

# **DISASTER MANAGEMENT SYSTEM IN NEPAL: LAW AND POLICY**



**A Policy Research Report  
Submitted to ActionAid International Nepal  
Lazimpat, Kathmandu**



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## Preface

This Report has been prepared as a part of ActionAid International Nepal's regular effort to encapsulate disaster concern to the country's poverty elevation process and is a product of a painstaking research of a single person as assigned by ActionAid International Nepal. It covers existing situation of International Human Rights and Humanitarian laws to be enforced in disaster and emergency situations and National scenario of National Disaster Management System (law and policy) existing present and explores future course of actions to be taken by the government and other agencies involved in this sector.

The researcher does not claim that his understanding and perception will be total perspectives on this area and the findings and recommendations are panacea of all the issues. It is, indeed, for the scholars to judge to what extent the understanding and perception has contributed the value of the research. No one would feel delighted but the researcher if this research inspires the concerned authorities and stakeholders to initiate overall disaster management program.

In this respect, I am delighted to express my sincere thanks to Mr Shyam Sunder Jnavaly, Theme Leader, Disaster and Emergency Management, ActionAid International Nepal who not only provided required research materials and facilitated to utilize the ActionAid Library but also extended moral support. Thanks are also due to the librarian of IUCH library for providing me important research materials. Similarly I wish to thank to Mr Bharat Tiwari, Pokharel and Associates, for neatly typesetting and designing this report.

Last but not least, I wish to acknowledge the financial, intellectual and moral inputs of ActionAid International Nepal with which it became possible to bring out this report in this form.

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## Bibliography

## ABBREVIATIONS

AAIN	ActionAid International Nepal
ADPC	Asian Disaster Preparedness Central
CBO	Community Based Organization
CNDRC	Central National Disaster Relief Committee
DWIDP	Department of Disaster Induced Prevention
GO	Governmental Organization
HMG	His Majesty's Government
ICIMOD	International Center for Integrated Mountain Development
ICRC	International Red Cross and Red Crescent Societies
INGO	International Non-governmental Organization
JICA	Japan International Cooperation Agency
NDMO	National Disaster Management Office
NGO	Non-governmental Organization
NU	United Nations
UNDP	United Nations Development Program
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commission for Refugees
WFP	World Food Program
WTO	World Trade Organization

## **Executive Summary**

This document is primarily concerned with issues of disaster management system in Nepal, and the material presented in the following six chapters has focused on synthesizing and analyzing these issues from a sectoral perspective. However, analysis of a number of broad development of human rights, international humanitarian laws, Constitution of the Kingdom of Nepal, legislations and policies and experiences of few other countries have been made to provide the correct picture of disaster management system and certain recommendations have been offered for effectively addressing disaster management problems in Nepal.

Legislation is the tool for implementing disaster management policies and programs, wherever special powers, rights or responsibilities need to be defined in law. Since, modern international human rights and humanitarian laws have converted right to security, rehabilitation, and resettlement and right to have a dignified life even in disaster situation as a right to life and right to receive assistance in a humanitarian standard as a part and parcel of human right itself, Nepalese legal and policy framework has not adopted the same in practice till now. Nepalese legal system is charity based but not right based. For this, overhauling of the existing legal and policy instruments and formulating of new legislation and new policies in this sector is necessary.

Laws are, however, only tools; how laws are enforced is equally important. The capacity of government agencies to enforce disaster laws has been limited in the past. Disaster Management legislations in Nepal to date, have been piecemeal, and many loopholes militate against prosecuting those who violate the law. Many important areas of disaster concern are covered by insufficient legislations for example, Environmental Protection Act, Water Resources Act, Forest Act, Local Self-Governance Act, Soil and Watershed Conservation Act, etc. Only Natural Disaster (Relief) Act, 1982 is the special legislation on disaster management that too is post disaster oriented and does not address preparedness aspect. Future legislation will need greater efforts to include these aspects and to assign institutional responsibilities, and to define the mechanisms by which laws and policies will be enforced.

Appropriate institutional mechanisms are needed to implement laws and policies effectively. The past inability of government agencies to implement the law and policies is related to many factors. Past attempts by governmental institutions to control disaster management from central to local levels have failed. Complex structure and infrequent meetings of Central Committee, non-formulation of local level committees, and non-decentralization of the central power to the regional committees are few of them. For this, a new institutional arrangement has to be made.

Government has formulated few policies, plans, strategies and programs in this field. For example: Tenth Plan, National Action Plan on Disaster Management in Nepal, Water Resources Strategy Nepal, Agricultural Perspective Plan, The Master Plan for the Forestry Sector, Nepal Environmental Policy and Action Plan, Shelter Policy, etc. are some of them which are directly or indirectly related to disaster management system. As policies do not have legal sanction, they are not binding and not enforceable by the court on the one hand

and on the other hand, they are piecemeal and do not include all aspects of disaster management. These policies have to be developed that present a framework for integrating disaster management concerns, poverty and development planning process from village level up to central governmental line agencies. One Method of trying to ensure sufficient consideration is given to integrating disaster considerations with development objective is through use of anti disaster techniques during planning stage of a project or program. The main objective of such planning process will be to provide a framework for analyzing the potential adverse impacts of projects during disasters and to develop mitigating measures to minimize the impacts.

Lack of developing linkages between mitigation, preparedness, relief and reconstruction; links with NGOs and Red Crescent Societies; disaster management training; regular research on disaster management; political consensus; public awareness-raising programs are other gaps on the existing policy and legal framework.

Disaster issues are varied and complex. It is not possible to address all issues and to solve all problems at the same time. Resources are scarce and institutional capacities are limited. To implement the policies and actions outlined in newly framed legislation and policies effectively, a series of supportive measures are needed in the areas of institution building, economic policy, legal and regulatory provisions, and public resources allocations. There is wide range of institutional arrangements available for improving disaster management. In keeping with the importance attached to the process of decentralization by HMG, new policy and legislative framework should give greater role to local agencies, including local governments, and non governmental organizations as well as to the private sectors. Village level should be made the principal vehicle to plan, implement and monitor local-level development and disaster management activities. NGOS should be encouraged to play active role in this process.

Disaster has close relation with poverty. Poor and marginalized are the first victims of any kinds of disasters due to their settlement in the disaster vulnerable areas. The close inter-linkages between a limited resource base, rapid population growth, growing disaster risks, low levels of social development and widespread poverty present a complex development challenge, which require ensuring economic development and poverty alleviation on a sustainable manner. Since, safety and security of vulnerable groups-women, *dalits*, ethnic minorities and other marginalized groups is first threatened by any kinds of disaster; such linkages will have a greater role to mitigate such challenges. A number of policy initiatives and sectoral action programs are required to be developed covering all these issues.

Policies aimed at improving the quality of life of the poor therefore need to tackle poverty, disaster management and population issues simultaneously, through targeted programs that assist the poor directly; disaster management programs that emphasize the need for community management of resources; and programs aimed at reducing the number of children families must provide for.

In some sectors there is a need to enact basic legislation and formulate certain policies as stated above. In others there is a greater need for developing mechanisms to implement

existing laws. Economic incentives, rather than centralized regulation, often offer an opportunity to encourage disaster management friendly actions and discourage environmentally damaging ones in a cost-effective manner. The laws and policies need to be carefully directed toward a better stewardship of the country's threatened natural resource base, eco-system and worsening environment.



# Chapter-One

## INTRODUCTION

### 1.1 Legal Concept of Disaster and its Context in Nepal

#### 1.1.1 Meaning

According to the Natural Disaster (Relief), 1982, natural disaster means earthquake, fire, flood, landslide, heavy rain, drought, famine, epidemic, and other similar natural disaster. It includes the industrial accident or accident caused by the explosions or poisoning and any other kinds of disaster. This Act has established the disaster relief work of the state as the cherished duty toward the victim of any kind of disaster. Natural calamity relief work has been defined as any relief work to be carried out in the area affected or likely to be affected by the natural calamity in order to remove the grief and inconvenience caused to the people to rehabilitate the victims of the natural calamity and to make advance preparation thereof.

According to Action Aid Position Paper, 2003 any situation where there is an exceptional and widespread threat to life and the subsistence, which is beyond the coping capacity of individuals and/ of community is to be considered as an emergency and disaster.

From a humanitarian point of view an emergency and disaster may be defined as "any situation involving the severe disruption, distress, and suffering of large numbers of people and demanding a humanitarian response."

Although the occurrence and impact of disasters vary form year to year, it is possible to conclude that the number of vulnerable people worldwide has risen significantly over the last three decades among such higher in poorer countries.

In disaster situation affected people are deprived of every one they loved, of everything they possessed (their houses, their habitats, their clothes.....), they are reduced to suffering and needs, forgetful of dignity and restraint. Their life or death would be lightly decided with no sense of human affinity, in the most fortunate of cases, on the basis of a pure judgment of utility. In order to survive, they must have air to breath, water, food, adequate materials to build safe homes, medicines, etc.

#### 1.1.2 Disaster in the Nepalese Context:

Nepal is characterized by its rugged topography with high relief, complex geology, concentrated rainfall and a high population density. The country faces several natural hazards and larger part of the country is vulnerable to earthquake, landslide, debris flow, flood and other forms of hazards. Natural disasters occur year after year causing immense damages of public properties and human lives. Sometimes the extent of damage is enormous as we experienced during the earthquakes of 1980 and 1988 and flood of July 1993 and flood and landslides of this year. Apart from these events, there are several

natural calamities, which struck the country in the past, the earthquake of 1934 was one of the serious disaster ever faced.

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The natural disasters may not be stopped, but efforts can be made to reduce the impact of disaster. Disasters are great levelers. They occur in the developed as well as underdeveloped world. They do not discriminate between the poor and the rich. Yet the deaths in the developed nations are far less than that of the underdeveloped nations. In the under developed world also the impact is gauged higher in the marginalized than the other classes of the society. In this juncture state has the greater responsibility to be shouldered since it is the custodian of all the people that reside within its territory.

These together affect, on an average, 300,000 Nepalese annually with about 300 death casualties. However, last year the weather induced disaster alone killed about 450 people and 50,000 families plus were affected. The results of this year are still to be calculated officially. The losses of productive properties, such as public properties/infrastructures, animals, agricultural land and crops, etc. are overwhelming. In fact the South Asian data on disaster losses show that about 0.4 percent of the disaster affected Nepalese population die compared to only 0.07 percent average deaths in the Region. This reveals the poor state of event the relief operations.

Nevertheless, Nepal's capacity to cope with such emergency situations has remained very weak. While there are many causes for this, lack of clearly mandated and durable structure of government mechanism to deal with the entire cycle of disaster management has been a serious one. Lack of coordination, untargeted programs formulation and *ad-hocism* in response decisions have been the secondary reasons. On top of it, there lies a serious problem of outdated policy context.

### **1.1.3 Context of Human Right and Humanitarian Law:**

Since, law's main mission is to rule human beings, it tries to provide solutions to conflicts and so maintain social order and peace, while protecting those fundamental values considered as essential by a particular community.

But we also know that laws, as rights and obligations, are human inventions. Their 'power' depends on a wide range of factors, including the existence of a supporting institutional framework, widespread social recognition and an effective system of enforcement. Hence, when those factors are lacking or seriously weakened, laws become 'dis-empowered'.

It is normally in arm conflicts and other situations of public emergency that legal systems' effectiveness is critically put to the test. War and violent conflicts often bring

not only extreme economic, physical and psychological damage, but also the breakdown of those social and legal systems which bind societies together. As a consequence, both international and domestic legal instruments usually institute specific mechanisms and guarantees to ensure that certain fundamental rights and freedoms are protected even through exceptional periods of emergency as a human right law and humanitarian standards have been formulated to be applied in the situation of emergency relief.

The crises of Human Right implementation and adoption of humanitarian assistance as an essence of Human Right itself, has become a far cry in the context of Nepal. Most of all Disaster legislation and Policies of Nepalese Kingdom are based on the traditional approach of charity, while the right to rehabilitation, resettlement and protection has already been converted into right to life in the international law Nepalese legal system still treats these rights as grace of the state. Formulations of the legal instruments in favor of these rights are the demand of the present day Nepal.

#### **1.1.4 Nepalese Legislations and Policies on Disaster**

Numbers of important measures have already been taken to tackle some serious challenges caused by disasters in Nepal. In this process, the Constitution of the Kingdom of Nepal 1990 is the law of the land which guaranteed the Right to Life and individual liberty under Article, 12. The right to life includes the right to security and right to live with human dignity. In the disaster situation, affected and vulnerable people of disaster are always kept at the risk of those rights that are cherished in the Constitution and the relief responsibility has been taken as grace of the state which is not but the inherent right of the people.

Even though, Natural Disaster (Relief) Act, 1982 and other sectoral law and policies have been formulated in this field, appropriate legislation, regulation and policies is absent in a number of key sectors, and needs formulating. In other sectors where laws have been passed, either appropriate rules for their implementation have not been drawn up, or the institutional capacity to enforce them is weak. Continued institutional reform is essential to HMG's development objectives. This entails reorienting the role of Government agencies and making greater use of local institutions, NGOs and the private sectors.

Disaster education, awareness-rising and management training are necessary to sensitize the citizenry, decision-makers and field workers in all sectors which is lacking in present context of Nepal.

There is a need to prioritize actions and resources necessary to support them. This will require hard decisions about which expenditures contribute most to the overall achievement of HMG's developmental and disaster management objectives. These all requires appropriate policies, plans, strategies, programs to be formulating.

## **1.2 Objectives of the Study**

The main objectives of this study is to analyze the existing disaster management laws and policies in Nepal, to assess their adequacy and effectiveness with the light of human right and international humanitarian laws and The Constitution of the Kingdom of Nepal 1990 and to recommend future legal as well as policy-wise strategies for effectively addressing key issues of disaster management in Nepal. This study also analyzes whether any reforms in existing disaster law and policy framework or formulation of entirely new law and policy is required. This study recommends AAIN to carry further policy influencing and amendment works regarding disaster management in Nepal.

## **1.3 Major Research Questions**

While the objectives stated will guide the study, it will specifically try to find answers to the following research questions:

- What is the existing legal situation of Disaster Management in Nepal and what are the key issues?
- What are the government strategies, laws, policies and programs relating to Emergency and Disaster?
- How have the rights measures developed (pre, during and post disaster scenarios) and in recent years addressing the vulnerable groups-women, *dalits*, ethnic minorities and other groups safety and security?
- What are the legal instruments engaged in this disaster theme?
- What are the outcomes implications from such instruments?
- What are the gaps in policies and practices?
- What areas of engagements should AAIN consider in this theme? What would be the value addition of such engagement?
- What are the expected outcomes from such an engagement?

## **1.4 Methodology of the Study:**

As the study is basically a legal and policy research it follows a doctrinal method where review of literature comparison and analysis will be made to find answers t research questions. After the first draft is prepared the same will be circulated for a peer group review and the review and feed back from the client. The inputs from the review will be incorporated in the report following which a consultation meeting of the stakeholders and feedback will be held. The inputs from the consultation meeting will further refine the report which then will be presented to the client –ActionAid International Nepal.

## **1.5 Organization**

This study reviews current government laws and policy on the disaster management and existing human rights and international humanitarian law situation in Nepal and suggests new

policies and law to be formulated where needed and new institutional structure to be constituted to address disaster management issues effectively.

