



**A Study on Coastal Area Calamities and Vulnerable People's Entitlements  
A Critique of the Orissa Relief Code**

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## PREFACE

**Need for Policy Analysis of the Orissa Relief Code :** The policy analysis was attempted to scope the range of entitlements for disaster victims, especially those whose vulnerability is the highest in a stratified hierarchical society like ours. Policy analysis was conducted to understand the following : State obligations to fulfill core areas of needs and capacities required for vulnerability reduction and disaster mitigation; the specific rights of specific groups of people to access infrastructure and institutional support from the government in the pre-disaster situation, during emergency and relief and during rehabilitation; the enforceability of these rights; gaps between policy and constitutional and legal provisions; to recommend options for ground level intervention and advocacy . Thus this policy analysis was undertaken to feed into the ongoing activities of rehabilitation of disaster affected people.

**Time Line of the Study :** The exploratory work for a policy analysis of the Orissa Relief Code and the rights of disaster victims started in mid- May 2000. This was preceded by a discussion with the Regional Manager, Action Aid, Bhubaneswar and team members on the necessity of developing a policy document for future operationalisation. During the exploratory period of a week, preliminary discussions were carried out with UN officials, INGO and NGO representatives, representatives from forums created for disaster response and who had played a key role after the Supercyclone. A plan for the study was prepared on the basis of these meetings and the problems highlighted therein. A Terms of Reference (TOR) for the study was drawn up based on a discussion with the Regional Manager and the team members. A copy of the TOR is attached at the end of the study.

Under the TOR the study was supposed to (a) identify and analyse gaps in pre-disaster, during disaster and post disaster community based requirements in the Orissa Relief Code for drought prone areas and coastal areas (b) develop a comparative perspective based on the relief codes of Bangladesh and other calamity prone states in the country (c) identify vulnerable groups, detail specific needs based on visits and interactions in the calamity ridden areas (d) incorporate legal analysis into the study to strengthen people's entitlements and suggest areas for pro-active legislation for vulnerability-reduction. This was to be done through a consultation with Shyam Sundar Das, President, Committee for Legal Aid to the Poor and Adv. Biswajit Mohanty of Cuttack.

The study started from the month of June and was intended to cover constitutional, legal and policy entitlements of disaster victims. The time period of the study was initially intended to be for three months. The necessity to incorporate the viewpoint of the community as obtained in the Participatory Poverty Profiling and Impact Assessment Study conducted in Jagatsingpur district by the Action Aid team a month after the disaster as well as a case study of Pradhangheri village of Padampur GP, Erasama block prepared by the Action Aid team, led to the extension of the study period. Although the plan started off with comparisons with the Relief Codes of other states, it was narrowed down to a comparison with the Disaster Management Policy of Bangladesh, with specific references only to the policies of other states like Andhra Pradesh and Maharashtra.

In the first phase comprising of one and a half months, a review of the Orissa Relief Code and the pertinent constitutional and legal provisions, reading of secondary data took place. Simultaneously, interviews with selected government officials, ex- Special Relief Commissioners, UN officials, NGO and INGO representatives also kept happening. At the end of the first phase, a Matrix on Community Based Disaster Preparedness was brought out in a table format. This comprised of a tabling of the infrastructural, institutional and valuational capacities of the vulnerable communities in the three different time periods of



pre-disaster, relief and rehabilitation, the enabling and inhibiting laws and possible options before the vulnerable.

The second phase comprised of visits to Jagatsingpur district wherein discussions with Action Aid facilitators and Panchayat officials took place. It also involved meeting government and UN officials in Jagatsingpur and Bhubaneswar, as well as other stakeholders to identify the key implementation gaps. Secondary data analysis also continued. Case studies from legal counselling centres, the public hearing on the Supercyclone and case studies from groups working with children were also studied. This phase also saw the initiation of chapterisation for the study. An edited version of the study comprising of the key entitlement gaps in the 5 core areas of capacity building - food security, shelter, legal support, and health and education was submitted at the end of this phase.

The final phase of the study, ending in mid- November, involved an analysis and incorporation of the Participatory Poverty Profiling and Impact Assessment Study conducted by the Action Aid team as well as a Case study of Pradhangheri village, Padampur GP, Erasama block, Jagatsingpur district. This incorporation was intended to support the findings related to implementation and policy gaps.

**Chapterisation :** The study comprises of six chapters. In the first chapter, titled, **An Introduction to a Study on Coastal Disasters & Vulnerable People's Entitlements – A Critique of the Orissa Relief Code**, we begin with outlining the strong links between normal period development and delivery and disaster preparedness. Secondly, it highlights the role of capacity transfer in vulnerability reduction and strengthening self-help within the community. This chapter outlines the basic features of the Orissa Relief Code, the Human Rights approaches used in the study to understand vulnerability and entitlements through both a Legal and Political economy approach. The responsibilities of the State to fulfill them are also explained. It also gives an introductory understanding to differential impact and recovery from disasters through these approaches. It emphasizes upon the need for standards of service and standards of entitlements to hasten recovery. The chapter also discusses the methodology used in the study.

The second chapter is **Vulnerability- Stakeholdership Arrangement in Orissa Relief Code**. In this chapter we discuss the vulnerabilities and powers of primary stakeholders, i.e., the victims, and secondary stakeholders i.e. service providers and resource agencies like the panchayats, volunteers, Government, INGOs and NGOs. This chapter details the key policy gaps which increase the vulnerabilities of the different categories of victims such as the destitutes, the women, children, orphans, migrants and refugees, dalits and landless labour. It also discusses means of power and responsibility-sharing between these stakeholders so that the community may emerge as the key stakeholder.

Against this background, the third, fourth, fifth and sixth chapters draw out the specific areas of implementation gaps and differential policy protection, and other policy inadequacies in the core areas of Food Security, Shelter, Health and Education, Legal Support Mechanisms, respectively. The human rights violations involved are pointed out as per the constitutional provisions, local, Central and International human rights laws. These entitlement gaps have been pointed out keeping in mind the need to ground policies and delivery mechanisms in norms of protective discrimination, people's dignity and right to ownership over infrastructures, institutions and processes concerned with vulnerability reduction. The differential impact and recovery processes for the more vulnerable sections are highlighted in the chapters.

**The third chapter titled Food Security** deals with Food security entitlements of vulnerable sections to during the disaster and during relief. It also addresses long- term food entitlements in the rehabilitation period through employment, transfer of endowments and skills and systems of loss-distribution and insurance. It makes a comparison between the de-facto food security entitlements of farm and non-farm communities, men and women, able-bodied and the physically challenged. It draws attention to the community's own institutional arrangements and the need for all service providers to recognise them.

**The fourth chapter is on Shelter entitlements and** deals with policy provisions for individual, community and habitat shelter. Normal period development programmes related to housing, roads and other shelter infrastructures, early warning systems, rescue and evacuation are discussed. Policy provisions for short-term and long-term transfers of shelter rights for the most vulnerable, structural and non-structural approaches to flood and cyclone management are outlined along with their inadequacies. The need for participation of the primary stakeholders and their institutions in the whole process of recovery is also emphasized.

**The fifth chapter which is Health and Education** discusses the need for health and education insurance systems in the community for the vulnerable to reduce differential impact and recovery. It draws out the failures in delivery mechanisms such as the ICDS and drinking water supply and highlights functional literacy and education as tools to ensure non-exploitative relief and rehabilitation. It addresses health and educational institutions within the community as a kind of insurance for a better livelihood and risk-reduction.

**In the sixth chapter we deal with Legal Support Entitlements** of the vulnerable community and individuals. This chapter discusses human rights violations in the area of people's entitlements to legal aid, legal counselling and litigation. Case studies related to exgratia compensations are used to explain policy and implementation gaps.

These chapters also carry the specific policy recommendations in the concerned areas emphasizing upon the need for disaster insurance and loss-distribution systems, key areas of legislation such as for Right to Information, Right to Relief, cyclone proof construction technology, Right to Total Rehabilitation. They also highlight the need to make statutory all policy provisions related to securing Art 21 of the Indian Constitution, the Right to Life and Art 14, the Right to Equality and Articles 15(3) and 15(4) guaranteeing the Right to Protective discrimination.



## **AN INTRODUCTION TO A STUDY ON COASTAL DISASTERS & VULNERABLE PEOPLE'S ENTITLEMENTS – A CRITIQUE OF THE ORISSA RELIEF CODE**

Frequency as well as intensity of natural disasters are increasing globally including in India. Globally, natural disasters account for nearly 80 per cent of all disaster affected people. While the govt. may quibble over classifications of 'major' and 'minor' disasters, for affected people most disasters are major. While some of these disasters are fast on-set disasters, like floods, cyclones, earthquakes, tornados, others like drought are slow on-set. 68% of the country's total area are rendered vulnerable to periodical droughts. Floods are estimated to affect 8 million hectare of land annually. Of the total annual rainfall, 75% is received during 4 months of monsoon (June to September) and, as a result, almost all the rivers carry heavy discharge during this period. The flood hazard is compounded by sediment deposition, drainage congestion and synchronisation of river floods with sea tides in the coastal plains. India has a long coastline of 8041 kilometres. On an average five to six tropical cyclones form in the Bay of Bengal and Arabian Sea every year, two to three of them being very severe. The Himalayan mountain ranges considered to be the world's youngest fold belt in the east and the Chaman fault in the west, constitute one of the seismically active region in the world, causing earthquakes, avalanches and landslides. On an average these natural disasters took a toll of 3663 human lives, affected 1.42 million hectares crop area and damaged 2.36 million houses annually during the 1990s. (Keynote Address, Shri Bhagat Singh, Addl. Secretary and Central Relief Commissioner, Ministry of Agriculture. Towards a Safer World in the 21<sup>st</sup> Century with Hope – A Report on the 9<sup>th</sup> National Convention on Disaster Reduction. JAC, September 1999)

Being on the coastline of the Bay of Bengal, the state of Orissa has a long history of frequent floods, cyclones and sometimes tidal surges. The 1971 cyclone was a turning point in redefining state approach to disasters through redrafting of the Bihar & Orissa Famine Code into the Orissa Relief Code and putting forward certain recommendations for preparedness against coastal disasters.

The socio-political scenario of coastal Orissa is marked by the presence of several identity groups of varying and competing economic and political interests. The big landowners who have managed to skirt around land ceiling laws are to be found along with scheduled castes, migrants from West Bengal as well as refugees from Bangladesh who generally have very poor landholding status; they are to be found competing for survival in the same ecological niche. While some are fisherfolk, others survive on prawn culture, wage-labour, betel farming and cashew-plantations, very often carried out on forest land. The migration of refugees from Bangladesh to the eastern states of India started way back in 1971 when about 10 million Bangladeshis crossed over to India after terrible floods in the river Ganga followed by poverty. Before that the Chakma tribals from the Chittagong Hill Tracts of Bangladesh had settled down in Arunachal Pradesh as an outcome of anti-tribal land holding policies in their country. (Refugees in India – Unnikrishnan P.V. & Max Martin. India Disasters Report – Towards a Policy Initiative. Ed. by Parasuraman S. and Unnikrishnan P.V.) Popular knowledge in some parts, however, traces their migration to coastal parts of Orissa a decade or so before this time period.

In Orissa, although they stay in the most risk prone and uninhabitable of places, dangerously close to the coastline, they continue to be resented and unwanted by local population. Ideally speaking, an alliance should be existing between the refugees, migrants and dalits in the area because of their common socio-economic conditions. However this is rarely to be seen. Women from the scheduled caste, scheduled tribe and refugee communities continue their survival with poor landholding status. In the chapter on Stakeholders & Vulnerability, we will elaborate further on these dynamics.



This study emerges in the aftermath of the Supercyclone of 29<sup>th</sup> October 1999 and the cyclone before that on 17<sup>th</sup> October. The latter cyclone affected 2 districts while the geographical spread of the Supercyclone was 12 districts. According to the **White Paper of the Govt. of Orissa on the Super Cyclone**, the total number of blocks affected were 97 and the number of municipal areas affected were 28. The supercyclone alone affected over 15 million people in Orissa. It killed over 10,000 people, decimated nearly 90% of the mud and thatch dwellings, and rendered over 6 million marginal and small farmers, landless agricultural workers, fisherfolk and artisans without livelihood for at least 6 months and more. (**The 1999 Supercyclone in Orissa – Ajay Kanchan & John Gwynn. India Disasters Report. Towards a Policy Initiative. Ed. by Parasuraman S. and Unikrishnan P.V. Oxford Publication**)

The heavy death toll and the destruction of livelihood bases, the chaos of emergency response still being sorted out in the rehabilitation phase, exposes the levels of unpreparedness with the Govt., NGO as well as community to meet a disaster situation or to survive it with minimum losses. **On whom lies the responsibility to prevent and assist in the face of mass death, destruction and destitution, and the loss of livelihoods caused by natural disasters?**

We can go to the constitutional provisions to seek answers to this question. **Art 41 of the Constitution lays down that the state shall secure the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of 'undeserved want'.** When wants emerge from factors other than personal fault we may say that a situation of 'undeserved want' has been created. Undeserved want thus has strong implications for natural disasters, placing the responsibility of assistance on the State. The State List puts the responsibility of legislative action for Relief of the disabled and unemployable on the State Govts. **Art 39(a) of the Directive Principles of State Policy states that the citizens, men and women, equally have the right to an adequate means of livelihood.** Art 39(a) and Art 41 are linked through the use of the word 'Right'. In interpreting the use of the word 'right' in the above two provisions of the Directive Principles of State Policy, one may infer that apart from the rights enshrined in the Fundamental Rights, the Right to adequate livelihood is also fundamental. Art 39(a) and Art 41 when read along with Art 47 reveals clearly on whom the duty lies to secure rights and public assistance for the people. **Art 47 of the Directive Principles of State Policy (DPSP) states that the State should regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties.** This is the only point in the Constitution where the 'primary duties' of the State have been mentioned. If such are the primary duties of the state, then it is people who have the 'right' to enjoy food entitlement, general economic development, public health for improvement, keeping in mind comparative standards where people are at different levels of living. **Art. 47 is especially applicable in the case of starvation death.** It would be pertinent to mention one of the Observations of the Supreme Court which is that the Government is a Service Corporation. (AIR 97 SC 645)

The scope of this study is to analyse the scope of preparedness necessary, to mitigate impact of disasters like floods, cyclones and tidal surges, at various levels – the community, the govt., the NGOs and other service providers. Disaster Preparedness will be addressed in its linkage to three factors – planned development process, the self-help coping mechanisms of the community and the contingency plan of service providers and that of the community.

While this study is not a study on differential impact of disasters and differential recovery patterns in all the affected districts of Orissa, it attempts to put forward certain broad indicators for an analysis of the same by looking at certain case studies that locate vulnerability both geographically and more importantly, within an entitlement framework. It is common understanding that impact and recovery depend on well-being which in turn depends on need-fulfillment and capacity-building taking place in an unequal and competitive society like that mentioned above. This requires a discovery of the



entitlements of people vulnerable to Floods, Cyclones and Tidal Disasters in the state of Orissa within the continuum of disaster prevention, preparedness/risk-reduction, response, rehabilitation and reconstruction.

**What is the history of state attempts to mitigate impact of disasters ? Here it would be pertinent to mention the first Famine Commission formed by the British Government following the Great Famine or the Orissa Famine of 1866. Sir George Campbell laid the foundation of the humane policies which were sought to be adopted. The basic principal of saving every life was first enunciated and a departure was made from the hitherto policy of leaving to public charity the task of providing funds for gratuitous relief. The second step was the appointment of a Famine Commission in 1880 following the famines of 1873 and 1876-78. It is also of interest to note that following the labours of the Famine Commission, the Administration decided to promulgate Famine Codes from 1883 onwards which ushered in the modern policy of relief administration. (Natural Disaster Management in National Development – An Indian Perspective – K.Rajan; Disaster Management, Ed. Vinod Sharma, IIPA, 1997) K Rajan was Advisor, (Agriculture), Planning Commission, Yojna Bhawan, New Delhi. This is being pointed out to show that Govt. took upon itself the responsibility to prevent death and destruction and to assist those who have been affected.**

The Orissa Relief Code draws its origin from the Bihar and Orissa Famine Code, 1913, framed out of the recommendations of the Famine Commission set up in 1899-1900. The Bihar and Orissa Famine Code having provisions mostly to meet situations arising out of the famine conditions and flood, was revised in 1930. By the time Orissa was separated in 1936, this Code was in force. As the provisions of this Code soon became outmoded after independence with the shift from administrative law and order to welfare and economic development. At present the primary object is not only to ensure that no one dies of starvation but also to prevent physical deterioration in living standard and destitution of people, assistance has to be provided to enable them to resume their normal or ordinary pursuits of life on return of better times and simultaneously to encourage the village community in making concerted and continuous efforts to fight the common misfortune. After its first print in 1980, a number of instructions have been issued by state govt to expand the scope and content of the Code in order to make it more relevant. As such, it was updated in 1996. This study confines itself to the critique of this updated version.

Many of these aspects of natural disaster mitigation or management have become an integral part of the planning process . The Drought Prone Area Programme, Employment Guarantee schemes for the poor, provisions for credit, remissions, irrigation and flood control works can be cited as examples. Unlike in the past, the responsibility for relief now squarely rests on the State and extends not only to mere prevention of drought or flood but also maintenance of a certain standard of economic health of the people.( The Orissa Relief Code, Govt. of Orissa, corrected up to 31/12/1996.)

In several ways therefore, natural disaster management must be seen as an extension of development process itself ...when one seeks to mitigate adverse effects felt on the society by a natural disaster... The real effective answer to reduce or eliminate the impact of natural disaster lies in how well the society has developed and its capability in the harnessing of its resources to ensure that society is able to face the challenges arising from natural disaster ... (Natural Disaster Management in National Development – An Indian Perspective – K.Rajan; Disaster Management, Ed. Vinod Sharma, IIPA, 1997). This view is also seconded by others who say that disaster impacts are felt more in developing countries due to borderline economic status of the vulnerable population with no or inadequate adjustment capacity. (Disaster Mangement in India : a Community Perspective, B.K. Verma & Brij Bhushan. Disaster Management, ed. Vinod Sharma, IIPA 1997) We may infer from this that disaster impact is closely related to poverty.



**This brings us to the crucial links between development and disaster preparedness where we understand that the normal period of planned development is actually a phase for disaster mitigation and preparedness. More than a century away from the formulation of the Famine Commission, we find that the extent of loss to life and property have been no less severe. At this juncture, we must ask if govt. failed in its development role to prepare the people with sufficient capacities to withstand the adverse impacts of disaster. One of the objectives stated in the Plan Document of the state is capacity building of the people. (Ninth Five Year Plan, State Govt. of Orissa.) Framed differently, the question is whether capacity building during planned development processes needs to be more seriously and effectively implemented in the vulnerable areas to prevent or mitigate, if not disasters themselves, then their impact?**

**The second phase of disaster management and mitigation of impact would be the immediate emergency response to a disaster such as evacuation or rescue operations, provisions of safe drinking water, food and shelter followed by employment opportunities as part of relief measures. This phase too has links with the orderly process of development. Can people be rescued or evacuated from areas which are unconnected by roads? If there are no shelters where are evacuated people expected to stay? Similarly, when we look at relief activities, we find a lot of parallels between the objectives of natural disaster management and the general process of socio-economic development, i.e., of meeting minimal requirements of food, creation of employment opportunities lost in the wake of natural disaster and reducing adverse impacts as compared to status enjoyed by society earlier. The third phase is rehabilitation. The rehabilitation phase and planned development are also linked by the nature of their activities as the former means rebuilding homes, providing employment and livelihood opportunities by reviving agriculture and non-farm bases, regulating market, rebuilding schools and public health centers, and identifying rehabilitation options for the destitutes created by disaster.**

**As the Orissa Relief Code points out itself under the General Principles Regulating Relief Measures in para 6(i), there is a need to have an arrangement aimed at integration of development and relief planning of the areas affected by natural calamities. The normal development programmes are either suspended if necessary, or slowed down, or modified to suit the needs and intensified.**

**The contingency plans also bear parallels with development programmes. The Orissa Relief Code (ORC) states that the normal programmes are subordinated to the contingency plan which includes (i) employment oriented works, (ii) provision of food and drinking (iii) gratuitous relief (iv) assistance to cultivators to retrieve loss (v) assistance from non-govt. organizations (vi) Best utilization of resources. The financing policy stated under para 8(a) puts down that the Ninth Finance Commission set up by the Govt. Of India recommended the implementation of relief programmes along with development programmes. 8c(ii) states that if the relief expenditure is in excess of corpus of the Calamity Relief Fund the State should make a contribution from its Plan for providing employment opportunities as a measure of relief. The ceiling fixed in this respect here is that the plan contribution may not exceed five percent of the annual plan outlay.**

**In establishing the fundamental links between development and mitigation of disaster impact, there are learnings that one can derive from the Bangladesh experience of coping with severe cyclones. In 1970, the state of Bangladesh faced one of the most severe cyclones with a human casualty of 5,00,000 people. The next severe cyclone that it faced was in 1991 in which 1,30,000 people perished and property worth \$2.4 billion was destroyed. Although the wind speed and the height of the tidal surge were similar in the cyclones of 1970 and 1991, the latter one caused far fewer casualties. As compared to earlier cyclones, there were no post-cyclone deaths from epidemic or food shortage. The reason Bangladesh managed so well can be traced to a number of developments that occurred during the 1970s and 1980s. Firstly, the infrastructural development in terms of railways, roads, waterways, and air transport had grown impressively, making it easier to speedily provide relief and rehabilitation services to the affected**



areas. Second, the improvement in communications through inland telegraphic, telephonic and satellite systems has helped immensely in co-ordinating post-cyclone relief. Thirdly, the huge network of health facilities and man-power, which had been in place for some time, helped provide immediate medical support to the injured and the diseased. Between 1985 and 1990 the country's immunization coverage rose from 2% to 70%. Similarly, access to safe water had increased to 80% of the population. Fourthly, the capacity of the govt. to procure food and other materials had increased. Fifthly, the growth of the NGO sector, with enhanced management capacities, ability to act quickly, and improved credibility among donors, has had a tremendous impact on the whole situation. Sixthly, the slow but important efforts to strengthen the economic base of the rural poor by NGOs such as Grameen bank and Bangladesh Red Crescent Society have resulted in improved capacities of individual households to cope with natural disasters. The expansion of the irrigation facilities led to increased agricultural production throughout the years. The diversification of the rural employment sector has created employment opportunities for the poor in non-farm sectors. Poorer households are now better prepared to face a disaster situation. (Coping With Disasters Fazle H. Abed. A Framework for Survival. Health, Human Rights and Humanitarian Assistance in Conflicts and Disasters. Ed. Kevin M. Cahill, M.D. A Joint Publication of Basic Books and the Council of Foreign Relations)

It needs to be mentioned that India has initiated pre-disaster mitigation programmes and sectoral development programmes to reduce the impact of disasters as well as reduce the socio-economic vulnerabilities. A Central Sector Scheme on Natural Disaster Management Programme (NDMP) is being implemented for the first time from December 1993. The main objective of the programme is to enhance the national capability for disaster reduction, preparedness and mitigation. The programme is also expected to enhance the level of awareness of the community about disasters they are likely to face and prepared them adequately to face the crisis situations. This programme emphasizes on human resource development, encouraging research and consultancy services, raising community awareness. As part of institutional strengthening, a National Centre for Disaster management has been established in 1995 at the Indian Institute of Public Distribution, New Delhi under this programme, to carry out the disaster reduction related activities. Similarly, centers have also been created in States' Administrative Training Institutes. (Keynote Address – Shri Bhagat Singh, Addl. Secretary and Central Relief Commissioner, Ministry of Agriculture. Towards a Safer World in the 21<sup>st</sup> Century with Hope. JAC 1999.) In Orissa, the Gopabandhu Academy of Administration, Bhubaneswar, is the training center for Orissa. While there is a National Crisis Management Committee (NCMC) to oversee all disaster-related efforts at the national level and the Ministry of Agriculture is the nodal ministry for management of natural disasters, a High Powered Committee for Preparation of National Disaster has also been formed after the Supercyclone at a national level. The enhanced Terms Of Reference of the HPC are (i) To review existing arrangements for preparedness and mitigation of natural and man-made disasters including industrial, nuclear, biological and chemical disasters. (ii) Recommend measures for strengthening organizational structures, and (iii) Recommend a comprehensive model for management of these disasters at the National, State and District levels.

While disaster mitigation is a responsibility entrusted to the development role and contingency planning of the state, the community has been found to be the first agent to respond in a disaster situation, before govt. machinery can possibly get activated. It has been seen that sometimes 48 hours or more lapse before the govt. machinery and other outside agencies reach the scene. Those hours are actually crucial in reducing impact. In Assam, self-help gets activated almost immediately after a disaster; in other states, self-help starts much later, after 12 hours. According to Sagar Dhara, a Risk Analysis Specialist from Serena Foundation, in the case of the Supercyclone-affected people the gap between the risk-perception and actual risk was very high in Ersama as compared to Surat. It is therefore necessary that a community be prepared with capacities to enhance risk-perception, capacities to manage without external assistance for a week. One of the clearly stated objectives of the International



**Decade for Natural Disaster Reduction (IDNDR) is to build up 'local capability' and this has been accepted by India. So, it is not merely national capability built up through institutions for disaster management and financial resources but the calculated response by the community which needs to be developed.**

In the case of the Orissa Supercyclone, the reaction time of the State Govt was very slow, bogged down as it was by total breakdown in its communication network – no electricity, no roads, no vehicles and a paralysed State HQ. The shock period was prolonged. Thus it was left to the individual to react and cope on his/her own, in some places for three days, in some 4, in some 9, without external help. As such, Self-Help coping mechanisms are important to reduce disaster impacts on vulnerable population. These coping mechanisms must be consciously addressed and owned by the community. But as Saroj Jha, who was Special Relief Commissioner after the Super Cyclone, now heading UN House II, points out, the Orissa Relief Code does not address these coping mechanisms of the community. It addresses only external assistance.

**What capacities ought a community to have if it is to prepare itself against disasters like floods, cyclones and tidal surges? (For definition of Community, refer Chapter on Vulnerability & Stakeholdership)**

People's needs and where they may source their capabilities from to fulfill self-reliant response to disasters may be addressed in three different time periods (a) normal period preparedness, (b) emergency response & relief, and (c) restoration & rehabilitation. How are we to understand people's needs and where people's capabilities come from? Needs-capacities of a community prone to disaster can be looked at as having two broad components –(i) what a community ought to have, and (ii) what it ought to be.

(i) Under the first category of what a community ought to have, we may address the (a) infrastructures and (b) institutional capacities and (c) policy-building capacities that a community ought to have. Housing provisions, roads, dispensaries, land and cattle, drinking water infrastructures are examples. Infrastructures under both individual ownership and community/social ownership need to be addressed. Under institutional capacities, the reference is to the arrangement of capacities at state, district and community levels such as through the various government departments, local self-govt. organizations, non-govt. organization, disaster mitigation committees, credit-providing institutions, disaster response committees, information & legal support institutions such as lok adalats, mechanisms for transparency & accountability. Under the last category the reference is to community institutions which will formulate laws, policies and standards for disaster mitigation, self-help and external assistance.

(ii) Under the second category of what a community ought to be, we may look at the values, attitudes, knowledge and skill-bases of the community for it to be fair and ethical, informed and trained. The communities are greatly stratified on lines of poverty, gender inequality, discrimination against destitutes, scheduled castes and tribes, minorities, aged and orphaned children. Self-help within a community must be accompanied by Help to the Other who may be physically, socially and economically weaker to prevent differential impact. So, self-help must be ethical self-help. Only a community mobilized by values of caring can ensure the mitigation of impact on the extra-vulnerable. Only a caring and ethical community can ensure that the capacities existing within it are equitably enjoyed during normalcy and disaster. The ethics of a community will determine the degree of respect and speed and priority of response needed for the vulnerable like the aged, children, destitute women, disabled who may, because of physical and social constraints, be unable to help themselves during an emergency, relief or rehabilitation.



Self-help capacity within a community is accelerated through mobilization and organization building. Deprived communities have better chances of securing access to resources, amenities and facilities offered by Governments and other agencies when organized into groups or working through their own organizations. Such mobilized communities can contribute better to the protection of their own communities, planning of local resources and development of human resources within. These capacity-building activities are considered important to provide opportunities for a dignified and self-reliant living to achieve the overall goal of improving the quality of life.

