing Body was elected from among them with Sir William Malcolm Hailey as Chairman. Indian Red Cross Society has a partnership with National Red Cross and Red Crescent Societies, St. John Ambulance, International Federation of Red Cross and Red Crescent Movement (IFRC), International Committee of the Red Cross (ICRC), Multinational Firms.  

5.10.2 Programmes and Activities

Indian Red Cross’s programmes are grouped into four main core areas; promoting humanitarian principles and values; Disaster response; disaster preparedness; and health care in the community. Red Cross promotes the Humanitarian values, which encourage respect for other human beings and a willingness to work together to find solutions to problems. From the seven fundamental principles, the movement aims to influence the behavior of all the people. Disaster response continues to represent the largest portion of IRCS work, with assistance to millions of people annually ranging from refugees to victims of natural disasters. The sharp increase in the number of natural disasters countrywide in recent years has promoted the Red Cross to devote more attention to Disaster preparedness activities. These aim to make Red Cross Societies and communities more aware of the risks they face, how to reduce their vulnerability, and how to cope when disaster strikes.

233 Programmes and activities of Red Cross Society, and Red Crescent. p.37
Too many people die as a result of no access to even the most basic health services and elementary health education. Health and community care has become a cornerstone of humanitarian assistance, and accounts for a large part of Red Cross spending. Through these programmes, the Red Cross aims to enable communities to reduce their vulnerability to disease, and prepare for and respond to public health crises.

Guiding and supporting the development of its societies is one of the Red Cross’s fundamental tasks and runs through these four core areas and others. Capacity building programmes and activities include management and volunteer training, improving branch structures, planning, fund raising and gender equality.

Other major activities includes: Hospital services, blood bank, HIV/AIDS programmes, home for disabled servicemen, vocational training centers, tracing activities, maternity, child and family welfare, nursing, junior red cross activities, preparedness and prevention of communicable and infectious diseases, relief operations in fire, railways and other accidents and events.  

Youth represent a substantial part of the membership of Red Cross for its humanitarian commitment. Young volunteers can make a significant contribution to meeting the needs of the most vulnerable people within their local communities through Red Cross youth programme. This has been designed to involve young people as much as possible in the movement and its activities not only as workers and also as beneficiaries, but as partners in management.

Children and adolescent also represent a substantial part of the membership of Red Cross for its humanitarian commitment. Young volunteers can make a significant contribution to meeting the needs of the most vulnerable people within their local communities through Red Cross programme. This has been designed to

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234 National Red Cross and Red Crescent Societies, IFRC  p.26
involve young people as much as possible in the movement and its activities not only as workers but also as beneficiaries, and as partners in management.\textsuperscript{235}

5.10.3 Recommendations - the governments of disaster affected countries.

- Governments should recognize and respect the independent, humanitarian and impartial actions of NGHAs: NGHAs are independent bodies. This independence and impartiality should be respected by host governments.

- Host governments should facilitate rapid access to disaster victims for NGHAs if NGHAs are to act in full compliance with their humanitarian principles, they should be granted rapid and impartial access to disaster victims, for the purpose of delivering humanitarian assistance. It is the duty of the host government, as part of the exercising of sovereign responsibility, not to block such assistance, and to accept the impartial and apolitical action of NGHAs. Host governments should facilitate the rapid entry of relief staff particularly by waiving requirements for transit, entry and exit visas, or arranging that these are rapidly granted. Governments should grant over flight permission and landing rights for aircraft transporting international relief supplies and personnel, for the duration of the emergency relief phase.\textsuperscript{236}

- Governments should facilitate the timely flow of relief goods and information during disasters: Relief supplies and equipment are brought into a country solely for the purpose of alleviating human suffering, not for commercial benefit or gain. Such supplies should normally be allowed free and unrestricted passage and should not be subject to requirements for consular certificates or invoices, import and / or export licenses or other restrictions, or to importation taxation, landing fees or port charges. The temporary

\textsuperscript{235} Mission” International Federation of Red Cross and Red Crescent Societies. p.46
\textsuperscript{236} Costanza Adinolfi, Office for the Coordination of Humanitarian Affairs, Humanitarian Response Review (2005), annex XII. P.56
importation of necessary relief equipment, including vehicles, light aircraft and telecommunications equipments, should be facilitated by the receiving host governments should not restrict the re-exportation of relief equipment at the end of a relief operation. To facilitate disaster communications, host governments are encouraged to designate certain radio frequencies, which relief organizations may use in-country and for international communications for the purpose of disaster communications, and to make such frequencies known to the disaster response community prior to the disaster. They should authorize relief personnel to utilize all means of communication required for their relief operations.