The study has been divided into Six Chapters. The First Chapter unfolds certain trend setting events and issues and gives the general interdiction of the study. Chapter Two presents the current status of international human rights and humanitarian laws which apply in disaster and emergency situation. Chapter Three gives the outlines of existing legal framework on disaster management in Nepal. Chapter Four compiles the major and sectoral government policies, strategies, plans and programs on disaster management in Nepal. Chapter Five identifies major key issues, analyzes the existing legal and policy framework on disaster management system of Nepal on the basis of reviewed laws, policies and experiences of few other countries. This Chapter also explores necessary contents of new laws, policies, strategies, programs, codes etc. to be formulated for effective disaster management. It offers certain recommendations prepared on the basis of the analysis of the whole study. And finally, Chapter Six tries to identify the position and future strategies to be taken by AAIN and expected value addition and outputs that of.

## **Chapter-Two**

# **HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW ON DISASTER MANAGEMENT AND EMERGENCY**

### **2.1 Human Rights in Disaster:**

#### **2.1.1 General**

During the second half of the twentieth Century, mainly under the auspices of the United Nations, a remarkable collection of international legal instruments have been articulated for the promotion and protection of human rights and humanitarian standards. A major role of the United Nations is to promote respect for human rights and fundamental freedoms. All United Nations members pledge to take joint and separate action in cooperation with the UN for the achievement of these purposes. Effective protection of human rights requires cooperation by not only States and international organizations but many players, including NGOs and intergovernmental agencies. From a legal point of view, humanitarian standards, human rights and the protection of refugees have in the past been seen as quite separate bodies of international law.

We usually speak of Human Rights Law as all those rules and principles articulated for the protection of individuals and groups against abuse and violations of their internationally recognized fundamental rights and the promotion of these rights. Basically, Human Rights Law includes any law aimed at promoting or protecting human rights.

#### **2.1.2 Human Right Principles**

Certain rights pertain to individuals not as members of a particular society, but as rational human beings. Human rights, based on every person's inherent dignity, appear as the foundation upon which rest freedom, justice and peace in the world. The legitimacy and justice of any government or law would now depend on their ability to ensure the cherished human rights of all citizens.

Modern human rights are based on the notion of *human dignity*. *Human dignity* represents the essential value of every person, built upon his/her capacity and freedom to belong to a particular community, to have a unique identity, to possess one's own body, to write one's life. Human identity embodies a shared sense of human affinity, the social recognition of every individual's humanity. The modern notion of human rights is based upon such a universal value: human dignity.

Refraining from direct appeals to God or Nature as the ultimate source of human rights, the drafters of the Universal Declaration (1948) recognized the inherent dignity of all members of the human family as the moral foundation of the new international legal order. Within this process of revitalization of the idea of rights, more and more

development and humanitarian agencies are expressing a formal commitment towards the promotion and realization of human rights.

As Robertson suggests, inherent dignity, in such a context, echoes the Kantian notion of dignity as *intrinsic human dignity*. Every person, by virtue of his or her humanity alone, possesses human dignity. As a result:

- Fundamental rights and freedoms are not given by any authority. They are inherent, and therefore they may not be taken away. They are inalienable.

Human rights are considered as universal. They belong to every person. Human rights should act as main lens through which we look at the world to formulate assessment and analysis while responding disaster.

### **2.1.3 Human Rights in Disaster and Emergency**

International human rights law does not speak explicitly about the right to protection and relief from disasters, but they are clearly implied. The followings are the major International Human Rights Instruments,

- Universal Declaration of Human Rights of 1948
- International Covenant on Civil and Political Rights of 1966
- International Covenant on Economic, Social and Cultural Rights of 1966

Since, all Human rights are not absolute; certain rights are non-derogative even in the condition of disaster. Even though, all these instruments deal with human rights, human rights that has to be applied in even the disaster and emergency are dealt with in The Universal Declaration of Human Rights, 1948 which are:

Article 3:

"Everyone has the right to life, liberty and security of person."

As has been stated, right to life includes the right to live with human dignity. All goes with human dignity the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, within and expressing oneself in diverse forums, freely moving about and mixing and co-mingling with fellow human beings. The courts of the modern days, specially, the Indian Supreme Court has established that traditionally recognized social and economic rights, like the right to shelter, education, and health, as being an integral part of the right to life itself and therefore enforceable as such, makes it possible to take disaster-related issues to court.

The magnitude and components of this right would depend upon the extent of economic development of the country, but it must, in any view of the matter, include the bare

necessities of life and also the right to carry functions and activities as constitute the bare minimum expression of the human self.

Article 25:

"Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing housing and medical care and necessity social services, and the right to security in the event of unemployment, sickness, disability, widowhood, or old age or other lack of livelihood in circumstances beyond his control."

It is believed that the state was an outcome of an agreement which is popularly known as social contract. As a result, the state is obliged to protect those people to which its existence is legitimized. The right to an adequate standard of living is not suspended in even in disasters. It is fully understood that national governments may have limited capacity in relation to such rights. Nevertheless, no matter how meager their resources may be all governments have an obligation to take positive action to protect lives, and assure an adequate standard of living, not only in normal times but also in conditions of acute crises.

Article 22-27 of the International Covenant on Economic, Social and Cultural Rights, 1966 have provided that everyone is entitled to the realization of the economic, social and cultural rights indispensable for his or her dignity and free and full personal development.

Likewise Article 3-21 of The International Covenant on Civil and Political Rights have guaranteed the right to life, liberty and security; right to freedom from slavery, torture and arbitrary arrest; right to recognition before the law and nationality; right to fair trial, free movement and asylum; right to privacy and property; right to freedom of speech, thought, conscience and religion; right to peaceful assembly and right to political participation etc.

The Human Rights Declaration does not establish any difference in value or importance between economic, social and cultural rights, on the one hand, and civil and political liberties on the other. They are granted the same degree of protection.

While dealing with the disaster situation the victims' dignity and intrinsic value are respected and protected. The human right to protection in disaster means there are some services to which people are entitled. There should be domestic and international agencies that are capable of calling national governments to account if their preparations are not adequate. There must be organizational and training of personal, evacuation plans, emergency medical facilities, arrangements for providing food and water, etc. No state can deny these right while responding disasters. It is not matter of charity but obligation of the government and international community.



### **2.1.4 Common base of the Human Right Bills**

All the Human Rights Bills as mentioned above have common foundation that human rights derive from the inherent dignity of all human beings. All peoples have the right to self-determination; they are free to determine their political status and to pursue their economic, social and cultural development. The principles of non-discrimination and equal rights of men and women are reaffirmed.

### **2.1.5 Limitation of Human Rights**

Derogation and limitation of human rights occur when states of emergency are declared certain exceptions to the normal legal regime may be introduced. In such situations, some basic rights are likely to be restricted or suspended. Even in such situations right to life being non-derogable can never be suspended or restricted.

## **2.2 International Humanitarian Law in Disaster and Emergencies:**

### **2.2.1 General**

Under the generic term International Humanitarian Law means that systematic body of international principles and rules aimed at protecting civilian populations in the times of war and other armed conflicts. Such a legal body has developed over the last two centuries.

The World Disaster Report 1997 defines humanitarianism as 'a way of acting: carrying out actions which are and are perceived to be, impartial, neutral and, by extension, independent from political, religious or other extraneous basis.'

In line with the humanists of the Renaissance, the Philosophers of the Enlightenment condemned the horror and absurdity of war. Around the same time a number of practical measures were being proposed by military professionals to make war more humane. Some rules were formulated in order to limit the use of force in wartime and protect the life of people not taking part in the hostilities, including women, children, the elderly and the sick. In the course of the nineteenth century, however, a new body of international law emerged, binding States in the conduct of war: the so-called humanitarian law. Behind crystallization of this legal system, the Red Cross Movement was to play a key role.

Despite this fact, modern International Humanitarian Law originated from the work of Henry Dunant. In the aftermath of the Battle of Solferino in 1859, he was dismayed by the deplorable conditions in which the wounded were left unattended. Together with the women of the region, he organized assistance. These people were going to succeed in translating a number of humanitarian values into international law. He later published his experiences and made the two recommendations which led to the creation of Red Cross and the first Geneva Convention of 1864.

In Geneva a committee of Swiss citizens founded the Red Cross. In 1863, sixteen States sent delegates to Geneva and established the basis of what is known today as the Red Cross and Red Crescent Movement. Under International Humanitarian Law, The ICRC's mandate includes visit and registration of prisoners of war, humanitarian assistance to civilians in armed conflicts, tracing missing persons, civilian and military, training of armed forces around humanitarian standards, development and dissemination of humanitarian law and values.

### **2.2.2 Four Fundamental Principles of ICRC**

In the context of emergency work, we usually talk about the principles of humanitarian action. Since, their formulation by ICRC, the principles of humanitarian practice have been widely adopted by many other humanitarian agencies, further redefined, expanded and, more recently, questioned. These principles are:

**1. Humanity-** The principle of humanity or the imperative to prevent and alleviate human suffering wherever it may be found to protect life and health and to ensure respect for the human being. The formulation of this principle makes clear that it encompasses not only a purely physical dimension: saving life. It also extends to a person's liberty and happiness.

**2. Neutrality-** Neutrality is perhaps the most controversial principle. According to it, humanitarian agencies may not participate (take sides) in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.

**3. Impartiality-** The principle of impartiality presents two main aspects: non-discrimination and proportionality. Being impartial means, assistance must be offered to all sides in the conflict, and provided making no discrimination as to nationality, race, religious beliefs, class or political opinions. It also implies that assistance must be given according to need.

**4. Independence-** The principle of independence seeks to ensure that humanitarian agencies have the freedom to operate purely on humanitarian considerations independent of any political, military or economic interests or interference.

Other secondary principles of movement adopted by International Conference of the Red Cross in Vienna in 1965 are: humanity, independence, voluntary service, unity and universality. The tasks of the Red Cross are summarized as follows:

- to provide protection to victims of armed conflicts,
- to assist the victims of natural disasters,
- to develop and disseminate international humanitarian law, and
- To contribute to the promotion of health and social well-being.

ICRC works in cooperation with its members, National Red Cross and Red Crescent Societies worldwide. It promotes all forms of humanitarian activities by its member

societies to prevent and alleviate human suffering. ICRC is mandated to assist in natural disasters and works outside of areas of conflict.

### **2.2.3 Some International Humanitarian Laws**

**1. Geneva Convention of 1864:** This Convention provided for equal treatment of wounded regardless of their allegiances, the right of civilians to treat all wounded personnel, the neutrality of military medical services, and for them emblem of Red Cross to be displayed.

**2. Law of Geneva/Law of Hague:** While the first Geneva Convention and its successors address the needs of the victims of war, the law of The Hague describes the rights and duties of belligerents in the hostilities thus limits the choices of means and methods of conducting war. Concluded originally 1864 and revised in 1907, the Hague Convention on Land warfare have been supplemented more recently by the 1954 Convention on the protection of cultural property, the provisions of the 1977 Additional Protocols dealing with the combatants and the protection of the civilian population against the dangers of war, and the 1980 United Nations Conventions on Prohibitions and Restrictions on Use of Certain Conventional Weapons.

Article 3 of the four Geneva Conventions, 1949 prohibits the violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; outrages upon personal dignity in particular humiliating and degrading treatment.

UNESCO, Paris, 1995 has further extended right to humanitarian assistance as under:

- States have a duty to provide humanitarian assistance to victims in their territory or under their control.
- States, international governmental organizations and non-governmental organizations have a right to offer humanitarian assistance to other States.
- States, international governmental organizations and non-governmental organizations have a right to provide humanitarian assistance to victims in other States with the consent of these States-in cases of disintegration of governmental authority and of civil war-with the consent of the relevant local authority.
- States have no duty to provide humanitarian assistance to victims in other States but they have a duty to facilitate humanitarian assistance lent by other States, international governmental organizations or nongovernmental organizations. If measures of coercion are taken against a particular State, supplies for essential humanitarian needs have to be exempted from them.
- The Security Council, by virtue of Chapter VII of the United Nations Charter, may determine that the magnitude of a human tragedy constitutes a threat to international peace and security and authorize States or UN forces to take all measures necessary to bring humanitarian assistance to the victims.
- States have a duty to admit humanitarian assistance furnished by other States, international governmental organizations or nongovernmental organizations in accordance with international law. They may not arbitrarily refuse their consent.

- Individuals have a right against the State under whose control they are to receive humanitarian assistance insofar as this State has a duty to provide humanitarian assistance or to permit its distribution according to rules 3,4 and 6. (*Source ActionAid Nepal Position Paper, 2003.*)

#### **2.2.4 Some Fundamental Rules of International Humanitarian law**

- Persons those who have been put out of action or otherwise disabled and those who can not take a direct part in hostilities are entitled to respect for their lives circumstances be protected and treated humanely without any adverse distinction
- The wounded and sick shall be collected and cared for by the party to the conflict which has them in its power. Protection also covers medical personnel, establishments, transports and medical supplies. The emblem of the Red Cross in the sign of such protection and must be respected.
- Captured combatants and civilians under the authority of an adverse party are entitled to respect for their lives, dignity, personal rights and convictions. They shall be protected against all acts of violence and reprisals. They shall have the right to correspond with their families and to receive relief.

### **2.3 Humanitarianism as a Right and merger of Humanitarianism and Human rights**

Traditionally, human rights and humanitarianism have been portrayed as two separate segments of analysis and practice. They have been considered as two different traditions, with different origins, autonomous developments, based on different principles, and embodied in different legal bodies.

Thus humanitarianism has usually been seen as the incarnation of a philanthropic impulse: those actions which spring from feelings of charity and compassion. In practice, humanitarianism would focus on assisting and providing relief to victims of war or other human disasters, as activities separate from the vicissitudes of the scenario in which the emergency took place.

As a matter of principle, classical humanitarianism appears de-politicized. Humanitarians are neutral, give assistance without discrimination, and have no intention to redress or change anything to do with the crisis itself-particularly in situations of armed conflict. In this respect, it is often said that behind the humanitarian philosophy underlies a basic idea: simply that war has limits.

The human right tradition, instead, appears closely related to the political principles of liberty and equality that were consecrated in the American and French revolutions back in the eighteenth century. Based on the principles of equality and non-discrimination, the ideology of human rights is about justice, has a clear political nature and pursues the protection of individuals primarily against the Universal Declaration of Human Rights.

But there are modern views in this regard. According to Slim, there are two different strands within humanitarianism: a humanitarian traditional based on charity and humanitarianism based on rights. He concludes that humanitarianism is understood as a matter of right.

Darcy admits that the two traditions are linked and both are universal in their application, and based on recognition that our shared humanity makes certain demands on us. Both, too, can be linked to an analysis of human need. He concludes that humanitarian actions should themselves be seen as one part of a spectrum of human rights activities.

## Chapter- Three

### DISASTER LAWS IN NEPAL

#### 3.1 The Constitution of the Kingdom of Nepal, 1990

Constitution is the law of the land which guarantees to all citizens fundamental and inviolable basic human rights. Irrespective of the fact that it does not mention right to get relief and protection from disasters in particular, it can be found under the right to life and individual liberty under Article 12 of the Constitution. Right to life has meticulous dimensions. The Supreme Court of Nepal has interpreted this right as to include the dignified life embodying the right to shelter, health, clean environment etc. in different PIL cases. So, from this point of view, it can be concluded that human rights with respect to disaster response, such as right to protection from any disaster, right to rehabilitation, right to resettlement etc. can be defined under this Constitutional provision. If these rights are enshrined in the constitution, compensation occurred from any disaster should also be right of the victim. Rights are always to be compensated *in restitution in integrum* basis which means to restitute in the earlier position.

Disasters inevitably leave victims in their wake. Compensation for the victims is direct and secondary effects of the disaster. Providing liability to victims emerges from within the folds of law and policy. The relationship between safety and compensation is relevant in the context of lessening the probability of disasters, in the costs generated by the event, and apportionment of the cost among the various players-willing, unwilling and unaware-including the affected person, and the person in control of the event, the state and the third party.