Which of these capacities can the community access from the Govt.? Which are the capacities that must come from within itself, and for whose strengthening it may rely on NGOs, local self governing institutions and other agencies? What are the responsibilities of the Govt., NGOs & other agencies in creating a mobilized community that can access such capacities? It is important for the community to know the capacity areas which the govt. of a welfare state has committed itself to developing. It is only when community knows its entitlement that it can mobilize itself to access it. Similarly, NGOs and service providers also need this information base to avoid duplication and more importantly, to support the community in its efforts for capacity-building.

A significant manner of assessing people's needs and scope for capacity-building can be by undertaking a policy analysis. Policy analysis can indicate the govt.'s prioritization of 'Whose needs' are to be fulfilled and 'What needs' are to be fulfilled; it will also indicate the core areas of capabilities that the govt. intends to build with the people through Normal Planning process and Contingency Planning .

**Why Policy Analysis** - A policy analysis is important firstly, to understand the scope of govt's responsibilities for fulfilling these needs and capacitating the community. Secondly, to understand the scope of people's entitlements as assured by the government. An exploration of policy provisions is aimed at (i) influencing/pressurizing at various levels of advocacy and community intervention to enable the mobilized community to access these policy entitlements, (ii) to evaluate if these entitlements are adequate for the well-being of vulnerable communities, households and individuals (iii) influencing policy changes that will enable vulnerable community to enjoy their rights in the fullest sense for their safety, security and full development of their potential .

A policy analysis is significant from the view that it will reflect on the political and financial willingness of governance framework to mitigate disasters, in this case, floods, cyclones and tidal disasters, preparing itself and the vulnerable communities against the same. Many disasters occur because of policy failure or absence of right policies. Does the state have a contingency plan for disaster mitigation & management . How is this plan supported by the normal period development policies of the state? From this perspective this study will analyse the Orissa Relief Code, a compendium of circulars and govt. orders which reflects the state's intent and course of action in a pre-disaster, during and post-disaster situation - the state's contingency plan. It is also a key source where the entitlements of calamity-affected peoples have been addressed . For further entitlement provisions, the State Govt's Plan Document , i.e., the Ninth Five Year Plan will be addressed.

**So, why must we study entitlements ? How is entitlement related to needs, capacities and to impact and recovery?** (1) Needs are fulfilled or neglected within an entitlement framework (2) Capacities/ capabilities of individuals, households and communities to prevent or reduce the impact of a disaster on themselves depends on the infrastructures, institutions, knowledge systems, skills that they have been entitled to legally, economically, socially and culturally (3) Who is under obligation to fulfill these needs and capabilities is also determined in an entitlement framework (4) Differential impact of disasters and differential recovery from them is because of differential enjoyment of entitlements.



Let us first understand the 'Needs' of the people during normalcy and in a calamity situation, as explained in government policy before we analyse whether these needs are supported by entitlements or not. This means that needs and entitlements are not the same and that capabilities may be inadequate to fulfill needs and may not be backed by entitlements. In this study we try to compare vulnerable people's needs and entitlements and the extent to which needs are being converted to entitlements in a pre-disaster and post-disaster situation; the capabilities which vulnerable people within a community are both legally and ethically entitled to have for their well-being; the distance between their needs and capacities; who should fulfill these entitlements and what are their capacities and abilities?

We may start by identifying some of these needs in the Plan document of the state. **The Ninth Five Year Plan of the State of Orissa, (1997-2001) enumerates some of the basic needs identified by the State under Basic Minimum Services (BMS).** The BMS is an extension of the National level **Minimum Needs Programme** initiated at the Centre during the Fifth Five Year Plan. Eight areas were included under the Minimum Needs Programme during the Fifth Plan – (1) Elementary Education (2) Rural Health (3) Nutrition (4) Rural Water Supply (5) Rural Roads (6) House Sites for Landless (7) Slum-improvement (8) Rural Electrification. In subsequent plans, the Minimum Needs Programme was extended to cover programmes related to (9) Adult Education, (10) Rural Sanitation, (11) Rural Domestic Cooking Energy and (12) Public Distribution System. Thus till 1996-97 the MNP comprised of 12 components for which funds allocated were earmarked so as to preclude scope for diversion of the allocated funds. (**Ninth Five Year Plan, 1997-2001, Vol 1. Govt. of Orissa, 1997.**)

In July 1996 (8<sup>th</sup> Five Year Plan) the Conference of Chief Ministers endorsed the following seven Basic Minimum Services as of paramount importance in securing a better quality of life for the people, especially those residing in rural areas. The Conference also recommended the formulation of time bound action plans for full coverage of the country with these basic services by 2000 AD. (i) 100% full coverage of safe drinking water in rural and urban areas, (ii) 100% coverage of Primary Health Service facilities in rural and urban areas (iii) Universalisation of Primary Education (iv) Provision of Public Housing Assistance to all shelterless poor families (v) Extension of Public Housing Assistance to all shelterless poor families (vi) Extension of Mid-day Meals in Primary Schools to all rural blocks and urban slums and disadvantaged sections (vii) Provision of Connectivity to all un-connected villages and habitations (viii) Streamlining of the Public Distribution with focus upon the poor. The elements of the MNP not covered by the BMS will however continue to be implemented with the schemes in operation and will continue to be monitored by the concerned Ministries/Departments.

There is a need to keep in mind, however, that these are the minimum needs and not all the needs to bring about the holistic development of an individual or community, or those required for a group vulnerable to disasters. For that one has to address not just these but also needs such as for dignity, self-esteem, collective activity, legal needs and psycho-social needs. Parallels may also be drawn with the Human Development Index which identifies, literacy levels, infant and maternal mortality rates as necessary indicators to restoring core capacities for vulnerable people to lead a decent standard of life.

**The purpose of pointing out the Minimum Needs is to identify the core capacity-building areas that may be necessary for a community to cope with a disaster or to mitigate/reduce its impact & aid recovery process. This means that if a community is deprived of any or all of these needs during normal plan period, its vulnerability to disaster will be more. It also means that if these capacities have been adversely affected during disaster, it stands within the primary duties of government to have them restored as quickly as possible.**

**Some parallels emerge with the Orissa Relief Code which indirectly identifies the Needs of the disaster- affected people under Nature of Relief Measures, Para 7. These are (a) labour intensive works including relief works, (b) gratuitous relief (c) Nutrition Supplementary Feeding Programme (d) Relief**



measures by non-official organizations, (e) care of orphans and destitutes (f) Strengthening of public distribution system (g) health measures and veterinary measures (h) agriculture measures including provision of credit supply (i) arrangement of food stuff and stocking of food grains in strategic places (k) provision of drinking water (l) provision of immediate irrigation facilities (m) remission and suspension of collection of land revenue and loans (n) Grant of educational concessions (o) Enquiry into starvation cases and prompt action taken on such reports, and (p) Action on press reports. If these are the people's needs in a disaster situation, then to what extent was the government able to provide community with the necessary capacities for their fulfillment?

**Needs and infrastructural, institutional and valualational capacities have to be supported by entitlements for them to acquire legitimacy for fulfillment. Where do we go to understand what is entitlement ? Where are they embodied ?**

**The first meaning of entitlement has a legal rights meaning. This can be sourced from :**

**(a) Constitution :** Constitutional provisions lay down the Fundamental Rights that are inalienable for the individual & Directive Principles of State Policy - principles guiding the policies of the state. These provisions lay down who is entitled for what facility, status and opportunity, which entitlements are fundamental rights of individuals, which entitlements depend on state policy initiative, who is under obligation to entitle – the state, employer, or any other authority.

**(b) Central Statutes & Local laws:** Certain Legislative steps have been taken by the state to fulfill constitutional provisions. This is one expression of political willingness of the state to fulfill constitutional entitlements through the making of law. This means that if these entitlements are not secured then redressal in the court of law can be sought. They also lay down the punitive sanctions for violations of both constitutional entitlements and legislative entitlements.

**What is law ? And what is the legal status of the Orissa Relief Code?** The Introduction to the Code states that it is a compilation of instructions, circulars and orders on Flood Relief Measures, Drought Relief Measures, and those from the Revenue Department. But according to Art 13 (3)(a) of the Constitution which lays down the definition of law, law includes any ordinance, order, rule, regulation, bi-law, notification (gazetted), custom, or usage, having in the territory of India the force of law. While statutory rules always have force of law, codes may or not. Art 366 (10) defines Existing Law as existed when Constitution came into force. This refers to legislation – ordinance, order, bi-law, rule or regulation. The definition of Existing Law will not include administrative circulars. In other words, a mere executive order does not have force of law. Yet, we need to understand that Govt. cannot operate between Acts and laws. Other spaces are needed for its activities. Administrative circulars and codes emerge from Arts 77 and 166 of the Constitution of India give it that space. But law is not very clear on their enforceability.

**The definition of a circular should not, however, inhibit us from looking at law broadly with the help of Art 14, i.e., Right to Equality and Art 21 - Right to Life.** Further, many provisions of the Orissa Relief Code are supported through budgetary allocations and the budget is passed in the Assembly. That portion of the budget which is sanctioned by Assembly, while not clothing ORC directly with 'force of law', does create room for govt. accountability. Moreover, Govt. officials continue to follow the ORC directives that they find relevant. Govt. officials are governed not merely by Orissa Relief Code but many other rules. While one may not be able to take action against any individual official whose actions are protected by the clause of 'action taken with good intent', action against govt. as a structure is possible through Public Interest Litigation. On the whole, one can look at the ORC as a body of govt. circulars and orders intended to achieve the principles enshrined in the Directive Principles of State Policy. While the latter may not be enforceable, they are as important as Fundamental Rights and the State ought to look to them while making policies.



© **International Laws and Treaties:** International human rights laws signed by the govt. for protection of human rights also secure certain kinds of entitlements. For instance, those relating to United Nations Conventions on the rights of discriminated peoples like refugees, women and children. Where legislative measures do not address sufficiently the rights of such discriminated people we look to international laws by which govt. – the key service provider – may be bound as well as other international bodies operating in disaster and post-disaster situation.

Human rights law affirms the duty of the govt. to respect and protect the natural rights of its citizens to life, liberty and property; this is the morality of law. Justice or the concept of fairness helps to determine all social and primary goals such as liberty and opportunity, income and wealth and the leases of self-respect which are to be distributed equally unless the exception is made for the benefit for the least forward. Under the human rights approach, the protection of human dignity emerges as a paramount objective of social policy. **So demand for human rights are demands for wide sharing in all the values upon which human rights depend. They are : (i) respect (ii) power (iii) enlightenment (iv) well-being (v) health (vi) skill (vii) affection (viii) rectitude.** (Human Rights Under International Law & Indian Law – Dr. S.K. Kapoor, Central Law Agency) It is the idealist character of international human rights law which affirms the moral purpose behind law-making and it is this that we seek to highlight.

Since India is signatory to the UN Charter of Human Rights, it would be pertinent to contextualise it. The Charter is a product of the post Second World War which witnessed gross violations of human rights. **The weaknesses of the Charter were attempted to be filled up by the Universal Declaration of Human Rights & Fundamental Freedom, 1948, preventing discrimination on grounds of race, sex, language, or religion. Numerous articles of the Declaration pertaining to Economic, Social, Cultural Rights, Civil & Political Rights have parallels with the Fundamental Rights enshrined in our own Constitution.**

Similarly, we look at the **Humanitarian Charter and Minimum Standards in Disaster Response put forward by the Sphere Project** to have a more holistic approach to entitlements and impact & recovery. Sphere Project is a programme of the Steering Committee for Humanitarian Response (SCHR) and Interaction (a consortium of private and voluntary organizations). SCHR comprises of CARE International, Caritas Internationalis, International Federation of Red Cross & Red Crescent Societies, Lutheran World Federation, Medicines Sans Frontieres, Oxfam International, Save the Children Alliance, World Council of Churches. In July 1979, the Sphere Project was initiated with four goals : (a) Development of a statement of beneficiary rights (b) Development of a set of technical standards (c) Broad participation in the process (d) Widespread dissemination of the results. **Aim of Sphere is accountability and values which are truly humanitarian at their core; which are concerned first and foremost with the well-being of a person in distress. Humanitarian values compel us to protect not only the physical well-being – the right to basic guarantee of life – but also the right to personal dignity; to take into account the cultural specificities; to identify local capacities and strengths which predate external assistance.**

**The Humanitarian Charter talks of humanitarian rights of victims and is a Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Response Programmes.** It is a commitment by NGOs to performance in an emergency situation according to standards based, at a minimum, on what people need for life with dignity. It is founded on international human rights law and refugee law; to grant access for humanitarian impartial agencies; and based on a commitment not merely to donors but to the very people affected; **and finally standards of service in 5 core areas of emergency requirements: water & sanitation, nutrition, food aid, shelter & site and health services.**

**Sphere takes a Rights based approach by interpreting international human rights law as saying that a people have a right to receive humanitarian assistance.** This is in contrast with a charity based



approach. The rights based approach simply recognizes the links of certain human rights to activities of the humanitarian sector. It creates a two-way street that removes the focus from one of need to one of rights and the concomitant obligation /duty to respond. (Source : Internet)

(d) **Policies & Schemes of the Govt.** : Entitlements conferred by Constitution & laws are supposed to find expression in govt. policies and schemes which deliver the entitlements. They reflect the political and financial willingness of the govt., the standards of assistance, responsibilities of assistance providers at various levels of international, national, state, district and local administration and the entitlements of the assisted – community, household, individuals. **What is policy? A policy is defined as a broad statement of goals, objectives, and means that creates the framework for govt. activity.** (Grindle, 1980, *The Impact of Development Policies on Health*, WHO, Geneva. 1990). This statement is usually presented as an explicit written document, although a policy can also be implicit or unwritten. Schemes are the programme element of the policies and they may achieve the policy objectives or distort them in their implementation.

Under such a Legal Rights approach to entitlement, in the absence of national and state level disaster-prevention & management policies that are statutory, this study looks at the Orissa Relief Code as an important state govt. policy relevant to disaster-situations, aiming to secure certain entitlements to certain groups of people in calamity situations. So, the study compares the ORC provisions on entitlements with those conferred by various laws. **It seeks to find out the policy status of the ORC, whether its objectives and provisions seek to fulfill and deliver constitutional and legislative entitlements and what are the gaps at the level of provisions ; whether it is used by the administration during implementation of disaster prevention, relief and rehabilitation.** How do the ORC entitlements compare with entitlements expressed in other policy documents of the state, such as the Five Year Plans. While budgets reveal the financial investments in capacity building of the vulnerable people, references are made to budget outlays and expenditures as specified in the Ninth Plan Document of the state. A rigorous budget analysis in this regard is highly essential although it falls outside the scope of this study.

**Legal approach has great advantages in pointing out eligibilities of different groups** for various facilities, status and opportunity, absence of eligibility or absence of law, legal obstructions in people achieving entitlement conferred by constitution or other laws. **It can point out who is under obligation of law to fulfill entitlement and punishments that accrue from their violations.** This approach to entitlement infers that differential rights or legal entitlements leads to differential impact and recovery because of differential protection.

This means that in situations of distress the persons with no legal entitlement or less entitlement will suffer more and his/her recovery process will also be slower. This is because Govt, which is the key service provider, draws its sanction from law for its preparedness measures, emergency response and restoration and rehabilitation efforts. For instance differential land & housing rights for local and migrant/refugee will lead to differential security positions, therefore, differential impact and recovery. Differential treatment by law means that law stands between the individual and his/her need while fulfilling the same need for another group. By not making the vulnerable 'eligible' for certain things, (negative discrimination) it lays the ground for differential impact, because eligibility is one step to security. **We can also infer that policies and laws based on protective discrimination can accordingly reduce differential impact and recovery.** So, if protective discrimination is not part of disaster management policy, then transition from vulnerability to well-being will be slow, vulnerability being inversely proportional to well being.

The next question is whether impact of a disaster will be same on two groups of people who may have same legal eligibility for an entitlement? Would recovery pattern be same for both of them? Not necessarily so. For example, Law may guarantee equal opportunity and equal payment for equal work for



both men and women – a law which will apply to a disaster situation as well. But is that eligibility true entitlement - i.e., do women experience defacto enjoyment of that entitlement based on this legal eligibility criteria? They do not. So, legal eligibility and real entitlement and enjoyment of that entitlement are different things. One may be eligible but social structure may not permit the defacto control or enjoyment of that to which one may be legally entitled. Women's inheritance rights can be cited here as an example. **While legal rights approach can explain differential impact & recovery in case of differential treatment in entitlements by law, it fails to explain why similar legal treatment in entitlements can still result in differential impact and recovery. In order to understand why this is happening we need to go to the second meaning of entitlement.**

**The second meaning of entitlement is rooted in Political Economy.** The Political economy approach to entitlement throws light on how entitlements may or may not be enjoyed in an imperfect or unequal arrangement of power and resources. This meaning of entitlement is drawn from an analysis of poverty/deprivation and power structures emerging from caste, class, patriarchy, ethnicity. **Here it is necessary to note that class does not merely signify the division between the rich and the poor but also the various layers of poverty that exist through the poor - the very poor, the very, very poor and the destitute. These distinctions of poverty have also been accepted by the Planning Commission in India. Entitlements have to be looked at in these different layers of poverty.**

Here we take a look at Amartya Sen's definitions of entitlements and the framework within which they are enjoyed or neglected. According to Amartya Sen, entitlements depend upon one's endowment-ownership status. Endowments may be in the form of land, cattle, labour, forest, river, depending on agrarian or forest-based economy, or mixed one. Entitlements relate to what food or commodities one can get with the exchange of endowments by way of own-production, trade, own-labour or skill or through inheritance and transfer (**The Amartya Sen & Jean Dreze Omnibus, Oxford Publication**). Entitlements as explained by Amartya Sen have to be understood within a framework of socio-economic relationships which determine an individual's relationship to the means of production in that society. The ownership over means of production determines one's command over food and other essential commodities. **Differentials in ownership are an outcome of existing stratification politics where women, dalits and minorities are excluded from owning indigenous knowledge systems, commons, technology, indigenous decision making and judicial institutions, health, education, shelter and skills.**

**This ownership status consequently determine ones eligibility to have economic and socio-cultural entitlements.** This eligibility ranking may even flout all legal norms and work contrarily to law, snatching away what law may have conferred. Even if law responds back by making legal provisions for 'protective discrimination', power equations in the political economy structure may not permit their implementation. This shows the importance of intervening in the political economy to secure defacto control over legal entitlements.

**Recovery depends upon the presence of opportunities provided by endowments.** In a pre-and-post-disaster situation if law continues to be silent to impingement on legal entitlements by the political economy, then it follows that life-chances for recovery will shrink for that group. Political willingness of the State to respond matters here.

On the contrary, if labour is the only endowment that one possesses, in a disaster situation if there is no provision for employment where the individual can exchange it for food, then such vulnerability may even lead to succumbing. It may lead to distress sale of labour or even the final exchange i.e., of self, which is the most exploitative exchange, violating Article 23 which is the Fundamental Right against Exploitation and also laws on immoral trafficking. **A ranking based on which of one's endowments is being exchanged, its exchange-value and the degree of distress in that exchange will indicate degree of vulnerability, degree of recovery to pre-disaster situation or more appropriately, towards well-being.**



Law is not exactly absent in this framework ; it plays a key role in fixing the value of all exchange entitlements. The strength of this value helps in determining the speed of recovery. For instance, the exchange value of labour, in our context, is fixed according to the Minimum Wage Act, 1948. But if law has fixed a low wage-value on its exchange, in a post-disaster situation it will slow down the pace of recovery. The clarity of the Act in classifying and providing for the certification of different categories of labour as well as nature of works covered under the Act will also have impact on recovery.

Law's existence and absence does make a difference to the value of one's entitlements. Sometimes there may not even be a law providing for a support price for the sale of one's endowments such as a crop, craft items, or forest produce, in which case there is no scope non-exploitative exchange. The person will be forced to enter distress sale, in which case meagre assets that may have survived the disaster, instead of being used for recovery, will be used for mere survival. Legal provisions for non-exploitative exchange and the extent to which power relations in the political economy facilitate or obstruct their implementation will therefore determine the pace and degree of recovery after a distress.

There is a need to look at both approaches because sometimes law might stand between the individual and his/her cultural entitlement and sometimes differential power - privileges equations in the political economy might stand between them and their legal entitlement. Aggravating these socio-economic differentials are also those created by age, disability, singleness and destitution. If the political economy of a community renders so much differential treatment & differential enjoyment of entitlements on the lines of caste, class, gender, ethnicity, religion, then it is even more so in the case of the aged, the disabled, destitutes/widows and orphans, especially from impoverished and discriminated backgrounds, who are very often dependant on the larger community for their protection and the honest delivery of their entitlements.

What are the policies pertaining to the entitlements of these sections? What is the binding force/cohesiveness available within the community that will morally, without force of law, oblige the community to entitle the extra-vulnerable groups mentioned above? In any emergency, vulnerability gets concentrated with these groups; so at each stage of preparation against a disaster, emergency response and rehabilitation, they merit first consideration. Are there policies addressing their capacity-building? Does the community have policies of its own that guarantee protective discrimination? This brings us to what a community ought to be to reduce the impact of a disaster on these groups; what a government ought to be to reduce impact and ensure their speedy recovery.

Within the political economy framework the argument is that differentials in ownership over social, cultural and economic endowments, leads to differentials in capacities for self-help and protection. This is because of differential command over infrastructures, decision-making institutions, knowledge systems, common property resources. This means that in a post-disaster situation, if one loses their ownership over assets, partially or completely, or if their exchange-value have fallen, partially or completely, then they will experience partial or total entitlement failure. People with fewer assets lose their ability to command food and other commodities more easily than others thus experiencing entitlement failure. Recovery is also slower for them. Why is this so ?

That is because resource-endowments have shock-absorbing capacities which help an individual to bounce back to well-being, capacities which are enormously reduced for a poorly endowed person or an endowment-loser. These shock-absorbers reduce the element of risk against entitlement failure. Such ownership also brings shock-absorbers like secure housing, drinking water, good health, education, credit facility, political connections to mobilize law, control over community assets and decision-making structures. They increase security and reduce risk to life, employment, property. Risk is more for



those whose endowment-entitlement exchange mapping is weak and not only for those whose geographical situation is poor. Although more often than not, location is also politically manipulated. For instance, the refugees and migrants living in vulnerable location are hardly doing it out of an exercise of their best option. Were they given a choice to stay anywhere else in the beginning?

If impact of a disaster and recovery from it depend on risk-reduction, and the ownership of endowments can reduce risk by preventing entitlement failure, then it means that endowments have to be given to people who do not own them. So here, we come to the area of endowment redistribution and transfer - If endowments with their shock absorbing qualities give insurance against risks and losses then they must be redistributed to reduce differential impact. For this people must be given land rights, employment for exchange of their labour and skills, livelihood implements, education, credit, sustainable technology, good environment and policy and other knowledge. **Recovery is directly proportional to endowment-redistribution and entitlement transfer.** If this is so, then the moral and constitutional duty of a government ought to be to ensure such redistribution and transfer to those vulnerable due to age, caste, class, gender, ethnicity, disability, singleness; the moral role of community institutions lies in facilitating in this process.

**Article 39 (b) of the Constitution** states that the ownership and control of the material resources should be so distributed as best to subserve the common good. Article 17 of the United Nations Human Right Declaration says that everyone has the right to own property alone as well as in association with others. **Implementation of law depends on effective governance** - a politically and financially willing government. A government may fail to effectively carry out redistributive justice, say for instance in the case of land, or even where it tries, political-economy may obstruct the neo-entitled to take ownership over the same. As in U.P. where the dalit families of Dohri Vakil village of Kashipur Tehsil find their lands grabbed by upper caste mafia or in Gujarat where dalits in Surendranagar district have merely got paper rights over their land as upper castes are standing in the way of their defacto control. (**Dalit Human Rights Violations - Atrocities against Dalits in India, National Public Hearing, Apr. 2000, Vol I**) In the absence of sustained efforts by the govt. for redistribution of resources, what other means of entitlement transfer are available to the poorly endowed/entitled people that can reduce differential impact and hasten recovery? This is where we come to the issue of Social Security provisions.

In any welfare state there is provision for a certain social security mechanism that is to operate as a safety net to protect the poorly endowed against food, shelter, health, education and employment insecurities. In the Indian context, **Social security and Social insurance are covered under Item 23 of the Concurrent List**, which means that both the Centre and the State are empowered to make laws on this subject. In an unequal society, this mechanism provides some chance of controlling differential impact and recovery by providing alternative shock absorbers. How well are the different sectoral areas of food, health, income, education covered by the social security provisions of the govt. ? The Public Distribution System or the Supplementary/Emergency feeding programme run by the state are examples. Apart from these there is another vital area which must provide for risk-proofing through a system of sharing of losses. **This is through social security arrangements for Subsidies, Compensations, Credit and Insurance.**

How well are these insurance systems organized and functioning in normal times and how do these systems respond to the more vulnerable in a disaster situation would determine differential impact and recovery. For instance, in the case of coastal calamities, where fisher people lose their boats, weavers their looms, where crops are destroyed by saline inundation, cattle perishes, and other household and livelihood assets are washed away, what social security provisions exist for disaster- insurance of these assets as it does in other disaster prone countries? What tax relief and protective credit schemes exist?

Provisions for this depends on the existence of policies to support risk-sharing. Who will share risks and losses with the more affected people depends on the policies - whether it will be the government, private



insurance companies, social organizations, central funds, state funds, or a combination of these will be reflected in policy. In Australia, there is a national scheme for natural disaster insurance made in 1978; in the USA, an arrangement prevails in seven coastal states, joint underwriting associations who have agreed to operate "single adjuster programmes" with the National Flood Insurance Programme in cases of wind and water damage. Records of these policies are also kept centrally for their safety, under a voluntary scheme such as that operated by the National Centre for Claims Information in the United States. In Japan a system of Mutual Relief Fund is operated by both farm and non-farm communities as an insurance against disasters. (Preparedness Aspects – Disaster Prevention & Mitigation – Vol II - United Nations, 1984)

How are the government, the insurance industry and the insured persons or people's organizations themselves involved in this aspect of pre-disaster planning? To ensure that people do not have to run from pillar to post when a claims situation arises will depend on government's regulation of insurance companies and government's own allocations and clear implementation norms as well as mutual insurance systems set up with the community. It would be of interest to note here that following the great famine of 1876-78, a Special Fund of Rs. 15 million, known as the Famine Relief Fund and Insurance Fund, was set apart every year from 1882. Half of it was earmarked for development of railways and irrigation if it was not spent on famine relief. (Natural Disaster Management in National Development – An Indian Perspective – K.Rajan; Disaster Management, Ed. Vinod Sharma, IIPA, 1997)

Is there need for an Emergency Reserve Fund or Emergency Funding Committee apart from the regular allocations to the Calamity Relief Fund of the State & National Fund for Calamity Relief to deal with insurance? Within the country, the Government of Maharashtra, has developed its Disaster Management Plan in 1998. This is the first multi-disaster response mechanism made in the country, albeit under a lot of pressure from the World Bank. This Plan has suggested a state-sponsored Vulnerability Reduction Fund (VRF) and a disaster linked insurance cover for life, household goods, cattle, structures, and crops as mitigation-related incentives. (Maharashtra State Government Disaster Management Plan – Bhavana Padiyath. India Disasters Report, - Towards a Policy Initiative – Ed. by Parasuraman S.& Unnikrishnan P.V.; Oxford University Press). What kind of policy changes are required in the insurance sector, government and community to meet this social security need for disaster insurance?

Are community initiatives for collective insurance possible to take the risk off the individual and household? Where can we draw these experiences from? What coping mechanisms do communities have to insure themselves and their assets against disasters? Do co-operatives, self-groups and community funds have a role here? What role can the Government and NGOs play in building mutual insurance capacities?

Recovery will be faster where both de-facto redistributive justice measures and social security measures are activated simultaneously. Both measures ensure loss-sharing across groups enjoying differential entitlements thus reducing risk. Loss-sharing provisions and systems thus become another yardstick by which recovery chances of the vulnerable may be improved.

Again we need to look at the social security and loss-sharing provisions for the extra vulnerable made for normalcy and disaster periods. A disaster creates a situation of what Amartya Sen refers to as 'derived destitution'. Being a discriminated and neglected category what will be the chances of the recovery of orphans, widows, disabled and other destitutes if social security guidelines in an emergency and post-disaster situation exists neither with the community nor with the government?

If the community is the first one to respond in a disaster situation, then what kind of risk-sharing values/attitudes ought it to have that will give the needed social security assurance to the aged, destitutes, widows, orphans, disabled? This brings us to the area of their capacity-building through value-change.