- Government should seek to provide coordinated disaster information and planning services. The overall planning and coordination of relief efforts is ultimately the responsibility of the host government. Planning and coordination can be greatly enhanced if NGHAs are provided with information on relief needs and government systems for planning and implementing relief efforts as well as information on potential security risks they may encounter. Governments are urged to provide such information to NGHAs. To facilitate effective coordination and the efficient utilization of relief efforts, host governments are urged to designate, prior to disaster, a single point of contact for incoming NGHAs to liaise with the national authorities.\(^{237}\)

- Disaster relief in the event of armed conflict; in the event of armed conflict, relief actions are governed by the relevant provisions of international humanitarian law.

\(^{237}\) Id p.56
5.11 NGOs & Disaster Risk Reduction

Every year, more than 200 million people are affected by droughts, floods, cyclones, earthquakes, wild land fires, and other hazards. In 2005 alone, 92,000 people died in 150 disasters that caused economic losses estimated at more than 220 billion US dollars. Triggered by the combination of natural hazards and vulnerabilities, the number of disasters is on the rise. Increased population densities, environmental degradation and global warming adding to poverty, make the situation even worse.

The Hyogo Framework for Action (HFA) 2005-2015, a 10 year action framework adopted by 168 governments during the January 2005 World Conference on Disaster Reduction (WCDR) aims to assist the efforts of nations and communities to become more resilient to natural hazards. It offers guiding principles, priorities for action and practical means for achieving disaster resilience for vulnerable communities.

Whilst placing the primary responsibility for achieving disaster resilience on national governments, the HFA also highlights the importance of involving the civil society, Non-Governmental Organizations (NGOs), community organization and voluntary groups in DRR processes, along with the scientific community and the private sector.

Indeed, as disaster risk reduction is a crosscutting issue that needs to be mainstreamed into development sectors, especially at community level. The role of NGOs is very crucial. The resilience of local communities to disasters lies on their capacity to prevent, prepare for and respond to natural hazards. A comprehensive approach to DRR requires a combination of changes at community level with changes to national and international policies and practices.

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Towards a Global Network of NGOs the ISDR secretariat attaches great importance to NGOs increased engagement in different fronts of DRR and believes that building the resilience of nations and communities to disasters cannot be done without the active participation of NGOs. Furthermore, under its growing outreach and promotion capacity and as a result of the major reform it is currently undergoing ISDR is determined to build a Global Network of NGOs for community resilience to Disasters, with the aim of addressing DRR issue at Sub national and community levels.

As a First step towards the establishment of the Global Network, the ISDR secretariat is conducting a preliminary review of initiatives and progress made by NGOs in the area of DRR over the past years, in order to identify existing gaps and better define the scope of the Global Network. Information and data have been gathered for this purpose from various articles, papers and case studies. Preliminary findings and some general observations are presented in this document, which is intended to service as a background reading for the “Consultative Meeting on a Global Network of NGOs for Community Resilience to Disasters” scheduled on 25-26 October 2006.239

During the consultative meeting, which will be attended by a small group of representatives of NGOs and NGO networks worldwide, participants will be discussing such issues as the potential scope of the Global Network, governance structure and coordination mechanisms. The meeting is expected to emerge with substantive comments and observations on the “Global Network of NGOs” concept and ashamed understanding of and commitment to the Global Network. Finally as the process of developing the Global Network of NGOs will unfold additional case studies, good practices and more detailed information on NGO’s involvement in

DRR activities will be identified, allowing for a more accurate and comprehensive picture of their role in the field.