Compensation is response to disaster that law has not mandated. Judicial decisions should contribute to laws on compensation, both in interpreting and applying them, and to provide protection from violation of rights that result in loss of life or injury. Government has relied on *ex gratia* discretionary payments to meet the demands of victim-creating situations.

Natural disasters have generally remained outside the development of compensation law. This may be traced to a principle which sees 'acts of God' as beyond the control of human beings, and neither person nor state can be held liable of its occurrence. Since, compensation grew within the area of torts, and torts required liability, the notion of compensation to victims of natural disasters has remained at the discretion of the state, and as expressions of compassion and charity. However, a relationship is emerging between disasters and state policy; where there is, in addition, the gradual unfolding of a notion of culpable inaction. These may alter the contour of the acts of God.

The relief provided is of discretionary nature. No prior knowledge is there when such relief would be provided, nor is there any standard as to the amounts that will be paid. It is a political expression of compassion in the nature of largesse, rather than as a policy. Mass disasters, particularly natural disasters such as, floods, cyclones, and earthquakes, witness a transfer of funds from the centre to the affected areas as a measure of relief. This is the relatively visible part of the exercise. Compensation to affected persons is only on part of what follows and tends to lack transparency. There is misappropriation and corruption of resources. Generally, the Prime Minister's Fund is used to assist the disaster victim. This fund is out of the public audit. No standards have been fixed to use this fund. This fund is generally used to satisfy the political cadres. Due to the lack of Code of relief standards, the Natural Disaster Relief Fund is being utilized in discretionary basis. It lacks adequate resources. The process of getting relief is also very lengthy. The problem of providing compensations troubles victims of mass disasters too, and alternative strategies, such as epidemiological identification of affected persons must receive immediate attention.

Compensation, it may be fair to be expected ought to enable the victim to shed victims' status as painlessly and immediately as is possible. Among other things, it must reflect the cost that the event has generated. In the ultimate analysis, it represents a statement of the priorities of a state and of the people who determine these priorities.

## **3.2 Natural Disaster (Relief) Act, 1982**

### **3.2.1 General**

This Act is the sectoral comprehensive legal instrument in response to disaster in Nepal. This Act focuses on the post- disaster activities of response and relief to victims. It authorizes HMG to give appropriate order to anyone concerned to undertake relief work. The Act has constituted the Central Disaster Relief Committee on the chairmanship of the Home Minister at the central level and provides for the constitution as required of Regional, District and Local Committees. Nepal's system for disaster management faces significant challenges including the lack of clear-cut job descriptions and responsibilities for disaster management, the underlying poverty in society, the government's focus on other problems. In this environment it is difficult for the government to concentrate on disasters that have not happened. It is a matter of serious concern that other local committees have not been constituted yet and different Departments to have been deferent responsibility have lack of coordination with each other. The regretting fact is that Disaster Regulation which is the only implementing tools of disaster programs has not yet been formulated. The central committee has major responsibilities to implement the policies and programs relating to natural disaster relief work and to undertake other necessary measures thereof.

The *Preamble* of this Act sets basic objectives of this Act, according to which this Act has been made to make arrangement for the operation of relief work and the maintenance of people's convenience with a view to protect the life and property of the people in general and public property.

**Section 3** of the Act has entrusted HMG to declare Disaster affected or likely to be affected area by natural disaster, by publishing a notification in the Nepal Gazette for a period specified in the same notice.

Under **Section 4** of the Act, HMG may, in order to carry out or cause to be carried out the relief works in disaster area, give orders to any one concerned to undertake any or all of the following works:

- to close down, as required, the governmental or non governmental offices, educational institutions and other institutions in disaster area;
- to prohibit the activities in disaster area which may cause adverse effect on relief work;
- to depute the employees of governmental or nongovernmental offices or of institutions;
- to evacuate or cause to be evacuate the people from disaster are to the areas of safety;
- to requisition the movable and immovable property of any individual or institutions on temporary bases for a prescribed period, if such property is required to be used for the purpose of relief work;
- to evacuate or cause to be evacuated the goods and commodities from disaster area to the areas of safety;
- to make use of the means and resources of the government;
- to requisition and make use of the means of transportation owned by nongovernmental offices, association and individuals of the concerned district for some fixed period time;
- to requisition the food grains, clothes, medicine, construction material and other items belonging to nongovernmental offices, institutions and individuals of the concerned district and distribute it to the victims of natural calamity;
- to try to save the real-estates, factories, temples and shrines and religious places and other significant objects and places from destruction;
- to constitute aid groups and send them to disaster areas;
- to take other necessary security measures for the safeguard of the life and property of the common people, to do other activities as prescribed by HMG.

**Section 4a** is a strange provision that provides that HMG may issue an order requiring the foreign national or agencies to take the approval of HMG to enter into any area affected by natural disaster for any purpose.

### **3.2.2 Institutional Set Up and Responsibilities**

**Under Section 5** of the Act, Central Natural Disaster Relief Committee (CNDRC) has been constituted under the chairmanship of the Home Minister in order to formulate and implement the policies and programs relating to the natural disaster relief work and to undertake other necessary measures related thereof. The working procedures of the CNDRC



and terms of references shall be as prescribed in the notice. According to **Section 5.4** the working procedures of the CNDRC may be fixed by the CNDRC itself.

Functions and duties of the CNDRC shall be as under as per **Section 6** of the Act:

- to recommend HMG to declare the areas affected by natural disaster areas;
- to formulate the national policy regarding the relief work including the rehabilitation of the victims of the natural disaster and the reconstruction in the areas affected by natural disaster etc. and for the control and prevention of natural disaster and the advance preparation thereof and to prepare the programs in accordance with the said and submit it to HMG;
- to implement or cause to be implemented the policy and program formulated pursuant to above after it has been approved by HMG;
- to keep money, food stuff, clothes, medicines construction materials and other goods received within the Kingdom of Nepal and from out side as aid or donation to sing such goods as required for relief word in disaster area;
- to associate the social organizations in natural disaster relief work and to coordinate the activities of those organizations;
- to form groups and send them to disaster area to assist in the natural disaster relief work;
- to give direction to the district committee and the local committee on the matters of disaster relief work;
- to perform the works specified by HMG for the execution of natural disaster relief work;
- to submit progress report of works to HMG from time to time.

There are some other Sub-committees under the Act. These committees are: Relief and Treatment Sub-committee, Health Minister is the coordinator of this committee, and Supply, Shelter and Rehabilitation Sub-committee, Housing and Physical Planning Minister is the coordinator of this committee. The functions and duties of such committees shall be prescribed by the Central Committee.

**Section 7** of the Act has been made for the constitution of other Natural Disaster Relief Committees. By publishing a notification in the Nepal Gazette HMG may constitute the District Natural Disaster Relief Committee and Regional Disaster Relief Committee and Local Natural Disaster Committee in order to undertake the natural disaster relief work. The working procedures of such committees and the terms of references of the members shall be as prescribed in the said notice. Although, there is the provision of the Regional Natural Disaster Committee and Local Natural Disaster Relief Committee, nothing has been mentioned regarding the composition of these two committees. In fact, these committees are like doormat agencies.

The functions and duties of the Regional Committees, under **Section 7a** of the Act, are:

- to provide necessary suggestions to the CNDRC regarding the formulaion of regional policy on natural relief work and preparation of the progress there under;

- to coordinate or cause to be coordinated between District Committees regarding natural disaster relief work;
- to provide information to the Central Committee about natural disaster work from time to time;
- to work in accordance with the directives of the Central Committee.

Accordinging **Section 9** of the Act, functions and duties of the District Committees shall be as under:

- to coordinate or cause to be coordinated between Local Committees regarding natural disaster relief work;
- to formulate district level plans on natural disaster relief work and submit such plans to the Regional Committee;
- to monitor the natural disaster relief work being conducted by the Local Committee and to support the on going work,
- to provide information to the Regional Committee about natural disaster relief work from time to time,
- to work in accordance with the directives of the Central and Regional Committees.

**Section 9a** of the Act has prescribed the functions and duties of the Local Committees which are:

- to prepare detailed description of the loss caused by Natural disaster and to submit to the District Committee, the estimation of means and resources required to the relief and rehabilitation of the victims of natural disaster;
- to organize volunteer's teams according to need and conduct or cause to be conducted the relief work;
- to make necessary arrangements to take the injured in the natural disaster to the nearest hospitals and health posts as soon as possible;
- to make arrangements for the evacuation of the victims of Natural Disaster to a safe area,
- to systemically distribute the cash and kind received in the assistance from District Committee and local resources to the families of the victims of natural disaster;
- to conduct an awareness programs as a precaution for the prevention and control of the possible events of the natural disaster;
- to hand over the foods and cash balance and the accounts thereof the Disaster Committee upon completion of natural disaster relief work.

### **3.2.3 Home Ministry as a Focal Institution**

Being the secretariat of the Central Committee, Home Ministry, Natural Disaster Relief Section is the apex body in natural disaster management system in Nepal. This ministry has responsibility to coordinating all activities and agencies involved in the area of disaster management system. It is a central focal point. Formulation of national policies and their implementation, preparedness and mitigation of disaster, immediate rescue and relief works, data collection and dissemination, collection and distribution of funds and resources are the

vital functions of this ministry. Even though, it has its network through out the country to cope with the natural disasters, and even though, it is the key agency for immediate response during disasters in the country, the response of this ministry has always been put into questions. This ministry is not able to inter into the crux of the problems. This is because; this ministry is general administrating body which undertakes the responsibility to maintain peace in the Kingdom. Formulation of a new independent institution in disaster management system is urgently required in the country.

- **Other Institutions Involved in Disaster Management System**

Different governmental and non-governmental organizations like, ActionAid, JICA, DPTC, UNDP, USAID, ADPC, NASC and other agencies are being involved in conducting various type of workshops, seminars and training programs on disaster management. Such types of activities have been contributing significantly to raise public awareness and manpower development.

The Department of Mines and Geology is preparing a landslide inventory. Water Induced Disaster Prevention Technical Centre is carrying our thematic studies on landslide and monitoring of two three landslides. The Department of Soil Conservation is doing some protection works in different districts. The Department of Road is carrying out some bio-engineering works in cooperation with Trinhuvan University, in order to stabilize the slope and read cut sides. The Department of Hydrology and Meteorology and International Centre for Integrated Mountain Development (ICIMOD) are preparing the map of flood prone areas. The ICIMOD conducts research and training activities on natural hazards as well. The Department of Hydrology and Meteorology is involved in generating data on earthquakes and weather forecasts in the country. Tribhuvan University has established a Mountain Risk Engineering Unit for training purpose.

### **3.2.4 Accounts and Audits**

*Section 13* of the Act has encapsulated the types of the funds and the modality of utilizing them.

According this Section, Natural Calamity Fund may be set up by following names:

- Natural Calamity Central Aid Fund,
- Natural Calamity Regional Aid Fund,
- Natural Calamity District Fund, and
- Natural Calamity Local Fund.

The Central Fund shall be composed of the grant provided by HMG, the grand received from national and international organizations and amounts received from other resources.

The Regional, District and Local Fund shall be composed of the grant provided by HMG, the fund received from the Central Fund, and other fund received from other sources.

All amount received in the fund should be deposited in the bank in the name of Natural Disaster Relief Fund and all expenses to be incurred for natural calamity relief work shall be borne by this fund. The account of the fund shall be operated with the signature of at least two persons in accordance with the decision of the concerned committee. The account of income and expenses of food-grains, clothes, medicines, construction materials etc received for the Natural Disaster Aid Fund shall be maintained separately.

**Section 14** of the Act fixes the modality of accounts and audits of the fund. The accounts of the materials or goods and cash amount obtained and expended by the each Committees shall be maintained in accordance with the prevalent law and the statement of such income and expenditure shall be published upon the completion of audit for the information of the general public. Each Account shall be audited by the auditor general's department or any registered auditor designated by the said department. HMG may examine or cause to be examined the accounts, related documents and other cash and kinds of the fund.

Legislation is only the start. Rules and Regulations that govern the enforcement of laws also have to be developed and enforced. Those that are not properly enforced will have little impact, while those that rely on undue coercion will be either circumvented or incur high social costs in the form of popular opposition. Despite the promulgation of this Act, Disaster Management Rules has not been made till now. There is a need for disaster management Regulation that protects people from undue risk of exposure to disaster threat.

### **2.3.5 Norms and Standards of Relief Assistance**

The Central Disaster Relief Committee has formulated some norms and standards for immediate relief assistance to the victims of the natural disaster in cash and kind. The quantity of such assistance may be revised from time to time. Current norms and standards are:

- An amount of Rs. 10,000.00 is provided as relief assistance to the family of dead victim
- Those who have been injured in a natural disaster are entitled to get the facilities of treatment through district disaster relief committee.
- If one's house is destroyed by the natural disaster, then up to Rs. 4,000.00 is being made available to the victim.
- The house has not been destroyed, but, if there is a threat of disaster, an amount, up to Rs. 2,000.00 shall be provided to the victims.
- Besides, a person gets 7 Kg. of rice if his house is destroyed.
- Rs. 500.00 is provided for the clothing and utensils.
- Those victims, whose land and crops have been completely destroyed, get an amount of Rs. 500.00 for immediate relief.
- Victims of natural disaster will get timber at concession rate.

These standards are very meager and require to be updated in light with the SPHERE Project and national capacity.

### **3.3 Environment Protection Act, 1996**

Since, ultimate result of environmental degradation is disaster, first victim of the disaster are the poor people and poverty is the major cause of environmental degradation, these all phenomena are interlinked. So, while considering addressing one should automatically be integrated to the other. The main task of environment protection legislation is to prevent environmental pollution, ultimate result of which will contribute to effectively manage disaster. Amongst other, Environment Protection Act, 1996 has attempted to protect the environment by encapsulating the provision of environment impact assessment, which requires developers of projects to assess the likely environmental impact of the proposed activity before it is carried out. The main objective of environmental impact assessment is to insure that environment considerations are incorporated into the planning for, deciding of, and implementation of development activities.

### **3.4 Forest Act, 1993**

The Forest Act, 1993 aims to establish a comprehensive structure for the management of all forest areas in Nepal. The importance of forest products to rural communities and the need for regulation of access to forest areas means that the Act is fundamental to the development of large areas of the country. Since, poverty is the cause of deforestation and deforestation is the cause of disaster, management of forest plays a vital role to address disaster management system in the country.

### **3.5 Local Self-Governance Act, 1998**

The Local Self-Governance Act, 1998 aims to provide the opportunity for the sovereign people to participate in the process of resource mobilization, development and distribution of the result of development process to the local communities by the process of decentralization of different powers in the country. Particularly, formulation of plans, and implementation and decision making on the matters of daily concerned of local people by the local bodies is important feature of this Act. Even though, This Act is not particular in disaster matters, by virtue of the autonomy of formulating local plans, programs and projects, local bodies may formulate local disaster plans and policies to be implemented within their jurisdictions. They can integrate the plans and projects with disaster mitigation. The modalities and linkages of the local disaster plans with that of center's have been analyzed in the chapter- six of this report.

### **3.6 Water Resources Act, 1992**

As water resources play vital role in disaster management in Nepal, management of water resources in disaster management-friendly manner is an important aspect in disaster management. The Water Resources Act, 1992 makes provision for the appropriate utilization, protection, management and development of surface, underground and other waters in Nepal. Access to clean and easily accessible water supplies is a key priority for people living in rural Nepal and essential to their development.

Although the trust of the Act is towards regulating corporate use of water, nothing in the Act prejudices the power of HMG to utilize utilities or develop water resources. In this regard, HMG may acquire water resources from any person and develop them for use in such a way as to benefit a larger number of people than that benefiting from the current use without making any significant adverse impact on them.