People's capacities for protection will depend on the levels of community consciousness, ie, its psychology, its cohesiveness based on ethics. This may not have legal sanction but is effective through community morality. The mere existence of a progressive law does not mean that vulnerability will be addressed at the time of risk. Therefore the importance of ethics of fairness or justice, secularism, equity, gender sensitivity that can only be built up in the community through community sensitization. For instance, a widow or a disabled person might require to be rescued or evacuated first during a disaster, but community should abide by such ethics. The destitutes created after a disaster may also require that extra care to deal with trauma, acceptance in the community and security instead of being ostracized or exploited because of their sexuality, childhood, lack of family guardian, shelter or sudden financial gains. To what extent they are taken care of within the community itself, and their rights to compensation and livelihood assets are prioritized and protected rather than abused, depends on the values of the community. These values will determine impact and recovery. **The role of the NGOs can hardly be underplayed here.**

Along with the community, the state must also be moral. This leads us to Political Willingness of the state machinery to deliver the policies and their mechanisms for delivery. Political willingness of governance framework and law have a big role to play in the redistribution of endowments. **A politically and financially willing govt. is required to dovetail development-disaster planning.** This study will analyse the Orissa Relief Code provisions for endowment transfers, placing of loss-distribution systems for risk-sharing and their adequacy, capacity-building of the community in terms of values and attitudes as a reflection of such willingness. It will also explore the areas of implementation gaps which may be responsible for differential recovery.

The concern for what a community's infrastructural, institutional and valuational capacities ought to be has to be matched by an equal concern for what a government's capacities ought to be in its infrastructures, institutions and values, skills and knowledge. (Utpal Maitra, Department For International Development) The last emerges from the knowledge that the government, since its creation, has been the key service provider during disaster and is the main actor during the period of normal planned development. **The values of a government., very often overlooked, are actually most fundamental, since they are at the bottom of all its policies.** Since Government's values determine whose needs are deserving of being met, and what entitlements they should enjoy through its laws and policies, influencing policies and thereby the values of the govt. acquires importance. **The need is for a responsible government committed to welfare objectives, with certain responsibilities that cannot be shifted to the civil society, much as we may speak of its increasing role during normalcy and disaster.** At the same time the need is also for a democratic government, which involves stakeholders from different levels of governance, which is transparent in its dealings and is accountable to the people for the quality of its delivery system. Along with willingness and attitude a government must also strengthen its delivering institutions like Block and Panchayat, and infrastructures of communication like roads, landlines, storage systems.

**Who are the vehicles of delivery, i.e., the Service providers?** The govt. delivers its policies through its schemes through its own administrative channels like the District Office, Block, Tehsil and Gram Panchayat. It also takes the help of voluntary organizations, local, national, international in its efforts. During emergency many international groups emerge as service providers. How do all these groups know who to reach, how to provide, by what time, in what form? **So, here we go to governance and Standards of Assistance set within governance framework to deliver its policies. Standards of Assistance involves Standards of Entitlements and Standards of Service.**

While differential impact to a large extent can be understood and reduced by intervention in the two entitlement realms of the legal and political-economy, a holistic understanding of differential



recovery will demand that along with this, we look at the standards of assistance by which social security and disaster relief and rehabilitation measures are carried out. Entitlements must have standards in order to ensure survival with dignity. It cannot be left to the whims and charity of the service-provider but must be based on need-assessment. Need implies deficit. How does one measure deficit if not by using the standards in one's assessment of need?

These standards lay down, firstly, who the service providers are and who is to be assisted. If govt. is the key stakeholder then what are its standards of assistance regarding inclusion of affected people in prevention and management of disasters rather than looking on them as passive recipients. How inclusive is it regarding the involvement of international bodies, NGOs, local self-govt. organizations and community based organizations? What are the partnership norms laid down in the standards of assistance? The more democratic the norms, the more clear and universal the norms faster will be the speed of recovery. Otherwise competition between service providers or confusions regarding the best standard will prevail; standards will be checked out through trial and error affecting vulnerable people's speed of recovery.

Apart from identifying the roles and responsibilities of service providers, Standards of Assistance should lay down both materialist and non-materialist aspects of disaster prevention & risk reduction in order to hasten recovery.

What are materialist standards? Under materialist standards one can look at finance and quantum of assistance, technological standards in the different need areas of housing, flood management, cyclone warning systems. According to the Humanitarian Charter of Assistance of the Sphere Project initiated by several international organizations, materialist standards are not enough to provide minimum humanitarian assistance. Non-materialist areas such as humanitarian values and attitudes, dignity-assurance, timeliness of assistance, competencies of service providers/sectoral specialists, provision for legal assistance, psycho-social health provisions, respecting the cultural sensitivities of affected people will have a positive co-relation with the speed and quality of recovery. (Source: Internet) Non-materialist standards must also be based on vulnerability targeting based on understanding of discrimination, i.e. Caste/different categories of poor/ gender /ethnicity/ age/ disability/ singleness dynamics. These non-materialist aspects of assistance will determine the quality of delivery mechanisms.

A crucial non-materialist function of standards of assistance is the element of People's Participation in their own recovery processes. The Sphere project addresses Beneficiary Involvement towards Increasing Accountability. Beneficiary must be involved in the validation and testing of the standards. Beneficiary involvement needs to be made explicit in all areas – assessment, programme design, implementation, review and sustainability in the post-emergency phase. For example, can damage assessment be done by the vulnerable and affected people themselves rather than by the Tahsildar or Revenue Inspector alone? Will not such participation improve transparency and effective vulnerability targeting and reduce corruption? For such involvement, the individual needs to be placed at the center of all development efforts and empowered. In the case of the above example, community volunteers will need to be trained in damage assessment. The role of the Voluntary sector is immense in this area.

To facilitate community participation, the government must first of all invest in the capacities and capabilities of the people, in the areas of their food security, shelter, health, education and training. People must have opportunity to invest in the development of their capabilities and must have the opportunity to use their capabilities. Differential provisions for building up of people's capabilities, differential opportunities and use of those opportunities will indicate differential recovery. This is what has been evidenced from the economics of neglect which deals with the circumstances in which the conversion of potential into actual labour power is not possible because basic needs are not met for a large section of



the population. Nutrition and health care, according to Partha Dasgupta are a necessary means for conversion, as are primary and secondary education. (**The Economics of Neglect, Partha Dasgupta. A Framework for Survival – Health, Human Rights, and Humanitarian Assistance in Conflicts and Disasters. Ed. by Kevin M. Cahill, Joint Publication of Basic Books & the Council on Foreign Relations**) Similarly, if a wage-labourer has no opportunities for education, then he/she is stuck with only labour as his/her endowment; the opportunities to acquire new skills and capacities like health or credit shrink, thereby increasing the protection gap.

Evaluation of differential recovery can be done according to the standards set by the service providers themselves, and those set by others. In the case of Orissa, where are these standards codified? **Standards of assistance are laid down in the ORC in the form of General Principles Regulating Relief Measures, Objectives of Relief Measures and Preventive and Curative provisions for different kinds of calamities – eligibility to assistance, form of assistance, time and scale of assistance.** According to the ORC, natural calamities may be of two types – major and minor natural calamities. No relief measures are undertaken for minor calamities which are of localized nature. The extent of assistance in the case of major calamity depends on the degree of severity of the calamity. **The General Principles Regulating Relief Measures under Para 6 of the Code** point out that relief should be very much part of rural welfare and development. Provision for labour intensive work, provision of food and drinking water, Gratuitous relief to prevent physical deterioration of vulnerable sections of people, Assistance to cultivators to retrieve loss, Assistance from Non-government sectors, Best utilisation of resources are the general principles under which relief measures should be regulated. The details of each of these forms of assistance will be discussed in the study. **The Objectives of Relief Measures**, as Para 5 of the Code points out, are not only to prevent starvation but also to prevent physical deterioration and destitution of the people; to enable them to resume their ordinary pursuits of life on return of better times and simultaneously to encourage the village community in making concerted and continuous efforts to fight a common misfortune – This objective has implications for government's responsibility in restoration and rehabilitation. Boosting of the morale of the public in times of disasters is an important objective of the relief operations. The approach to relief in the present context, has to be both preventive as well as maintenance of a common standard of economic health of the people.

**In the study we will be analyzing to what extent standards set in the objectives and principles of the Code have been achieved in the context of preparedness, Supercyclone relief and rehabilitation work. This analysis will indicate impact and recovery.** What are ORC standards of targeting, i.e., who is to be assisted? How have dalits, women, disabled, orphans, widows and other vulnerable been addressed? Have core areas of competencies been laid down? How are materialist and non-materialist requirements of the vulnerable individual, household and community in a vulnerable environment been provided for? How are these standards backed by law? What are the time frames within which delivery of opportunity or facility must occur? Example, if a small farmer is entitled to provisions of seed and tilling support what is the time of provision laid down? Have technological standards been laid down for housing, flood control works? What happens to recovery process if proper time and technology standards are not laid down or are not adhered to?

**Yet another indicator to recovery from disasters is to see whether standards of assistance implicit in policies are structural or non-structural or both.**

**Various approaches to Flood Management have been classified** by P.C. Jain, Chief Engineer, Flood Management, Central Water Commission, New Delhi, 1997 – **(i) Modifying the floods** which emphasizes on structures like reservoirs/dams, embankments, channel improvement, town protection and river training works **(ii) Modifying the susceptibility to flood damages and disruption.** This comprises of flood plain management, flood-proofing, disaster preparedness, response plans, flood forecasting and warning. A key part of Flood Plain Management is Flood Plain Zoning. **(iii) Modifying the impact of floods on**



**individuals and the community. This involves reducing the loss burden** which can be done in two ways – firstly, emergency measures such as evacuation, flood fighting, public health measures and secondly, the redistribution of losses, addressed earlier, through disaster relief, tax relief and flood insurance. (**Flood Mitigation Practices in India, P.C.Jain. Disaster Management. Ed. Vinod Sharma, IIPA, 1997**) Policy changes in disaster prone countries like America, have shown the need to shift from structural to non-structural approach for flood management in order to reduce risks. There was increasing trend in flood damages in spite of substantial flood management works in the USA due to which in 1961, after 25 years, **alternative strategy of non-structural measures were adopted with two approaches (i) modifying the susceptibility of flood damages and (ii) modifying impact of floodings on the individual and community.**

**Is the flood management policy of our state structural or non-structural?** Does it advocate structurally modifying floods and pathways of rivers? What are the non-structural measures, if any, laid down for disaster management? Where are these structures being provided, for whose protection and use and at whose cost? Or is the policy geared towards flood plain management, afforestation or investing in the capacities of a community as part of risk-reduction, disaster-proofing and decreasing loss burden, or a mixture of all these? Do we need both structural and non-structural flood control measures?

Billion dollar efforts in structural measures by the governments in all the South Asian countries have failed to control floods. In fact, dams have become an important cause of floods. Embankments have disrupted the natural drainage system in the flood plains. (**Terms of Reference for Scoping Study on Co-ordinated Disaster Management in the context of Action Aid's Working Area in Asia –India, Pakistan, Nepal, Bangladesh, Vietnam**) Flood control structures can never be fool-proof methods to flood-mitigation. In fact, when such structures fail or break impact of disaster is enormously increased. Is there therefore greater need to invest in Flood Plain Zoning and Loss-Distribution systems to modify the impact of disasters?

**Where is the political and financial emphasis in the state government's disaster management policies – materialist or non-materialist, structural or non-structural?** What kind of balance exists? Here, we look at the ORC provisions and the Ninth Plan document of the state to identify risks and vulnerability, protection through loss distribution systems and recovery chances of the vulnerable in the case of a disaster.

In the case of cyclones, what developments have taken place in our warning and response systems, will no doubt, determine impact. But if community based infrastructure like community shelters, safe drinking water provisions have not been arranged, or if community has not been enabled to react to warnings received, then technology of warning & response has failed in reducing impact. For this, community capacities at the level of infrastructure such as shelter, food, clothing, community institutions and values have to be invested in apart from investing in sound warning systems. **What provisions are there in the Orissa Relief Code towards Community Preparedness?** What lessons do we need to learn from other states here? For example, Andhra Pradesh has invested into research on core housing as the Structural Engineering Department of the Roorkee University has designed good, low-cost cyclone and earthquake proof housing structures with guidelines for minimum safety standards that cost a little more. A cyclone-proof low-cost house can today be built with Rs. 12,000/- in Andhra Pradesh. (**Cyclone Mitigation Measures – An Interview with Capt. A.V.S.Reddy. India Disasters Report - Towards a Policy Initiative. Parasuraman S. & Unnikrishnan P.V. Oxford Publication**)

**The codification of the standards of assistance will mean that service providers can be held accountable to them.** Can the government at its various levels be held accountable to the standards set by itself? Accountability depends on giving statutory character to the ORC which we have already discussed and the administrative willingness of the state to act and operate these standards; legal recognition of the



people's right to information. Democratic norms of accountability and transparency will ensure that people's entitlements are not left to discretion, charity or corruption of service providers.

**What is then the accountability framework within which the State is operating ?** Are accountability standards laid down for all service providers in the ORC ? What are the gaps? As per ORC policy, what is the delivery mechanism to meet infrastructural, institutional and non-materialist requirements of vulnerable community, household and individual? What are standards of assistance of the delivery mechanisms ? (materialist and non-materialist standards/structural and non-structural standards) Are they adequate in comparison to provisions in constitution and law, and international standards mentioned above? **In comparison, we look at standards of disaster management laid down by Bangladesh's Disaster Management Ministry & Bureau, a country susceptible to similar disasters like the state of Orissa, in its Standing Orders on Disaster.** Ambiguities in policies affects accountability. In Bangladesh, there are standing orders to each department in different time periods of normalcy, early warning, emergency response, relief and rehabilitation. The roles of each government department, other service providers like NGOs and community volunteers are well carved out.

All entitlements accruing to different groups targeted by CRC under coastal calamities will be looked at from these numerous approaches and finally evaluated on the basis of Real Time Response vis- a- vis standards set. This will determine degree of recovery. The Real Time Response vis-a-vis standards set throws light on the nature of governance as well as exposing the effectiveness of its delivery mechanisms. **The High Powered Committee advocates the development of the Trigger Mechanism as an emergency quick response mechanism which would spontaneously set the vehicle of management into motion on the road to disaster mitigation process.** This would enable the disaster managers to know in advance the task assigned to them and the manner of response. The Trigger Mechanism, is in essence, an operating standard where the implementation of the efforts on ground is well laid down. Activities common to all types of disasters like evacuation, search and rescue, temporary shelter, food, drinking water, clothing, health and sanitation, communications, accessibility and public information should be backed by sub-action plans by each specified authority.

The study will point out the key areas where the major failures in delivery mechanisms took place according to standards set. **A study of different rigour, however, will be required to probe the differential recovery pattern in all the affected districts.**

**Study Design & Methodology :** The ideological component of the study design is based on (1) Policy analysis with a Legal Rights Approach to Entitlement based on law: Review of Constitutional, Central, State and relevant International law , review of policy documents like Orissa Relief Code and State Plans (2) Human Rights approach to Entitlement drawn from an analysis of political economy, without overlooking the inter-relations between the two.

**Methods followed are :** (1) Interviews & Discussions with Stakeholders : views of stakeholders as service providers, as victims and international, national, state, local level resource and service providers (2) Media clippings; (3) Case studies and inferences drawn from Gap Analysis done by a Participatory Poverty Profiling and Need Assessment Study done, between January and February 2000, by Action Aid in Erasama and Balikuda blocks of Jagatsingpur district, the worst affected area in the Super Cyclone; (4) Case Study of Pradhangheri village of Padampur GP, Erasama block , the worst affected block ; (5) Case studies of victims from secondary sources such as from legal counselling centers and public hearings; (6) Case studies of policy and community attempts for disaster-proofing based on secondary sources. Finally by linking the case studies to an analysis of policy and implementation gaps, political economy of coastal Orissa and delivery mechanisms, the study will point out the broad indicators for differential impact and recovery and policy efforts to prevent the same .



**The areas for future advocacy will also emerge from the present study .** The areas where new policies are required, or need to be changed will be pointed out. Guidelines for universal code of conduct and standards of assistance will be put forward. The role of key stakeholders ( the community & the most vulnerable among the affected people in it, Govt., NGOs, Bilaterals, local self-governing institutions) will also be discussed. **This will be in order to mitigate impact of disasters, increase preparedness, improve emergency response and increase loss sharing among the unequal stakeholders as part of rehabilitation measures.**

**Follow – Up :** This study can be followed up by taking more-long term studies in selected areas of a district to substantiate that there is differential impact and recovery because of differential enjoyment of legal rights, unequal endowment-entitlement positions, defective standards of assistance and defective real time response. This study can be further supported by a budget analysis of the government's development and disaster allocations, grants received and expenditures.



## VULNERABILITY - STAKEHOLDERSHIP ARRANGEMENT IN ORISSA RELIEF CODE

**A disaster occurs when a hazard interacts with a vulnerable population. While disaster reduction can sometimes be achieved through reducing the scale of the hazard, it invariably involves the reduction of vulnerability to that hazard. The risk faced by a population is a combination of the level of hazard and of vulnerability to that hazard. Vulnerability reduction can be guided by risk assessment and risk evaluation, the former being more quantitative and the latter involving a prioritization of risks based on the social, political and development judgement. Measures to reduce vulnerability (and sometimes the hazards themselves) can be formulated once risk analysis is carried out.**

Very often, the concentration is on relief, to 'do something fast', but rehabilitation and reconstruction efforts are totally inadequate. In other words, the development dimensions of relief are often ignored. The concentration of resources, media and international, national priorities are more on relief than the difficult task of rebuilding.

Perhaps the greatest constraint on implementing vulnerability reduction measures is budgetary. For example, the Japanese Govt. spends \$2billion per year on vulnerability reduction and disaster preparedness. This is more than the total govt. revenue of half the world's nations. In addition, the private sector in Japan invests heavily in vulnerability reduction. In most developing countries, however, investment capital is at a premium. **Therefore, the International Decade for Natural Disaster Reduction (1990-2000) suggests that atleast 1% of total GDP must be set aside for disaster management.**

The role of the govt. in vulnerability reduction is crucial since it disposes of tools ( such as legislative powers, local government, structures, and investment plans) But govt. alone cannot implement vulnerability reduction measures. The support of the private sector (including construction and insurance sectors), NGOs and community level organizations is indispensable. Community coping mechanisms can be greatly strengthened by a community based preparedness plan. We are looking at stakeholdership from the point of view of identifying with whom vulnerability lies and on whom lies the responsibility to reduce this vulnerability.

Vulnerability is to be located both geographically, by socio-economic factors such as poverty, patriarchy, caste and ethnicity, by vocation, by age, disability and singleness. Stakeholdership positioning may be determined by degree of vulnerability/ closeness to the hazard, and degree of power in decision-making and resource control, strength of one's entitlements and links between the three. **Stakeholdership has relevance from the point of good governance, and to see how the most immediate and largest stakeholder who stands to lose his/her life has been empowered within existing policy framework of the government..** We may classify the community and its vulnerable populations as the victims. As victims, they constitute primary stakeholders. The competencies of the secondary stakeholders, i.e., the service providers and the resource providers, the priorities of their resource investment, the level of co-ordination and the standards of service and entitlements provided by them will determine to a large extent the opportunities for recovery for the various primary stakeholders. The service providers are constituted by the emergency managers, doctors, techno-specialists like engineers, the Army and Police, civil defence volunteers, community institutions and community volunteers. **Amongst the resource agencies we may look at the Govt. as the key stakeholder and Non-Govt agencies such as NGOs, INGOs, and Bi-laterals .** We look at the Govt. as a key stakeholder from the point of view of being the biggest spender with a contingency plan and financial policy for calamities and a machinery to implement relief activities.

**The arrangement of power, resources, decision-making and accountability between the victims, service providers and resource providers will have implications for governance and, in turn, on**



disaster mitigation. What are the capacities that are to be invested in the primary stakeholders to reduce their vulnerability to disasters ? What are the capacities invested in service providers and capacities of resource providers to ensure disaster mitigation? What are the empowering features of the Orissa Relief Code in this regard? What are the policy gaps which increase the vulnerability of primary stakeholders? How can it be reduced?

We look at the powers and vulnerability of the different stakeholders, starting with the victims.

## 1. VICTIMS: PRIMARY STAKEHOLDERS

**1.1 Community :** The word community has been used only twice in the ORC – under Para 5 where one of the objectives of the state is stated as increasing the morale of the community during disasters, and under Para 122 - 'Community preparedness programme and long term measures'.. Community has not been addressed as an equal stakeholder. The ORC addresses it as a passive beneficiary, not as a repository of knowledge, values, technologies, skills and coping mechanisms that need to be respected, enhanced or built upon for disaster preparedness. There is no indication as to who the community is.

Where does the word 'community' find mention in law ? For this we go to the provisions of the Panchayat (Extension to Scheduled Areas) Act, 1996, Act No. 40/1996 342:

Notwithstanding anything contained under Part IX of the Constitution, the Legislature of a state shall not make any law under that part which is inconsistent with any of the following features, namely :-

- (a) a state legislation on the Panchayats that may be made shall be in consonance with the customary law, social and religious practices and traditional management practices of **community** resources.
- (b) A **village** shall ordinarily consist of a **habitation** or a group of habitations or a hamlet or a group of hamlets comprising a **community** and managing its affair in accordance with traditions and customs
- (c) Every village shall have a **gram sabha** consisting of persons whose names are included in the electoral rolls for the Panchayat at the village level.
- (d) Every gram sabha shall be competent to safeguard and preserve the traditions and customs of the people, their cultural identity, **community resources** and the customary mode of dispute resolution.

How has the concept of community been understood in the Constitution ? CLAP has detected the constitutional reference in Part IX of the Constitution. According to Part IX, 'village' means a village specified by the Governor by Public Notification of a village for the purposes of this part and includes a group of villages so specified, vide section 243 (g). This constitutional change had its impact on what was meant to be a state subject under Item 5 of the State List - Local Self Government or village administration.

If we look at our Plan Documents, then we find three kinds of community-based organizations being promoted - the primary school, the gram panchayat under the appropriate panchayat law and thirdly, co-operative societies.

According to Neera Singh from Vasundhara, an organisation working on natural forest regeneration in Orissa with community involvement, 'community' to them can mean the hamlet, the gram sabha or the panchayat. It may even mean one or more groups of people or one or more villages, but they should be bound together by a **common consciousness and the sharing of a common resource base** to be identified as such.



Here it would be relevant to mention Art 29(1) of UNDHR which emphasizes on everyone's duties to the community in which alone the free and full development is possible. Because liberty is a social contract. If a person wants to enjoy his rights in the community he will have to respect the rights of others. The Fundamental Duties added to our Constitution with the 42<sup>nd</sup> Amendment also stress the same. But irrespective of all these laws, it is the community consciousness defined by its binding norms of ethics, morality and concern for the weaker sections/vulnerable, which will influence to a great extent the self-help and coping mechanisms to reduce vulnerability to disasters, apart from institutions and infrastructures. Studies in differential impact and recovery should co-relate the nature of coping mechanisms where community consciousness was high and vice versa; was exploitation more where sense of community is missing? Was relief distribution more effective where sense of community was stronger? **Level of community consciousness is related to vulnerability reduction and closing the 'protection gap' created by inequities in development and inequities in the relief, rehabilitation processes.**

Within these community institutions there are stakeholders existing as micro-communities. In the disaster-prone coastal Orissa context, they are the different categories of poor, disabled, aged, destitutes, the wage labourers, dalits, women, migrants, refugees, and orphans, vocational groups such as small and marginal farmers, non-farm based communities such as fisherfolk, weaver, artisans, animal rearers who may be located individually or at a hamlet level.

Before we go the Panchayat and Gram Sabha as Stakeholders we may address the poor as primary stakeholders.

**1.2 The Poor as Primary stakeholders :** The Sixth Five year Plan of India (1980 – 85) defined poverty line on the basis of norms of nutritional requirements, i.e., 2400 calories per person in rural areas and 2,100 calories per person for the urban areas. In monetary terms, the estimates were derived by using Rs 76/- per capita per month at 1979-80 prices in rural areas and Rs 88/- per capita per month for the urban areas. At 1984-85 prices the cut-off lines were revised to Rs 107/- for rural and Rs 122/- for urban areas. This cut off line is always being revised on the basis of the changes in prices. In case, due to lack of resources, a man or woman is unable to secure this food package, he/she is considered to be Below the Poverty Line (BPL). We need to look at the poverty ladder here in order to understand the different categories of the poor who are not a monolithic entity but are arranged at different steps of this poverty ladder:

- (a) **Destitutes** : Income per family is Rs. 3,200/- or less per annum. It is the lowest step of the ladder.
- (b) **Very, Very Poor** : Rs. 3,201/- to Rs. 6,000/- per annum for family. This is the lowest but next step.
- © **Very Poor**: Rs. 6001/- to Rs 8,000/- per annum for family. This is the next step from below.
- (b) **Poor** : Rs. 8,000/- to Rs. 11,000/- per annum per family. This is the next higher step in the poverty ladder.
- (c) **Non-Poor** : Rs. 11,001/- to Rs. 12,200/- per annum per family. At this threshold one reaches above the poverty line. While absolute poverty is defined by the minimum calorie intake recommended by ICMR, the relative poverty stage begins on reaching the non-poor stage. Between the non-poor stage and income-tax paying stage there is a long journey of relative poverty. Vulnerability is highest for the destitutes. The reduction of vulnerability would inevitably involve bringing the destitute, the poorest, to a non-poor status.

**(Source: Workshop Report, State Level Workshop on Entitlements of Rural Women in Orissa – March 19<sup>th</sup>-20<sup>th</sup>, 1996, Organised by Rural Entitlement And Legal Support Centre, Orissa)**

Most of these categories of poor are found to belong to the traditionally marginalized communities such as the scheduled castes and the scheduled tribes. Their villages are generally situated in inaccessible and vulnerable locations, with poor infrastructural facilities.



**BPL (Below Poverty Line) is not a criteria that finds mention in the ORC in any explicit sense. The different categories of poor, therefore, do not have strong stakeholdership position . This could be because APL & BPL are fairly new categories which were introduced by the Planning commission much after the formulation of the Relief Codes . However, there is a definite need for any State Govt. Disaster Policy to take these categories into account with a view to mitigating vulnerability to disasters. The lack of clear eligibility criteria in policy excludes vulnerable sections from entitlements and shrinks the entitlement basket for the vulnerable categories. This is a violation of Art 15(3) and Art15(4) of the Constitution which guarantee protective discrimination. Art 46 which has been interpreted to favour protective discrimination as it addresses the promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other 'weaker sections' is also violated.**

Art 46 of the Indian Constitution highlighted the promotion of education and livelihood interest of the weaker sections of the people that resulted in a continuous effort for poverty eradication. Art 38 (2) states that the State shall in particular, strive to eliminate inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst groups residing in different areas or engaged in different vocations. Furthermore, since a nutrition criteria has been used by the Planning Commission to define poverty, we can link poverty eradication to the entitlements of food, which is most valuable, along with supporting entitlements to income and livelihood, entitlement to the provision of facilities and opportunities for individuals in order to eliminate inequalities.

**In the Orissa Relief Code, the categories of the poor which find mention are the destitutes, landless, wage labourers, marginal and small farmers, fisherfolk, weavers and artisans.**

What are the entitlements of these poor categories of the Community in the Orissa Relief Code ? Are they enough to enhance the scope of entitlements necessary to reduce their vulnerability. For this we look at enabling laws. The possible options before them to reduce vulnerability and improve their resource control, decision-making, livelihood chances and social acceptance will be discussed in the case of some of these categories.

**1.2a Destitutes as Primary Stakeholders :** While in a pre-disaster situation, there are already destitute categories in existence, a calamity situation creates what Amartya Sen calls 'derived destitution'. The Code defines a destitute in para 201 as one who had an '*ostensible*' means of living as well as living accommodation before the occurrence of a natural calamity, but due to such calamity he has lost his living as well as his accommodation. Following which it entitles the destitute to housebuilding compensation/grants. This is a very faulty materialist criteria to define a 'destitute', contradicting government's own definitions of destitute and entitlements for them in laws like The Orissa Old Age Pension Rules, 1989, The Orissa Disability Pension Rules, 1985 and the. The use of the term '*ostensible means of living and accomodation*' provides a very limited entitlement and excludes persons who may not have land or pucca structure, and therefore, anti-poor.

