**Human Rights in post-disaster and post-conflict situations**

**QUESTIONNAIRE**

*as part of the consultations undertaken by the Human Rights Council Advisory Committee with members of the Civil Society with a view to preparing a research-based report on best practices and main challenges in the promotion and protection of human rights in post-disaster and post-conflict situations, pursuant to Council resolution 22/16.*

**Background:**

Recognizing the need for a human rights-based approach to the delivery of humanitarian assistance and taking note of the Advisory Committee’s research proposal submitted to the Human Rights Council[[1]](#footnote-1), the Council, in its resolution 22/16, mandated the Advisory Committee to prepare a research-based report on best practices and main challenges in the promotion and protection of human rights in post-disaster and post-conflict situations, to foster the capacity of States in such efforts and which would have to be presented on the Council’s twenty-eighth session (March 2015).

It is therefore in this context that the Advisory Committee decided, at its eleventh session held in August 2013, to appoint a drafting group[[2]](#footnote-2) in charge of the preparation of this report. The drafting group will present a progress report at the twelfth session of the Committee in February 2014, before its submission to the twenty-sixth session of the Council (June 2014). The resolution also requests the Committee, in its preparation of the report, to seek views and inputs from different stakeholders, such as Member States, international and regional organizations working in post-disaster and post-conflict situations and civil society representatives. The drafting group therefore elaborated the hereunder questionnaire for members of the Civil Society.

**Part I: General**

1. Has your country faced a situation of disaster or conflict? If yes, please indicate below which one or both and kindly proceed to answer the following questions.

▢ Disaster√

▢ Conflict

**Part II: Post-disaster situations**

1. What is the role of your organization in attending to disasters? Does it have operational guidelines relating to a human rights-based approach?

National Dalit Watch[[3]](#endnote-1), since 2009, is working to eliminate caste based discrimination (CBD) by monitoring the response programmes, while not doing the actual relief distribution work. So, it responds to disaster in a unique way by monitoring the response of State. Creating awareness among the affected communities about their rights and entitlements in disasters (as per compensation norms under the National Disaster Response Fund guidelines); facilitating enumeration of excluded Dalit families and claims of entitlements to the concerned authorities by the community (specifically Dalits); capacitating local organizations on inclusion vulnerability mapping and inclusion monitoring; holding dialogue with humanitarian agencies including the Sphere India, European Community Humanitarian Office, UNDP-India, and INGOs are related aspects of NDW’s work.

At national and international levels, submissions have been made and into the revision of current Disaster Management Act 2005, and guidelines on Role of NGOs in Disaster Management; developing a Roadmap for Disaster Risk Reduction beyond Hyogo Framework for Action (HFA- 2005-2015); and Virtual Global Platform on Disaster Risk Reduction. NDW also is now studying the impact of climate change on natural disasters and its effects on the most vulnerable to recommend measures for adaptation and mitigation to the government.

Specifically at the national level, NDW has been consistently engaged in the following set of activities to ensure inclusion of Dalits in relief, recovery and rehabilitation:-

* Conducting vulnerability mapping and inclusion monitoring assessments of government and humanitarian response programmes;
* Analysing the policy, legislation, rules, procedures and institutional arrangements for disaster management and consequent coordination with the National Disaster Management Authority (NDMA) and state authorities (SDMAs) with the nodal officers and agencies;
* Mobilizing the excluded communities, holding public hearings, and other direct action programmes in the affected areas & documenting the same to be used as an advocacy & lobby tool at the state, national & international levels;
* Developing platforms in civil society which have the capability to engage with and influence government especially at the district and state levels independently and throufh Inter Agency Groups;
* Engaging with the concerned departments and ministries for creating space for these issues to be discussed with them;
* Documenting the good practices on inclusion of Dalits in disaster response;
* Facilitating and capacitating the organizations, volunteers and all those who intervene in natural disasters to use the methodology of vulnerability mapping and assessment.

As operational guidelines, NDW has developed the framework for humanitarian stakeholders on “Addressing Caste Based discrimination in Humanitarian Aid” with support from IDSN and with financial support by the EU. The international version of it is being brought out by International Dalit Solidarity Network in a report “Equality in Aid” (<http://idsn.org/EqualityinAid>). The framework is intended to serve as a guide for International Humanitarian Stakeholders (IHS) in taking effective action to eliminate caste-based discrimination (CBD) in Disaster Response and Disaster Risk Reduction (DR-DRR) with a human rights approach, being informed by the national and international principles and obligations to eliminate CBD. The Indian version of the same (Unedited-available at- <http://idsn.org/fileadmin/user_folder/pdf/New_files/India/2012/IDSN-EU_study_on_CBD_in_humanitarian_response_by_NDW.pdf>) is being brought out as a Manual for Inclusion for humanitarian stakeholders including the State.