### **3.7 Soil and Watershed Conservation Act, 1982**

The Soil and Watershed Act, 1982 allows protected watershed areas to be designated, and sets out the powers which may be exercised by a Soil and Watershed Conservation Officer in those areas. Although the protection of watershed areas is essential to disaster management, the scheme of the Act has particular implications for individuals cultivating land within them. Amongst other things he may arrange for:

- the construction of dams, and channels, etc
- afforestation of different areas
- protection of forests and other vegetation
- cultivation of crops and fruit
- maintenance of soil fertility

### **3.8 Other Right-based Laws Incidental to Disaster**

Some of other right-based laws incidental to disaster are as follows:

#### ***3.8.1 International Integrated Mountain Development Center Act, 1983***

This Act has enabled the affected person to whom damage has occurred in the course of research, study and other incidental works conducted for the integrated development of Hindu Kush Mountain area to claim compensation. The affected person may apply for compensation to the International Integrated Mountain Development Center through the HMG. However, the applicant should prove that the damage has occurred due to the negligence of the Center or its employees in the course of dispensing their assigned duties. The Center is obligated to pay reasonable compensation to the applicant if proved true through any insurance company or otherwise.

#### ***3.8.2 Disabled Person Protection and Welfare Act, 1982***

This Act has imposed the government the duty to protect the interest of a disabled or handicap person by providing necessary arrangement. Such person is ensured the right to equality in education, vocational training and to have dignified life. It guarantees the right to acquire treatment and cure. Such a person has right to receive residential as well as agricultural land in priority distributed by the government in such conditions as fixed by the government. They have a fifty percent concession in the public transportation fare such as Buses, Trains, and Aircrafts etc. If such rights are violated the affected person has a right to get reasonable compensation and make the assailant to be punished under this Act. The affected person is required to file First Information Report in nearby Police Station for claiming such

compensation. This Act applies in case of a person who has become disable due to any disaster.

### ***3.8.3 Terrorism and Destructive Actions (Control and Punishment) Act, 2001***

This Act has obligated the government to pay reasonable compensation to those or their family who have died due to any action of the terrorists or of the Royal Nepal Army during the insurgency. Such incidence may have happened due to different explosions, poisonous gasses released during the operation or otherwise or other disastrous activities during the war time. The affected person is required to apply for compensation to HMG through the Office of the Chief District Officer of the respective District.

### ***3.8.4 Consumer Protection Act, 1997***

This Act has included some activities of the supplier into the definition of consumer crimes. It includes the import, export or sale and distribution of the consumer goods of inferior quality, sale falsifying the goods and services, do misleading campaigning or advertisement with the intention of unfair trade practices and produce or sale the consumer goods hazardous to the health of the consumer. If such goods and services are supplied to the people affected by the disaster, they have a right to claim compensation against the supplier in the Compensation Committee constituted in the Chairmanship of the Chief District Officer of each District. Such assailant is also liable to be punished with imprisonment under this Act.

### ***3.8.5 Industrial Trainees Training Act, 1982***

This Act ensures the right of any trainee or his/he patron, who is injured, left with damage of any organ of the body or dead during the training period, to get reasonable compensation. Such right-holder is required to apply in the Department of Industry for receiving such compensation.

### ***3.8.6 Drug Act, 1978***

This Act bans to produce, supply, sell-distribute, export-import or store the drugs of below standard as fixed by the appropriate authority. The producer is made responsible if any body is injured to his health or dead due to the use of such under-standard drug. If disaster affected people is supplied with such drugs and such incident has happened he/she is entitled to claim reasonable compensation against the producer of the drug. The application is required to be given to the Department of Drug Management. Such proponent is also liable to be punished under the Act.

### ***3.8.7 Food Act, 1966***

This Act prohibits producing, selling-distributing, exporting-importing or supplying poisonous or low quality food stuffs. This provides certain punishment against the assailants and compensation for the affected party. If such stuffs are supplied in the disaster affected

areas, the affected person is entitled to apply for necessary action to Chief District Officer of the respective District.

### ***3.8.8 Mines and Mineral Materials Act, 1985***

Any damages occurred during the work of mine and mineral materials either in property or in person are liable to be compensated under this Act. The proponent is subject to other punishment also. The injured person is required to apply to the Department of Mine and Geology.

### ***3.8.9 Water Resources Act, 1992***

This Act regulates that the water resources should not be utilized in producing pollution in the environment bringing the consequence of flood, landslide, soil erosion or any other activities of such nature. Such offender is subject to certain punishment and liable to pay compensation to the injured party under this Act. The application demanding such punishment and compensation is required to be given to the designated officer of HMG.

### ***3.8.10 Tele Communication Act, 1996***

The Tele Communication Authority is required to pay reasonable compensation to the affected person of the damage occurred in person or in property while establishing the Tele Communication line in the private property under this Act. The Tele Communication Authority is the final Authority to decide on this matter. The applicant is required to apply in the Authority for such compensation.

### ***3.8.11 Citizens' Rights Act, 1955***

Section 17(3) of this Act entitles the affected person to apply to the respective Appellate Court demanding to issue an order of compensation against the state for the damage occurred in the rights guaranteed in this Act. Such rights are right to equality before the law, right to freedom, right to religion, right to property, right to criminal justice system, right to individual liberty, right against exploitation etc. If such rights are threatened by any state instrumentalities the affected person can go to the court for necessary compensation.

### ***3.8.12 Solid Waste (Management and Resource Mobilization) Act, 1987***

This Act prohibits everyone polluting the environment by mismanaging the solid waste in the residential as well as other areas. Minor to severe punishment has been provided against the offender of such offences under this Act.

### ***3.8.13 Forest Act, 1992***

This Act bars the activities of deforestation and other activities affecting the forest and forest products. Any person committing any offences under this Act is liable to be punished with different fines and imprisonment. It is submitted that overexploitation of forests and other



natural resources is the major cause of disaster. The designated officer punishing such offences is the District Forest Officer and the appeal against such decision goes to the respective Appellate Court of the jurisdiction.

#### ***3.8.14 Environment Protection Act, 1996***

This Act prohibits disposing the sound, light, radio active poisons and other wastages from any machines, industries, or other places which cause adverse impact in the environment and life and health of the general public. This Act has recognized the polluter pays principle. By this means if any polluting activities of a polluter has damaged to any person or institution the polluter is responsible to pay the reasonable compensation to the affected party under this Act. In addition to this, this Act has provided for other punishments of fine and imprisonment too against the polluting activities of the offender. The affected party is required to apply to the designated officer of HMG for such action.

#### ***3.8.15 Electricity Act, 1992***

No one is allowed to survey, produce, transmit and distribute electricity without acquiring license and permission from the designated officer under this Act. The electricity service can be stopped even of the license holder is case of unwanted circumstances like, natural disaster as flood, landslide, fire, earthquake, and other incidents like strikes, lockage, destructive activities etc. If any damage has occurred to anyone from any act against this provision is liable to be paid reasonable compensation to the affected party. The offender is also subject to other punishment under this Act. The affected person is required to apply to designated officer of HMG for such compensation and punishment.

#### ***3.8.16 Electricity Theft Act, 2001***

No one is allowed to steal electricity in any manner as defined under Section 7 of this Act. If one has committed such offence, he/she is liable to pay the compensation of the actual damage to the affected person. Such offender is liable to pay such additional amount equal to the damage. If such offence has been repeated by the same offender against the same affected person, such offender is liable to pay compensation double to the actual damage. The application for such action is required to be given to the Investigation Officer appointed under this Act.

#### ***3.8.17 Explosive Materials Act, 1961***

This Act has prohibited to produce, store, use, sell, export and import the explosive materials without acquiring license under this Act. HMG is empowered to define explosive materials is entrusted to control the production, use, sale, export-import of such materials under Section 5 of this Act. The offender is liable to be punished with imprisonment. The duration of the imprisonment varies according to the nature of the explosive materials of the offence. Application is required to be given to the Chief District Officer of the respective District for such punishment.

### ***3.8.18 Building Act, 1997***

The extension of this Act is limited within the area as prescribed by the government. It means that this Act is not extended to whole country but limited urban areas only. This Act has been enacted to regulate the construction of the building as to meet the threat of natural disasters like earthquake, fire and other disasters of such nature. Urban Development is empowered to supervise the construction of the building whether such a building is being constructed against the standard fixed by the Building Code. If found guilty this Office is entrusted to give order to demolish such building and cut the water, electricity and telephone lines distributed to him. This Office is empowered to take such action *suo motto* or against any application.

### ***3.8.19 Land and Water Base Protection, 1982***

This Act empowers the HMG to declare certain area as land and water base protection area as required under this Act. No one is allowed to conduct such actions as defined in Section 10 of this Act which are likely to create adverse impact in such areas as the Land and Water Base Protection Officer has identified as being vulnerable to disasters like flood, landslide, soil erosion. HMG is also empowered to rehabilitate and resettle the industry, enterprise, resident of land and water base protection area in other places. But HMG is liable to pay reasonable compensation to the affected party under this Act. Any one committing any offence against this Act is liable to be punished with fine and imprisonment. The application has to be given the Land and Water Base Protection Officer.

### ***3.8.20 Human Right Commission Act, 1996***

National Human Right Commission has been established under Section 3 of this Act. This commission is entrusted the prime duty of protecting and promoting human right in the Kingdom. This Commission is empowered to investigate any act of violation of human right *suo motto* or under any application. Any disaster affected person whose human right is at risk can apply to the Commission for necessary action

### ***3.8.21 National Forest and Wildlife Protection Act, 1972***

No one is allowed to hunt; make house, hut, resort and other kind of structure; possess the land and plant, harvest or cut the trees under the Area of Forest and Wild Life Protection without acquiring necessary permit of the designated officer. Other activities such as mining, damaging to the wildlife and forest product and stop the stream of water under such area are also restricted. The offender of such offences is liable to be punished with fine and imprisonment. However, local people are entitled to use the forest products by forming Consumer Committee with the permission of the designated officer of such area under this Act.

### ***3.8.22 Vehicle and Transportation Management Act, 1992***

Vehicle owner or manager is required to ensure the third party insurance in any insurance company if in case any third part is injured or other damage on his/her property has been done. The owner or the manager of the vehicle is liable to pay mourning, injury and compensation expenditure to the victim under this Act in case of the death. The application for such compensation is required to be given to the Chief District Officer of the respective area. There is different punishment of life imprisonment or nominal fine under this Act in case of damage of any human organ or death. For this, First Information Report has to be filed in the Police Station of the respective area.

### ***3.8.23 Standard Measurement and Weight Act, 1968***

This Act has prohibited to bring the measurement and weight in practice other than the measurement and weight as fixed by this Act. If one has been cheated as such he/she is required to apply to inspector designated under this Act for necessary action. Such offender is liable to be punished with fine and imprisonment.

### ***3.8.24 Local Administration Act, 1971***

Chief District Officer is empowered to declare curfew and destruction affected area under this area. The C.D.O. is entrusted to maintain security in the District. In the course of his action he may arrest and detain such person who is involved in destructive activities. Any case relating to security is decided by the CDO.

### **3.8.25 Local-Self Governance Act, 1998**

Under this Act V.D.C. and Municipality are empowered to settle some petty public nuisance offences creating immediate suffering to the local people.

## **Chapter- Four**

### **GOVERNMENT PLANS, STRATEGIES, POLICIES AND PROGRAMS ON DISASTER MANAGEMENT SYSTEM IN NEPAL**

This section gives quick view of the existing government plans, strategies, policies and programs on disaster management system in Nepal. So, this section is in the modality that only compiles existing plans, strategies, policies and programs scarrred in different national policy documents. No analysis has been done here. Through analysis and recommendations have been offered in the following section, depending upon whole study.

#### **4.1 Tenth Plan (2002-2007)**

##### **4.1.1 General**

Although, poverty alleviation and employment have been taken as the cross cutting sectoral policy in the Tenth Plan, integration of poverty with disaster management is not recognized in this Plan. Poverty alleviation and disaster management are interlinked that have to be addressed interconnecting.

This Plan has accepted that because of the geographical and geological structure together with the haphazard settlement, increasing population, economic backwardness, illiteracy and lack of knowledge, the man made disaster is increasing day by day. Due to the natural disaster like flood and soil erosion, there is the possibility that the infrastructures like road, electricity and irrigation may break down and the investment may be wasted. In addition to this, thousands of people are losing their lives, and many animals, agricultural land and the harvest is being damaged that required. Large-scale preparedness to minimize the earthquake and other natural disasters, which in our country lies in the earthquake prone areas, is a prerequisite for effectively respond disaster.

This Plan has recognized that the main challenges of natural disaster management are the lack of coordination among the authorities involved in it, adaptation of the controlling type of attempt by the management instead of preventive measures, the lack of modern technology that provides pre-information and warning about the possible natural disaster, the lack of topographic survey of possible disaster areas, and the lack of awareness in the management of natural disaster. In addition to this, the main problems of natural disaster management are the lack of appraisal of natural disaster while selecting development projects, the lack of operation of rehabilitation and support programs, and the lack of adherence to the building code while making higher residential buildings

##### **4.1.2 Objectives of the Tenth Plan on Disaster Management**

The main objectives of the Tenth Plan with regard to disaster management is to contribute substantially to make the public life secure by managing the natural and man made disaster

systematically and effectively and by making the development and construction related programs in the country sustainable, reliable, and highly gainful.

#### **4.1.3 Strategy**

In Nepal, incidents, such as, increasing problem of natural and man made disaster, the loss of animals and arable land and crops, and the damage of earthquake, etc., are creating problems repeatedly. An extensive preparation before hand is required to minimize the losses by earthquake and other calamities in the earthquake-prone areas. The damage of lives and wealth can be minimized and economic development can be promoted by strengthening the natural and man made disaster related management, by exchanging information among concerned international organizations related to disaster, and by mapping the high risk areas. The above activities can also assist to reduce the problems that arise repeatedly in social sector. In this context, the main strategies of this sector are as follows:

- While formulating plans and policies on natural and man made disaster management, emphasis will be given to the use and development of technologies that lessen harm on natural disaster and environment.
- The relief and rescue activities that are provided to the disaster affected families by the state will be made transparent. Emphasis will be given to enhance awareness regarding natural disaster management.
- The seismological measurement center and the natural disaster management center established in the country will be strengthened.

#### **4.1.4 Policy and Programs**

- ***Use of technologies to minimize natural disaster and environmental impact in the formulation of plans and policies (related to strategy no 1)***
  1. Formulation and implementation of the sectoral programs based on work plan will be made effective by formulating a long-term work plan on man made and natural disaster management and by coordinating the donor agencies, governmental and non-governmental sectors.
  2. Environmental impact study and natural disaster appraisal study will be made compulsory before implementing the infrastructure building projects.
  3. People's participations will be increased for the water induced disaster management and watershed management by strengthening the capacity of authorities that are involved in formulation of policies, work plans and programs.
  4. The appropriate reform will be carried out in the existing laws and organizational structure for disaster management.
  