The Orissa Old Age Pension Rules indicates that a destitute may be anyone (a)(i) of 65 years or above (ii) or a widow (irrespective of age) (iii) or a small farmer, marginal farmer or a landless agriculture labourer of 60 years of age or above.(b) his or her income does not exceed Rs 3,200/- per annum and is certified by BDO or Tahasildar.© is a permanent resident of India(d)has not been convicted of any crime or offence(e) if not in receipt of any other assistance from the state or Centre or any organization aided by the state.

**Widows as Destitutes :** Widows are one of the most vulnerable categories of destitutes. The ORC should ideally have a policy content to reduce vulnerability for them. While it makes them eligible for Gratuitous relief, given to those who are incapable of earning their livelihood and for children of a specified category; whom the State Govt. is supposed to feed as being handicapped they cannot do



physical work or have been incapacitated due to the impact of such a calamity or illness or otherwise and cannot earn their living. They are also eligible for Gratuitous Relief on Cards which is given for a longer period. However, **Widows**, if they are pensioners, are excluded from **Gratuitous Relief on Cards** under Para 170 even though their pension amount is only Rs 100/- . Although widows are eligible for death compensation, housebuilding assistance if their houses are damaged, there is no priority targeting to entitle them through protective discrimination, thereby increasing their vulnerability. While Para 160 of the Code entitles landless agricultural labourers, marginal and small farmers, exclusively, for employment works under **Food For Work**, there is no mention of widows, when there ought to be priority targeting.

In the case of the last Supercyclone where mass destitution was created, one group whose destitution was compounded in several ways was the group of widow-destitutes. Along with the creation of more poverty through loss of material assets, we also see complex other vulnerabilities entering the scene. For instance, the psychological trauma of loss of family, the increase in the sexual vulnerability, the lack of infrastructural arrangement for their safety, increase in livelihood vulnerability in the face of low survival life-skills, absence of livelihood skills, lack of inadequate legal and community protection against financial, sexual and other forms of exploitation.

**Lack of adequate policy provisions for emergent shelter, social security, community rehabilitation and special policy focus on the livelihood options of young and old widows created by disaster is again a violation of Art 15 (3) and 15(4) - right to protective discrimination. Art 39, guaranteeing Right to adequate means of livelihood and Art 41, Right to public assistance in situations of undeserved want are also violated. In many places, dehumanizing coping mechanisms have cropped up due to this policy unpreparedness which violates Art 23& Art 24 - Right against exploitation, which prohibits bonded labour, traffic in human beings and child labour. The ORC objectives to prevent destitution are also violated.**

There is need for a separate Rehabilitation Policy for Disaster Affected Victims. This policy must give special attention to the relief and rehabilitation of this category of destitutes. For example, Govt should declare these categories as below BPL families to enable them to acquire housebuilding grants, subsidised help. There should be specific monitoring committees to look into the adjustment requirements of those rehabilitated. While the local specificities may differ, the policy itself has to be broad, covering a wide range of social and economic entitlements and options. Vulnerability ranking and risk assessment and analysis of these different groups will give us an idea of their rehabilitation and development needs. In fact a Rehabilitation Policy ought to reflect the development objectives of the State.

**Aged as Destitutes :** Para 169 of the Code identifies some categories of destitutes as a target group for **Gratuitous Relief on Cards**. Idiots cripples, blind, aged and physically infirm, helpless widows, children below 12 years, persons attending the sick or infant children, able-bodied persons temporarily rendered weak, are eligible for it.. However, a principle of exclusion in the ORC inhibits the aged from being entitled. . Eligibility stands in so far as they are not recipients of old age pension, political pension or other social security benefits like food in a free kitchen. This is an inhibiting provision. According to Mr. Surath Chandra mallick, Addl. PD, DRDA, Jagatsingppur they give GR cards to people above 65 years of age, BPL, no-wage, unable to work, no land, no care-taker. But they cannot give both pension and GR card together to a destitute.

Add to this the statement at the end of the Old Age Pension Rules that all pension schemes are a matter of absolute discretion of the govt.- meaning that they can be withdrawn any time. There should be a resolution that during a disaster situation there be no chance of withdrawal of pension. Second, that pension amount be raised to a level where at least minimum needs are met. The other option is that pension scheme is put on hold till gratuitous relief period is over during which pension-holders or social security beneficiaries are



treated at par with others. While the Old Age Pension itself excludes those who are recipients of security benefits from government or government-aided organization, exceptions should be made in the case of extreme situations like calamities.

The right of the aged to community based rehabilitation and community care, protective discrimination in housebuilding assistance and provision of essential civic amenities like drinking water, sanitation and health have not been addressed in the Orissa Relief Code. For the uncared aged, who may have lost their children and relatives, this vulnerability is further aggravated.

**The Disabled as Destitutes:** The Orissa Disability Pension Rules 1985 states that a large number of disabled persons are utterly destitute. The double burden of physical deformity or defect and economic destitution which they bear makes them an especially disadvantaged category. The disadvantages can be substantially corrected by creation of opportunities for gainful employment and enlightened community concern for their well-being. The State Govt. accordingly, with a view to providing relief to those disabled persons who are utterly destitute and initiating a programme of social commitment towards this category of disadvantaged persons, to launch a modest scheme of granting disability pensions with effect from 2<sup>nd</sup> Oct 1984.

Under this Rule, the key eligibilities are being completely blind/ or orthopaedically handicapped and because of the disability or deformity is incapable of normal work, is of 5 years and above, is a destitute, is not in receipt of any financial help under any other scheme of the Central Govt. or State Govt.

Since many disabled are, in fact, considered destitutes legally, we can also look at **The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995**. This Act defines 'disability' as - (i) blindness, (ii) low vision (iii) leprosy-cured (iv) hearing impaired (v) locomotor disability (vi) mental retardation (vii) mental illness. 'Person with disability' means a person suffering from not less than 40% of any disability as certified by a medical authority.

Under this law the disabled person is entitled to aids and appliances, schemes for preferential allotment of land for certain purposes: (a) house (b) setting up of business (c) setting up of special recreation units (d) establishment of special schools (e) establishment of special research centers (f) establishment of factories. Importantly, 39 of Ch VI of the Act which is regarding Employment states that not less than 3% of vacancies will be reserved in the poverty alleviation programmes for the disabled. Ch VIII which addresses Non-Discrimination lays down a disabled person's entitlements to non-discrimination in transport, on the road, in the built environment and in govt. employment. This means that engineering of shelter, drinking water, health and educational provisions should be sensitive to disability. However, the Orissa Relief Code mentions no such provisions, when chances of escape, rescue, shelter and livelihood restoration are more limited for the disabled than for the able-bodied. Ch XIII on Social Security directs appropriate Govts. and local authorities to undertake Rehabilitation, addresses insurance schemes for employees with disabilities and Unemployment allowance.

Contradictorily, the only entitlement that ORC provides disabled people through clear eligibility norms is in the area of gratuitous relief. However, GR cards is not given to those who are beneficiaries of social security schemes. Their right to Food For Work is denied due to the 'able-bodied' criteria used in the ORC for entitlement to employment provisions under relief works.

Art 15(3) and Art 15(4) guaranteeing protective discrimination, are violated by not specifying special consideration to their availing of house building grants, other compensations, by ignoring their capacity-building through vocational skills and life-skills in the rehabilitation period, disability-sensitive planning of the environment which can reduce their vulnerability at the time of disaster. Nor is there any mention of giving



aids and appliances for disabled individuals during relief through individual kits. The employment generation programmes of the government do not maintain the 3% quota (at least) for disabled persons. The limited entitlements to the disabled in the ORC violate **The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995** and point to the deficiencies of the ORC..

The right of disabled children and children of the disabled have no entitlements when the trauma impact of a disaster is more on them than on others. Their opportunities for escape and safety, shelter, community rehabilitation, livelihood skills, psycho-social healing have not been addressed. **This violates the UN Convention on Rights for the child and The Persons with Disabilities Act, 1955.** This Act, in Ch V states that appropriate governments & local authorities are to provide children with disabilities with free education and vocational training and non-formal education. However, no punishment norms in case of violation of these entitlements have been laid down.

**A Rehabilitation Policy for Disaster Affected Victims should identify the numerous kinds of destitutes created based on such norms so that the nature of assistance and capacity-building for each group by different service providers may be clearly outlined.** While the local specificities may differ, the policy itself has to be broad, covering a wide range of social and economic entitlements and options.

These laws identify even the landless as destitutes, the aged, disabled and widows as destitutes, thus broadening eligibility criteria than what has been given in the ORC. However, mendicants and beggars are not eligible. It is strange that the govt. considers beggary to be a livelihood when common understanding would say that untreated destitution leads to beggary which is at the risk of debasement. Under Article 39(a) entitlements to such means of livelihood are to be discarded in the interest of the dignity of the individual, even though laws and schemes do not make it illegal and punishable. **We may widen the scope even further by including adolescent girls and orphans who have lost their families and been made destitute by a disaster.**

**1.2b Small & Marginal Farmers as Primary Stakeholders :** The small and marginal farmers are in a comparatively better stakeholdership position in the Code as compared to the non-farm communities. This is because the areas of loss and the eligibility criteria for credit and restoration assistance, are more explicitly laid out. However, their entitlement failures are more due to delivery mechanisms which we deal with under the section on food security. Policy gaps, however remain in the area of land reforms.

While the Orissa Debt Relief Act, 1986 provides scope for farm and non-farm communities to be completely exempted from the informal classes of debts, the ORC mentions no such facility in controlling non-institutional sources of funding or writing off such debts. This is an Act to provide for relief from indebtedness to the small farmers, rural artisans and agricultural labourers. In its statement of Object and Reasons, the Act states that as a final measure for liquidation of rural indebtedness it is now felt necessary to enact the Debt Relief Legislation to give relief to the weaker sections of the community by complete redemption of loans to small farmers, agricultural labourers and rural artisans to avoid squeezing of credit flow from non-institutional sources. (Farming under this Act includes both cultivation and animal farming and forestry on farm. A small farmer is one who owns less than 1 acre of land. Rural artisan should not be owning agricultural land, and whose means of livelihood should be production and repair of agriculture related tools and implements or who normally earns a livelihood through craft)

In a post-disaster situation, vulnerability increases through indebtedness. **This keeps the door open for exploitation and indebtedness which violates Art 23 the Right against Non-Exploitation.** However, it does mention that Taccavi loans which are liberal advances to small farmers and sometimes artisans with



land may be given under Agriculturists Loan Act, 1884. Remissions and tax relief in the form of suspension of collection of land revenue and loans are also provided for under Para 6 Sub-para (iv)(2).

**1.2c Scheduled Caste & Scheduled Tribes as Primary Stakeholders :** The only place where Scheduled Castes and Tribes have been mentioned explicitly in the Code are under Para 81 (4), i.e., Housebuilding Assistance, where they are given first priority. There is no special attention to their food security given at the time of preparedness or during emergent relief as the Code believes that all are levelled down to the same position after a disaster. Relief provisions and food aid provisions have no caste/tribe targeting, nor the preparation of community shelters. While housing schemes like IAY which are part of normal development assistance, activated in the disaster affected areas, have a 60% SC/ST targeting, these targeting norms do not find mention in the Orissa Relief Code in a manner that will influence service providers. There is no specific targeting for SC/ST in Food For Work which uses only an able-bodied criteria. Although it includes wage labourers, landless labourers and small farmers, it excludes SC/STeligibility, again violating Art 15(3), Art 15(4) and Art 46.

**1.2d Landless Wage Labourers, Artisans and Fisherfolk as Primary Stakeholders :** For landless wage labour, also considered under destitute category, the vulnerability is very high, because policy only talks of Food For Work and Grain for Work entitlements and house building assistance. According to the Code, wage labourers shall be paid 75% of their wages in wheat and 25% in cash per day per head. Para 157 addresses the Wage Structure of the labourers, stating that payment will be according to Minimum Wages Act in force. The Minimum Wages Act, 1948 fulfills in part at least the obligations of the state under the Directive Principles of State Policy.

According to the Orissa Minimum Wage Rules, 1954, wage labourers may be classified into 4 categories : Unskilled, Semi-skilled, Skilled, High-Skilled. There is a fifth category of clerical and supervisory functionaries. There is a wage difference of Rs 4/- between each of the first four categories. But the ORC treats all of them at par. There is no distinction between skilled and unskilled labour. As mentioned earlier, there are no provisions in the ORC for long-term transfer or upgradation of capacity through skill-building or provision of land or other assets like livestock are addressed in rehabilitation; upgrading unskilled labourers to semi-skilled or skilled labourers in the rehabilitation process. The vulnerability of this category of destitutes is high because of their dependance only on a wage earning, lack of other endowments and limited loss distribution measures provided in policy. For instance, there are no provisions in the ORC to implement the Land Ceiling and Land Reforms Act or the Debt Relief Act to provide relief to the landless wage labourers in a post- disaster situation.

Although the Code states that special relief will be provided for artisans whose skills may be affected by physical labour, these are not specified, making them dependant upon manual labour based FFW. The entitlements of fisherfolk without boats or nets have not been addressed. Policy thus excludes the poorer sections of the fisherfolk community. Although the scale of compensation for damaged boats and nets were upgraded by government circular after the Ganjam Cyclone, the delivery mechanisms have hampered recovery process. The livelihood restoration policy for them cannot be left to the policy formulation of the government at that time, as the Code suggests. It has to be clearly spelt out before a disaster situation.

**1.3 Women as Primary Stakeholders :** Vulnerability of women to disaster impact is more because they have fewer resources in their own right and under their control. **Cultural constraints of being 'insiders' also work against them.** Traditional anatomical and social restrictions like long hair, sarees, inhibit women's chances for escape as they reduce mobility. The dead bodies of many women victims, according to Mamata Patnaik from Orissa Disaster Mitigation Mission, were found tangled in their own sarees, with faces and throats choked. This is a crude revelation of how customary practices may block chances of survival. According to Dr. Madan Pradhan from Bharat Gyan Vigyan Samiti, working jointly with Action Aid



on rehabilitation in Jagatsingpur district, girls in disaster prone areas should be resocialised into physical activities like cycling. This will encourage their mobility and exposure. Any policy dealing with rescue should address the rescue & evacuation of women, whether disabled, aged or destitute, because of these cultural constraints. The community should draw out similar priorities in its plan for self-help. Mobilizing women into collective activities which entrusts them to move beyond their immediate geographical boundaries also extends capacities for survival and self-help. However, no such preparedness measures have been laid down in the ORC.

What is the gender centrality then in the prevention, relief and rehabilitation programmes outlined in the ORC? The ORC does not take into account the patriarchal social organisation in Orissa. From that point of view it is a male document as it ignores the entire range of gender differentials. **While identifying women as a vulnerable group, Orissa Relief Code restricts itself to the traditional reproductive and child bearing-rearing roles of women, focussing primarily on their health. This approach is limited to a Women In Development (WID) one.** Their reference is only under Gratuitous Relief and Supplementary Nutrition Programme as care-takers of infants or expectant and nursing mothers. **Women have been addressed in the chapters on Health Measure, Ch XI, para 210 on Mother & Child, para 184 under Supplementary Nutrition.** These entitlements will be elaborated in the chapter on Health Entitlements.; The gender sensitivity in gratuitous relief is limited only to expectant and nursing mothers only. There is no policy guideline within the Code which will aim at targetting other vulnerable sections of women such as widows, single and divorced women during gratuitous relief, Food for Work and other labour intensive relief works.

**Women, in fact, are not mentioned anywhere as entrepreneurs, skilled workers, farmers, claimants to compensations, loss-bearers, investors. This assumption in policy reflects the bias of policy-makers. It affects and limits the entitlements of women and has resulted in increasing their vulnerability to disasters by providing fewer opportunities for recovery. This is a violation of Art 16 the right to Non-Discrimination.**

But even within a WID approach the ORC provisions are inadequate. For example there are no provisions for emergency sanitation facilities for women in a post-disaster situation where everything earlier private becomes public. **While women's health, sanitation and reproductive rights remain, no doubt, a vulnerable area for protection, there is a need for policies to orient themselves around a Gender and Development approach.** Women's rights to bank loans and family benefits which may include inheritance and/or succession rights, pension, are secured under Art 14 of the Constitution, the Right to Equality. However, for women to have the necessary collateral, existing policies and laws should be implemented properly and community should be sensitized. Along with Art 14, Art 41 which provides for social security in situations of undeserved want have not been fully achieved by the provisions in Orissa Relief Code. **To fulfill the objectives of Art 15(3) and Art 15(4), policies on socio-economic assistance during normal period preparedness, relief, and rehabilitation should be clearly specified so that they are not excluded from employment, material assistance like housebuilding, Record of Right over land, social security, credit and income-generation provisions. Issues of legal, physical, sexual and material protection in the case of women must be properly identified and addressed. This will improve women's stakeholdership in recovery process.** In Andhra, even after 20 years of the 1977 cyclone, many older women find themselves without shelter because of lack of rehabilitation policies that were inclusive of the shelter needs of young and old women survivors.

Under the Government's Five Year Plans, 40% of total assistance in certain govt. schemes like IRDP and TRYSEM and other programmes is set aside for women from which they should not be excluded. There are specific income-generation programmes for them such as DWCRA. Right of women to vote and contest elections is guaranteed under the Representation of Peoples Act, 1951. According to constitutional provisions Art 243 D, not less than 1/3 (including the number of seats reserved for women belonging to the



SC& ST) of the total no. of seats to be filled by direct election in every Panchayat/s shall be reserved for women.

Policy provisions for participation of women victims in damage assessment or relief distribution so as to ensure effective entitlement are absent. The existing system of relief as outlined by the ORC thus decreases women's influence/command over food distribution. There must be scope for disaster victims to participate in the creation of their own well being which will improve their stakeholder ship. The Women as service providers in relief and rehabilitation should be seriously addressed in policy so that women's specific needs in relief distribution, psycho-social healing, health, sanitation, housing, employment and income generation, social rehabilitation aspects may not be overlooked. This should be a key component of vulnerability reduction. A Disaster Mitigation Policy must pay attention to certain standards of gender balance in Relief & Rehabilitation Planning and Logistics, Damage Assessment, Relief Distribution, Core Technical areas of Health and Engineering. A Disaster Mitigation Policy should make it mandatory to insist upon all Emergency & Relief Service providers (GO, NGOs and others ) to have a women's team to reach out specifically to women; and ensure the gender sensitization of male service providers.

The different categories of vulnerable women like single women, divorcees, widows must have their social and economic entitlements clearly spelt out in policy during normal period preparedness, emergency response, relief, restoration and rehabilitation. Rehabilitation should be guided by the concept of Total Rehabilitation – community based rehabilitation, provision of land, family, dignity, psycho-social healing, civic amenities, skills, employment, right to legal assistance, credit and co-operative activities.

**1.4 Children and Special Children like Orphans and Disabled :** Entitlements of children are covered under Supplementary Nutrition Programme to be run from the Mother & Child Care Centres to be started in each village or group of villages affected by scarcity and distress, according to Para 210. These centers are to provide the minimum health & nutrition needs of pregnant women, pre-school children and nursing mothers –nutritionally the most vulnerable section of the community. Providing the minimum level of nutrition for each of these categories in each of the affected areas, immunization requirements, clean drinking water and environmental hygiene falls within the responsibilities of these centers. The section on Feeding Programme as a form of Gratuitous Relief under Para 184 states that the Women & Child Development Dept. is responsible for supplementing the regular ongoing feeding programme for school going children, non-school going children, expectant and nursing mothers.

The educational entitlements of children are very scantily addressed under Para 38 in the ORC - the Relief to students and educational institutions. Govt. may consider the grant of any of the following as relief to the students in affected villages. (i) Grant of full freeship (ii) Distribution of text books free of cost to primary school children (iii) remission of tuition fees and examination fees. This provision also states that the question of payment of full deficit to aided institutions may also be considered.

However, provisions for special children like orphans and disabled who have to face greater survival risks, are either inadequate, incomplete or non-existent. The ORC has no special provisions for the safety, food security or specific relief needs, like aids and appliances, of disabled children, or for their psycho-social healing process, or long term shelter. This violates Art 15(3) and 15(4) of the Constitution as well as The Persons With Disabilities Act.. The rights of children are protected under Art 39(e) and Art 39(f) of the Constitution.

The lack of a definition of orphans in the ORC creates a problem in entitlement. The Juvenile Justice Act , however, defines a child with single parent also as an orphan. While the UN Convention on



Rights of the Child also guarantees the child special measures of protection and welfare without any discrimination of parentage or other reasons, the ORC does not provide direction for long-term legal guardianship of orphans. Para 195 mentions the responsibility of the Collector over the orphans in the emergent stage till either parents/relatives are traced, or respectable people to adopt and support them are located. In the absence of either, the child may be sent to orphanages. The ORC fails to identify the Community as the ideal place for long term rehabilitation of orphans. Long-term rehabilitation through legal guardianship guided by the Guardian of Wards Act 1890 should be made part of policy provision for their rehabilitation. This Act details the guardianship rules for orphans and minors, upto the age of 18 years, gives authority to the District Collector to determine the most appropriate guardian keeping in mind his economic capability, character, social relationship, trust and confidence; it details the responsibilities of the guardian in the maintenance of the child. Identification of the guardian should be from within the community to reduce the vulnerability of the orphan and to ensure monitoring by community institutions.

The ORC does not specify the manner in which material and legal entitlements of the orphan can be protected. This has increased the vulnerability of the orphans. Lock-in deposits with joint account holding by the legal guardian and the Collector of the district has been suggested by people working on children rights. There are no provisions to prevent child labour that may emerge out of distress of uncared children. School Rebuilding should be given priority to reduce the vulnerability of children.

While the extended family is a rehabilitation option for the orphan, the element of exploitation cannot be ruled out because of the financial attractiveness of the orphan who has become a beneficiary to one or more death compensations. Thus, institutional mechanisms within the community have to be prepared or set up to look to these needs, monitor the rehabilitation whether they are treated as real family members or exploited as cheap labour.

Other policy problems are presented by The Hindu Adoptions and Maintenance Act, 1956 which confines adoption to religious boundaries. Furthermore, there is no law to address the guardianship or adoption of refugee children. A reluctance has also been observed in the community to take on their guardianship, as has been pointed out by Madan Pradhan of BGVS. Options for orphans, for both children without parents and children with single-parents, orphans with and without siblings are not carved out – options for family rebuilding and foster families, education, health care, food security, housing, psycho-social health care are absent. Options of adoption are not carved out. Options for adult orphans are missing such as land, skill/vocational training for long-term rehabilitation, options for adolescent girl-orphans for physical security, education, - transferring assets, life and livelihood skills, knowledge are also missing. The Code dismissively says that adult orphans may be 'disposed off' for relief work. Livelihood options for foster parents such as through vocational training, provision of livelihood implements. A clear cut Rehabilitation Policy highlighting the numerous options for the different categories of orphans will improve their stakeholder ship and reduce their vulnerability.

Psycho-Social healing processes must be initiated in the community as part of recovery and rehabilitation of orphans is a much needed non-materialist aspect to mitigating the impact of disaster and reducing vulnerability which has not been addressed at all.

**1.4 Refugees and Migrants as Primary Stakeholders** : The 1967 UN Protocol defines a refugee as someone "who is outside his or her former house owing to a well-founded fear of persecution, because of reasons of race, religion, nationality, membership in a particular social group or political opinion." Refugees from Bangladesh are to be found on the coastline of the state as well as migrants from West Bengal.



Many of them who have settled on government land or forest land are branded as encroachers. **The Orissa Relief Code under Para 81(5) entitles them**, saying that housebuilding grant shall **not** be denied to encroacher on Govt. land whose houses have sustained damage in accordance with the scale of assistance prescribed in sub para (1); but as far as possible they may be asked to shift to unobjectionable sites, if such sites are available. However, a large number of such people, sometimes entire villages have been deprived of this assistance because they are inhabiting forest land with no Record of Right. This has also been held against their right to death compensation in many cases. Again, there is no specific targeting of refugees and migrants in the FFW which is essential for the achievement of Art 15(3), Art 15(4) and Art 46 and international human rights.

In the absence of a Refugee Law we look at the **Illegal Migrants (Determination by Tribunals) Act, 1983**. This Act in its statement of Objects & Reasons states that the influx of foreigners who illegally migrated into India across the borders of the sensitive eastern and north eastern regions of the country poses a threat to the integrity and security and of the said regions. A substantial number of such foreigners who migrated into India after the 25<sup>th</sup> of March 1971, have, by taking advantage of the circumstances of such migration and their ethnic similarities and other connections with the people of India, illegally remained in India without having in their possession lawful authority so to do. This is an Act to provide for the establishment of Tribunals for the determination in a fair manner of the question whether a person is an illegal migrant to enable the Central Govt. to expel illegal migrants from India and for matters connected therewith or incidental thereto.

This Act, as can be seen, is extremely anti-refugee. As a counter we look at the **UN Convention on Status of Refugees, 1951 to scope the entitlements of refugees**. The Convention is based on two principles : (i) non-discrimination as far as possible between nationals and refugees; and (ii) no discrimination based on race, religion or country or origin amongst refugees. **The State Parties, signatories to the Convention, have undertaken to accord the same treatment as is given their own nationals in respect of freedom of religion, access to courts, elementary education and public relief.** The Convention provides for favourable treatment to refugees with respect to wage earning, employment and the right of association. According to this Convention, restrictions for refugees apply only till their status is regularized. The 1951 UN Convention states that no signatory country shall expel or return refugees to territories or borders where their lives or freedom may be threatened.

The question here is after almost thirty years of inhabitation on the coastline of Orissa, since 1971, to what extent has their status been regularized? Although they are on the voters list, they are not on the census in most places. Many of them hold BPL Ration Cards which entitles them to the Public Distribution System. But they do not have land rights. Presently, they are residing in forest land as encroachers and carrying on rice-farming, betelvine cultivation, prawn culture and cashew plantation. **The Coastal Zone Regulatory Act, 1991** if implemented, may displace them from the coast. As per the Orissa Forest Act, 1972 user rights are enjoyed in the case of shifting cultivation. Possibilities for migrants and refugees to have similar usufruct rights may be explored. While flood plain zoning is crucial, the rehabilitation policy for such populations may address their right to sustainable joint forest management in the mangrove belt, habitation rights in the non-risk period, and settlement rights in other identified locations in the risk-period.

## **2. SERVICE PROVIDERS**

**2.1 Panchayati Raj institutions:** The 73<sup>rd</sup> & 74<sup>th</sup> Amendments to the Constitution have expressed the need for Decentralization. Under these Amendments, the Local Self-Governing Institutions in Rural and Urban areas were empowered to plan and implement activities in their areas for development. The Local Self Government institutions are elected representatives of the community, and are both victims and service providers. Their elected status puts on them certain responsibilities which have to be



commensurated with real powers of administration, financial resources, information and knowledge, and expertise/training in disaster management and mitigation. However, they can play a significant role in reducing the vulnerability of the community to disasters only if they are suitably capacitated.

**Going by the principle of involving the Risk-Bearer in the making of the disaster mitigation plan and its implementation, what are the specific roles and responsibilities entrusted to the Panchayati Raj in the rural context? Are they real powers?** At a point where one is talking about capacity building to reduce vulnerability, how seriously have these institutions been taken in the whole mechanism for disaster mitigation, emergency response and rehabilitation in the Orissa Relief Code? How do these powers reflect the implementation of the Orissa Gram Panchayat Act, 1965, and thereby, the system of governance?

According to the Act, the State Govt may constitute any village or group of contiguous villages as a grama. The Grama is mainly the revenue village. For every Grama there shall be a Gram Sasan, herein referred to as Gram Sabha. It shall be composed of all persons registered by virtue of the Representation of the People Act, 1950. For every village within a grama, there shall be constituted by the State Govt., Palli Sabha. Each GP and Palli Sabha comprises of all persons registered by virtue of the Representation of People's Act, 1950. Panchayat membership should represent adequately women and SC/ST population. According to the Orissa Gram Panchayat Act, 1965, SC and ST representation should be proportional to their population in the area. Women's representation should not be less than 1/3 of total seats reserved, with reservation for SC/ST women. The Gram Panchayat is to be the Executive authority of the Grama Sasan. Under the Protection of Human Rights Act, 1955, discrimination on the grounds of caste is prohibited.

According to the ORC, the Panchayat Samitis & Grama Panchayats are to be associated in organisation of relief measures in the Blocks. Under para 171, relief centres are to be located for the purpose of distribution of gratuitous relief at the HQ of the GP. The Officer-in-Charge of the Relief Circles should see that the people's representatives are properly associated with all relief measures.