2. Do you have a specialized mechanism to monitor human rights protection and promotion during disasters?

NDW together with Unnati, has developed a manual on **Inclusive Vulnerability Mapping and monitoring of Disaster Response: A process to ensure Dalit and Gender inclusion (**with field inputs and several rounds of consultations with humanitarian stakeholders (UNDP, ECHO, INGOs, NDMA; *draft available at* <http://bit.ly/HG3Ee1>). The manual (with special focus on the more marginalised sections even within caste groups, i.e. women, children, elderly, disabled, People Living with HIV and so on), enables the strengthening of communities to engage with local authorities on their entitlements and long term risk reduction processes through handholding and guidance from local organisations. Looking at the outcome of these tools and the determination of the community to struggle for their immediate and long term rights and entitlements holding the authorities accountable to them and constitution, this Manual is brought out primarily for the Disaster Risk Reduction sector. This tool has assisted building steps to ensure inclusion and redressal to the excluded Dalit community.

The existing tools for post disaster needs assessments, primarily focus on loses and damages to property and life, and not take into account the non structural causes which are the root causes for vulnerability, which will lead to a comprehensive and inclusive recovery and rehabilitation of affected communities. Even the disaster management practices focus on mapping and technical data collection on geographical zones, leaving out the communities that suffer owing to their social vulnerability. Therefore, being mindful of the varying priorities of the humanitarian agencies, adaptation of these tools will help identify specific needs of marginalised groups, aligning to the principle of social justice, which gets neglected in post disaster situation.

3. Are you involved in capacity-building of Government officials on a human rights-based approach to relief, recovery, reconstruction and rehabilitation after a disaster?

Yes, at various fora shared with the disaster management officials at national and state levels, they have been informed and lobbied on the issue recognition of caste discrimination. Substantive inputs are made into the Government led process of Reviewing the Disaster Management Act and guidelines. Moreover, at state levels, the officials are also oriented on the tool mentioned above which is taken as reference point for other related government schemes and Act such as the Scheduled Caste Sub Plan and Tribal Sub Plan (allocation of budgets at union and state levels to proportion of population for Scheduled castes (Dalits) and Scheduled tribes.

4. Have you noticed any discrimination or neglect in provision of services, relief, etc? Are there protections/standards in place by the Government to ensure non-discrimination and the respect of the humanitarian principles of neutrality, independence, impartiality and humanity in the provision of services, relief, etc.?

Through the monitoring of response of primarily the State, the varying forms of discrimination and neglect have been unearthed:

* Lack of information and early warning and timely communication systems on the impending danger (of floods) by the authorities;
* Discriminatory evacuation services leaving out or charging Dalits for boat services;
* Single women headed families; families with elderly and children alone and adults having migrated for work were left without any assistance;
* Non enumeration and delayed enumeration leading to underestimation of losses;
* Enumeration process carried out by officials sitting in panchayat(local governance) offices where not all Dalits could gain entry for participation;
* Dalit victims who moved away to distant safer locations were not treated as flood affected people during the time of enumeration by the officials.
* The path to reach the rescue shelters is laid through dominant caste communities that did not allow Dalits to pass through during the time of floods.
* No special aid, medical attention and supplementary diet to expecting women, and no provision of labour rooms
* No private and safe spaces for bathing for Dalit women
* No provision for livestock due to which women are burdened to walk far off places to gather fodder for the livestock, water for family
* No psycho-social counselling for the victims
* Inappropriate registration of losses of Dalits agricultural labourers (share croppers and salt pan workers) by officials, especially where the Dalit houses per se were not affected but agriculture crops were damaged;

(Share cropping and salt panes not recognised under the calamity relief fund guidelines thereby, not recognised under loss of livelihood).

* Dalits were employed to clear slush in the colonies and housing of other dominant caste groups under programmes like Mahatma Gandhi National Rural Employment Guarantee Act which they were not paid their wages; No proper grievance redressal by officials to the Dalit victims for denying them due compensation against their losses and damages;
* Political rivalry leads to caste clashes during disaster response;
* The scheduled tribes (STs) who lost their cattle went unregistered by official under the pretext that STs live on forest produce and don’t rear animals;
* Being engaged in lease farming, Dalit suffered multiple losses after floods, that of the lease paid to the owner, the damage went unrecorded, and compensation automatically going to the owner of the land;
* Houses are categorised as hutment category as most of the housing is thatched or mud walled leading to eligible for low compensation;
* No cyclone / flood rescue shelters near Dalit habitations leading to inaccessibility to safer place;
* Death and loss of infants during floods went unrecognised for the deaths and births registration is not maintained in Dalit colonies;
* DRR activities not taking place in Dalit colonies and the communities are not aware of the Calamity Relief Fund (National Disaster Response Fund/State Disaster Response Fund) norms or assistance from the government.