- ***Transparency in rescue and relief activities (related to strategy no. 2)***

1. Relief and rescue activities will be operated by involving local bodies, non-governmental organizations, community organizations, and the private sectors.
  2. The awareness raising programs will be operated to increase the people's participation in the management of flood, landslide, earthquake and other natural disasters.
  3. The policy of institutional, remedial and rehabilitative arrangement for the disaster management from the central level to the local level will be adopted to eradicate the negative impact on health, wealth and lives of the victims of various disasters and to make arrangement for the preparation at the time of disaster and pre and post disaster.
- ***Strengthening of seismological measurement center and natural disaster management (related to strategy no 3)***
    1. The hazard map of earthquake, floods and landslides will be prepared.
    2. The natural disaster management department will be developed as a central coordinating body y emphasizing the institutional strengthening of seismological measurement center established in the country and the institutions are involved in natural disaster management.
    3. Mapping of earthquake risk zones, the regular appraisal of earthquake, preparation management, and awareness rising of the people living in the risk areas will be done for reducing the damage that may happen in the future by evaluating the management of earthquakes happened in the past and by evaluating the impact of the strategies.
    4. Various disaster related areas will be classified by collecting, storing, and exchanging the information on water induced disaster, river flow improvement, possible flood, landslide, and flow of sediments by preparing risk map, in view of glacier lake.

#### **4.1.5 Programs**

The programs in disaster management system will be as follows:

- An integrated information system will be developed by coordinating the national and international organizations working in the area of natural disaster management.
- In addition to the inclusion of disaster management in the secondary school level curriculum, various consciousness-raising programs will be operated for raising awareness in the natural disaster management.
- Based on the basic database system and the map of possible areas of flood, earthquake, landslides, a central database system in the center and district database system in the district level will be gradually established.
- By preparing the existing institutional capacity inventory for he pre preparation against disaster, the disaster relief materials will be stored in the storage centers that will be established in all the five regions.

- In the process of increasing capacity of controlling fire, the fire brigade services in the Kathmandu Valley will be extended and the physical material necessary for this purpose will be arranged and the fire control service laws and National Fire Code will be formulated.
- The tasks, such as, preparation of a geological map of the Kingdom through the Department of Mines and Geology, exploration of new mines, and identification of the areas which can be affected by natural disasters, e.g., flood, landslides, erosion, and earthquakes, preparation of the hazard maps of such areas, preparation of landslide inventory, and preparation of epicenter map based on the records of previous earthquakes, will be continued.
- Collection of information and updating the catalog of earthquake by recording the earthquakes regularly from 21 seismic stations established under the national seismological center and the dissemination of information of earthquake more than 4 rector scales to the people promptly will be systematized.
- The awareness rising programs about the possible damage by the water-induced disaster will be carried out.
- In addition to making hazard maps, geo-engineering and geo-environmental maps of increasing urbanization, unplanned settlement and irrational use of land of the urban areas, the disaster resistance method will be applied in the tasks of physical infrastructure development and the natural disaster management.
- The programs for disaster affected people, such as, estimating damage of life and property of the affected people, providing psychological counseling to affected people, providing relief to the people by giving food, clothes, medicine, cereals, shelter, etc., will be carried on. In addition to this, rehabilitation programs will be conducted to make the affected people able to live a normal life.

## **4.2 National Action Plan on Disaster Management in Nepal, 1996**

### **4.2.1 General**

This is the first comprehensive action plan in Nepal, which has a serious implication on macro level development planning on disaster. This plan first time recognized the concept of preparedness on disaster management. Before introducing this action plan, the need of preparing a practical and effective action plan on disaster management was felt as previous efforts were concentrated basically on the rescue and relief operations.

This plan has been prepared concentrating basically on preparedness, response, mitigation, rehabilitation and reconstruction. It is claimed that preliminary action plan tried to cover every aspect of disaster management with more attention on theoretical and procedural aspects rather than prevailing situation of disaster management in the country. Similarly it recommended the estimated cost of each activity irrespective of the national capacity and available resources. It is further said that so, preliminary action plan appeared to be difficult for proper execution.

Keeping these shortcomings in mind, the preliminary action plan was simplified to adopt a more practical and implement-able action plan on disaster management. The different aspects of this action plan can be traced as under:

#### **4.2.2 Disaster preparedness**

The suggested national action on disaster preparedness is presented in the form of a matrix indication priority item group, activities, the time schedule and the executing agencies with specific co-operation. The priority item group includes following preparedness activities:

- Measures related to national policy and planning for making institutional arrangement, providing legal frame work, adopting national policy and plan on disaster management; the completion of making institutional arrangements to effectively implement this action plan was planed within mid 1996, which is but an unfinished task. Further, providing new legal framework to cover all aspects of disaster management by reviewing existing laws and preparing draft of amendment of new laws and by-laws on disaster management and adopting National policy and Plan was planed to complete within 1996 which also a unfinished task.
- Measures related to geological, hydrological and meteorological hazard assessment and environmental engineering studies;
- Infrastructure specific and hazard specific preparedness measures;
- Measures related to strengthening fire fighting capabilities in fire prone areas;
- Measures related to awareness raising, training, rehearsal, simulation activities;
- Measures related to establishment of disaster management information system and stockpiling of emergency.

Most of these activities were scheduled to be completed by 2000. But the saddening fact is that due to the lack of expert implementing institutional set up, strong commitment and lack of enough human as well as financial resources, these activities are still uncompleted.

The activities involves the formation of appropriate institutional arrangements in terms of National Disaster Management Council at policy level, a National Disaster Management Centre at the central executive level and various disaster management committees at regional, district and village level for effective implementation. The activities also include the enactment of appropriate legislation with specified responsibilities to concerned agencies.

The Action Plan also proposes the incorporation of disaster management as multi-sectoral activities in coming five year plans. The emphasis is given to the preparation of hazard assessment and mapping of the recurring disasters in Nepal like earthquake, flood, landslides, GLOF etc. The activities further specify the selected areas in this concern so as to attain the objectives in then remaining years 90s.

Several arrangements have been recommended in the contest of capacity building at local level. Public awareness programs, rehearsal, drills, stockpiling of emergency relief materials are included in the action plan. The environmental, geological studies have been prioritized.



The measures related to strengthening the viral infrastructures for reducing the impact of disasters have been proposed.

### 4.2.3 Disaster Response

This action plan says that as the activities of disaster response starts only after a disaster has struck in certain area; the action plan is prepared as a part of preparedness for actual response operations. The items and activities included in this section were planned to be carried out so as to build the capability of disaster management by the end of 2000 A.D. Despite this fact nothing has been completed within that period. The disaster response action plans included following activities to be carried out within that period:

- **Evacuation, Search, Rescue:** The main objective of the action plan was to strengthen the capability of the agencies involved in rescue and evacuation operation. Identification of dead bodies, need and damage assessment, supply of necessary equipments needed for rescue operations, appropriate training for the rescue personals and preparation of emergency evacuation site plan were the main activities recommended in that part.
- **Communication and Transport:** As the means of transportation should be produced not only for disaster response operations, there was a need for preparing inventory and updating it. Communication equipments should be supplied and necessary transportation vehicles including aircrafts, helicopter should be procured for carrying out efficient operations.
- **Temporary Settlement:** The temporary settlement sites should be identified. For this propose road side land, community land, unused government land, public buildings like schools can be taken into consideration. There should be a definite plan of settlement sites which can be used during the disasters.
- **Health, Nutrition and Sanitation:** It was planned that a disaster unit with minimum facilities should be established in every hospital for emergency operations. The health offices at district headquarters should have necessary emergency medicines. It was further said that as the response activities are purely managerial functions, regular trainings and exercises should be carried out at local level every year.

### 4.2.4 Reconstruction and Rehabilitation Action

This action plan called for the development of standard damage assessment format for all types of natural disaster with formation of a permanent damage assessment team at central as well as local level. There was also recommendation on compiling and dissemination the information on extent of damages.

This action plan also included rehabilitation and reconstruction planning with emphasis on creating permanent committees for such activities centrally and locally. A sector wise expert group for different types of disasters should review the information of damage assessment and should prepare guidelines for rehabilitation and reconstruction works.

According to this plan, income generating programs should be implemented for sustainable rehabilitation for which a feasibility study should be conducted to find out the local trends and availability of local resources. A special directive for loans to the disaster victims with subsidized rates was also recommended. The action plan also emphasized the need of carrying out regular capacity assessment and inventory preparation at various levels including the resources of local community and NGOs.

#### **4.2.5 Disaster Mitigation**

In disaster mitigation respect, this action plan recommended the identification and recognition of the major natural hazards by the government for proper management and also for the direction of mitigation measures effectively for rest of the decade. As the disaster mitigation is multi-sectoral activities each sector needs proper resources to conduct their programs. Hence, allocation of financial resources for disaster management and mitigation program to each disaster actor in National Budget is inevitable.

This action plan recognized that the formulation of building codes and by-laws for disaster resistance in existing structures preparation and dissemination relevant measures to increase resistance in existing structures is also necessary. The National Land Use Cover Plan and National Disaster Reduction Programs for impending disasters should be formulated and implemented. The action plans called for national programs on the hazards like earthquake, landslide, flood, drought and fire.

#### **4.2.5 Programs**

This Plan has a national disaster reduction programs in landslides and debris floods, floods, earthquake, drought, epidemic and developing fire fighting capabilities. In its rehabilitation planning reconstruction program it had planned to formulate permanent committee for rehabilitation and reconstruction planning at district level, setup permanent sector wise expert group for different types of disaster review of damage assessment report, prepare guidelines for resettlement rehabilitation and reconstruction , develop manuals for rehabilitation and reconstruction operations and formulate rehabilitation plan for victims. It had also a program to raise awareness through mass media, distribution of pamphlets, posters and other materials, preparation of documentary film, slides of public show and inclusion of disaster management course in secondary school syllabus and finally conduct poetry, debate and essay competition. But most of these programs have been kept undone.

### **4.3 Water Resources Strategy Nepal, 2002**

This Strategy acknowledges that several water-induced disasters have already taken place in Nepal. Given the country's geo-climate conditions, such disasters may be expected to occur more often and at any time and place, especially in the light of global climate change. It says that catastrophic events that cannot be controlled can, to some degree, be rendered less dangerous by advance planning and preparation. In addition to preparations for emergency response, rescue and relief, a number of actions will be taken to mitigate the effects of disasters in the water sector.

The goal during the first five years of this Strategy is to enhance institutional capabilities for managing water-induced disasters. In the following ten years, effective measures will be adopted to better manage water-induced disasters and mitigate their adverse effects. The long-term goal of the Strategy is to make Nepal's water disaster management system fully functional, effective and responsive to people's needs. This strategic output is expected to directly address the needs of poor and marginalized people, thereby contributing to improved living conditions for the poorest sectors of the Nepali population.

As this Strategy had called for establishing the Department of Water Induced Disaster Prevention within the next five years from the beginning of this Strategy, this Department has already been established. This Strategy said that clear mandates would be given for DWIDP as well as for all governmental, non-governmental, academic and private institutions and collaborating partners. According to this Strategy water-induced disaster prevention, warning/preparedness and mitigation measures will be established in at least 20 priority districts by 2010, and the whole country by 2027. This should lead to a significant reduction in relative losses and risk o flosses due to water-induced disasters.

Pursuant to this Strategy, to carry out the Strategy and achieve these targets, the following activities will be undertaken:

- Prepare and implement a water –induced disaster management policy and plan
- Conduct risk/vulnerability mapping and zoning
- Strengthen the disaster networking and information system
- Establish disaster relief and rehabilitation systems
- Carry out community awareness/education on disaster management
- Activate Inundation Committees with respect to neighboring countries
- Prepare and implement floodplain management plans
- Implement disaster reduction/ mitigation measures
- Strengthen institutional set-up

The preconditions for this component of strategy implementation are largely in place, although continuous and increased funding will be required. One risk to implementation is the current lack of coordination due to the division of mandates among many organizations. This lack of clear authority and coordination presents a major impediment to the planning, implementation and management of disaster prevention systems. Designation of DWIDP as the lead agency is expected to greatly enhance coordination and result in more effective cooperation with all partners. Since, DWIDP is centrally research agency, its mandate and operation with have to be revised. A mechanism will be required to maintain close links with local government. DWIDP will also coordinate planning for disaster prevention investments.

Any natural increase in the incidence of water-induced disasters over 25 years, due to natural causes and/or climate change, would heighten the urgency of implementation and increase the level of funding required.

#### **4.4 Agricultural Perspective Plan, 1995**

Despite this Plan is basically concentrated in increasing agricultural growth, it may have a long lasting impact on environment and disaster management. This Plan does not mention disaster management in particular but analyzes impact in environment and poverty alleviation. It has a certain tendency to use the land in a planned manner (Land Use Planning).

This Plan claims that the proposed Agricultural Perspective Plan and-use changes will have a profoundly favorable effect on the environment. These changes are guided by the principle that sustainable development means helping the present generation meet its needs without comprising the ability of future generations to do so. The challenge for Nepal is to accelerate agricultural growth while avoiding the degradation and pollution of the country's natural resources.

This Plan recommends high input intensity on more environmentally robust land. As farmers' incomes rise in response to that effort, it becomes possible-and indeed desirable-for individual farmers to withdraw environmentally fragile land from arable agriculture. This Plan also emphasizes high-value tree crops, including tree orchards, and community forestry, both of which will further hasten the withdrawal of environmentally fragile lands from cultivation. This strategy is said to help increase the habitat of wildlife and areas of undisturbed species development ultimate result of which will be to reduce floods and landslides in those areas.

To facilitate optimal land use, the APP focuses on improving transport and increasing commercialization. This is expected to shift the emphasis to lands use based on sound ecological principles. Land use system in a planned manner will intimately systematized the human settlement in a disaster secured areas and right plantation in right places. And this will in a long run, urbanization will be dispersed.

This Plan puts a major emphasis on environmental education to impart knowledge on the linkages and interdependence among land use, agriculture, forest and water, and the effects of agrochemicals on the environment and human health. Promotion of shallow tube well in the Terai for increasing agricultural growth is the strategy of this Plan. This will have long lasting positive impact on drought that is happening in some of the Terai areas. Terracing and bond making and conservation practices, which have been suggested by this Plan will lastly reduces the negative effects of the water-induced disasters in the hills also.

#### **4.5 The Master Plan for the Forestry Sector (1989-2010)**

The Master Plan for the Forestry Sector (1989-2010) is the charter for the forest sector of Nepal which has been giving the direction of forestry development since it's inception in 1976 in the name of 'National Forestry Plan'. The Plan described the main problems, and proposed policies to tackle them. This Plan analyzes country's forest resources and their potentials. It identifies sectoral issues and analyzes them against existing conditions. The

long term objectives of this Plan relate to meeting the basic needs of the people, protecting the soil and water resources, conserving ecosystem and gene base and consolidating local and national economies which has a long impact on disaster management in the country. The main components of the program are:

- Management of national forests and enrichment of planting degraded forests, both as community forests,
- Establishment and management of community forests in open and degraded areas,
- Management of forest on diverse sites,
- Participatory approach,

These all components will have most disasters including water-induced disaster reducing impacts in a long run.

#### **4.6 Nepal Environmental Policy and Action Plan, 1993**

The Nepal Environmental Policy and Action Plan, 1993 reviews then existing policy on the environment; formulates new policy, where it is needed; and suggests an action agenda to address environmental problems. It has been prepared in response to the growing global awareness about the importance of maintaining a balance between economic development and environmental conservation.

There five aims of environmental policy according to this Policy. They are:

- To manage efficiently and sustainable natural and physical resources
- To balance development efforts and environmental conservation for sustainable fulfillment of the basic needs of the people
- To safeguard national heritage
- To mitigate the adverse environmental impacts of development projects and human actions
- To integrate environment and development through appropriate institutions, adequate legislation and economic incentives, and sufficient public resources.

Since it claims that the proper management of Nepal's land, forest and water resources is essential to guarantee and enhance the continued productivity of the country' agriculture, on which vast majority of the population depend, it's aims of sustainable management of natural resources have a direct impact on disaster management.