Para 170 outlines the role of the Gram Panchayats in Preparation of a List of Deserving Persons eligible for gratuitous relief. However, this list is finalized by the BDO. They are also to assist in damage assessment. However, damage assessment has been monopolized by the Tahildar and RI. To ensure a corruption-free process, the damage assessment lists prepared by RI and Sarpanch should be put in each other's office. This will create the much-needed room for transparency. Even if there is corruption at both levels, the difference is that the RI is not accountable to the people while the Sarpanch is an elected head and stands the risk of losing the favour of the people for the next 5 years. A still better thing would be if there were provisions for the RI to declare his list in Gram Sabha meetings.

According to All Orissa Zilla Parishad Chairman, Rudra Madhav Ray, it is not enough to have a District Level Natural Calamity committee where MLAs, or Zilla Parishad Chairmen may represent. Recently, the trend of also inviting ZP members to this committee has begun. But this is not the remedy for real grassroot involvement and implementation of the 73<sup>rd</sup> & 74<sup>th</sup> Amendment. This is not proper representation as Gram Panchayats are not represented in this. Only MLAs & MPs are being placated in this process.

The main problem is that the State Govt. has not stressed on micro level grass root planning based on 73<sup>rd</sup> & 74<sup>th</sup> Amendment. The resource allocation should not be from top but based on planning at the bottom. In the absence of this planning, MPs use their discretion in the spending of their MP funds and at Block level arbitrary decisions are taken. **Till now, the Govt. has not taken seriously 243 ZD of the 74<sup>th</sup> Amendment which talks of the constitution of a District Planning Committee which will prepare a district plan with its own thrust areas specified by the panchayats and municipalities. The State is supposed to**



consider all the district plans and prepare a State plan to be put up before the Planning Commission. But so far this has not happened. This sidelining is similarly visible in the Orissa Relief Code.

So far the 29 subjects under Schedule 11 of the Constitution of India, that were meant to be transferred to Panchayats have not yet been done. Different departments carry on their activities in the villages independently of the Panchayats. This is corroborated by the defacto Sarpanch of Ersama Panchayat Ersama block, Jagatsingpur district. PDS, health and water restoration programmes, which are items under 243 G are going on independently of the panchayat. The Rural Water Supply & Sanitation Programme is providing water to Ersama GP, Japa, Kusanpur and Pallikanta although improving sanitation is another item in the list of 29 subjects. Earlier, IRDP and Swarna Jayanti Gram Swaraj Yojana Programme were decided by the GPs. Atleast demand Food For Work should be handed over to Panchayat committees for implementation, according to him. Presently it is being handled by non-elected bodies created by NGOS in the area. According to him, the panchayats in Orissa are being squeezed out as compared to the PR institutions in Andhra and Karnataka.

Another example of the Govt. sidelining these institutions was the removal of Sarpanchs from the alternative committee formed at Block level in Jagatsingpur district to finalise a substitute to the VRW to implement the Food For Work. MLAs, BDOs, MPs, and Sarpanchs of the concerned villages were the members in these committees. But the MLA was all in all. There were also party differences after a fresh election. Subsequently, the Sarpanchs were removed from this committee by GOO circular.

**Till now, the Govt. has not taken seriously 243 ZD of the 74<sup>th</sup> Amendment** which talks of the constitution of a District Planning Committee which will prepare a district plan with its own thrust areas specified by the panchayats and municipalities. The State is supposed to consider all the district plans and prepare a State plan to be put up before the Planning Commission. But so far this has not happened. This sidelining is similarly visible in the Orissa Relief Code.

Palli Sabha and Gram Sabha are empowered by the 74<sup>th</sup> Amendment to legislate only in their own areas. But even this is not possible in most places as Palli Sabhas do not exist and Grama Sabhas do not function. One would like to advocate here for the strengthening of the Palli Sabha as a means for disaster mitigation. It should be encouraged to have a disaster plan in the annual budget which it submits to the Gram Sabha every year. **Section 6(6) of the Orissa Gram Panchayat Act, 1965 lays down that it shall be the duty of the Palli Sabha at its annual meeting in February, to give its recommendation to the GP in respect of the following matters in so far as such matters relate to the Palli Sabha areas : (a) the development works and programmes that may be taken up during the ensuing year (b) annual budget estimate submitted by the Gram Panchayat.** Thus disaster mitigation and preparedness measures may be planned for. Palli Sabha can prioritise what resources it has and what it requires from GO & NGO service providers, which of the investments are crucial and which it can forego. The Gram Panchayat can prepare a budget based on the recommendations of the Palli Sabhas put together. That would be empowerment. But Palli sabha and gram sabha have to given real capacities to prepare budgets and allocate resources.

**Does the palli sabha have any powers when money comes from government or outside ? Section 44, Orissa Gram Panchayats Act, 1965 states the Obligatory Functions as such:** Subject to provisions of the Act and the rules made there under, it shall be the duty of a GP within the limits of its funds to undertake, control and administer and be responsible for the following matters in respect of the Gram Panchayat. **Thus, Obligatory functions are those which the GP may or may not carry out. Some of the items mentioned under the obligatory functions are :** the protection, maintenance and development of all properties vested in or entrusted to the management of the Grama Panchayat; establishment, management and maintenance of common grazing grounds and lands for common benefit of the people of



the Grama; the implementation of schemes for economic development and social justice in relation to agriculture, including agricultural extensions; rural housing; poverty alleviation; women and child welfare; social welfare including welfare of the handicapped and mentally retarded; Public Distribution System; maintenance of community assets.

**Section 45 Orissa Gram Panchayat Act addresses the Discretionary Functions of the GP.** Discretionary functions means that the GPs will do what the Government directs. They are not so free to act, reducing them to the level of Government agents. They do not really represent self-governing institutions. Instead, in most cases, they have become like contractors and do what they are asked to. So, for any initiative, the question is whether government has permitted it? Will it give resources? If not, where will funds come from? These limitations show that provisions in the Act are inadequate for full empowerment of the GPs. While representing the community they need to be accountable to it.

Just as we need to take into account the weaknesses in the Panchayati Raj Acts that prevent real empowerment, we also need to address the socio-political underpinnings of their functioning.

**According to Saroj Jha, UN House II, relief administration cannot be left entirely to Panchayati Raj institutions as they distort the relief process with political pressure and a vote bank approach. They, however, do a good job when entrusted with local level distribution. NGOs need to accept the Panchayats as a legal entity and take Sarpanchs into confidence to avoid duplication.**

However, the Block is the unit of the relief administration according to the Code. Relief administration needs to move to the GP and where the GP is too big, to hamlet points. Control Rooms for issuing warnings to vulnerable villages can be housed at all GP HQ like in Bangladesh. According to Mr. Jagadanand, Centre for Youth and Social Development, Panchayati Raj officials should be trained in meteorological aspects and technological standards of disaster management. **The GPs can be the institution below the block to handle relief and rehabilitation, but the powers of the Sarpanch need to be clearly defined.**

**In the absence of undefined powers and standards, accountability is impossible.** While they represent the community they need to be made accountable to it. **Strengthening the palli sabha to monitor spendings as well as identification of the most vulnerable victims is crucial.** The panchayats which were responsible for building of houses under Indira Awaas Yojana after the super Cyclone converted the beneficiary selection process into a lottery system that marginalized the BPL categories for whom assistance was meant.

Thus, greater powers to the panchayat institutions in preparedness, relief and rehabilitation, needs to be complemented with their sensitization. **Local Self Government institutions definitely need to be made more sensitive to equity issues in relief distribution and rehabilitation, to gender concerns and concern for those listed in the BPL.**

**Decentralization of powers not merely to the GP but to the Palli Sabha and Gram Sabha ought to take place. The Govt. needs to place funds with the institutions or capacitate them to raise funds.**

A Disaster Mitigation Policy needs to frame out very clear responsibilities of the Gram Sabha and Palli Sabha. Their training needs ought to be identified and they may be trained in core areas of values, competencies, and cultural standards, legal provisions so that they may fulfill their role as accountable service providers. Dalits and women should be represented as per law in these bodies.

**Both Government & NGOS need to take the local role of the PRIs seriously instead of bypassing them. The knowledge of gram sabhas and palli sabhas must be recognized in policy. Their**



familiarity with the hazards which is part of the knowledge systems of villages should permit them to declare their own areas as flood and cyclone prone.

**The Ministry of Local Government, Rural Development & Co-operatives has its responsibilities well carved out for disaster management** as per the Standing Orders of the Ministry of Disaster Management & Relief and Disaster Management Bureau. Along with its Normal Action Plans the Local Govt. Division will perform the following key functions in five different time periods :

**During normalcy**, the local govt. agencies will be encouraged to build roads, bridges and culverts to cyclone shelters and also the construction of fortified earthen mounds and heli-pads in off-shore islands, prepare for evacuation, ensure storage of rescue materials, emergency supplies by relief authority and other agencies at Thana level, organise necessary public health engineering units at all levels, prepare maps showing population concentration and deep wells, protected pond and other sources of drinking water and ensure reserve stock of tube wells and spare parts. **During disaster**, ensure availability of drinking water at times of need, keep in touch with local administration on whole time basis, send technicians from unaffected areas to affected areas.

**During rehabilitation**, the role of the LG Division is to quantify the loss/damage, assist rescue and relief operations at all levels, organise reconstruction of damaged houses on self-help basis with local assets and materials received from the govt., arrange repair and reconstruction works. **The Local Govt. Division also has an Engineering Dept. which has specific responsibilities of repair & reconstruction** of cyclone shelters, health centres, educational centres, communication systems, and also advising for the raising of the banks of ponds above flood level and tidal bore where cattle can take shelter and people can get drinking water along with ensuring mechanisms for the free flow of flood and discharge of water. (Standing Orders on Disaster. Ministry of Disaster Management & Relief, Disaster Management Bureau. Bangladesh August 1999)

Thus, carving out clear responsibilities and giving capacities to the Local Self Government institutions can go a long way in ensuring self-help mechanisms. Response time and human and livestock casualties can be reduced through PRIs, thus reducing vulnerability and improving stakeholdership of the community.

**2.2 Other Service Providers as Secondary Stakeholders:** Technical Specialists like Engineers and Doctors, Emergency Managers, Army and Air Force personnel, Police, Civil Defence and Community Volunteers have a key role in reducing risk to disaster-vulnerable populations. But they have not been addressed adequately in the Code. What technical and medical guidelines or standards they should follow are absent, except for instructions to government engineers under the Orissa Irrigation Act to repair embankments and to the CDMO and other health officials of the Health Dept. and Women & Child Development Dept. to activate the supplementary nutrition programme. But standards in keeping with the norms of participation, dignity and culture of the primary stakeholders are absent, so also the norms of flood and cyclone proof building standards.

**2.2a Army & Other Defence Personnel :** The Code mentions that Gopabandhu Academy of Administration, shall provide training in Flood Relief Work to the Homeguards, Fire Service personnel and Class III & IV employees. This is decided by the SRC in consultation with police authorities and Gopabandhu Academy. Under Para 61 and 67(3) of the Code the Revenue Department is supposed to send a report to the Home Department to seek Army assistance. Para 61(ii) the Code states that the State shall make advance arrangements for Army assistance. Army assistance is to be sought under Para 67(3) if rescue parties are insufficient. The army is to assist in the rescue operations by supplying army boats, equipments and crew for manning the boats, airdropping of food packets in the marooned boats, supplying of helicopters, planes for reconnaissance flights in the flood affected areas. The Code also assures protection to service providers from the Army.



There is no doubt about the efficiency and the infrastructural capacities of the Army during Emergency operations. Preparations to bring the Army over are to be done as soon as Alert signals are received from the Meteorological Department. But Army and State Police should be stationed in the high risk areas **before** a disaster so that they may be of help during rescue and evacuation before the disaster hits. **Secondly, the State Government should train its police personnel better in emergency operations so that the dependance on the Armed Forces is reduced and response time is reduced. The State Govt. should capacitate the Orissa Special Armed Police Forces for better performance in rescue and relief operations, maintaining law and order, preventing hoarding of essential items, in post-disaster situation. There is need for dry runs to check preparedness and also a need to sensitize the Police to the needs of more vulnerable people like destitutes, women, children, aged and disabled.**

**2.2b. Core of Volunteers :** There are no guidelines set in the Code for volunteer training from within the community nor any for outside volunteers to follow.

Here it would be pertinent to mention the extensive role played by Volunteers in Bangladesh. The Bangladesh Red Crescent Society has over 20,000 village based volunteers, all located in coastal areas. The Cyclone Preparedness Programme of BRCS transmits danger warnings to these volunteers received from the meteorological dept. through its network of district and sub-district control offices. The volunteers, in turn, alert people through megaphones and house-to-house contact, and encourage them to head for nearby shelters (if available) or safer places. (**Coping with Disasters : From Diarrhea to Cyclones, Fazle H. Abed. A Framework For Survival . Ed. by Kevin M. Cahill, M.D. 1993**)

The objective of pointing out the Bangladesh experience was to emphasize the need for the creation of a new set of service providers, to emphasize that primary stakeholders can no longer be made to wait for government assistance. While Government definitely needs to abide by humanitarian standards of disaster mitigation, a cadre of service providers should emerge from the community who will be trained with values, skills and resources. Indian Red Cross is already training the youth, according to Hrushikesh Harichandan to rescue and evacuate. The role of NGOs is very high in this field to increase capacity for self-help and thereby, reduce vulnerability.

**2.2c Private Sector :** The Code has not addressed the role of the Private Sector. The role of private companies as service providers should be explored in the areas of free or subsidized transport, subsidized and free housing, relief materials like polythene, free health care as part of emergency response, insurance. Their role should be built into the disaster mitigation policy in clear terms so that their intervention and monitoring is streamlined. There is a need to identify and collaborate with such companies as part of a Disaster Mitigation agenda. The Private Sector should be guided by Humanitarian Standards of Assistance developed which may be evolved by both NGOs and the Government.

**2.2d. Community Based Organisations :** The roles of Community Based Organisations have not been addressed in the Code, nor the capacities that should be placed with them for effective disaster response. The first response in a disaster situation actually is from the CBOs like Youth Clubs, village committees, self-help groups. The creation of community groups to take charge of preparedness measures, relief, rehabilitation and reconstruction and their capacity building need to be addressed for vulnerability-reduction.

**2.2e. Public Support :** The role of public support is not adequately recognized in the Code. As there is no framework to guide spontaneous public response there is every chance of duplication, wastage. Govt. will tend to see it as obstruction rather than help. Attitude towards people is that they are onlookers and the Govt. is the actor. A legitimate space for public action needs to be created through policy inclusion. The



building up of a conscious and responsive public will aid in sharing responsibilities of disaster mitigation with the government to reduce community's vulnerability.

### **3. RESOURCE AGENCIES**

#### **3.1 The Government as Primary Resource Agency:**

Government should be seen as the key delivery institution. Only Govts., through bilateral or multilateral efforts, have the capacity to offer the vast and costly supplies needed to cope with major disasters. No amount of personal goodwill can substitute for the hundreds of thousands of tons of surplus food, or the airplanes or helicopters, or the security forces that may be required to effectively relieve hunger among the displaced starving in a disaster situation. **The government is the main response organisation as it has maximum resources at its disposal.** Furthermore, it has a machinery to implement normal period mitigation-preparedness programmes, can mobilize police and armed forces and governance systems at the state, district, block and grass-root level. Moreover it is bound by the norms of a welfare state to set up delivery mechanisms to eradicate poverty, to mitigate distress and vulnerability of the people.

Thus where its resources, machinery, decision-making, policy-making and implementing positions are concerned, it is the strongest secondary stakeholder. **Government's abilities to reduce vulnerabilities depends on its governance framework of decision making and financial investments in disaster mitigation so as to secure fundamental right to life under Art 21 and right to public assistance in situations of undeserved want guaranteed under Art 41 of the Directive Principles of State Policy.** It must also make investments in co-ordination of the activities of other resource agencies and service providers for this purpose.

**The Orissa Relief Code lays down the governance arrangement as such :**

**At the Centre, it is the Dept. of Agriculture which co-ordinates the Relief programmes of states and at the state level it is the Revenue Dept. which operates relief measures during calamity. The Special Relief Commissioner, Board of Revenue is in over-all charge of co-ordination of relief works in the state. The Board of Revenue submits periodical reports to the State level Committee on Natural Calamity headed by the Chief Minister (Chief Secretary is ex-officio Chairman).**

**The State Level Committee** advises the Govt. regarding precautionary measures to be taken in respect of flood, drought and other natural calamities, assesses the situation arising out of such calamities, recommends to Govt. the nature and quantum of relief, recommends to govt. the policy to be adopted in giving such relief in areas affected by such calamities. MLAs and MPs are members of this committee. The Revenue Divisional Commissioners also advice the state. **At the State level the Departments responsible for implementation of the relief programmes are Revenue & Excise Dept, Agriculture & Co-operation Department., Water Resources Dept., Forest & Environment Dept. & Fishery & Animal Welfare Dept., Health & Family Welfare, Women & Child Development & Panchayati Raj Dept, Food & Consumer Welfare Dept., Housing & Urban Development, Works Dept., Harijans & Tribal Welfare Dept.**

**At the district level the Collector is responsible for decision-making, selection, sanction and implementation.** He takes decisions & plans along with **District Committee on Natural Calamity.** MLAs & MPs of the district and the Zilla Parishad Chairmen are members of this committee. At the district level, the Collector may co-ordinate with non-official organisations for relief.

**The Block Development Officer operationalises the programmes with the help and co-ordination with the Tahasil and Gram Panchayat offices. The Block is the unit of relief organisation.**



**A look at the Bangladesh governance arrangement for Disaster Management reveals that :**

(i) Bangladesh has a separate **Ministry for Disaster Management & Relief and a Disaster Management Bureau** who have developed the **Standing Orders** that will be the duties & responsibilities for all Ministries, Departments and Agencies. The Ministry of DMR is the focal point of the Govt. for disaster-related issues. The National Disaster Management Council (NDMC) and **National Disaster Management Co-ordination Committee** will ensure co-ordination of disaster-related activities at the National level. The **Bangladesh Red Crescent Society** is also represented in the Co-ordination Committee.

(ii) Co-ordination at district, Thana and Union levels will be done by the respective **District, Thana and Union Disaster Management Committees**. The Disaster Management Bureau will render all assistance to them. All Ministries/Depts/Agencies must develop their own Action Plans & must organise proper training of their staff & officers. There is also an Inter-Ministerial Disaster Management Committee and a National Disaster Advisory Committee. **The Standing Orders shall be followed during Normal times, Precautionary/Alert stage, Disaster Stage, Relief Stage & Rehabilitation stage.**

(iii) The Council is responsible for Policy-making & laws relating to preparedness, co-ordinating the activities among civil administration, NGOs, Defence Forces in the planning process of disaster management.

The comparison shows the inadequacy of effective command systems for these levels of decision-making structures in Orissa. **Standing Orders for each of the committees should be developed for the various time periods to improve preparations, reduce risks and response time to disaster as well as post-disaster restoration.** The capacities of these committees need to be strengthened with the conscious inclusion of trained NGOs and training in core area of values, competencies, standards of delivery. Vulnerability Reduction of the Community can thus be achieved.

Because of the largely bureaucratic system of decision-making, other stakeholders who can play significant roles, especially during rehabilitation, have been sidelined – such as the NGOs and Local Self Government institutions and CBOs. There is thus a need felt for an alternative arrangement where these institutions are better represented in the system of decision-making. **The inadequacies of the existing system and levels of decision-making related to disaster mitigation in Orissa, has brought into creation the Orissa State Disaster Mitigation Authority (OSDMA) in the aftermath of the cyclone.** OSDMA was created out of efforts of the UN, World Bank and the State Govt. to streamline bilateral funding, co-ordination with NGOs. The role of OSDMA is restoration and reconstruction for disaster mitigation. This body is headed by the Special Relief Commissioner and houses a NGO co-ordination cell. It is facilitating, along with the UN, the State Level Co-ordination Committee formed by NGOs. **This Committee sits every week in UN House. OSDMA plays a facilitator role, giving a platform to all NGOs, listens to grievances/complaints from the field and acts upon the same.**

According to Siddhant Das, Executive Director of OSDMA, Bilateral agencies wanted a separate authority to be created to handle all the funds coming for restoration. Generally funds from bilateral sources are placed with the state govt. But World Bank wanted a change in rule in the loan that it was giving. Therefore, creation of a separate body like OSDMA was considered under Societies Registration Act. 30% of WB assistance is grant while 70% is loan, with 1% interest. For Reconstruction project WB's contribution is 90% and State Govt.'s is 10%. WB wanted this deviation in norms to ensure that funds are immediately available for reconstruction (and not diverted by state government which is under great debt pressure and financial deficit). WB has three conditions : (i) Creation of Operations manual – different system of procurement, accounts, spelling out administrative and a/c procedures, relation between OSDMA and line depts., the specific authority of OSDMA – so that line departments may take orders from it. (ii) Funds should be placed



with OSDMA (iii) MD should be in the rank of Additional Secretary. Now all conditions have been fulfilled for releasing of loan. DFID has also given indications to support for Livelihood – this comprises a support to Fisheries and Dairy .

Irrespective of the debates on its genesis, it needs to play a stronger role in co-ordinating the different actors such as the PRIs , NGOs, INGOs, bilaterals and multilaterals. So far, it is still working through the UN and needs to take a more independent role, according to Utpal Maitra, Department For International Development. It has facilitated in the preparation of a Community Based Disaster Preparedness Plan along with the UN , which will become a Policy for Disaster Mitigation. Now there are plans for a Civil Society Disaster Plan for NGO involvement. It is also looking into the design and implementation of Training programmes for Panchayats with the help of PRIs; the training of village communities is being addressed along with the UN, while the training of government officials is to be managed by the Gopabandhu Academy . There are plans to house warning systems in OSDMA as part of its infrastructural capacity building.

As regarding the financial powers of the OSDMA, Siddhant Das mentions that reflections are going on to place the entire Relief Budget with OSDMA. Earlier, if there was no disaster, some budgetary provisions would be used for preparatory measures, some would lapse or be 'adjusted' against some other expenditure. Now, the remains of the allocations may also be saved with OSDMA. According to him, the State Govt's poor financial situation may not permit it to make any fresh budgetary allocations such as keeping aside 1% of the State GDP for disaster mitigation as has been recommended by IDNDR. However, this budgetary allocation should be accorded utmost priority in the face of the last devastation to life and the need for placing insurance systems with the people. Where increasing budgetary allocations for general development programmes is concerned, as a long term measure for mitigation, he feels that it is the responsibility of line departments. But World Bank is also going to assist in this process. For instance the roads for vulnerable areas that have to be made capable for heavy traffic have been identified. But State Government is waiting for World Bank loans to materialise.

**The Orissa Relief Code points out the sources, amount and flow of finance to deal with calamities :**

The Ninth Finance Commission set up by GOI recommended the Calamity Relief Fund for State Govts. to meet immediate relief expenditures without asking for Central assistance. The State Level Committee administers this fund. The provisions for expenditure on relief will be made in the budget of the state government under relevant heads. The Tenth Finance Commission recommended the total expenditure on relief for the period 1995-2000 for the state of Orissa as Rs 25, 801 lakhs from the Calamity Relief Fund.

GOI will contribute 75% of the total yearly allocation in the form of a non-plan grant & balance amount will be contributed by State Government.

One impending block is that the State Govt. has instructions for keeping the amount of the Calamity Relief Fund outside the Public Account of the State. This reduces transparency.

But the decided state share, according to Para 8©(i) of the Orissa Relief Code, is to be provided in the State's Budget every year and the unspent balance out of the same is to be carried over for the next year and the balance in this fund at the end of the fifth year will be available to the State for being used as a resource for the next plan. This means that the unspent balance cannot be touched or 'adjusted' against any other expenditure.

Para 8 of the Code points out under 'Sources of Funds from which Relief Measures may be Financed' that in the case of drought, if relief expenditure exceeds the corpus amount of Calamity



**Relief Fund, then the State should make a contribution from its Plan for providing employment opportunities as a measure of relief. This again shows the links between relief, rehabilitation and development.**

Para 8(iv) points out the expenditure arrangement on relief and repair and restoration of public works following a **flood and cyclone and other calamities of this nature**. Central assistance should be made available as non-plan grant not adjustable against the Plan of the State or against the Central assistance for the State Plan to the extent of 75% of the total expenditure in excess of the margin money.

Apart from the State and National Relief Funds there is also the **Prime Minister Relief Fund at the Central Level and a Chief Minister's Relief Fund at the State level**. All cash received from outside sources by relief authorities shall be credited into Chief Minister's Relief Fund.

**In the case of a severe natural calamity, the State becomes eligible to grants from the National Fund for Calamity Relief created by the Tenth Finance Commission in 1995.** This fund is administered by the National Calamity Relief Committee headed by the Union Agriculture Minister & comprises of the Deputy Chairman, Planning Commission, 2 Union Ministers and five Chief Ministers. This committee decides whether a calamity is to be treated as a calamity of rare severity. The quantum of assistance is also based on this assessment. The Ministry of Finance releases payments to the states. **The total size of NCFR would be Rs 700 crores.** GOI will contribute 75% of total yearly allocation in the form of non-plan grant and the balance 25% will be contributed by all the states (Ratio is 3:1). The annual releases to States as relief out of the National Fund shall, in general, be limited to 1/5<sup>th</sup> of the total size of the National Fund. The state share for Orissa for the period 1995 – 2000 was 517 lakhs. The devastation of the Super Cyclone, however, has increased the Central Government assistance to the State Government.

However, unless state government improves its own financial preparedness by earmarking a certain % of its GDP for disaster insurance, vulnerability reduction will be affected.

**It may be mentioned that Government accountability to the community is absent in the provisions of the code. There is also lack of standards to determine decision-making patterns between the government and the bilaterals, multilaterals in a disaster context.** This may result in govt. being bypassed by bilaterals or government transferring its responsibilities to civil society.

**4.1 Non Government Organizations :** The involvement of the NGOs in disaster mitigation and management is extremely important to ensure that vulnerable people's rights under the Fundamental Rights and Directive Principles of the Constitution are protected and fulfilled. Moreover, their participatory and empowerment approaches of work aid in the reducing community's vulnerability by bridging crucial protection gaps that might exist due to lapses on the part of either Government or the community.

**A Revenue Department Resolution of 1979 (Appendix XLII) declares the constitution of a standing committee for co-ordination with the voluntary agencies helping Government in relief operations during the natural calamities.** It states that the relief operations in the affected areas by the non-official organisations have to be co-ordinated at the level of the SRC to avoid duplication, consequential wastage and overlapping in the matter of organising and administering relief. The SRC, Member, Board of Revenue is the Chairman of this Committee. Under this resolution the groups like Red Cross, CARE, Orissa Nari Seva Sangh, Catholic Churches, YMCA, Sarvodaya Relief Committee, have been mentioned.

**The functions of this committee shall be as follows :** (i) allotment of specific areas or specific aspects of relief work to different agencies. (ii) starting of mid-day meal centres, free kitchen (iii) meeting the problems of transportation of food stuff, gift materials, (iv) employment oriented labour intensive long duration work programmes in the affected areas, (v) storage of gift materials (vi) Receipt and account of



cash (vi) Encouragement of village volunteer force (viii) Preparation of short term contingency plan and long term perspective for preventive and rehabilitation programmes (ix) Motivation & galvanisation of voluntary organisations.

**But before the cyclone this committee was not functioning properly, nor were clear roles carved out for the various NGOs to be prepared to meet disaster management needs. That is why OSDMA has started taking on this role of co-ordination.**

The ORC states that the Collector may include voluntary organizations in the activities of the District Level Committee. At the district level the relief activities of the private agencies & voluntary organisations are to be co-ordinated by the Collector. Para 184 mentions the role of the CARE organisation under the Supplementary feeding programme.

According to the ORC, the NGOs may be involved in FFW and Emergent Relief, in running free kitchens. It states that the Food for Work Programmes will be undertaken with the assistance of food stuff supplied free of cost by the International Voluntary organisations, the cash component being met out of the relief money in the affected areas. This will be according to Govt.'s instructions. NGOs may come forward to extend Emergent relief (dry or cooked food, clothing, shelter and other necessities of life) which is given immediately after a disaster as people are not in a state to provide for themselves. This is for a period of 15 days maximum unless disaster is of rare severity. Voluntary organisations may undertake a long duration programme in a distress area selected and approved by the BoR/ SRC under intimation to the Govt.