5.11.1 The Role of NGOs in Disaster Risk Reduction

The key role which communities play in disaster management and disaster risk reduction is strongly acknowledged by the ISDR secretariat, whose vision is to enable all communities to become resilient to the effects of natural hazards, technological and environmental disasters. Experiences show that community based approaches offer viable solutions for managing and reducing risks and ensuring sustainable development.

Today, an increasingly predominant view is that for risk reduction strategies to be truly effective in protecting lives and livelihoods, they need to be people centered. They need to build on people's local knowledge and cultural practices, and apply tools and approaches that people can easily understand and integrate into their lives.

Conversely, disaster reduction using top-down government and institutional interventions alone are often considered insufficient as they tend to have a lower understanding of community dynamics, perceptions and needs, and ignore the potential of local knowledge and capacities. On many occasions, local people and organizations are the main acts in disaster risk reduction and disaster response. When a disaster strikes, immediate response (i.e., search and rescue and care for those injured, traumatized and homeless) is often carried out by family members, friends and neighbors and grassroots organizations.

In the case of the many small scale events triggered by natural hazards, there may be little or no external support at all, especially in countries where government capacity is limited. Many members of local communities also represent the greatest potential source of local knowledge of hazardous conditions, and are the repositories
of traditional coping mechanisms suited to their individual environment. Their awareness of historical risk scenarios is often stronger than that of other people.

NGO’s involvement in DRR activities has proved beneficial for a number of reasons, including the following:

NGOs can operate at grassroots level with communities and local organizations as partners, and take a participatory approach to development planning. This allows them to respond better to local people’s priorities and build on local capacities. NGOs enjoy higher operational flexibility as they are relatively free from bureaucratic structures and systems and better able to respond and adapt quickly and easily.

NGOs often work with and on behalf of most needy groups, the poorest and the most vulnerable. In spite of the encouraging trend observed over the past decade, it should be noted that NGOs have found it hard at times to gain acceptance, both at national and international levels. They have sometimes been regarded as minor players; especially in countries whose governments have been hesitant not concede authority and resources to the civil society. As a matter of fact, some governments do not always welcome the growth of civil society, and may sometimes resist the expansion of its role, especially where this involves criticism of government policies or practice.

Finally, NGO’s participation in high level decision making processes so far has also been rather limited. This said some NGOs are gaining growing recognition in the ongoing process of promoting DRR, and are becoming more actively involved in a number of different activities. Over the past years, some NGOs have committed
themselves to advocate for policy changes. Others have been active in mainstreaming DRR into rehabilitation and recovery programmes.\textsuperscript{240}

Many others have engaged actively in capacity building, knowledge transfer and public awareness in communities at risk.

All these efforts have contributed to reducing the vulnerability of those living in disaster prone areas and increasing their resilience through educational activities and capacity building. Overall, the following broad areas of intervention have been identified as being the ones in which NGOs appear to be more actively involved:

- Policy and advocacy
- Knowledge and education
- Community based risk and vulnerability assessment
- Community based mitigation and preparedness
- Major Initiatives taken & progress made by NGOs.

\textbf{5.12 CONCLUSION}

Because of the increasing of Disasters co ordinate response is getting more importance in international level. International federation is making the recommendations and guidelines for disaster risk reduction. UNO. UNDMT, UNSPIDER, WHO, Red cross, many international agencies and organizations, NGO’s are playing an important role in the global level that too regarding disaster management. Now a day’s disaster management has become major concern of the countries and countries are working for that. Disaster management is one of the global issues.

Pointless legal barriers need to be broken down, perhaps through a global regulatory system, to ensure that relief services are effectively delivered to reflection on past mistakes and efforts by the international community to compile a more coherent body of IDRL, there is potential for substantial progress. The need of the hour is to promote a people-centred human rights based disaster risk reduction strategies. The vulnerability analysis in disaster management shall consider human rights issues among their social, economic and cultural criteria. Disaster management fundamentally deals with a response to human misery and losses of people’s livelihoods and assets, while disaster risk management is concerned with mitigating or preventing such losses; both processes tend to be rather anthropocentric. The response towards disaster management must arise from all the sides with a humanitarian approach so as to attain the objectives of human rights based perspective during times of disaster.