This Plan accepts that the proper management of land, forests and water is essential to provide the basic food, fodder and fuel requirements of the Nepali people. Such process has a direct implication to help reduce poverty which is the contributing factor to any kinds of disasters. Evidence shows that soil fertility is declining in many parts of Nepal. The capacity of forestland and rangelands to continue to regenerate and produce needed products is

adversely affected when soil fertility declines. Trees do not grow as fast, less leaf litter is produced, grass cover decreases and rangeland vegetation declines, making soils more susceptible to erosion. The net effect of these problems, according to this Plan, has been; reduced agricultural production and yields; lost income for households engaged in agricultural and forestry production enterprises, particularly low-income groups of small farmers, the landless, and other vulnerable classes; and greater risk of natural disasters such as landslides and floods. Solution to these problems, according to this Plan, lie in improving soil fertility management practices through the development of a productive, profitable and sustainable agricultural system.

This Plan introduces measures of mitigating adverse environmental impacts occurred from human actions and developmental projects. It says that rapidly growing urban areas are showing signs of environmental deterioration with insufficient infrastructure adding to congestion and posing a threat to health. Inappropriate siting of industrial operations in residential areas is exposing people in some areas to high levels of pollution. Improperly designed and inadequately managed infrastructure projects, particularly large-scale projects, can also have serious negative effects on the environment. It says that HMG is taking steps to minimize these impacts through improving the level of infrastructure services, assessing the need for improved land regulations and their effective enforcement, and developing a system of environmental impact assessment designed to identify and correct potential adverse effects early in the project cycle. The system of environment impact assessment has already been incorporated in the Environmental legislation after this policy was formulated. This provision will have direct impact on natural processes and disaster management in the country.

#### **4.7 Shelter Policy, 1996**

In Nepal, there is a tradition of constructing houses by individuals or families in their own efforts. But if present context is viewed that the assurance of shelter has become a complex problem for the majority of those individuals or families who have low and limited income. Poverty has been seen as a main cause for lacking necessary sources and capacity of investment in housing and settlement in Nepal. Internal pressures of migration, urbanization, population growth, natural and man-made disasters and environmental degradation have become dashing challenges which have brought the government to feel the necessity of the Shelter Policy in the country.

This Policy has been formulated with the wide involvement and comprehensive discussions of various governmental, non-governmental organizations, intellectuals, politicians and experts groups through workshops, seminars, consultations meetings etc. Pressure of unsecured and unplanned settlements in the urban areas and unsecured settlement in the village areas has a pressing need of shelter management in the initiation of the government itself.

According to the National Shelter Survey, 1989, 0.76% houses in the urban areas and 2.4% houses in the village areas have been presumed to be destroyed by the natural and other kinds of disasters each year. To address all these issues this Policy has envisaged some significant objectives. Amongst others some of them which are related to disaster management are:

- To support improving of the standard of existing houses and the growth of the residential houses by adopting the positive steps in significant aspects like: land and infrastructure, services, building materials and technology.
- To reduce the environmental impacts induced by the cause of settlements, to improve the basic health services and to adopt the techniques of reducing the impacts of disasters in the shelters.

For this, this Policy has adopted a policy to formulate the Land Used Planning and implement the Building Code. This Policy has promised to adopt the simple, economic and anti-disaster technologies in the constructions of shelters.

## Chapter- Five

### ISSUES, GAPS AND RECOMMENDATIONS

Much of this part of the Report is based on a several concepts which are interlinked with disaster and the effective management that of. This part is not but supplementary to the other parts of this Report. All of the below mentioned issues have to be addressed in an integrated approach to effectively manage all kinds of disasters in the country and the region as a whole, for which formulation of new disaster management legislation, policies, strategies etc. are the demand of the day. Based on the research materials listed at the end of this report and analysis of Nepalese given context, I have identified the following main key issues and recommendations to be considered when establishing or revising a National Disaster Management System in the Country. Recommendations only do not complete all the pictures. Other parts of this report are also equally important to explore the ideas of effective response to of disaster management system.

#### 5.1 Right Based Approach:

The failure to translate the right to protection, rehabilitation, and resettlement and receive relief assistance of the disaster affected people into an enforceable law that recognizes as human right of them is largely attributable to the low priority that receives at the hands of both policy makers and law makers. Even though, the Constitution of the Kingdom of Nepal, 1990 has recognized right to life as a fundamental right and the Supreme Court of Nepal has defined this right consisting not merely human existence but a dignified life, this Court has not got any opportunity to interpret this right as a basic right even to receive assistance, protection, resettlement and rehabilitation. No- case has been filed in the Supreme Court till date demanding the execution of these rights. The consequent increased dependence on judicial intervention demands that the judiciary be receptive to the situation and act as required. Natural Disaster (Relief) Act, 1982 has not recognized these rights as rights of disaster victims. This Act is based on the traditional concept of charity which treats relief provided to the disaster victims as a grace contributed by the state. This Act has not granted the victim of disaster the right to free legal remedies, right to compensation and right to treatment and rehabilitation. The legal system is not victim-friendly and the state has remained indifferent to the problem. Sate is not made obligated in this regard.

Though right to receive humanitarian assistance in emergencies has already been recognized as human right in International Humanitarian Law, the same has not been recognized in the Nepalese legal system. With the beaming of the stories of individual and collective sufferings, and equal media footage being given to successful and not-so-successful relief work, the issue of recipient rights has gained momentum. It is an issue that affects the global community equally, from the amine-effected in Ethiopia to civil war-displace *desplazados* of Colombia to the flood-ravaged in Bangladesh. A way of acting: carrying out actions which are, and are perceived to be, impartial, neutral and, by extension, independent from political,



religious or other extraneous bias, is never considered in Nepal which are the cherished principles of humanitarianism. No Code of minimum relief standard has been formulated in Nepal which relates directly to the responsibilities of the relief agencies. This Code should link humanitarian standards in the five key sectors of water supply and sanitation, nutrition, food aid, shelter and site planning, and health services. The popular SPHERE document says that agencies are 'committed to achieve defined levels of service for people affected by calamity or armed conflict and to promote the observance of fundamental humanitarian principles'.

The new legislation should include the right to protection and promotion of human health through the provision of safe water, food supplies, sanitation, nutrition, health education, immunization and essential drugs, reduction in health risks from disaster situation, and protection of vulnerable groups such as infants, women, indigenous people and the very poor.

### **Recommendations for acceptance of right-based approach:**

- a. The Natural Disaster (Relief) Act, 1982 should be revised or a new legislation should be enacted in place of it, that should envisage right to life and receive humanitarian assistance as human right and International Declaration of Human Rights, 1948 and International Humanitarian Laws should be followed in their essence.
- b. Disaster victims should be recognized as dignified humans, not hopeless objects.
- c. Humanitarian assistance should be given regardless of the race, creed, religion, political faith and nationality of the recipients and without adverse distinction of any kind.
- d. National Code on Minimum Relief Standard should be formulated taking account of the famous SPHERE Project.

### **5.2 Institutional Arrangement:**

There should be a focal Institution to coordinate efforts for disaster prevention, preparedness and response. This institution should coordinate agencies and departments, and provide relief assistances in all types of disasters. During disasters this institution should conduct intensive monitoring on impacts. It shall have power to designate affected area as disaster area and inform government and international community so that priority programs for relief assistance and rehabilitation can be established.

In Nepal, National Action Plan on Disaster Management has felt the necessity of formulating appropriate institutional arrangements in terms of National Disaster Management Council at policy level, a National Disaster Management Center at the central executive level and various disaster management committees at the regional, district and village level for the effective implementation of the law and policy. The Tenth Plan has reiterated this necessity.

Despite the fact that National Action Plan had planned to complete the task to formulate these institutional structure within 1996, it is not completed even till today. Under the Natural Disaster (Relief) Act, 1982 a complex Central Natural Calamity Relief Committee has been formulated on the chairmanship of the Home Minister. To include CBOS, NGOS, donor agencies and private agencies in it has been completely ignored.

This committee is entrusted to formulate necessary procedures by itself which is never made. Due to this, this committee infrequently meets even in the emergencies. Its secretary has been kept in the Home Ministry which is but only the general administrative body of the government. A National Disaster Management Office at the central level should be established as a specialized autonomous body which shall work as the secretariat of the Central Committee. This committee is entrusted to formulate national policy regarding relief work, to implement policy, to associate the social organizations in natural calamity relief work, to form relief groups etc. which are only post disaster oriented. Instead, it should have been entrusted with full responsibility for disaster management and issuing directions to implement corporation between various agencies and departments and coordinate their effort in the fields of disaster preparedness, and preventions and relief work in natural and man made disasters.

The mandate to formulate the Regional, District and Local Committees has been given to the government that is never concerned to comprise these committees with diversified agencies in its constitution including CBOS, NGOS, donor agencies and private sectors.

Each of the countries that have established management structures have operated a dual system comprising of a National Disaster Committee to provide authority and ministerial coordination and a National Disaster Management Office to implement disaster preparedness and response. The National Committees are typically composed of representatives from deferent ministries and departments and the Red/Cross/Red Crescent and possibly representatives of donor agencies, NGOS and private sectors. The purpose of the committee is to involve, integrate and coordinate the inputs of different organizations in order to provide a comprehensive, systematic approach to disaster management. In most countries the national committee is concerned with both policy making operational affairs, although in Tanzania, a separate committee is used for it. The NDMO usually acts as the executive arm of the national committee which is done in Nepal by Home Ministry. There should be a participatory approach in disaster management at all levels of the institutional structure.

The NDMOs tend to be smaller departments, serving as the focal point for disaster management, with staff increasingly trained as professional disaster manager. The NDMO may or may not be responsible for operations. In large countries like Columbia, the NDMO is responsible for legislation funding and policy making but local levels handle operations. Some NDMOs may have their own property, such as vehicles fleets, which tend to increase the size of their office.

Turkey dose not have a specialist central NDMO and coordination of ministry inputs is handled by a national disaster management committee, chaired by the minister of state. As Turkey is threatened mainly by earthquakes, the ministry of public works takes primary responsibility for disaster management, since this ministry has specialized strengths in reconstruction of housing and infrastructure.

While the national structures may appear suitable, it is important to judge their effectiveness by assessing field realities. The case studies showed that while various committees should be

in place at national, regional and local levels, in facts, the committees met very infrequently. In Ethiopia, a 1996 field study showed that the operation of the decentralized structure was hampered by the lack of capacity (staff, training and resources) at the regional local level.

Emergency management training should be carried out on a national centralized basis by the central institution. Additionally significant training especially of a practical nature should be undertaken by local government agencies and committees. Training for community leaders at local levels and training on disaster management at various levels is envisaged in The National Action Plan and The Tenth Plan in Nepal. Training should be based on competencies which form the basis for national recognition of the qualification of emergency management parishioners and for the development of training curricula which should cover:

- Development of emergency management policy
- Assessment of vulnerability
- Selection of emergency management strategies
- Planning of strategy implementation
- Implementation of plans
- Effective communication
- Management of people
- Management of resources
- Coordination of resources
- Management of information
- Management of training and education.

Full integration of environmental, developmental and disaster management issues in governmental decision-making on economic, social, fiscal, energy, agricultural, transportation, and trade and other policies is regarded as other important aspects of disaster management legislation.

It is anticipated that the development of these national competencies will have a significant impact on the capabilities of emergency managers and will improve national capabilities to reduce, mitigate and respond to disasters.

The other function of the decentralized institutional structure shall be emergency management public awareness which has to be taken in the design and production of wide-ranging series of public education materials in form of pamphlets, posters an emergency manual. Furthermore, the central institution should always study the potential for wide uses of the expertise available in the media, advertising and public awareness sectors to help the messages to penetrate the whole of society. The challenge in public awareness is to advise strategies which lead to changes in attitudes and behaviors.

The National Plan of Nepal had recognized the importance of public awareness and planned to raise awareness through mass media, distribution of pamphlets, posters and other materials, preparation of documentary film, slides of public show and inclusion of disaster management course in secondary school syllabus and finally conduct poetry, debate and essay competition. These all have been kept undone.

Disaster related research is also another important factor which may help to formulate policies, action plans and preparedness. The Institutional structures should encourage various governmental agencies and individuals to conduct disaster related research throughout the country covering on flood, earthquake, fire, land slides etc. Different funding agencies should be encouraged to undertake researches and a research directory should be developed which will make information on the range of available research available to the whole community and should be kept in the NDMO. The National Action Plan has also recognized the significance of research and planned to establish documentation centre for compiling collecting, publishing and disseminating information on disaster management.

### **Recommendations to improve national disaster management structure**

- a. National Disaster Management Office should be established at the central level that takes all responsibilities stated above.
- b. Constitution of Regional, District and Local Committees should be provide by the legislation itself.
- c. All disaster management committees should include NGOS, donor agencies and private agencies working in the disaster management sector.
- d. Greater resources for NDMO and training of NDMO and local committees staffs are required.
- e. Clearly defined authority for the coordination and possible acquisition or resources of other ministries and donor agencies is more important for the NDMO that having its own resources.
- f. Public awareness and continuous research on disaster management has to be regular activities. And Disaster Management course should be included in school level curriculum.

### **5.3 Differences in Vertical Levels of Government:**

Experiences of the different countries have shown that the operation of disaster management structures is often problematic at regional and district levels. Major problems include vertical communication between different levels of government as well as low levels of effectiveness in local strictures for disaster management. As in Nepal, power is concentrated in the center and implementation of law and policy is ineffective, there are zero activities of the regional and district committees and further saddening fact is that local committees have not been formulated yet. Regional and Local Committees have become completely defunct in Nepal. Perhaps in the letter of the local law, there is definitely a decentralization i.e. of physical transfer but it lacks actual devolution i.e. power transfer.

It is further experienced that Local leaders often have their own agendas, perceptions and priorities that often conflict with those of the center. They may lack the resources needed to address the immediate aftermath of a disaster and become frustrated in seeking support from the national level. In Nepal, constraints to operations in the regional and local offices include the lack of awareness and understanding of the objectives designed at the central level. Local Governments are given autonomous status in planning their own development projects and in

using natural resources of their area by the **Local Self-governance Act, 1998**. As a result they lack the integration between the projects and development plans of the center which may severely impact in disaster management system.

There shall be a key specialist officer who can play key roles in mediating between the National, Regional and Local level offices, which can reduce the tensions and co-operate the plans and projects to be integrated.

All the organizations tend to be concerned mainly relief, rather than mitigation and preparedness. Most of these studies mention the importance of community participation for the effectiveness of the system; it is difficult to tell to what extent communities are involved. More emphasis should be given on participatory disaster management at all stages.

### **Recommendations for Strengthening Vertical Communication and Cooperation**

- a. Consider the appointment of specialized staff to coordinate between regional, local and central offices.
- b. Increase training for local government officials in disaster management, especially in mitigation and preparedness.
- c. Elaborate the role of community participation in policy making process, assessment and evaluation.

## **5.4 Linkage between Mitigation, Preparedness, Relief and Reconstruction**

First of all, protection, rehabilitation and resettlement should be recognized as the right of the beneficiaries. There is lack of linkages between mitigation, preparedness, relief and reconstruction in the long term disaster management in the national level. Building Codes have not been implemented even in the city areas and there lacks the training of the builders.

There is need to intensify mitigation measures to address hazards and to establish their connection to a cohesive national strategy for disaster preparedness. In most situations, rehabilitation assistances have been focused upon the relief support that too not as a right but as a charity. Support following disasters has been mostly inadequate and very meager to promote full recovery. This is thought to have resulted in greater vulnerability. It should be key feature of national policy on disaster prevention and management that ensure linkage of relief and construction to development and poverty eradication strategy enlisting the involvement of all line ministries in incorporating disaster mitigation measures into development programs and development goals into relief operations. Experience has shown that most of the development works are not disaster friendly and they increase disaster induced hazards in Nepal despite many policy arrangements. It is also found that marginalized and downtrodden is the most affected by disaster. One method of implementation employment generation schemes where able bodied disaster victims will implement project pre-designed by various ministries to reduce vulnerability. The ministries must integrate these mitigation-recovery projects into their long-term development strategies.