To avoid duplication, govt. shall withdraw or shall reduce the government cost where these activities are taken up by other agencies, according to the ORC. Voluntary workers may also apply for govt. funds or the funds of voluntary organisations for relief works sponsored by govt. For charitable relief purposes there are two funds : The Indian People's Famine Trust Fund & Orissa Famine Relief Fund. The former is administered by the All India Board of Management in the Ministry of Agriculture, Dept. of Agriculture (Relief).

State approach to NGOs has been largely bureaucratic. This is reflected in the views of the Ex-SRC DN Padhi, who was the SRC at the time of the Super Cyclon. According to him, NGOs have not been active until the last 5 or 7 years. Neither are they controlled or guided. In his view the Code is complete in all aspects. There are no gaps in it. According to him there is no lapse on the part of the Code. It only requires sincerity of application and some updating where partnership norms and sensitization of society are addressed.

**Humanitarian assistance relies on effective partnership based upon acceptance and marked areas of co-operative activity and independence. Vulnerability of affected people can be reduced when partnership norms and responsibilities of each individual actor is clear, and their capacities to provide humanitarian assistance have been laid down. This sharing of power, responsibilities, resources and competencies are unclear in the Orissa Relief Code.**

NGOs have not been addressed as equal stakeholders. The stakeholdership arrangement between the secondary stakeholders determines the range of entitlements and quality of delivery that will accrue to the primary stakeholders. The stakeholdership of NGOs in Bangladesh in the Disaster Management scene is much stronger. The Bangladesh Red Crescent Society is an integral part of decision making and action. NGOs are part of the NGO Bureau of the Government .

**While a many hands approach, according to Mr. Jagadanand, CYSD, is required during disaster, the govt. seems to be all in all. The presence of the Revenue Dept. of the Govt. seems to be all pervasive. Some like N.K. Jain, from Joint Assistance Centre feel that the ex-officio chairmen are**



overburdened and cannot handle the numerous responsibilities of both development and disaster. Thus they need to be distributed. **Along with distribution of responsibilities there should be division of resources and powers.**

**This requires the setting of partnership norms.** However, there is distrust and lack of co-operation between the GO and NGO officials in many cases. According to Mr. Jagadanand of CYSD, in one case, the BDO, Erasama block of Jagatsingpur district, brought out a circular saying NGOs will not be allowed to operate in that area. It became an issue of territory rather than putting the needs of affected people first. **Furthermore, during emergency NGOs should be able to work without prior permission, as in Bangladesh.** The main aim should be to assist the people. However, the SRC must be intimated about their areas of operation so that he knows which NGO works where and also to prevent concentration of NGOs at a particular place.

**While the ORC is an action guideline for government officials reflecting the Contingency Plan of the Government, there is no Contingency Plan developed by NGOs to meet disaster situations. Even development programmes rarely reflect capacity-building for reducing vulnerability to disasters.**

**Although many International NGOs have come into the scene, apart from a mention of the roles of CARE and Red Cross, there is no comprehensive addressal of partnership with INGOs, their capacities that can be used. At the same time, INGOs must learn to work more co-operatively with host govts, indigenous NGOs, and international agencies.** In the absence of co-operation, the plight of the dispossessed can be made worse by petty conflicts caused by ignorance, arrogance or a combination of both. A Disaster Mitigation Policy should lay down the areas of collaboration between Government and NGOs and INGOs.

The ORC emphasizes the accountability of non-official organisations to the Collectors. **Although the Code outlines the guidelines for physical activities of the NGOs it makes no mention of competencies in material and non-material assistance. There is need for government and NGOs to accept the Sphere Standards of Humanitarian Assistance. Sphere lays down the Core area of Competencies that all service providers require in 5 broad areas - Water & Sanitation, Nutrition, Food Aid, Shelter and Site, Health Services.** However, as Sphere standards are limited to emergency response, standards for rehabilitation and long term disaster mitigation have to be evolved by dovetailing with normal period development plans. The other areas where competencies and standards should be stressed are in the area of damage assessment, technology use in housing, shelters and flood control works, non-conventional sources of energy, psycho-social counselling, vulnerability targeting of all programmes during preparedness, relief and rehabilitation, community sensitization to take on vigilant monitoring.

**5.1 Bilaterals & Multilaterals :** The role of Bilaterals and Multilaterals have not been addressed in the Code although they are playing a crucial role in determining the entitlements of vulnerable sections both during normal period development and preparedness, relief and rehabilitation. On the policy emphasis of the bilaterals and multilaterals for disaster mitigation, vulnerability targeting in their financial policies and their partnership norms with INGOs and Government depends the recovery opportunities of the primary stakeholders.

**The multilaterals, especially the UN specialized agencies are close and supportive force for NGOs in Third World activities.** For the UN it is difficult to operate without accrediting government representatives. The basic role of UN specialized agencies is to support govts. in member states.

**UN resolutions clearly recognize that disaster reduction is best accomplished by development-based disaster mitigation efforts . Two recent UN Resolutions have firmly placed disasters in the context of economic and social development. In the first phase of these (42/169), the General Assembly**



proclaimed the 1990s as the International Decade for Natural Disaster Reduction (IDNDR). The significance of this resolution lies primarily in the fact that the assembly recognized that disaster reduction is best accomplished by development-based disaster mitigation efforts. This resolution clearly sets aside the longstanding UN distinctions between natural and man-made disasters. The second is Resolution 46/182 of December 19, 1991, whose philosophy is encapsulated in the concept of the "relief - to- development continuum". The nature of relief to development continuum includes three important ideas : (i) That we are indeed dealing with a continuum, rather than a set of rigidly defined stages of preparedness, relief, and rehabilitation; (ii) That the former concept of a disaster management continuum has been expanded to include resumed sustainable development ; (iii) That the aim of activities in the continuum must be to move from relief to rehabilitation/reconstruction to resumed development at the earliest opportunity. The resolution also states unambiguously that "economic growth and sustainable development are essential for the prevention of, and preparedness, against, natural disasters and other emergencies." ( From Disaster to Development, Ellen Johnson Sirleaf. A Framework For Survival – Health Human Rights and Humanitarian Assistance in Conflicts & Disasters. Ed. by Kevin M. Cahill, M.D. A Joint Publication of Basic Books And the Council of Foreign Relations, 1993)

Going by this, it is essential that the Government, Bilaterals and NGOs be bound to address not just relief and emergency work to reduce vulnerability to disasters but also development. Utpal Maitra was of the opinion that the Poverty Task Force created in the state should be taken more seriously by the Government and the NGOs. State Policy for Disaster Mitigation must address poverty alleviation. The policies of Bilaterals and Multilaterals on Disaster Preparedness and Mitigation should have strong links with their development aid policies. Partnerships can evolve only through matching policies.

However, DFID's policies on disaster are not so clear. DFID still has to develop a strategy paper on disaster-based rehabilitation, although it had approved 21 million pounds till 8<sup>th</sup> Sept 2000 for supercyclone related FFW, rehabilitation and reconstruction. Bilateral aid for disaster mitigation from DFID has been to both the State Govt. and INGOs like Action Aid and Oxfam. Process of recovery for the vulnerable can be stalled in the absence of policies and established funding norms or in the case of conflicting policies between bilaterals and government. The Project for Livelihood Restoration of Marine fisherfolk community pending with DFID is one such case.

**Partnership terms may need to take into account the following :**

- (i) Traditional donor-donee relationship should be broken. Government should be more assertive.
- (ii) According to Utpal Maitra, Bilateral agencies may take up monitoring, training but the management of rehabilitation and its development links should be the govt.'s responsibility.
- (iii) According to Saroj Jha, UN has to play a key role in co-ordination, but bilaterals should be limited to funding and donor's role. Role of bilaterals can be seen as influencing public policy as per their mandate.
- (iv) OSDMA should now be carrying out what UN has been doing. While UN wants OSDMA to take charge of rehabilitation, the latter has not reached a stage of independence or flexibility, believes Utpal Maitra. Quick transferring of capacity should take place.
- (v) Partnership in the areas of funding: Funding stability is necessary and stakeholdership of INGOS, NGOS and Govt. should be equal to that of the bilaterals. Funding norms should have clear areas and percentage of allocation for the different vulnerable groups.
- (vi) Experienced Relief Workers and Emergency Managers are required from UN as well as INGOs who work on the ground. There is need to strengthen the capacity of those engaged in providing Humanitarian Services in Disaster Management . Sharing competencies through training emerges as a key area of partnership between GO-INGO-INGO-Bilateral –Multilateral.



(vii) Partnership between the OSDMA and the Poverty Task Force of the State is a need for the future if disaster mitigation is to be taken seriously.

(viii) Partnership in Humanitarian Assistance requires a Common Code of Standards – Standards of Entitlements of the Primary Stakeholders and Standards of Service.

(ix) Partnership between all the service providers need to take into cognizance Local Involvement. This calls for partnership with community volunteers, CBOs, PRIs, CO-operatives and other coping institutions of the community.

**6.1 Values Underlying Standards of Assistance & Code of Conduct : Values that should form the base of humanitarian assistance are missing in the Orissa Relief Code.**

This makes problematic the realization of rights for the vulnerable in a disaster context. **Human Rights should form the core minimum standard to be observed by all levels**, whatever their level of economic or political development. Although the list of international human rights under the International Covenant on Economic, Social and Cultural Rights, The International Covenant on Civil and Political Rights, The Convention on the Elimination of all Forms of Discrimination against Women, and The Convention on the Rights of the Child, is very broad, these are underpinned by certain key principles : (a) Respect for equality, human dignity and autonomy, (b) gender equity (c) participation by people in decisions that affect their lives and in development and its outcomes, (d) the principle of non-discrimination against the enjoyment of his or her rights including access to public resources.

This Human Rights approach needs to be reflected in a coherent policy across all government departments, NGOs and other resource and service providers. This approach needs to be integrated into a Disaster Mitigation Policy which should lay down the Code of Conduct for all actors in a disaster scenario. Training to internalize the Code of Conduct should be provided for in resources earmarked by both government and NGO sector.



It is true that policy silence, inadequacies and ineffective implementation increase vulnerability of the weaker sections in the community discussed above. However, it is also true that the consequences of disasters are the product of strengths or weaknesses of the community as much as the destructive force of the disaster itself. Therefore underlying value of disaster mitigation should be to strengthen community institutions so that community may emerge as a powerful rather than vulnerable stakeholder.

For this community institutions must be trained in rescue and evacuation, monitor the preparedness measures, relief and community rehabilitation. These institutions may be youth clubs, village committees, gram sabhas, mahila sanghs, co-operatives or trained disaster response teams, reconstruction committees. **The strengthening of these institutions by placing funds, skills, information, knowledge and sensitivity can improve the stakeholdership position of the community.** They should be formed by pro-poor, gender and disability sensitive women and men. These are needs to which the Code is totally oblivious.

The Community needs to develop its own Contingency Plan for Disaster Preparedness to reduce vulnerability. A Facilitator's Guideline for such a plan has been developed by the combined efforts of the UN, Orissa State Disaster Mitigation Authority, NGOs and INGOs based on the guideline provided by Oxfam, Andhra Pradesh. This plan should aid in preparing the community with self-sufficiency atleast for 4-5 days without external assistance and aims at reducing losses. The vulnerable sections of the community should themselves participate in the formulation of the Community Contingency Plan as well as a Rehabilitation Policy for Disaster Affected Persons, laying down standards for entitlements and services.

For the community to emerge as a key stakeholder, these value systems need to be institutionalized at the level of primary and secondary stakeholders. Systems of accountability and transparency have to be laid down between the victims, service providers and resource agencies. Right to Information must be given primary importance so that the community, and the vulnerable sections within it are able to have greater control over change processes affecting their lives.

It may be mentioned that Government accountability to the community is absent in the provisions of the code. What is detailed is the accountability of specific govt. officials like the Collector, Sub-Collector, BDO, Tahsildar, R.I., CDMO, Panchayat officials, Committees on Natural Calamities at the District and State level to their superiors and ultimately to the Revenue Dept, BoR/SRC. Accountability to community institutions do not figure anywhere in the Code. **To increase the stakeholdership of community-based organizations as identified above the stress should be on institutionalizing accountability and transparency mechanisms in a manner that makes bureaucracy and NGOs accountable to PRIs and CBOs in the form of Mahila Samitis, youth clubs, or village committees such as Punar Nirman Sabhas created in the villages of Jagatsingpur; Centre of Information should move from the Collectorate, BDO office and RI office to GP and Gram Sabha, village committee and committees formed for disaster response, relief and rehabilitation.**

Yet Right to Information has not been made into a Central or State Act. The Officials Secrets Act and Sec 123 & 124 of the Indian Evidence Act, 1872 are inhibiting laws standing in the way of a **community's right to information.** Sec 123 of the Evidence Act states under Evidence as to Affairs of State that no one shall be permitted to give any evidence from unpublished official records relating to any affairs of state, except with the permission of the Head of the Dept. concerned who shall give or withhold such permission as he thinks fit. Sec 124 under Official Communications points out that no public officer shall be compelled to disclose communications made to him in official confidence, when he considers that the public interests would suffer by the disclosure.



However, there are two Supreme Court verdicts that support People's Right to Information which we need to take into account. In the State of U.P vs. Raj Narain, 1975, which involved the question whether the Blue Book (P.M.'s security book) ought to be disclosed, it was expressly held that a citizen had a right to know. The state's privileges are not a defence against Art 19(1)(a) – The Right to Freedom. The Right to Know which is derived from the concept of freedom of speech, though not absolute, is a factor which should make one wary, when secrecy is claimed for transactions, which at any rate, have no repercussion on public security. To cover with veil of secrecy the common routine business, is not in the interest of public.

In the Judges Transfer case (S.P. Gupta V Union of India), 1981, which involved the question of whether the correspondence between Chief justice of India & the Union Law Minister ought to be disclosed, a fundamental change in the conception of the right of disclosure of information took place. Firstly, it was decided that right to disclosure is not a private interest but a public interest. Secondly, the Court also decided that documents relating to Affairs of State could be ordered to be disclosed even though they would cause injury to public interest, if the court came to the conclusion that the competing public interest of disclosure was superior in the facts and circumstances of the case.

A Disaster Mitigation & Management Policy should place people's right to accurate and authoritative information as high priority to reduce risk and exploitation and speed up recovery. There should be Information Centres set up in the risk period at the hamlet and village level which will warn, and in post disaster situation will provide sectoral information. Emergency Managers must be aware of what action to take in the area of public information after a disaster to avoid public loss of confidence. What and how information is released to the press should also be responsibly laid down.

Institutional mechanisms for social audits and public hearings should be built into a Disaster Mitigation Policy to ensure GO and NGO accountability to CBOs. Presently one finds BDOs organizing social audits on their own without involving NGOs. Or where Public Hearings are organized by NGOs, the invited government officials are conspicuous by their absence. The frequency of social audits and public hearings should be paced up. And co-ordination between Gos, NGOs and Panchayats and CBOs is necessary for this.

Standards of service as mentioned in the introductory note should be prepared as part of a disaster mitigation policy - standards to be respected by all service providers and appropriate training to be provided to these service providers. These standards should be tested regularly through dry runs and mandatory drills according to Saroj Jha, UN House II, for which a Fund should be created with the District to reduce the vulnerability of the community.

Increasing literacy levels of the vulnerable in the community, destitutes, women, dalits and refugees is a significant capacity required to effectively use accountability systems. This will improve stakeholder'ship of the vulnerable. Women trained with a literacy of weights, measures can be part of ration distribution and distribution of housing materials as they were after 1995 Bangladesh floods. (India Disaster Report). The victims can also be trained as para-medicos and veterinarians. It is a question of policies addressing the vulnerable as having certain capacities which may not be totally destroyed by disaster and may be brought forward for participatory relief and recovery. At the same times policies for all time periods should be clear so that delivery mechanisms become more accountable and vulnerable people's fundamental rights under Art 21, Art 23 & 24 of the Constitution, human rights following from Art 41 and Art 39 may be secured.



## FOOD SECURITY

Disaster mitigation is linked inseparably to the level of investment that is justified to protect society and its economic activities. The links between vulnerability, disaster impact, and poverty have already been established. Until quite recently, however, the disaster field was essentially concerned with emergency response and the delivery of post-disaster relief; focus on disaster preparedness measures as part of planned development is a much recent phenomena. There is no doubt that vulnerability is frequently a reflection of poverty and that consequently, vulnerability reduction is largely a product of social and economic development. Certain capacities have to flow to the people through law, policy, efforts of the community, service providers and resource agencies.

The degree to which these capacities have reached the people will determine the impact of disasters on them, the level of risk experienced by them, and the degree to which entitlements were secured and these risks shared. What shock-absorbers were set in place by the govt. to humanize coping mechanisms of the community? What risk-sharing capacities are the people entitled to according to the provisions of the ORC and Plan document of the State? Are they adequate? Which are the areas of entitlement failures? What policy changes are required to humanize coping mechanisms and reduce vulnerability to disasters?

**In the following sections we identify the core areas of capacities and entitlements under the broad heads of Food Security, Shelter, Health, Education and Legal Support Systems. The core areas in which differential protection is experienced because of policy impact, standards of delivery, psychology of the community and its stratifications have been pointed out. The core areas of changes in policy and community preparedness are also discussed. To establish differential impact and recovery and to substantiate the areas of implementation gaps and policy gaps we take the help of the findings drawn from the Poverty Profiling and Need Assessment Study done in Erasama and Balikuda blocks of Jagatsingpur district by Action Aid, Bhubaneswar Region, in January-February 2000 and help of certain case studies .**

**These blocks, especially Erasama, were the worst affected by the Super Cyclone in the state. They are the most backward blocks among the total 8 in the district. They have the lowest literacy levels (around 60%) in the district with a female literacy among SCs being 30.93% only in Erasama and 28.80 % in Balikuda. These two blocks also have the least agricultural productivity in the district and are repeatedly affected by natural disasters like flood and cyclone. The Poverty Profiling Study states that the Planning & Co-ordination Department of the Government of Orissa has identified Erasama as a 'backward' block based on indicators of health, education, livelihood and communication, while the other 7 blocks of the district are under the 'developing' category. Erasama falls way below the rest, including Balikuda which is the second most backward block in the district. The panchayats selected for the study were identified on the basis of their impact through a triangulation method of consulting BGVS volunteers working in the area, government officials and NGOs. 30 villages were covered as sample villages out of which 16 were from Erasama block and 14 from Balikuda. The PRA tools used in the study were intended to find out : What the community was before the Cyclone, in terms of its caste, gender, age and class divisions; what the Cyclone did to it, again across sectors of caste, gender, age and class; the situation at the time of the study ; and what could be done, focusing on the poorest of the poor.**

**We also refer to a case study drawn from a process of Lok Yojana or People's Planning facilitated by Action Aid in 18 villages of Erasama block, Jagatsingpur district. The case study of PradhanGheri village, Padampur GP, is used to locate vulnerability, differentials in well-being before and after the disaster which has implications for impact and recovery. The village is situated 40 kms east to the district HQ, Jagatsinghpur and 20 kms from Block HQ Erasama. The Panchayat HQ, Padampur is**



very close, one and a half kms away. One km east of this village the river Siali enters into the Bay of Bengal. Before the cyclone, there were 61 households in the village out of which 2 were Brahmin families, 5 were Karanas, 2 were weavers, 51 Khandayats and 1 tribal family. The first generation of this village, whose origin goes back to 1949, were Bengali migrants from Midnapore, West Bengal.

The well-being analysis was done by the members of the village who categorized themselves into different groups based on their income-expenditure indices. As explained earlier, income is one of the indicators taken by the Human Development Index to measure human development. By looking at the well-being ranking in the village, one can understand on whom would be the greater impact of the disaster.

**Category one** comprises of people who are endowed with 5 - 15 acres of arable land, who produce paddy sufficiently to meet the needs of the entire year, a member of their families is employed with the government, they never go for credit, they have homestead land of 1 acre to 2.3 acres and own 30 - 40 coconut or cashew plants. Obviously, this is a self-sufficient group having high well-being and low vulnerability. Out of a total of 61 families, there are only 6 such families in the village.

**The second category** comprises of those who own 2 - 5 acres of arable land, whose secondary occupation is business, whose homestead land is between .2 acres to .5 acres, they own cow, fish and poultry whose produce supplement their cash incomes; they have more than one earning member in the family. Their pre-cyclone annual income, drawn from agriculture and paddy business, was 24,300/- while their annual expenditure was Rs 23,950, which left them with an excess income of Rs 350/- over their expenditure. 8 families fall into this category.

**The third category** comprises the owners of .5 - 2 acres of arable land. These families often go for credit to meet food requirements; a member of these families is employed in petty private jobs; there is only one earning member in the family; the average family size is 6 or more. They own not more than 5-10 coconut or cashew plants. Their pre-cyclone annual income, drawn from paddy, daily wage for 20 days month @ of Rs 80/- per day (as they were working in prawn and betelvine farms), selling of milk, income from poultry, fish, cashew processing and prawn farming was Rs 20,850/- and expenditure was Rs 22,590/-, out of which expenditure on food alone was Rs 11,340/-. As we go further down in the well-being ranking, we find that expenditure exceeds income, thus increasing vulnerability. For the 17 families in the third group the excess of expenditure over income is - Rs 1740. This deficit is met through loans from the co-operative banks.

**The fourth category** has even fewer endowments. They own arable land between 0 - .25 acres of arable land and are mainly daily wage labourers. Their secondary occupation is sharecropping; there is only one earning member in these families even though the average family size is 6 or more. They usually have one daughter of marriageable age at home. They own between 1- 5 coconut or cashew plants. 26 families of the village fall within this category. Their total annual income, drawn from sale of paddy, daily wage and wage from sharecropping, income from goat, poultry, fish and prawn seedlings, cashew processing and other miscellaneous activities, before the supercyclone was Rs 14,850/-. Their expenditure was Rs 17,790/-, out of which food expenses were maximum, i.e., Rs 8640/- creating a shortfall of Rs 2940. This group had no access to credit from formal institutions and were dependant on local money lenders. The loan and the interest amount used to be deducted from their share of the crop, thus increasing indebtedness.

**The fifth category** comprising of the most vulnerable, is formed by the landless, destitutes, children without parents, single women, disabled, aged and widows. This category was constituted by 4 households and were drawn mainly from the 3<sup>rd</sup> and 4<sup>th</sup> category. This group was considered by the village to be in need of maximum attention. They were also the inmates of the Mamata Gruhas formed as short-stay homes for destitutes and orphans. Action Aid has thus concentrated on the food security and rehabilitation of the 3<sup>rd</sup>, 4<sup>th</sup> and 5<sup>th</sup> categories.



The village group doing the well-being analysis felt that the last three groups formed the most vulnerable sections of the village. Thus detailed problem analysis for these groups, in the context of pre and post disaster scenario, was prepared. This was to form a base for drawing up household level and village level disaster preparedness plans.

If the last three groups were the most vulnerable at the time of a disaster it follows that food security arrangements starting from food stocking arrangements to relief distribution to livelihood restoration, ought to have had primary focus on them. But was it really so? While it is clear that impact on the last three groups would be more because of fewer shock-absorbers, what capacities were transferred by the Government and other service providers to reduce differential impact and recovery? Were the government's policy provisions adequate? Was implementation according to standards set in the ORC? We identify some of the key implementation and policy gaps which have resulted in differential impact and recovery.

In this section, we look at : **(1) Long-term Food Security arrangements** for disaster mitigation cannot be addressed only through emergency provisions during the disaster and immediately after that but needs to be secured through **ownership over means of production/livelihood resource base and strong social policy** securing food rights of the poorest through a **public distribution system** that counters the unequal accessibility to food supplies in the market **(2) Emergency response** which begins before a disaster and goes on till relief phase must address the **Food Storage & Buffer Stock readiness** through PDS – the procurement, control/regulation of the market and the **scope for Entitlement Transfers** through Emergent Relief, Gratuitous Relief & Food Aid which people need not return back to the state/service providers. **These may provide short-term coping mechanisms.** **(3) Food Security under Rehabilitation looks at the Entitlement Exchange** through provisions for Food For Work, Partial Transfers through subsidies, loans for restoration of livelihoods that is necessary to humanize long-term coping mechanisms.

### IMPLEMENTATION GAPS IN FOOD SECURITY ENTITLEMENTS

A protection gap can be experienced due to gap between policy and its implementation. This means that opportunities provided in policy for recovery, loss sharing or for placing short-term and long-term shock-absorbing capacities with vulnerable individuals and households, or community as a whole, may be lost due to failure of delivery mechanisms. Such implementation gaps increase vulnerability to debilitating impacts of disaster.

**1.1a** The immediate post-disaster situation always witnesses a situation where people lose their capacity for exchange. In such a situation there is need for entitlement transfer in such a way that the individual does not have to give anything in exchange for food – neither money nor labour, preventing starvation death. This happens through a supply of free food or supplementary income from the State as well as through charity. Of late this has been complemented by Food Aid from outside. According to the Orissa Relief Code, immediate transfer of food is through Gratuitous Relief which is of three kinds – Emergent Relief, Ad-hoc Gratuitous Relief and Gratuitous Relief on Cards. According to para 163 of the ORC, Gratuitous relief is given to those who are incapable of earning their livelihood and for children of a specified category. It devolves upon the state govt. to feed the people who being handicapped cannot do physical work or who have been incapacitated temporarily due to the impact of such a calamity or illness or otherwise and cannot earn their living. **Para 165 mentions that Emergent relief is given for a general period of 3 days and maximum of 15 days when due to a severe natural calamity like high flood or cyclone it becomes impossible for people to procure food.** It becomes necessary for govt. to provide them with dry food or cooked food, clothing shelter and other necessities of life



through waterways and airdropping. According to the Orissa Relief Code, the provisions for emergent relief includes dry ration in the form of rice, chuda, mudhi, gur, ragi and maize, etc. besides other necessities of life, and is supplied at the rate of 500gms per adult and 250gms per child below 12 yrs of age per day . **Para 167 discusses Ad-hoc gratuitous relief.** This is given for a maximum of 15 days to people affected by natural calamity to avoid starvation, exrteme hardship. The scale of food supplied is same as emergent relief. The eligible are those persons whose attendance on the sick is absolutely necessary, preventing them from earning a living, able-bodied persons rendered temporarily weak due to want of food, malnutrition or illness, marooned people deprived of cooking. This again is sanctioned by Collector but exceptionally so. However, very rarely are these transfers supported by law, making chances of survival bleak for the victims of a disaster. These transfers, their timeliness and efficiency, are basic capacities required by the affected people to prevent starvation and to initiate a recovery process.

**1.1b** However, there have been starvation deaths following the disaster due to delay in government delivery of emergent relief. These deaths violate the Right to Life under Art 21 of the Constitution under which the government is bound to protect the individual's Fundamental Right to Life. It also violates Art 47 , Directive Principles of State Policy, that the State shall regard the raising of the nutrition and the standard of living of its people and the improvement of public health as among its 'primary duties'. The starvation deaths also violate the objectives of the Orissa Relief Code to prevent starvation as stated under Para 5. These are human rights violations for which the Collectors in the 14 affected districts and the Special Relief Commissioner at that time should be held responsible as under the ORC provisions they are in charge of food preparedness before and after a disaster.

**1.2a** Failure of PDS Stocking & Food Storage in vulnerable places prior to the disaster is failure of delivery mechanism assured not only under provisions of the Orissa Relief Code but also under Basic Minimum Services of the Five Year Plan of the State. Para 57 and 58 of the ORC state that the Collector is responsible at the district level along with the District Level Committee on Natural Calamities to store foodgrains in interior, vulnerable, strategic and key areas, make arrangements for dry food stuff like chuda, etc., and other necessities of life such as kerosene, candles, matchboxes, etc. **Para 46** states that the District Level Committee shall be convened in the month of May to review the precautionary measures taken or proposed to be taken against the possible floods, stocking of food stuff in advance in interior, vulnerable, strategic and key areas, and review of other programmes of work in progress. **Para 240** addresses the strengthening of the PDS apprehending a rise in prices and scarcity of foodgrains. Here, Govt. can be held accountable to its own standards. Its own norms of food stocking for Gratuitous Relief states that it should be ready one/two months in advance and stocking should be in safe places. But this readiness was not reflected in reality. This has resulted in Violation of Art 21. These provisions should be made statutory and failures should invite disciplinary action against officials.