India has the Disaster Management Act 2005, and guidelines which uphold the common principle of right to life with dignity, the right to protection and security; and the right to receive humanitarian assistance. However, it does not specifically recognize caste and acknowledge caste based discrimination and exclusion in disasters out rightly. Although the section (61) on **Prohibition of Discrimination** is placed in the “Miscellaneous” section, and has no operational significance in the absence of rules, procedures and preventive / punitive provisions.

5. What are the biggest challenges you notice that the Government faces in post-disaster situations?

6. What are the biggest challenges that your organization faces in post-disaster situations?

The minimum standards for humanitarian aid do not currently explicitly recognize the impact of caste discrimination on the access to and implementation of relief and rehabilitation programmes. These standards currently do not give an informed perspective on caste discrimination to the providers of humanitarian assistance to enable them to understand and respond to caste discrimination. This is equally applicable to both state and civil society organizations. This makes it difficult to have sustained and conscious attention to caste if NDW itself doesn’t highlight the issue to these agencies. Mainstreaming of the inclusion agenda into National Disaster Management Act and related mechanisms and mandates of key humanitarian organizations has still not happened inspite of profound knowledge and acceptance otherwise, off the record books.

Getting the government authorities to take proactive actions to check caste discrimination at varied stages of disaster management post disaster is a challenge. In principle the acceptance of caste issues doesn’t get translated into specific government orders, and guidelines for inclusive disaster response, recovery and rehabilitation. The government has not been reporting in a disaggregated manner. Securing entitlements to excluded communities is all the more difficult when the administration negates the reality of caste discrimination and takes a very long time in enumerating the losses of excluded communities and rehabilitating them. The same also stands for key humanitarian actors, who in principle agree to the issue but don’t (majority) insist on disaggregated data through caste responsive designs, where their outreach could then be scrutinised to rectify the shortfall and for advocacy.

**Part III: Post-conflict situations**

1. Do you have a specialized mechanism to monitor human rights protection and promotion during armed conflict? And in post-conflict stages?

2. Are you involved in capacity-building for Government officials on a human rights-based approach to relief, recovery, reconstruction and rehabilitation after a conflict?

3. Are you involved in capacity-building for Government officials on a human rights-based approach in post-conflict stages, including peace building, transitional justice?

4. In these capacity-building exercises, do you include the humanitarian principles of neutrality, independence, impartiality and humanity?

5. Have you noticed any discrimination or neglect in provision of services, relief, etc? Are there protections/standards in place by the Government to ensure non-discrimination and the respect of the humanitarian principles of neutrality, independence, impartiality and humanity in the provision of services, relief, etc.?

6. What are the biggest challenges you notice that the Government faces in post-conflict situations?

7. What are the biggest challenges that your organization faces in post-conflict situations?

**Deadline for submission of responses to the questionnaire:**

In order to give the Drafting Group the opportunity to take into account the different contributions, all parties are encouraged to submit their responses as soon as possible and at the latest by **8 November 2013**.

Answers can be submitted via email to the following address:

hrcadvisorycommittee@ohchr.org

OR

Secretariat of the Human Rights Council Advisory Committee

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Thank you for your contribution.

For more information on the Advisory’s mandate: <http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/HRCACIndex.aspx>

1. A/HRC/AC/9/1, 10 August 2012. [↑](#footnote-ref-1)
2. A/HRC/AC/11/L.1, 16 August 2013. [↑](#footnote-ref-2)
3. People’s vulnerability to disasters depends on the social, cultural, economic and political environment. Marginalisation of lower castes (Dalits) gets magnified in disasters due to historically pre-existing practices of untouchability and notion of pollution and purity. Monitoring studies conducted by National Dalit Watch (NDW) of National Campaign on Dalit Human Rights and its state allies during past disasters, including tsunami (2004), Bihar floods (2007 and 2008), Assam floods over several years (particularly 2009), Andhra Pradesh and Karnataka floods (2009), Yamuna floods in Delhi (2010), Thane cyclone in Tamil Nadu (2011) have highlighted the degree to which, by virtue of the inherent socio-economic vulnerability, Dalits and women have been systematically excluded from relief and rehabilitation efforts, both by default and design. ‘Discrimination by default’ is as much an issue as discrimination by norm and intent and is prevalent both within civil society and administration. Even in cases where there is no intentional bias against Dalit communities, the lack of knowledge about their vulnerabilities, not mapping these communities in the context of the disaster and prevalent norms of operations result in the administration not taking the cause of Dalit and other marginalized communities in times of disaster. Often this is also co-existent and accentuated with the overt and covert dominant community bias and pressures.

[www.nationaldalitwatch-ncdhr.blogspot.com](http://www.nationaldalitwatch-ncdhr.blogspot.com) [↑](#endnote-ref-1)