The connections, however, between relief, development and poverty elevation are not always clear-cut. Recent trends toward donor promotion of "development relief" spring from rising relief costs and fall in development resources. In complex situations, the situation should be carefully appraised before departing from pure relief assistance and embarking on rehabilitation and development activities, developmental inputs prematurely put in place may have negative impact on conflict-affected populations in the country. National Action Plan of Nepal has taken the policy of adapting the integrated policies for prevention and preparedness.

### **Recommendations for strengthening the linkages between mitigation, preparedness, relief and reconstruction**

- a. Linkages should be strengthened through the development of national strategy that incorporates all aspects in short and long term plans. Use of regional resources for mitigation should be considered. Complete recovery and integration of poverty elevation and development works throughout the country should be guaranteed.
- b. Various strategies and institutional arrangements should be considered to improve the linkages including prioritizing mitigation measures, establishing special mitigation sections and promoting congruent approach ministry lines, such as employment generation schemes, for integrating disaster management with development and poverty elevation objectives.
- c. Careful consideration should be made of the timeliness and effects of development inputs in an emergency, post emergency or complex emergency situation.

### **5.5 Links with NGOS and Red Crescent Societies**

The linkages between National Disaster Management System and NGOS are of vital importance to disaster management. Most of the national structures provide for the participation of NGOS-but mainly for relief and reconstruction activities. The surprising fact, in the context of Nepal, is that participation of NGOS in disaster management is completely ignored. Section 4a of the Natural Disaster (Relief) Act, 1982 has ridiculously excluded NGOS and other countries from even participating in the relief work. This provision obligates NGOS to acquire the permission of the central government to even enter into the emergency areas.

A key means of involving NGOS is through representation on Government Committees at the National, Regional and District Levels. In some countries, attempts have been made to coordinate NGO inputs and these actions have assisted greatly in reducing duplicity of efforts. Following the 1991 cyclone in Bangladesh, the NGO Affairs Bureau coordinated 200 NGOS involved in relief work and in Tanzania; the Emergency Relief Committee provides a regular opportunity for government, donors and NGOS to meet. In Nepal regrettably, no committee has included NGOS in its constitution.

NGOS serve three essential roles in disaster management. First, national NGOS can help communication between government and local communities. Second, the recent trend for the donor community to channel funds for disaster relief through international and national NGOS rather than directly through national governments has made it imperative that

governments effectively integrate NGOS into all levels of national structure. Third, NGOS can significantly assist to promote community awareness and preparedness.

The private sectors, NGOs and donor agencies should be allowed to be available to participate more in substantially in local development efforts through contractual arrangements with the local authorities concerned.

The National Action Plan has recognized that NGOS, private sectors and communities shall have significant role in the formulation of national plan, in allocation of financial resources and in encouraging INGOs and donor agencies to manage and mitigate disaster activities. It has also accepted that NGOs shall have a greater role on awareness raising programs through Regional workshops and International conferences. For acquiring the assistance of the NGOs this Plan has provided for capability assessment of GO, NGO and other agencies on the form of regular capability assessment, inventory preparation and feed back. The role of the NGOs has been appraised by the Tenth Plan also.

The Red Cross/Red Crescent Societies are usually involved in the disaster management structure as an auxiliary to the government, especially disaster planning and relief provision. The Red Cross may also act as a focal point to coordinate NGO activities. Most national, regional and district committee include a representative of the Red Cross.

Unfortunately, in Nepal Red Cross has been included in National level Committee only. In some countries, such as Jamaica, and Trinidad and Tobago, the Red Cross even coordinates all relief activities on behalf of the government.

### **Recommendation for maximizing inputs from NGOS**

- a. Coordinate NGO inputs to minimize repetition and conflict and to more effectively meet needs to vulnerability.
- b. Integrate NGOS and Red Cross/Red Crescent Societies into all levels of national structure.
- c. Encourage national NGOS and Red Cross to serve as linkages between government and local communities and assist national and community preparedness.
- d. Include NGOS and Red Cross at all levels of Government Committees.

## **5.6 Political Consensus**

Changes in government can radically disrupt both preparedness plans and administrative structures of disaster planning at all levels. Other problems may arise as a result of political positions of local governments in relation to the central government. Strong political commitment to legislate and implement the plans and legislation is the key factor to succeed disaster management. Political influence during the response activities is also a major challenge of disaster management. It is a practice that relief has been based on political faith and ideology.

### **Recommendation for resisting disabling forces of political will**

- a. To address disestablishing and implementation of the disaster structure during political changes, political consensus should be built across party lines on all aspects of disaster management.
- b. Continuity of key staffs should be ensured during political changes to ensure the trained and experience staffs hold the position.
- c. The number of professional and technical disaster management should be adequate and balanced relative to politicians in decision-making bodies.

### **5.7 Disaster Management Plans**

To support management of disaster, national plans and strategies should be established to set out goals and objectives for preparedness and response activities. The concepts of planning and strategizing are usually used interchangeably while the products of each process may actually differ. The strategy is a board exercise defining the roles for key agencies in vital functions, assisting their response capacities and promoting improvements and activities to minimize the impact of disasters. Atypical Disaster Management Strategy should aim to:

- Monitor vulnerability among population through supporting relevant governmental departments and establishing national local information system.
- Access the community role in disaster prevention.
- Use extension services to raise the popular awareness and strengthen capacity for disaster, preparedness, prevention and use of natural resources.

Though National Action Plan of Nepal has prioritized to formulating the mitigation strategies and financial strategies in the form of identification of major types of natural hazards, recognize and disseminate the results, allocate financial resources for disaster management and mitigation program for each disaster actor in National Fiscal Budget and Encourage international donor agencies for the financial resources to manage and mitigate disaster activities. But these strategies have not been formulated yet.

On the other hand, a contingency or preparedness plan describes the means to address a disaster within a specific time frame and details to mechanism for operations planning at the onset of a potential disaster. Sustainable use of management of land resources, arresting the rate of deforestation, halting the spread of deserts, and protection of mountain ecosystems are major concerns of a typical disaster management plan. This plan should aim to include the promotion of sustainable human settlements by providing adequate shelter, improved management of urban settlements, sustainable land use planning and management,



environmentally-sound infrastructure facilities, energy-efficient technology and sustainable transport systems, safety measure against natural disasters, sustainable construction activities.

For formulating plans, as large organizations as possible organizations including ministries, national, international and sub-regional organizations and scientific research institutions should be involved directly and indirectly. In preparing National Action Plan on Disaster Management of Nepal, 1996, four core groups comprising of Experts, administrators, security personals, academicians, were formed. Typical content of disaster plan may include:

- Policy statement
- Legislative authority for design and implementation of the disaster plan
- Objectives of the plans and conditions under which it will come into force
- Assessment of community disaster risks
- Disaster scenarios based on past experiences and present risks
- Roles and relationships with each levels of government especially emergencies bodies
- Organization chart of lives of Authorities
- Lists of names, addresses, telephone and fax numbers, and e-mail addresses of all relevant agencies and their heads and deputies
- Operations of warning systems
- Preparedness preparations (agency roles, emergency evacuation procedures, search and rescue, shelters, disasters control canters, medical facilities, relief assistances etc.)
- Communication arrangements and telecommunications equipment and procedures
- Public information programs
- Recovery and reconstruction resources and mechanisms
- Disaster assessment Plans
- Agreements and linkages with other regions and countries
- Testing and evaluation of the plan
- Revision and distribution of the plan.

Disaster Preparedness and prevention plans at national and/or local levels involving long-term prevention, preparedness and community awareness shall include following objectives:

- Provide up-to-date information to decision makers in the various departments and agencies involved in disaster management.
- Include disaster reduction materials in the school curriculum.
- Establish disaster information system in the country and sub-regional level.
- Establish preparedness programs for emergencies and disaster in all of the local governments in the country.
- Implement the Building Code.
- Allocate necessary funds protection measures and equipment to carry-out the plan.
- Conduct periodic assessment of the implementations plans.
- Undertake psychological and behavioral studies on various sectors of the population, in order to cope with the socio-economic impacts of disaster on the community, and to implement a program for human resources development by qualifying professional experts and community leaders.
- Exchange information at all levels of the society through symposiums, workshops, seminars and training, and intensity awareness and participation of communities in prevention and preparedness programs.

Countries vary in their usage of a national preparedness plan. National Action Plan had promised to prepare a National Comprehensive Plan on Disaster Management within 1996 and incorporate Policy on Disaster Management in 9<sup>th</sup> Five Year Plan as multi-sectoral activities. It had also identified to formulate Rehabilitation Plan for victims encouraging social institution and National Land Use and Land Cover Plan. Except incorporation this in 9<sup>th</sup> as well 10<sup>th</sup> Five Year Plans, no such other Plans have been made as promised.

Case study writers in Columbia, Turkey and Bangladesh regard their countries as too varied and complex to be covered by a national plan. Each country has selected different planning alternatives. Bangladesh has developed nationally applicable plans which are hazard specific. In Columbia and Turkey, each region/province or municipality/sub-province is expected to develop its own preparedness plan. In Nepal, the National Action Plan on Disaster Management calls also for national programs on the hazards like earthquake, landslide, flood, drought and fire. But the local governments are not bothered about preparing such plans in their endeavor. Even though the **Local Self-governance Act, 2056** has made local government autonomous to plan their own development plans they do not still have involvement in planning disaster preparedness plans. On the other hand, Local Committees under the **Natural Disaster (Relief) Act, 1982**, have still not been formulated yet.

The advantages of the above approach are that each area can focus on the problems it is likely to encounter rather than use a much generalized national plan. Such area-specific plans also allow local officials to act quickly in disaster without the need for long consultations with other levels of government.

Countries without an overarching national preparedness plan risk erratic response. While national plans do not lessen the importance of detailed local plans, they provide a systematic approach to disaster preparedness and can support and enhance the local planning process. Local plans need to be interlocked with the national in a consistent and complementary manner. Despite a multiplicity of hazards, standardized procedures are essential for community warning and can relate to such processes as needs assessment, evacuation planning, definitions of roles, release of resources and lines of authority.

The exercise of formulating and updating the plan can also be of a great value as an awareness-rising tool for all those involved in the planning process. Revision and rehearsal are critical for an effective national plan and without revision; the plan will soon become outdated. Plan can also be tested through simulation exercises. The development and maintenance of a plan requires funding, staff and political resolve.

The cross-cutting factors affecting vulnerability to disasters such as food insecurity and socio-economic factors are also major issues of disaster management discussion.

Disaster preparedness mechanisms to be reviewed include preparedness strategies and contingencies plan, supporting policies, legislation and agreements, focal institutions, early warning and food information systems, vulnerability analysis and targeting, and mitigation measures. The strategy should consist of proposed regional projects and approaches to improve preparedness and proposed roles for key national and regional institutions in the process.

### **Recommendations for establishing preparedness strategies and plans**

- a. Plan should be comprehensive covering all potential disaster types and all phases of disaster management.
- b. Plans should encompass a strategic type of planning to improve capacities as well as contingencies planning for disaster relief and recovery operations.
- c. A national plan should be established, regardless of whether local or regional plans have been developed. Local and regional plans should be established and that should be interwoven as part of the national plan.
- d. The plan should consider resources available or those could be shared regionally and in particular where the same disaster may affect boarding countries.

## **5.8 Legislation and Policy**

To exercise a disaster prepared strategy, agencies must be supported by policies, legislation and agreements as well as resources. Although Nepal has Natural Disaster (Relief) Act, 1982 in the field of disaster management system, it is very traditional and based upon the charity approach. No-any kinds of disaster can be mitigated and managed out of this Act. This Act is mainly based on post-disaster management that too on the discretion of the government. Realizing this fact, the National Action Plan had planned to review existing laws, identify

and finalize changes needed and prepare draft of amendment of new laws and by-laws. Tenth Plan has also felt the necessity of formulating a new legislation in this regard.

While the forms of legal backing or other support for national policy is a matter of government choice, these should cover such issues also as the:

- acceptance and importance of national assistance as a right of the beneficiaries
- agreements or laws regarding the authority delegated to the involved institutions
- allocations of national resources to disaster management
- objectives and standard of relief distribution
- Specific procedure for implementation of preparedness, mitigation and response and activities with assigned responsibilities
- procedures for including the use of military or civil defense agencies to address the disaster
- The disaster legislation should also cover the following major aspects in an integrated approach:
  - Environmental Protection
  - Hazard wastes
  - Urban and regional development (Land use planning)
  - Quarantine
  - Health
  - Industrial development
  - Natural resource management
  - National water resources
  - Primary industries
  - Energy
  - Social security
  - Transport.

Supporting arrangements can take the following forms:

- **Agreements-** Agreements are based on sets of actions to be taken by parties to the agreements and may be binding or non-binding in the legal sense; also they may be called memorandum of understandings (MOU); some are similar to codes (Example- MOU between WFP and UNHCR for food aid delivery).
- **Codes-** Code depict as set of actions or behaviors which are acceptable to parties to the Code or may be enforceable as requirements for safety; a code may set out parameters or standards for constructions, usage of natural resources, use of relief assistance, etc. (Example; Building Code for earthquake resistance, Water Usage

Codes, Codes of Conduct for International Rehabilitation and Development Assistance to Somalia, Code of Conduct for Food Aid etc.)

- **Laws-** Laws bind the parties, imposed limitations, or confer rights upon bodies that are included in the law; laws often include the penalties for failure to uphold the law which is the lacking part of the Natural Disaster (Relief) Act, 1982 of Nepal.
- **Other-** Other forms of official reorganization arrangements can include acts, edicts and decrees. Nepalese Government has issued some decrees under the Natural Disaster Relief Act which are also not effective.

These steps for implementing the national policy should be set out in the plan and strategy. Legislations and Agreements, etc. should be developed to support the implementation and closely tied to the plan. For example, the government of Niger's "National Plan for the Management for Disasters, 1996" mentions all disaster legislation and decrees at the beginning of the plan at both national and regional levels as well as any other legislation which may be relevant. Gaps should be identified where implementation can be impeded or weakened due to lack of supporting legislation and agreements.

In Ethiopia, legislation supports the implementation of the national strategy. Disaster management activities have been institutionalized and the National Policy on Disaster Prepared and Management is ratified by the government. The Central National Disaster Management Office and parallel bodies at regional levels are legalized and established under government proclamations and their activities aligned with their agency mandates and enforced through legal documents. A problem, however, is that legal measures that can be taken against those who default on their responsibilities are not prescribed in the laws, and this has resulted in weaker implementation efforts.

In many of the countries with National Disaster Management Offices' case studies indicated that the NDMO operations were usually prevented or impeded by the existing policies and legislation, instead of supported by them. Same is the case in Nepal. In these cases, legislation may need updating or boarding to meet the present and future planning.

In Malaysia, recurring flood disasters have made legislation for adequate flood hazard management critical. Current legislation is indirect, addressing river use water, mining and land. Some older legislation such as Water Enactment of 1929 and National Land Code of 1965 are also in the scene in Malaysia. These legislations give prerogative to the state for water use and as a result there clashes between the federal and state over flood management policies. For example, a state may try to develop land near a river even though federal flood control measures may deem that the land should be reserved as a flood plain. In Nepal, **Water Resources Act** has vested the ownership title of the water resources of the whole Kingdom on the central government. On the other hand, **Local Self-governance Act** has made the local bodies the owner of the local resources. The same clash may arise in Nepal, too. For this, **Water Resources Act** has to be amended in line with the **Local Self-governance Act**.