**1.2b** Para 242 (ii) of the ORC explicitly states under 'Stocking of Food Stuff in Flood Prone areas' that the unprotected areas as well as low-lying areas in the coastal districts and the river valleys in other districts should have storage depots and sub-depots of essential commodities sufficiently before the commencement of floods. This is so that PDS is not obstructed even if fresh supplies do not reach for sometime and keeping in mind that roads, bridges may go out of action in the rainy season. These depots and sub-depots may also feed the emergency relief relief programmes and other feeding programmes that may be undertaken in the exigencies of the situation. **However, in reality there was inadequate storage infrastructure due to which foodgrains received as relief had to be sent back. This unpreparedness in infrastructure is a violation of the instructions in the ORC as well as impinging on the Right to Life of the vulnerable sections.**



**1.2c Generally dry food is supposed to be stocked in 1000 quintals in each block HQ. Saroj Jha who was SRC in the post –supercyclone period says that the PDS was in a mess in November and December 2000.** Rice had to be lifted from private dealers by police force and taken to GPs in Jagatsingpur. Entire Food Supplies chain was disrupted because PDS storage agents themselves were affected. They had no money to deposit with dealers and dealers were unable to deposit with the Food and Civil Supplies Department. Black marketing took on. Although the system improves during emergency it is not good enough, feels Saroj Jha. Disaster preparedness is linked to normal period delivery response. In normal times PDS hardly exists. The PDS agents are to be found selling in black in the open market. According to K.S. Srinivasan, who was SRC for almost a decade in the 1980s, the black - marketing is taking place because govt. is not paying the transport cost of lifting food grains and stocking them in designated points to the agents. This is forcing them to sell in the open market.

**1.2d The failure of the PDS is corroborated by survivors and those who rushed to the worst affected places such as Ersama block in Jagatsingpur much before the govt. could reach.** Pradipta Ram, a SUCI youth volunteer from Panchapalli, Ersama block says that from amongst the survivors many died of hunger. **People died without food**, sitting on the roads with their heads in their hands, **4 days after the cyclone.** The total number of deaths in the cyclone was 9885 according to the White Paper of the GOO, Dec 1999. Many who survived, died out of hunger. Many starvation deaths could have been prevented if PDS had been functioning better, if they were accessible to the people in vulnerable locations and to the most risk-prone in the BPL categories like women and dalits. **Did these people have control over PDS – its location, the amount to be stocked and the time in which it should be done? It is these aspects which will determine the impact of the disaster induced food insecurity, the degree of entitlement failure and the ability to reduce the impact and recover from it.**

**1.2e** On speaking to Rashmi Khatua, the Sarpanch of Ersama panchayat and her husband, Sudhakar Khatua, ironically, the defacto Sarpanch, **one discovers that the PDS centers are quite distanced from the vulnerable villages which are flood and cyclone-prone.** In Ersama Panchayat, for eg. after 4 days of going without food some of the starving people went and requested at the Block office for the distribution of rice which was rotting in the sub-wholesaler's godown. That to access PDS rice it was necessary to take the Block level permission in a starvation situation, is an indicator of the level of food command/control that vulnerable people had. **The PDS is not even controlled by the panchayat according to the Sarpanch of Ersama, let alone vulnerable hamlets within it. This is in violation of the powers given to the Panchayat under the 11<sup>th</sup> Schedule .**

**1.2f** By placing the PDS out of the reach of the poorer sections, the objectives of the PDS and the govt's own policies evident in its Plan documents and outlay, as well as its intentions reflected in the ORC are violated. To top it, we find that the govt. actually hiked the PDS foodgrains prices which was raised from Rs 4.00 a kg to Rs 6.50. One is forced to question govt.'s insensitivity to vulnerable people's recovery process. **V. Shridhar, in his article 'Food Security in Peril' in Frontline, June 9, 2000,** points out that Public Distribution System appears to be the weakest link in the food security chain in Orissa. If people are unable to access enough food, it is but natural that they will adopt short term strategies for survival such as excessive disposal of whatever remains of the household assets. This in turn will lead to what Amartya Sen calls – 'derived destitution', ill health and long-term negative consequences.

**1.2g The Mid-term plan review of the Ninth Plan held in New Delhi revealed that one-third of food grains don't reach the poor.** While huge amounts of foodgrains are not lifted from Food Corporation of India, a whopping 36% of the wheat distributed through the country's ration shops does not reach those whom it is meant for. Diversion of rice is as high as 31% and 23% of the total sugar distributed



through the PDS does not reach the intended beneficiaries either. Both availability and nutrition levels have fallen inspite of increase in food production because Targetted PDS is not reaching the poorer districts of the country, BPL foodstocks are not being lifted, the poor do not have money to buy the 20 kg of grain allocated to them, and officials charge around 14 % extra for the grain meant for them. The overall effect is fall in the consumption levels of the poor in the '90s as compared to the '80s. **(Crores of Rupees Lost in the Name of the Poor. New Indian Express. 26. 09.2000)** Instead of rectifying these problems, the mid-term review's suggestions are that ways be found to reduce the PDS stocks to around half the current level. This is because the food subsidy on the PDS was a whopping Rs 9,200/- crore, the loss from diversions adds to around Rs 3,000 crore. The failure of the PDS created acute food insecurity. As kitchen gardens were totally destroyed it further aggravated the crisis.

**2.1a Both categories 3 & 4 of Pradhangheri village also pointed to the lack of good roads as an inhibiting factor that prevented relief from reaching them quickly. While 'inaccessability in communication' is one factor, why dalit, migrant and refugee settlements should be excluded from development infrastructure such as approach roads, bridges or water transport exposes the biases inherent in normal period development. The absence of roads made the Bengalis in Athagharia more vulnerable to exploitation during normalcy. The Participatory Poverty Profiling and Need Assessment Study points out that these villagers had to walk more than 5 kms to reach the local market near Ananthpur where they sell fish. On their way back they are virtually looted by the Oriyas. People of Nandera feel that the lack of road to their village is a political game plan to prevent their development. As a road will enable them to access market, hospital, bank and other facilities more comfortably it is being obstructed by vested interests.**

**2.1b According to the Study, no relief could be supplied to Siali village for the first week because of lack of communication. The people in Siali village said that they waited for a week but no relief came. Finally they went to Erasama by repairing a wrecked ship which was lying outside their village, left behind by a shipping company in 1995. They were given one bag of rice by the Block. It took them three days to go and come back. By the time they reached the village, half of the relief was consumed 'raw' by the hungry men. In Mathasahi, because of damage to the kaccha road, people received relief after 12 days. In Kochilabedi, another village cut off by flood waters, people had to travel to Erasama, about 9 kms away, to fetch each one a packet of rice and ½ packet of gram in wet condition. Athgharia village did not have an approach road. When airdropping became difficult due to bad weather, the lack of roads made the food insecurity of cut-off people more acute. Such was the damage to roads in Jagatsingpur that relief could reach Jagatsingpur after four days of the cyclone. Connectivity through roads is one of the infrastructural entitlements assured under the Basic Minimum Services and the preparedness provisions of the ORC. This deprivation in communication facilities aggravated the impact of the disaster on vulnerable sections as it reduced their chances of escape, as well as access and control over relief materials. This in turn had negative impact on their life and food security, violating Art 21.**

**3.1a Relief provision of food was also differential and inadequate. Lawless distribution of relief rice observed in several places. In various GPs of Badchana block in Jajpur, for instance, many adults had got 350 or 300gms of rice when the govt. declaration was for 500gms per adult and 250 gms per child. ( Sambad, 28.11.99). Categories 3 & 4 of Pradhangheri village point out in their problem analysis that the food relief airdropped from helicopters was too late and meagre. Furthermore, during the last relief operation, the BPL category was lifted by government circular for the time period between April and October 2000 on the belief that everybody had been levelled down to the same stature. Govt. provision was for 20 kgs of PDS rice every month for both BPL and APL categories. So for this essential commodity everybody became eligible. Subsidised rice became available for people Above Poverty Line (APL) and people Below Poverty Line (BPL).**



This has also prevented the recovery of those who were more needy. This is supported by the findings of the Poverty Profiling and Need Assessment Study done by Action Aid in Jagatsingpur district. Nolia Sahi village is one of the few villages that are single caste, comprising purely of Scheduled Castes households. They had received PDS rice only twice in 3 months, between December and February. In Nimol village there are 77 BPL card holders, who had not received relief under the scheme since the cyclone. There were no directories available with relief managers as to who is more vulnerable in the community. The study also points out that food insecurity was a product of the dynamics of the delivery mechanism. Relief was channelized from Block to Panchayat, with the Ward Members receiving it from the Sarpanch and distributing it in their respective wards or hamlets. Where relief came to the villages through the ward member, it became distorted. As the ward member came from upper caste, most of the relief was used by the higher caste villagers. This was so in Badakula and Ramatola villages where the access of SCs to relief was denied by upper caste villagers. The NGOs decided to distribute relief directly in the villages in order to prevent this from happening.

3.1b Just as many were excluded from this relief others found it inadequate. The SC cardholders of Ramtara and Udupurpada villages felt that the 20 kgs of PDS rice per month was totally insufficient for a family with six members, and would not last more than a week. Several newspaper stories also point to quantum standards of emergent and gratuitous relief being broken in many instances. The quantum standard was fixed at 500gms per adult per day and 250 gms per child below 14 years per day.

3.1c There have been aberrations in migrants and refugees receiving gratuitous relief. According to para 163 of the ORC, gratuitous relief is given to those who are incapable of earning their livelihood and for children of a specified category. Idiots, lunatics, cripples, invalids, aged, blind, children below 12 years, helpless widows, attendant of sick people or infants and the temporarily weak, not coming under any other social security scheme of the government are eligible. Gratuitous relief on cards is sanctioned by govt. for a longer period depending on the intensity of a natural calamity on conditions as may be prescribed. It shall ordinarily be limited to villages where there has been a crop loss of 50% or above and private charities cannot cope up with the need.

3.1d Para 170 interestingly mentions that an otherwise deserving person who belongs to another place or district but either has migrated or temporarily resides in the affected areas should not be omitted from listing under Gratuitous Relief. But in reality, many dalit, migrant and refugee villages like Polango and Kholapa and Balijari in Ersama block have been totally left out. This is a violation of the provisions stated in ORC. It is also a violation of UN Convention of Rights for Refugees which states that they have equal right over public relief and a violation of the Rights of Migrant Workers under the International Convention. Under this law a migrant has right to equal treatment with nationals of the state concerned where they are working. This implementation gap also violates Art 46 of the Constitution under which SC and ST communities find protection as 'weaker sections'.

4.1a The erratic nature of relief distribution also created food insecurity for the vulnerable sections such as scheduled castes, which is indicated by migrations that started as early as 15 days after the disaster in some places like Bhadrak; diversion of compensation amount for consumption; distress sale of labour and land. These are all indicators of differential impact and recovery.

4.1b A history of implementation gaps and differential recovery have been revealed by the Participatory Poverty Profiling and Need Assessment Study. The people have identified that in the 1955 flood, because of total loss of crop, the SCs found it difficult to make a living as all of them were



agricultural labourers. They survived by selling fuel wood and timber by cutting down the casuarina forest raised by the government. The upper caste people, on the other hand, managed with earning from betel vines that were not affected. They did the same thing after the 1967 cyclone. **The Trend Analysis of Cyclone Impact done through the study points to instances of distress sale of land among the SCs in Mathasahi village of Nuagaon village after 1967 floods. The trend of distress migration which started mainly after the 1982 floods have been seen in Mathasahi, Sumuda, Ramtala and Kumbhari villages. Most of the landless migrated as unskilled labour to places like Calcutta for construction work and to Paradeep for work in the Port.**

**4.1c There is a history of migration to local urban centers like Cuttack, Paradeep, Kujanga and Jagatsingpur; the study shows an increasing trend among villagers since 1990. Prior to 1990 most migrant labourers were employed as full time contract labourers within the local area. They are mainly hired by contractors who take them out. But after 1990, they preferred to migrate afar for higher wages and work for only 8 to 10 hours a day. The time periods of migration in Athgaria village, one of the worst affected villages, coincide with crop failure due to saline inundation. Migration decreased in 1997-98 coinciding with the building of the saline bund, as is revealed by the Trend Analysis. ; and in Kumbhari village, not as affected, where migration to Calcutta used to be a regular feature since 1980, the making of concrete houses in 1994 coincided with the decrease in the number migrating. This shows that where the protection gap in shelter and livelihood was bridged, migration was reduced. However, in 1999, migration returned to its normal level due to the cyclone. Out of 34 households almost 30 migrate regularly. Migrations have been taking place from Ramtola village, Gandamunda, Sumuda, Balisahi. Migrations outside the state have been to Calcutta, to work in the spinning mills, hotels, shops and as gardeners; to Mumbai, Delhi, Ahmedabad and Madhya Pradesh, Hyderabad and Goa. The main reasons for migration were put at the lack of wage earning opportunity in the village. The trend in migration coincides with the major cyclones occurring in 1971, 1972, 1974, 1982 and 1999. Each cyclone witnesses an increase in the migrant workforce and the number of destinations to which they go. After the 1999 supercyclone, the trend continues. When the study was being conducted the people of Ramtola and Sumuda had already made preparations to move out. In Athgaria, people said that unless proper measures are taken they would return to their native homes.**

**4.1d Usually the migration period is 4 months in a year during the lean periods from March to May and October to November. Patterns of migration have changed with people not coming back to their homes as they used to earlier. In many cases, they have been forced to work under low wages. This is a violation of Art 23 - Right against Exploitation which prohibits traffic in human beings and forced labour. Minimum Wage Act, 1948 is also violated.**

**5.1a. Pradipta Ram, a youth from Panchapalli village, Goda GP, an SUCI volunteer who has contributed immensely to the relief and health services, states that entire villages had moved by May towards Jagatsingpur town, 25 kms away, for canal bundh work. Many had left for road cutting work to Cuttack which is three hours away by bus; some had gone to Chilika for tank digging and repair. People from Annui have also gone. This has made the contractors' job easy as they are paying the people for 3 or 4 days when they may have worked for 15. At the same time these people cannot quit and come back to their villages.**

**5.1b Mr Farooque from, Fellowship, Bhadrak district also confirms this in one of the State Level Co-ordination Committee meeting. In the areas that he is working the nature of migration has changed. In Basudevpur, people generally go out for work in January and come back by the 'Raja' festival in June but even by July people had not come back. The limited scope for livelihood in their home village as well as the loans people generally take to migrate were some of the factors preventing them from coming back. Trafficking in women from the Bengali settlements also indicated their greater food**



insecurity position. As early as 14th/15th November 99, people from affected villages in Bhadrak were already talking of migration to Puri and Calcutta, because the crops were gone, fish were polluted and the cattle dead. Such distress sale of labour seems to have been a rather common experience, especially after the cyclone, although the state is bound by the **Bonded Labour System (Abolition) Act, 1960** to prevent this. **Art 23 prohibits traffic in human beings and forced labour & Art. 24 also secures the Right against Exploitation, and therefore against bonded labour.** The government has not used any of the laws at its disposal such as **Suppression of Immoral Trafficking Act or Bonded Labour (Abolition) Act or the Orissa Child Labour (Prohibition & Regulation) Rules, 1994.**

**5.2 The distress sale of labour and migration indicates the failure of the government to implement the food security provisions provided in the ORC and its Plan Document before and after the cyclone. To prevent such callousness, food security provisions must be made statutory and lack of implementation punishable. This will help secure people's Fundamental Right to Life under Art 21 of the Constitution.**

**5.2a Further implementations gaps in ensuring food insecurity is indicated by the diversion of housebuilding compensations for purchase of food. In one village, Sumuda, the Participatory Poverty Profiling and Need Assessment Study reveals, the OBCs were earning half the wage for house repair work on the understanding that they will be paid the rest later. They have been forced to use their house compensation money to buy rice from the market. The study elucidates how food insecurity compelled beneficiaries of house damage compensation to divert it for food consumption. Damage compensation was provided at a time when there was not enough to eat. Nor was it enough for carrying out repairs. So, in Era village, the SCs spent one-fourth of the compensation money on food, another fourth on agriculture (for dalua crop), almost a fourth on utensils, one-seventh on cloth and the remaining seventh on house repairing and the remaining seventh on house repairing. Farmers who were of the same economic status as that of the SCs, spent equally on food, cloth, agriculture, utensils and house repairing. The SCs who were doing food for work were also buying rice from the market with their compensation money. The differential transfer of relief and rehabilitation entitlements has created differential recovery for these sections which is indicated by their dehumanizing coping mechanisms and survival strategies.**

**6.1 Yet another indicator of the success or failure of the Policy on Feeding is maternal mortality and morbidity at the time of child-birth. The IMR is highest in Rural Orissa in comparison to other states in Orissa. It is 98 per 1000 and 739 per 1,00,000 births, respectively. (Sept. 12, 2000, The New Indian Express) This shows failure in the implementation of the ICDS programme and Supplementary Feeding Programme assured under the Preparedness and Emergency Provisions of the state. The Panchayati Raj Dept. & the Women & Child Development Department must be held responsible for this. This failure in delivery mechanism is a violation of Art 39(e) of the Constitution under which the state shall direct its policy towards securing health and strength of workers, men & women and violation of Art 47 stated above. As it is mainly expectant women, nursing mothers and children from the poorer households who are dependant on the ICDS, their recovery process has been affected. The failure of the ICDS programme is elaborated in the section on Health & Education.**

**7.1 Just moving food into an area will not help the affected population when what is required is generation of entitlement because first thing to be tackled is entitlement failure. This means that total transfers have to be substituted with exchange-entitlements and livelihood restoration to preserve the dignity of the people. Capacities have to be introduced into the community for providing work so that people are given opportunities to contribute to their own self-help and livelihood such as through Food For Work. Food For Work, as under Para 158, is supposed to be undertaken with the assistance of food stuff supplied free of cost by the International Voluntary Organisations, the cash component being met out of the relief money in these areas. Grain for Work under para 159 is a GOI**



scheme for generation of additional employment opportunities in rural areas by utilizing surplus grains in the country. Wheat is given free by the Central Govt. and matching cash grant by the state govt. This is run both for maintenance as well as original development works to supplement the plan and non-plan positions. **Food For Work was implemented very late by the government in Jagatsingpur, in May, in fact, increasing the food insecurity of the people. What time gap between the withdrawal of gratuitous relief and the initiation of FFW is permissible and beyond which time it becomes a violation of people's right to exchange entitlement does not find mention in the Code . The protection gap was attempted to be filled up by INGOs and NGOs.**

**7.2 According to the women's group in Pradhangheri, rehabilitation services and opportunities were accessed mainly from the NGO sector. Action Aid in a period of 7 months provided Food For Work for 42 days to the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> categories in Pradhangheri, Lutheran World Service for 15 days to 3<sup>rd</sup> and 4<sup>th</sup> categories, and relief rice came from Red Cross for the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> categories. Action Aid's FFW package consisted of Cash @ Rs. 15 per day, Rice @ 2.5 kgs per day's work, Pulses @ 200gms per day's work, Oil @ 150 ml per day's work. The relief rice from Red Cross was 150 kgs per person in the 2<sup>nd</sup> group and 100 kgs per person in the 3<sup>rd</sup> and 4<sup>th</sup> categories. LWS provided 112.5 kgs for 15 day's work. FFW by these service providers was able to provide scope for transfer of food, cash income and work opportunity for recovery through self-help of the groups more affected than others.**

#### **8.1 The Entitlement Failures For Farming Community have been in the following areas:**

**8.1a The key areas of entitlement failure in restoration of livelihoods for the Farming Community was in the area of seed supply, tilling support and ensuring desalination of lands and compensating for sand-cast lands, replacement of agricultural implements, credit/loans. Risks have not been shared timely with the vulnerable people by the government according to the standards set by itself. Differential and delayed implementation of these provisions has violated people's right to adequate means of livelihood under ORC provisions, Art. 39, the Right to adequate livelihood and Art 41 of the Constitution which assures public assistance under 'Undeserved want'.**

**8.1b Under Para 21 the Agricultural Department is supposed to provide seeds for the rabi Programme. According to para 224 of the ORC the Agriculture Dept. is the main agency for supplying quality seeds to the cultivator. It is responsible for assuring the Kharif programme. They are to take steps for procurement of seeds well in advance of the agricultural season both from inside and outside the State. Irrespective of these provisions, the supply of seeds was very late. This was because government was not ready with saline-resistant seeds, or local varieties. The Seeds Act, 1966, is an Act for the regulation of seeds and the movement of seeds within the country. By emphasizing on certified, 'true to type seeds' as against local varieties for agricultural production, it prevented the distribution of local varieties which were anyway in shortage. This Act does not specify what alternative path is to be followed in a situation where certified seeds may be in scarcity . While it lays stress on quality seeds, there is an implicit bias against the use of local seeds which is institutionalised as is evident from the opinions of OUAT & ICAR. This has induced food insecurity. Even certified seeds have given only 40% germination as proved by CYSD in Ersama.**

**8.2 The people of Pradhangheri have identified the need for sweet water to the arable land for their recovery. Through that they will be able to grow twice the amount of what they were producing as sweet water will reduce the salinity of the soil and enable the growing of crops in summer. This will help them in reducing the total period of food insecurity. However, irrigation support in the post-cyclone period emerges as another area where capacities have not been transferred adequately. This is also supported in the views of organizations working to restore**



irrigation facilities. According to a representative from Unnayana, a Bhubaneswar based organization providing irrigation points in coastal areas, the Govt. had promised to restore all LI points by March. But this did not happen. Again it gave a revised statement that restoration would be done before the Kharif crop. But the Lift Irrigation Corporation has done little towards it. In Balikuda, Astaranga and Ersama not a single LI point had been restored by 17<sup>th</sup> August, according to the Unnayana representative. The Lok Yojana exercise done in Pradhangheri 7 months after the supercyclone is also testimony to policy failure.

**8.3a Similar entitlement failures have been experienced by farming community in case of mechanized tilling support.** According to the ORC, the government is supposed to provide tilling support through bullocks.. Where Tilling Support is concerned, bullocks may be given on loans by Revenue Officers under the Agriculturists Act., according to the ORC. The price will be fixed with reference to the price fixed for IRDP beneficiaries. In this situation where massive casualty in draught animals has taken place, there should be scope for alternative mechanical provisions for small and marginal farmers. In the rehabilitation process, only a few NGOs have given a few tractors to farmers. But even when subsidies have been granted for tractors on an acreage basis there are procedural problems, according to Utpal Maitra of DFID.

**8.3b But no time standards are mentioned for this assistance.** This lack of time standard has slowed down the flow of capacity to the vulnerable people. By the time the government arranged for mechanized tilling support it was already late. The Orissa Agro Industries Corporation's scheme of providing tractors on hire came after the main tilling period. As shared by a UN Volunteer, Mr. Nanda, OAIC was yet to deliver in the end of July, although it had collected the list of beneficiaries. The initial policy of OAIC was to support small farmers having not more than 1 acre of land, who had lost their cattle. On a system of partial transfer, the OAIC was supposed to provide Rs. 300/- while the beneficiaries were supposed to match it with another 300/- On an hourly basis, the hiring charges of tractors were Rs 200/-, with tilling an acre requiring 3 hours. Later this policy changed. The small farmer norm was dropped because sharecroppers working on big farmers' land were getting sidelined, and small farmers had already cultivated because they could not afford to wait through the policy indecisiveness of the Govt.. The small farmers who had borne the risk upon themselves and tilled on their own wanted the cash part of the support to be given to them by OAIC. But the latter has been unwilling to compensate. The entire risk has thus come on to poor farming households. The objective of partial transfer of capacity was lost. While govt. failed to keep its policy commitments, some NGOs had encouraged the people to go ahead with tilling on their own, promising to provide the financial support after the activity. People took debts for this but find these NGOs unable to support them. For small and marginal farmers and for sharecroppers, the process of recovery has been affected due to ineffective govt. policies of risk-sharing and time of deliverance being very skewed and inabilities of NGOs to fill up this protection gap. In some places people have tried to counter this risk by helping each other. This has acted as a kind of mutual insurance. In Ersama, Action Aid has encouraged collective farming among Scheduled Caste beneficiaries of FFW. Sometimes 30 or 50 of them, very often sharecroppers, farm each other's lands.

**8.4 Similarly, for Betelvine farmers, assistance up to a maximum of Rs.500/- shall be provided according to 251(a) of the Code to small and marginal farmers whose betelvines are substantiantally damaged by flood/cyclone and such assistance will be limited to the extent of only 10 decimals of betelvine affected.** Betel is the primary source of livelihood in villages like Siali, Kalabedi, Gandamunda, Gobindpur and Mathasahi, according to the Participatory Poverty Profiling and Need Assessment Study. A vine of 50 trees on about 20 decimal of land would fetch around Rs 10,000/- to Rs 20,000/- in ever quarter of the year. People required betel saplings and infrastructural components destroyed by the wind to revive these plantations. Revival would cost around Rs. 35,000/-



according to an estimation done in Sankha village. But many have not received compensation for such damage, which is very inadequate anyway. This reflects an implementation gap as well as an information gap where people were not informed that they could claim or that they were eligible for such compensation.

8.5 Para 230 of ORC addresses compensation for Sand Cast Lands due to floods, cyclones at the rate of Rs, 2,500/- per hectare subject to a maximum of Rs 5000/- per small farmer and Rs 3000/- per marginal farmer. Although this provision is there in the ORC, Govt. officials have not made much of an effort to provide this crucial piece of information either at Panchayat or Gram Sabha level. As a result, many have foregone this entitlement. This information gap exists as government has not disclosed or declared this eligibility. Such has been the case in Ersama block of Jagatsinghpur. The post-cyclone income-expenditure analysis in Pradhangheri does not include any such assistance received, which implies that these provisions have not been implemented or people have not been informed of their eligibility. This feature of the government not disclosing its obligations is a withdrawal from its constitutional responsibilities to assure the implementation of Art 39 of the Constitution - the right to adequate livelihood.

8.6 This entitlement failure has impacted more on sharecroppers and marginal and small farmers. The well-being analysis in the post-cyclone period reveals the shrinking of the sources of income because of failure in livelihood restoration of agriculture. Category 3 of Pradhangheri village which used to earn Rs 1050/- annually from the sale of paddy @ 3.5 bags per year at a distress rate of Rs 300/- and Category 4 which used to get an income of Rs 1800/- from sale of 1 bag of paddy from cultivation and 5 bags from share cropping, no longer show this as a source of income seven months after the cyclone. Category 3 of Pradhangheri village, whose major source of income is from sharecropping, have identified the urgent need for sweet water to desalinate lands for agriculture in their problem analysis. According to them the more crops they grow, more is their share. In the absence of this need being fulfilled, their food insecurity is increasing. The temporary improvement in the well-being of categories 3 and 4 in the post-cyclone period is mainly due to FFW intervention of NGOs. This is indicated by the reduction in the excess of expenditure over income by Rs 713/- and Rs. 935/- respectively within a period of 7 months following the supercyclone. Once that is withdrawn, what coping mechanisms will they be left with in the delayed and inadequate long term restoration? Improvement in well-being status is largely due to the intervention of Acton Aid - BGVS' FFW programme which covered them for 42 days in 7 months time-period, LWS and Red Cross.

9.1 The ORC has provisions for entitlement transfers through Loans & Subsidies. Taqavi loans are supposed to be disbursed by the Revenue Officers for purchase of seeds, bullocks, fertilizers. According to the ORC, the Revenue Dept. must make budgetary provision for this. For removal of sand, developing waterlogged area the Revenue Dept. must make budgetary provisions under the Land Improvement Loans Act, 1883 and for seed loan of maximum Rs 200/- and bullock loan at the price fixed for IRDP beneficiaries under Agriculturists Loan Act, 1884. The Land Improvement Loans Act, 1883 is an enabling provision which will afford employment to the poor with assistance of free grants-in-aid from famine funds through the above-mentioned activities. This set of rules also provides for the suspension of instalments and interests by the Collector on proof of failure of crops from causes beyond the borrower's control. Taqavi loans are liberal advances made to small farmers and sometimes artisans, who have no credit provisions for seeds, tilling support, other land development works in agricultural revival of their lands. These are farmers who are not linked to Co-operative Societies or are not bankable/credit-worthy. The amount depends on degree of distress.