Examples of various arrangements for establishing and documenting supporting policy and legislation are briefly described below:

1. Objectives for the National Policy on Disaster Prevention and Management of Ethiopia, 1993, set out general and overarching goals for the policy.
2. Guiding Principles for Flood Policy for Bangladesh- A flood policy was undertaken in 1988 by the government of Bangladesh to assess the causes and effects of floods, examine flood control options, recommend remedial measures, formulate a sound flood policy and prepare a phased action plan. Even guiding principles were developed to steer the planning process. These principles encompassed the key issues: comprehensive planning, phased implementation, appropriate levels of protection, controlled flooding and drainage, non-structural developments (flood forecasting), structural developments (embankment, protected areas), and beneficiary participation.
3. In Turkey, an "Act no. 7259 on Measures and Assistance to be put Into Effect Regarding Natural Disasters Affecting the life of the General Public" was issued in 1959 and amended in 1968. This Act contains articles which address the emergency powers given to civilian authorities, obligations of all key players, compensation for civil servants who perform relief work, procedures for supporting technical work and relocating communities from disaster areas, determination of the value of damaged lands and facilities, and use of disaster fund.
4. The Solomon Island Government National Disaster Preparation of 1982 contains a section on "Allocation of Roles and Responsibilities" which describes the duties of key players in the disasters. This plan was approved by the Cabinet Decision and given legal authority.
5. "Model Regulations for Small Buildings in Earthquake and Hurricane Areas" provides an example of Codes or regulations for building in seismically active areas. The Building Code of Nepal is also an example of this nature.
6. "Food Aid Charter" of the CILSS (Permanent Inter-state Committee for Drought in the Sahel) countries is a tool to support disaster management of food emergencies. The charter contains provisions to help avoid potential negative economic impacts of flood aid both before and during emergencies and to promote the effective distribution of relief food to the effected population.

**Recommendations for strengthening legislation to promote disaster management:**

- a. New legislation should be created, or Natural Disaster (Relief) Act, 1982 should be revised, at the central level to support all aspects of disaster management structures, including accountability of institutions, for their mandated roles.
- b. Central legislation should be enforced at all levels.
- c. Other types of support activities can include policies, agreements, and codes of conducts and strategies which should be used where appropriate to gain consensus on action to be taken.

- d. Differences at local and central levels should be reconciled and potential loopholes plugged which would allow the laws and agreements to be by-passed.

## **5.9 Poverty and Disaster**

The mid term evaluation of the Ninth Plan has estimated that 38% of population lives below poverty line. These macro levels of estimates do not provide disaggregated statistical distribution of poverty on geographical basis. According to Nepal Living Standard Survey 1996, 44% of rural population lives below poverty line whereas the figure for urban sector is 23% only. It is bitter reality that some groups in society are compelled to traditional social values. These groups are denied of any new opportunities created by development as they are extremely backward. Their access to resources is extremely limited and so is their participation in decision making process. From this point of view, poverty and human development indicators are of crucial importance as an effort to mitigate poverty of backward and low caste groups. The major indicators of human development reveal that some castes are high above the average while some others fall far behind. The so-called untouchables, in Nepalese social hierarchy who actually are occupational castes, fall back in almost all human development indicators. Due to unjust management of human settlement, they are forced to settle in the disaster vulnerable areas. They are compelled to settle in riversides, fragile geography, unproductive land excluded by the so-called upper castes. Their roofs of houses are fire prone.

Women, on the other hand, are other groups who are deprived and left behind interims of access to resources. It is not limited to any particular caste or area but overall sectors of society. The households of women-headed are mostly under extreme poverty where the source of income is not definite. Due to all these causes women and marginalized are the first victims of any kinds of Disaster.

As such socio-economic conditions are one of the major constraints introducing and implementing any kind of disaster management plans. Socio-economic conditions cover a wide range of aspects such as social and economic structures. Nepal is a multi-ethnic and unlit-linguistic country. There is a big gap between genders, castes, classes, and tribes. In addition, Nepal is patriarchal and feudal society. In a patriarchal society, the role of women is very limited in the policy-making process, and in a feudal society the ruling class and political elite often exercise power. Due to this diverse and patriarchal-feudal social structure, there is a constraint in applying any kind of disaster management plan without first addressing these issues effectively.

As is well-known that Nepal is facing a nationwide conflict. The main cause of this conflict is said to be the massive poverty and lack of governance system. Good governance in the resource allocation and institutional decision making system is to be ensured for effective disaster management in the Kingdom.

Economically, Nepal is one of the poorest countries in the world. Nepalese governments have been facing big challenges to fulfill basic needs of people. Disadvantaged and indigenous people are bound to overexploit the natural resources, which is the major cause of all kinds of disasters.

Similarly, Nepal is a multi-religious and multi-cultural country. Nepalese society is a religious society and their culture is guided by religion. Some of them believe that disaster is the 'ACT OF GOD' but not the reproduction of their own activities. They do not know that disaster can be mitigated by human being themselves. Some religious groups do not allow family planning and abortion which impede to take effective measures to control population that ultimately contributes to disaster.

Financial and human resources are other major constraints for effectively responding to any kinds of disaster in Nepal. Effective disaster management is definitely an additional economic and technical burden. Lack of financial resources and disaster management friendly technology is a demand of the day. No effective network is there for transferring such technologies from developed countries, and it is not easy to transfer technology due to intellectual property rights protected under WTO system.

Integrated approach should be taken to address the issue of alleviation of poverty through the adoption of appropriate policies on food security, population, health care, education, rights of women, and the role of youth, indigenous people and local communities.

Indigenous knowledge and skills of natural resources management also offer opportunities to manage disaster. This is because the management of natural resources is one of the significant aspects of disaster management. Various communities of Nepal have retained indigenous knowledge and skills in managing natural resources, particularly, forest and water resources which are the major causes of both managing and contributing disaster. They have skills in harvesting trees and the protection of water resources. Currently, forest resources are being managed by the users' groups. This system of management of natural resources facilitates implementation of the disaster management system. To make the community more participatory, transparent, accountable, effective etc., creating awareness through skill development training on management system, bookkeeping system etc are important. To bind the community in regularized process, formation of their organization and regulation through Constitution will be an important tool. There should peer-monitoring system within the community organization and monitoring through the governmental originations should be also an important component.

It is widely accepted that public participation is an effective means necessary to manage any kinds of disasters. There are three objectives of public participation: first, it empowers the civil society in the policy process at all stages; second, it makes public authorities accountable to the public through transparent decision making; third, it enables enforcement of disaster management law, policy and plans through administrative and judicial mechanisms. Public participation in the policy processes is considered as an integral part of human rights. It greatly contributes to creating effective awareness among the general public for managing disaster.



## **Recommendations for integrating poverty elevation strategy and disaster management system**

- a. Poverty elevation strategy and disaster management system should be integrated for reducing effect of disaster to the poor and marginalized.
- b. Reservation for the protection and advancement of the interests of women and economically, socially or educationally backward classes should be made by necessary laws.
- c. Financial, technical and human resources should be availed in this sector. For this, state fund and assistance from the donor agency should be sought for.
- d. Public participation, specially, of women and backward classes of people in decision making process should be ensured.
- e. Indigenous knowledge should be utilized to manage the natural resources in the community levels.

## **Chapter- Six**

### **ROLE OF ACTIONAID INTERNATIONAL NEPAL IN DISASTER MANAGEMENT IN NEPAL**

#### **4.1 AAIN and Disaster Management**

Action Aid International Nepal is a non-profit making development organization established with a mission to eradicate poverty. In Nepal, it has been working since 1982. ActionAid International globally has recently changed its work modality and approach to the issue of poverty, a major shift from service delivery approach to a rights based approach. Fighting Poverty Together (1999-2003), its global strategy paper, identifies poverty because of inequalities in power and resources. Similarly, ActionAid International Nepal too has made a major shift from service delivery to a right based approach with focus on advocacy and empowerment. To enable and support this change, the organization too has been restructured. AAIN's rights based approach is oriented towards finding lasting solutions to poverty through the establishment and enforcement of rights that enable the poor and marginalized people to access their entitlements. This approach recognizes the active role of poor and marginalized people, while emphasizing the responsibilities of state and society towards them. It supports the contemporary understanding of the Universal Declaration of Human Rights, which enforce right to life in difficult circumstances and recognizes the interdependence of social and economic rights along with civil and political rights and people.

Being right-based organization, AAIN has been addressing the "injustice" and protection issues in its Emergency Responses and Disaster Management program as a whole. AAIN has been emphasizing preparedness on the Disaster Management aspects in Nepal, as it has a direct impact on the livelihood of poor and marginalized people. Therefore, AAIN

has been working on risk reduction by addressing the issue of Vulnerability and Hazards, through greater awareness and capacity building in Nepal as a part of disaster management program. Promotion of rights, particularly the rights of disaster affected population and protection of women and children, in disaster situations, has been an integral component of AAIN poverty eradication works.

Following this shift to a rights-based approach, it has made a notable progress advocating for the rights of poor and the marginalized groups. Claiming rights, compensation and ensuring the safety nets (preparedness and mitigations) to the poor are initiatives that AAIN is taking forward. It has been working on emergency relief and disaster preparedness issues at present with few partner NGOs, and has been taking emergency and natural disaster management as cross cutting theme within its work in future.

Accordingly, to articulate AAIN's stand on the issue of disaster management and to form a guiding strategy document, there is need to develop this policy mapping on the natural disaster and the emergency theme.

The purpose of this task is to identify key areas of focus on the legal policy frameworks related to disaster management issues that AAIN would be engaged in. This will be used to guide future advocacy and policy influencing initiatives, program and activities of AAIN including, building awareness and generating interest on the part of the government, other key stakeholders and larger civil society.

## **6.2 What Position and Strategies AAIN Should Adopt in Future?**

### **6.2.1 Position**

From above study, it is clear that AAIN should take the position that legislation, regulations and policies governing the respective roles of government committees, governmental and nongovernmental organizations, donor agencies, public and private sectors in disaster management need to be revised and reformed and capability of government and community institutions, and link of NGOs, donor agencies, public and private sectors, to manage disasters needs to be enhanced. Current laws and policies have frustrating results. Restructuring of efficient, effective and equitable institutional set up is urgently required.

This study reveals that right to life has been expanded to have right to dignified life and right to get humanitarian assistance on this basis in disaster and emergency situation have already been recognized as human right in the international law, Nepalese legal system still carries the traditional concept of charity and does not recognized this as a right. It is rightly accepted that everyone has the right to a standard of living adequate for the health and well-being of himself and of his/her family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, or old age or other lack of livelihood in circumstances beyond his control. Enacting new legal framework on right base is an emerging task. If right is guaranteed in the disaster management laws to those who are

the victim of disaster, compensation will be another issue to be addressed in the forthcoming legislation.

Though poverty is a cause and consequence of the disaster no poverty elevation plan has specifically accepted this fact. And disaster management program is not yet prioritized in national program; as a result, the donor agencies too have the reluctance to address the disaster problems holistically. Low or no allocation of financial resources for long-term disaster management program is ensured. Donor agencies are other important instruments in the context of Nepal for disaster management. There are many international organizations playing in Nepal. They must not be left un-criticized in the name of the lack of national of prioritization at the National Level Government. They are responsible for both on the one hand pressurizing the government for prioritizing disaster management in the National Level and on the other; they themselves should keep priority on disaster management in their strategy papers. Accordingly the livelihood of the poor and marginalized populace is badly affected by disaster. Participation of these people in the decision-making process is nil. Community participation in disaster management plays a vital role in maintaining disaster management friendly environment, which has a national significant.

Disaster management system of Nepal is one of the most ignored policies which have a wide variety of repercussions in the country particularly to marginalized people, the advanced policies and attitudinal changes in the field of government and Parliamentarian will only make this process very dynamic. At present this requires to gain high momentum which AAIN can have opportunity to lead.

Communities are very conservative as well as cautious, good manager and development oriented. That is why attitudinal change is required. Public awareness-raising programs, interactive training to leaders, field staff, teachers, women, and local political leaders are required. Training should concentrate on technical as well as social aspects.

In the awareness part, it can definitely be done through mass media, distribution of pamphlets, posters and other materials, preparation of documentary film, slides of public show and inclusion of disaster management course in secondary school syllabus and finally conduct poetry, debate and essay competition, which was the cherished goal of National Action Plan on Disaster Management in Nepal, 1996. Awareness-raising programs should add the further task to raise awareness to the public about their right to be active in disaster and emergency situation.

Integration of different aspects of development plans on poverty and disaster management is also lacking at present. Since emergencies and disaster management program is directly linked with the poverty reduction strategy as one of the major factors affecting the livelihoods of the poor and marginalized people, integration of these aspects in each other is necessary.

### **6.2.2 Strategies**

- AAIN should lobby and advocate for new legislation and policy formulation covering all the approaches analyzed above.
- The supplementary tasks to above strategy would be to develop model Bill, integrated policy and Codes on disaster management in Nepal and bring them for the nationwide discussion.
- Enhancing intensive district and regional training and support to the partner organizations advocating and lobbying for new legislation, policy and codes.
- AAIN should provide a comprehensive approach and complement other governmental and donor initiatives.
- To ensure governmental commitment to their implementation, government officers should be sensitized through workshops, seminars etc.
- Developing the capacity of public and private sector agencies including communities, to manage disasters through training and improved management systems. It should form a key part of AAIN's future activities.
- The training and network program should be strengthened regularly.
- The future activities would also be expected to include time to time policy reviews and disaster management system analyses to facilitate updated disaster management which would be implemented with the pressure of communities as well as public and private sectors.
- AAIN can support the government and local authorities to search for innovative funding.
- AAIN also include institutional development, greater awareness and capacity building for government and NGOs people working in disaster management and improvement that of. Creating coordination of NGOs and civil societies in this new venture will be other major strategy of AAIN
- The activities of AAIN should attempt to ensure that all development activities are closely linked to disaster management based on well naïve policy changes and backed by systematic economic analysis, poverty and sustainable management practices.
- Working in protecting the rights, particularly the rights of disaster affected populace and protection of women and children, in disaster situation should be an integral component of AAIN's poverty elevation activities.
- Advocating right of the poor and marginalized groups and claiming rights of compensation should be another important strategy of AAIN in forthcoming future.

- As AAIN has been working in emergency relief and disaster preparedness issues at present with few partner NGOs, emergency and natural disaster management issue should still be taken as a cross-cutting theme within its work in future.
- Building awareness and generating interest on the part of the government, other key stake holders and large civil societies should be regular task of AAIN.
- Creating pressures on the government by mobilizing the people lobbying through the partner organizations and general public and sensitizing the officers of the government offices to effectively implement the legal and policy framework on disaster management in the country.

### **6.3 What would be the value addition and expected outcomes from such an engagement?**

If above strategies are effectively followed, AAIN will contribute to work with the government, partner organizations, communities and other stakeholders of Nepal to develop and enforce strong disaster management legislation, policies, codes and plans based on a clear understanding of the socio-economic, technical and environmental factors affecting resource use. The objectives of these initiatives as to meet the needs of rural, marginalized and poor populace in disaster situation in a sustainable manner while mainstreaming them into overall developmental programs will be realized. The right of the disaster affected people will be established in the letter of the law itself and the traditional attitude of the charity will be removed. Greater awareness and capacity to cope with disaster through effective plan formulation in local as well as national level and integration of disaster management plans with the other aspect of development will be ensured. Ultimately, an effective disaster management system in the country will be developed.

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