**9.1a The Famine Commission while dealing with the role of the State, observed that a wider view may be taken of the responsibilities of the Govt., and its interest in the cultivator as a citizen no less than as contributor to its revenue justifies it in promoting his industry. The Policy of Taqavi Act should not be regarded as productive only but also as protective. It is upon the protective aspects, especially we would insist... We are convinced there is more scope to and need for further extension in its protective aspects on lines of greater liberality. (Natural Disaster Management in National Development – An Indian Perspective. K.Rajan. Disaster Mangement .Ed. Vinod K.Sharma IIPA 1994)**

**9.1b In spite of provisions being laid down for credit support under Para 6 of the Code and the Agriculturists Loan Act, small and marginal farmers, BPL women, weavers and artisans have been sidelined. Para 6 of the Code under General Principles Regulating Relief Measures states - When a major calamity occurs it becomes impossible for individual cultivators to take either preventive or remedial measures by themselves. The State comes to their assistance ...by providing - (1) adequate supply of credit for purchase of seeds, fertilizers, pesticides, bullocks, etc. (iv) Other aids in the form of remission and suspension of collection of land revenue and collection of loans are also given to cultivators with the same object in view. FFW programme cannot solve the problems of long-term capacity transfer that can happen through credit and investment. The Poverty Profiling Study points out the preference ranking of people in credit operations in the pre-cyclone period. Relatives, traders, moneylenders, banks and co-operative societies are preferred in that order in villages like Nimol, Ramtara, Noliassahi. This is because of the lack of collateral security such as land which is a must for loans from co-operative societies, longer periods of repayment, easier availability, low / lack of interest, no procedural delays as in banks. However, in the post-cyclone period, the informal sources of credit have been destroyed leaving the more vulnerable sections with no option but formal credit from banks and co-operative societies. As these are outside their reach because of their poor endowment status, their recovery pattern gets distorted in the long-run.**

**9.1c This is supported by the Lok Yojana exercise done with the villagers of Pradhangheri. According to the vulnerability analysis of this village, the credit needs of the 3<sup>rd</sup> and 4<sup>th</sup> categories for long term revival cannot be met due to lack of collateral security. The 3<sup>rd</sup> category which was earlier able to mobilize loans from co-operative banks has lost its ability to do so now. The 4<sup>th</sup> category whose indebtedness position, with informal moneylending sources, was always on the increase even in the pre-cyclone period has been found to be even more after the cyclone. They are forced to go to the local money lenders to meet their food requirements. The 4<sup>th</sup> category which is even more vulnerable has also identified the provision of agricultural implements as a priority need as they earn a bit from agriculture that meets their food needs for about a month. The non-replacement of agricultural implements swept away in the cyclone has shrunk the income opportunities for this category, thereby increasing food insecurity. Lack of formal credit opportunity for these groups to fill up these gaps has made them vulnerable to indebtedness with moneylenders. This form of indebtedness with can be taken to be a key indicator to differential recovery pattern. This is indicated in the difference in the degree of recovery of the 2<sup>nd</sup> category which was able to mobilize formal credit support from the Co-operative Bank as it was better endowed with collaterals like land. This is indicated by its high increase in the income over expenditure from Rs 350/- in the pre-cyclone period to Rs. 5230/-. An increase of Rs 6000/- received in credit was used by the members of 4<sup>th</sup> category to improve their food and social security position while categories 3 and 4 were deprived of similar opportunity for speedy recovery. This analysis proved that there was need to plan for the livelihood restoration for each of the households in the 3<sup>rd</sup> and 4<sup>th</sup> categories as they were more vulnerable. The inability of formal credit institutions to assist the more vulnerable reveals, more than anything else, the failure of social banking, thus violating Art 39e - The Right to**



**Adequate Livelihood and Art 41 to Right to public assistance in situations of old age, sickness, disability and other cases of undeserved want .**

**9.1d** In Pradhangheri, in the pre-cyclone period, credit was sourced from the Krushak Mandal which is a committee of 15 villagers and is formed by the All India Farmers Service Federation (AKSS), an NGO receiving government grants . Of the 15 members, 14 women have received credit support of Rs 2000/- each for restoration of agriculture after the cyclone. In prioritizing the importance of the 11 institutions in their village on the basis of degree of access and control, this institution has been listed in the 9<sup>th</sup> position because the villagers do not have any control over it. These loans have been given to the women for their self-employment . Red Cross has assisted the Maa Kali Self Group, another group of women with 39,000/- for livelihood. Again, the members do not have much control over the Red Cross. This assistance was given very late. By that time, the members of Maa Kali Group who had lost their savings in the cyclone had already diverted their housebuilding compensation to pay off the principal amounts of their loans from the SHG. This was because they desperately wanted to keep this coping system alive.

**9.2 Credit provisions are linked to generation of self- employment and livelihood restoration.** The Swarna Jayanti Gram Swaraj Yojana is a scheme providing entrepreneurial credit assistance for small business groups who initiate entrepreneurial activities in three broad sectors – Primary sector comprising of agriculture, poultry, dairy, land development, betel-farming; a Tertiary sector which comprises services- like supporting technicians, mechanics; and small scale industry like brick-making, agarbathi , dress-making, toy-making. This time although the target was to supply 3000 cows in the affected areas of Jagatsingpur, due to scarcity of cattle, only 500-600 were provided by August. A loan amount of Rs 50,000/- is provided under this scheme . For SC there is a subsidy of Rs 10,000/-, i.e., they pay interest on Rs 40,000/- and for non-SC there is subsidy of Rs. 7500/-. In the year 1999-2000, 6000 swarajgaris have been supplied with loans in the post-cyclone period according to Mr. Surath Chandra Mallick, Addl. PD DRDA, Jagatsingpur.

**9.2a** In the post cyclone period, brick-making, poultry farming and tractor-support have been three broad areas for SGSY support in the 8 blocks of Jagatsingpur. In some cases groups have been supported and in others, individual. Support is in the form of milch cows, bullocks, shallow tubewells, diesel pumpsets, support to rural artisans, poultry, tractor, agro-horticulture, and others like brick-making, net and boat and betelvine. In the financial year 1999-2000, up to 31.3.2000 the physical target for SGSY coverage for the 8 blocks of Jagatsingpur was 12,862. The total application sponsored was 15,073. However, the number sanctioned was 7221 out of which amounts were disbursed to only 6193. (Information Sheet on Cyclone Damages vis-a-vis Progress of Restoration & Rehabilitation in Jagatsingpur District. DRDA, Jagatsingpur. 28.04.2000)

**9.2b** However, it would be pertinent to observe that by March 2000 only 359 artisans ultimately benefited from disbursement while the physical target was set to cover 1680 beneficiaries. The coverage is even less than the number sanctioned, i.e., 363. Similarly, poultry support was given only to 74 persons even though a target had been set for 170. If these figures are compared with the support given for milch cattle which is to 1622 members out of a target set for 1680, then the biases in government programmes against small animal rearers becomes evident. Many vulnerable people have got eliminated from assistance even while being eligible. Categories 3 and 4 of Pradhangheri village are such examples. The income - expenditure analysis of Pradhangheri village do not reveal any sign of help received by any of the categories through the SJGSY programme after 7 months from the supercyclone. However, the women in the Maa Kali Self Help Group have been assisted with an amount of Rs 25,000/- under DWCRA after the Cyclone for which the process had been initiated prior to it. The Fact Finding Study conducted by CLAP



in 5 cyclone affected districts also reveals that these credit provisions have materialized differentially. This is a violation of Art 15(3) and 15(4) and Art 39 and Art 41.

9.2c Where providing credit is concerned, the SC ST Finance Corporation gives subsidized loans to these vulnerable sections that are channellized through the OAIC, OLIC, OSFDC, and the RRBs. The areas where it gives credit and subsidy must have at least 50% SC or ST population. The bankable schemes reach out to the areas beyond ITDA, MADA and Cluster to avoid duplication. The Corporation sources its funds from the National Scheduled Castes and Scheduled Tribes Finance Development Corporation (NSFDC), National Safai Karmachari Finance Corporation and National Minorities Development Finance Corporation. According to the AGM of the Corporation, Debabrata Das, credit support intended for the recovery of the SC ST populations have been stalled by the attitudes of the judiciary and bureaucracy who have prevented the schemes from reaching the needy in due time. Schemes for fully subsidized diesel pumpsets which could have been given in irrigation needy Supercyclone affected districts like Jagatsingpur, have been held up because the bureaucracy in the area has so far failed to provide the list of Pani Panchayats and Farmers Collectives with whom the assets are to be placed. In the case of tillage support, 7.29 crores from NSFDC were placed with the Corporation in March 2000 to provide tillage support in the form of 200 tractors and 100 power tillers. Although 76 beneficiaries have been sanctioned the credit amount for tractors and 11 for the power tillers, money has not yet been disbursed, although a year has passed since the Supercyclone. This is because one of the Companies, Escort, has moved the High Court to take dealership of all 200 tractors while the government wants to leave the choice of the tractor to the beneficiary. The High Court actually passed a Stay Order. This has prevented the scheme from materializing, thus damaging the recovery of the beneficiaries.

#### 10.1 The Entitlement Failures For Non-farming community have been in the following areas:

10.1 Gaps between provisions for protection of livestock in the ORC provisions and implementation. Para 214 deals with scarcity of fodder. It places responsibility on the Collector to ensure that provision for fodder is there when animals are encircled by high flood. Kunda may be sanctioned in exceptional cases, not exceeding one kg per animal. The Director, Veterinary Services & Animal Husbandry is responsible under para 220 of the code to provide veterinary services for the prevention of cattle epidemics; necessary health squads to be got ready for treatment of cattle diseases; stocking of adequate medicines prior to a disaster in the dispensaries. Animal health during normalcy is an important aspect to food security. The Govt. under the Ninth Plan is supposed to open Veterinary Dispensaries in the villages. According to the Govt. of Orissa's White Paper, December 1999, the total number of cattle killed was 3,15,886 and the total number of small animals killed was 3,16,372.

10.2 The modes of relief for fisherpeople and artisans have been mentioned under para 246, of the ORC providing for free grants for purchase of raw materials, tools and implements, including boats or nets to fishermen, for repair to workshop or shed; or giving of cash grants or loans, without the modes of help being mutually exclusive. The financial assistance to fisherfolk under ORC rules of 1995 to provide Rs 2000/- for building and repair of boats and Rs 1000/- for repair of nets was upgraded after the Ganjam cyclone in October which preceded the Supercyclone. This upgraded compensation amount was Rs 3000/- for boat repair and Rs 1500/- for net. A New Indian Express newspaper report titled "Cyclone-hit Fishermen to get Relief at Last", dated 27 Sept 2000, states that the Chief Minister in the meeting of the Cabinet Sub-Committee Meeting on Natural Calamity presided over by him, announced that the fishermen will be given assistance as per the Relief Code. According to its provisions, an affected fisherman will get Rs. 3000/- for boat and Rs 1500/- for net...there has been inordinate delay in giving compensation to the



fishermen. Though a decision was taken by the State Govt. to adequately compensate the fishermen last year, till now not a single fisherman has got any compensation. Several cases that were brought to the notice of the Jury in the Public Hearing organized by CLAP in September also point to these discrepancies. Along with fisherpeople, even weavers belonging to weavers' co-operative societies, inspite of their looms being insured with United India Assurance, have been deprived of their rights. Schemes with the SC ST Finance Corporation to support weavers for worksheds, modernization of looms are not reaching the people.

**10.3 Fisher people's recovery process has been stalled due to conflicting standards on equity based funding between the Government and DFID.** The Department for International Development (DFID) of the UK had agreed to give financial assistance of Rs 43 crores for rehabilitation for inland fishermen. According to the Govt. of Orissa's White Paper, the total number of fishing boats damaged were 9085. A Govt. proposal from Fishery Dept. to provide infrastructural help to fisherpeople in the form of boats was pending for a sanction with DFID because the Govt. had been unable to take a decision on the principle of equity, according to Utpal Maitra, DFID - whether there should be individual targetting or community approach in providing livelihood implements like boats, nets. According to him, 30,000 marine fisher people are to be supported in this project. The project has been held up because DFID, having gone through a certain process of consultation, has been insisting on a boat-lost-boat-gained policy for rehabilitation. The govt. however, has decided to stick to the equity norm because among the fisher-people not everybody owns a boat. For instance, out of 5000 fisher families in Ersama, only 2000 have boats. Others have only nets. While the lowest beneficiary in the 43 crores project is to get subsidies of Rs 15,000/- it will not cover the cost of a boat. As an alternative, boatless people have decided to come together in groups of four to avail a sum of Rs. 60,000/- . Mr. Maitra, while agreeing individually to the govt's position on this project, expressed his discomfort about DFID's rigidity. According to him, the problem is more aggravated because it is a rehabilitation project and not a development one. Here, it must be pointed out that Bilaterals must work out proper rehabilitation policies with acceptable standards.

**10.4 A 2.5 crore DFID rehabilitation project has been decided upon for marine fisherfolk.** While govt. will support boats, DFID will give support for nets. As marine boat workers are not many in number and apparently get good wages, no need was felt for collective funding by DFID. Instead the individual would be helped through a SHG framework. Around 2,500 SHGs were mentioned in the plan, having 10-20 members each. Out of the 2.5 crores, 2 crores would be used at the level of boat building, an activity which provides for short-term income-transfer for carpenters. **Delay in implementation has again affected the recovery of marine and inland fisherfolk violating Art 39.**

**11.1 Since the FFW is not sufficient to fulfill the employment requirements, normal period programmes for employment generation must be activated during the distress period following a disaster.** The Government is bound by its statements in the Ninth Five Year Plan of the state to deliver employment assurance capacities with the people. These normal period plans must be activated fast to ensure food security to people. This has links with normal period readiness of employment generation programmes. In Maharashtra, for example, the **Employment Guarantee Scheme (EGS)** was implemented to provide large scale continuous wage-employment to vulnerable groups on a sustained basis through developmental works in the villages during normal period. The adequate provision for work, their accessibility for vulnerable sections are linked to their recovery process.

**11.2 The Employment Assurance Scheme and the Swarna Jayanti Gram Swaraj Yojana (earlier IRDP) are two employment guarantee schemes which have been activated after the disaster.** Operation Black Board which has scope for labour-intensive work was also activated. The EAS was



launched from 2.10.93 with the objective of providing assured gainful employment to all able-bodied adults in rural areas who are in need of work but cannot find it during the lean agricultural season. The scheme also aims at creation of economic infrastructure and durable community assets for sustainable employment. The funding pattern envisages sharing of expenditure between the Centre and the State in the ratio of 80:20. The Central Govt. releases their share directly to the DRDAs. Intensified JRY (2<sup>nd</sup> stream of JRY) has been merged with EAS with effect from 1.1.96. Consequently, no separate provision for intensified JRY is necessary for the 9<sup>th</sup> Five Year Plan. The objective of the scheme Operation Black Board is to provide buildings to the buildingless Primary schools and schools having thatched roofs at a unit cost of Rs.1 lakh per building. 40% of the expenditure under this scheme is met out of non-JRY share under OBB which is borne by the State Govt. The balance 60% represents JRY share with a sharing pattern of 20: 80 between the State Govt. and the Central Govt. **(Ninth Plan Document, Government of Orissa)**

In the post disaster scenario, the EAS has been used for labour intensive restoration activity like rebuilding schools, roads, tanks. According to Mr. Mallick, Addl. PD, DRDA, Jagatsingpur, there has been an allotment of 1 crore under EAS for each block. For restoration of schools alone there is an allotment of 6.5 crores. The BDOs will prepare and consolidate annual plan based on Different Sectoral Balance (Roads, Tanks and the link) and submit to DRDA. The reconstruction amount for each school building was raised to Rs. 3.5 lakhs per building. In the 1<sup>st</sup> phase, Mr. Mallick said, only 81 out of a target of 801 school buildings have been taken up. In spite of these allocations, no such assistance has reached Pradhangheri village. No member has got help employment through EAS or SJGSY.

**11.3 However, none of the employment schemes have anything for the disabled which is a violation of Art 15(3) and 15(4) which guarantees right to protective discrimination under the Constitution and Art 39 – the right to adequate livelihood.**

**11.4 Livelihood restoration has been untimely, inadequate and selective, grossly discriminatory of gender needs and non-farming communities. The impact has been mostly felt on the retardation of the recovery processes of the most vulnerable groups in the community like women-headed households, single women and children. This has been indicated by numerous instances of child labour and trafficking as well as trafficking in women from scheduled caste and OBC households. The se dehumanizing coping mechanisms indicate differential impact and recovery.**

**11.4a** According to a study done by Centre for Child and Women Development and Forum Against Child Exploitation, 4 affected districts of Jagatsingpur, Kendrapara, Puri and Ganjam most of these children and women have SC caste names such as Behera, Bhoi, Pana, Kandra and Barik and others have OBC titles like Parida, Dalai and Pradhan. Child labour and trafficking in children and women have been seen in Bathighar, Ramnagar, Jambu and Bijayanagar GPs of Mahkalpada block of Kendrapara district as well as its Rajnagar block; in Ersama, Kujanga and Balikuda blocks of Jagatsingpur district; in Nimapada, Kakatpur, Astarang and Gop in Puri district, in Rangeilunda and Chhatrapur blocks of Ganjam. According to Mahendra Parida, Secretary of CCWD, while it has been natural for children to help their parents in restoration, in 8 GPs of Jagatsingpur such as Padampur, Japa, Gadakujanga, Ambikil, Gada, Gadaharishpur, the problem of poverty has become very acute. Parents are forcing children to go and work in prawn culture farms of Surya Udyog and the likes.

**11.4b Child trafficking cases have been observed in Japa and in Astarang of Puri district. If educational centers are not revived and the livelihoods of vulnerable households, especially those that are women-headed, SC and OBC are not given sufficient attention and boost, these debilitating trends will continue. While this definitely calls for greater efforts on the side of the Govt. and NGOs, it exposes the unpreparedness, and biases within the delivery mechanisms of both govt. and other service providers. These cases establish total entitlement failure for Scheduled caste communities, women-headed households and children from BPL families. They represent human rights violations as**



their Right to adequate means of livelihood assured under Art 39 is violated and Right to protective discrimination under Art 15(3) and Art 15(4) is violated. Art 38(2) of the Constitution which states that the State shall reduce economic disparities and inequalities in opportunities, status and facilities is also violated. Arts 23 and 24 which guarantee Right against Exploitation are violated. Bonded Labour System (Abolition) Act, 1960, Suppression of Immoral Trafficking Act, Bonded Labour (Abolition) Act, , and the Orissa Child Labour (Prohibition & Regulation) Rules, 1994 are also violated. The rights assured under the UN Convention on Rights of the Child are violated. Directives to the State under Art 45 to provide free education to all children from 0-14 years which can prevent children have been neglected.

12.1 To prevent these implementation lapses, there is a need to make all provisions related to food security, in the different time periods of preparedness, emergency response, relief and rehabilitation, statutory. This is a necessary step for mitigating the impact of disasters and to secure rights under Art 21, Art 39 and Art 41. At this point it become essential to carve out a Disaster Mitigation Policy which will address standards of humanitarian assistance in normal period development, relief and rehabilitation. The Minimum standards of entitlements - time, quantum, quality, culture, technology standards of services by which livelihood options of different vocational groups, women and men may be identified and restored. This restoration should be based on informed choices and specific targeting of vulnerable women and households from the marginalized sections.

### POLICY GAPS

1.1 Art 38(2) of the Constitution which states that the State shall reduce economic disparities and inequalities in opportunities, status and facilities. Art. 39 in the Directive Principles of State Policy is an affirmative policy which lays down certain principles of policy to be followed by the State to secure (a) that the citizens, men and women, equally, have the right to an adequate means to livelihood (b) that ownership and control of material resources be decentralized and distributed. It gives directions to the state to assure livelihood assets of the poor .

1.1a Both Art 38(2) and Art 39 have been violated as the ORC provisions do not create equal opportunities for recovery from food insecurity for men and women, for farm and non-farm, for dalit and non-dalit, for landed and landless, for migrants and non-migrants, for able-bodied and physically challenged. This is evidenced in the different time periods of preparedness , relief and rehabilitation.

2.1 Food stocking prior to a disaster does not take into account the areas where dalits, migrants, refugees, and women and children, aged and disabled may have easy access. 'Who to Feed' during relief should be based on laws of protective discrimination and food movement during relief should not only address how many tonnes of food was brought into the area, but how much actually reached the inaccessible areas and unreached people. This will bridge the 'protection' gap.

2.1a Food Insurance Systems should be addressed with a clear procurement policy of the Govt, with mechanisms laid down for both Govt and Ngos in capacitating the vulnerable communities to gain command over Public Distribution System, especially women and dalits. Procurement plans should be clearly laid in place so that dependance on the market can be avoided. Markets, as such,



have never been known to respond to famines positively, if one takes into account the history of famines and market response. Leaving food matters to the market has proved disastrous in Bangladesh, Ireland, Wollo, Orissa famine of 1865-6, Gujarat – 1812. Market has always responded to entitlement and not need, to demand backed by purchasing power and not demand per se. **(Poverty & Famines, The Amartya Sen and Jean Dreze Omnibus)** Movement of food is always towards money. Therefore, the need to have ready food stocks at points where women, children, aged, disabled from dalit and other BPL communities can access and a pre-planned procurement policy.

**2.1b** Our Procurement policy is very dependant on External Food Aid. Building regional linkages between the PDS of various districts and even neighbouring states in a planned manner could be thought of. This would enable some reserve stocks being kept aside in the vulnerable time periods to be lifted/diverted immediately in an emergency in any of the regions. The procurement policy - internal, international or local PDS - to meet likely food shortage should be clearly decided beforehand by the govt. Procurement may be effected by purchases on the open market; monopoly procurement of the entire marketable surplus; or requisitioning stocks held by producers, traders, or millers at fixed procurement prices. Govts will have to consider the positive and negative effects of internal procurement (price rises, hoarding, market disturbance, etc.) as against International Food Aid which does not depend on markets.

**2.1c** PDS management policy should be changed and ownership handed over to prepared community. An alternative PDS through Community Grain Fund was initiated in 1994 and is being collectively managed by women in thirty villages around Zaheerabad in Andhra Pradesh, facilitated by the Deccan Development Society. Here, women-headed households manage the PDS systems.... They ration the amount, quality and the price of the foodgrains in a manner wherein their own produced indigenous food grains are not priced out of the market. They ensure that the food grown by them is part of PDS and PDS rice is not cheaper than what they sell. It has helped to re-establish women's control over food distribution, at the same time mobilizing resources and technology for sustainable and cost-effective farming and seed and grain-saving.... The women sanghams influenced the Ministry of Rural Development to approve an Alternative Public Distribution System ... Each of them identified 100 acres of fallows in their village belonging mainly to marginal farmers. The required amount was advanced over a three year period to the farmers for supporting expenditure on ploughing, manuring, sowing and weeding. The proceeds from the sale of the Grain were deposited in a bank as the Community Grain Fund. The money was utilised every year to reclaim more fallow land in their villages. The food security net could thus be cast wider and wider. Through this alternative PDS, which required only a one-time expenditure on the part of the govt., the women brought over 1000 hectares of fallows under the plough.. producing nearly 3 million extra meals in 30 villages. **(Women Manage An Alternative Public Distribution System . P.V. Sathesh, Exchanges, Issue NO.23, Action Aid )**

**2.1d** While this experiment is from a dryland farming area, there are learning experiences on self-reliance and empowerment of poor women farmers for the communities in coastal regions. They may organize themselves to negotiate with Govt. Depts to take over the control and management of the PDS in a manner that befits the food security situation in their own villages. Govt. should also consider handing over PDS to mobilized communities with necessary financial support in the beginning. The NGOs also have a big role to play in bringing together the vulnerable in a community for collective mechanisms to ensure their food security. This experience also has some answers to the concern regarding intra-household food distribution which goes against women and children.

**2.1e** Defective procurement policy of the government where food aid standards violate the Sphere standards of humanitarian assistance further distorts food security position. According to these standards the quantity and type of food, should commensurate with nutritional standards set by



the World Identification of people's own food and income sources and assessment of WHO. However, the Corn Soya Blend being given by CARE and US Aid is genetically engineered and is not considered edible in the country from where it is procured. The Food Rights Campaign in the State has protested against cyclone affected victims being used as guinea pigs.

**2.1f NGOs & INGOs should develop contingency plans for ensuring food security. Thus their procurement policies for lifting foodgrains, material components for FFW programmes should be pre-sourced. They should have directories of where they are available, local godowns and storage spaces. They should also have a financial plan to assist the community in placing loss-sharing systems in place such as credit and insurance provisions for the more vulnerable sections.**

**2.2 The State Level Disaster Mitigation Policy should stress on the creation and pre-identification of adequate storage infrastructure where foodgrains and other essential commodities may be stored before the disaster so as to reduce response time. While some of these arrangements can be in the identified vulnerable areas, they need to be supported by storage infrastructure at the Block level, as in the case of Bangladesh.**

**2.3 A Disaster Mitigation Policy should lay down strict market controlling measures in an emergency and restoration phase. There should be Standing Orders to Collectors to use the Essential Commodities Act as soon as they receive Early Warnings. This will be to ensure against hoarding and inflation.**

**3.1 Food security is closely related to the change in coping patterns. The Participatory Poverty Profiling and Need Assessment Study done in Ersama and Balikuda blocks of Jagatsingpur district identifies certain changes in cropping patterns which have destroyed traditional coping mechanisms against food insecurity. There has been a shift from staple crops to cash crops such as cashew, betelvine, sugar cane, ground nut and prawn. While these are attractive in terms of their potential income, when natural disaster strikes, the traditional food provisions would have been a big help. There is also a shift off the land into a wage earning existence. In Badakula village 'mandia' cultivation was widespread in the early 1980s. People stopped cultivating and started wage employment and bought rice for consumption. In this way they lost control over their food security. These trends have created differential impact of the disaster on the new wage-earning sections. Since the cyclone, some people have acquired mandia seeds for sowing. Differential recovery patterns for small farmers are indicated by their downward trend to wage employment which has forced their reliance on the market. A Disaster Mitigation Policy should address the need to revive and strengthen traditional cropping patterns that were more resilient against coastal calamities. Preparedness measures should involve further study on identifying and promoting these traditional cropping patterns, seed storage and dissemination, and the impact of the New Agricultural Policy.**

**4.1 Where time standards are concerned, the ORC does not lay down the time period by which emergent relief should reach people, except by saying that it should be immediate. There is nothing to bind the govt. to provide food the day after the disaster. In some places people received emergent relief after 4 days while in others after 9. The villagers of Pradhangheri have pointed out that in the first week of the supercyclone, they survived only on tender coconuts. Relief was provided by various agencies only after 7 days.**

**4.2 The delivery systems for Food relief should be pre-planned by the government and the NGOs and other service providers. These delivery units/institutions should be prepared with storage infrastructure, transport facilities, trained in stock-keeping, and more than anything else, should**



**be sensitized to aspects of vulnerability.** Specific food and drinking water packages to reach vulnerable households that are women-headed, aged-headed, dalit and migrant, should be brought into the planning of food relief by all service providers. Similarly, individual food packages should be prepared for groups with special diet requirements such as infants, primary school children, expectant and nursing mothers, or those who are aged and physically challenged and cannot queue up for relief. Panchayats should be strengthened with the right infrastructure and values/attitudes to reach the most vulnerable. According to the Panchayat Raj Secretary, the Sarpanch has been empowered to give relief for 10 days. If effectively used, this power can help prevent starvation death. **The OSDMA and the NGO sector have a big role to play in developing the Panchayats so as to quicken response time, to fulfill constitutional provisions of protective discrimination under Art 15(3) and Art 15(4) and to implement the Laws on Local Self-Governance.** According to Saroj Jha, UN House II, institutions like the schools, youth clubs and the ICDS, should be strengthened to reach the more needy households and individuals.

**4.3 Relief distribution and Rehabilitation process should be sensitive to the needs of the aged, and disabled, children and women.** The Participatory Poverty Profiling and Need Assessment Study points out that the old and children had a lot of difficulties in coping with the emergency. In many places people had to stand in queue to get relief after travelling long distances. People from Era waited for 18 hours at Sadeipur, 7 kms from the village, to get relief materials from the Sarpanch who received it from the Block HQ at Balikuda. Such a process of relief distribution is traumatizing even for a young person. Accessing relief is as such difficult for senior citizens. It would be inhuman for an aged or disabled person to queue up for so many hours. Many of them got marginalized in the process.

**4.3a The Study cites the case of Niranjan Das of Gobindpur village, a 70 year old who lost his livelihood with the destruction of his betel vine cultivation during the cyclone.** His house, coconut trees and fowls are also lost. He virtually lived without food for four days after the cyclone. Relief came to his village on the fifth day. Till the day of the study he continued to be sidelined by relief. Therefore, individual targeting is necessary by government's relief distributors and Ngos. **The uncared aged should be a primary focus during rehabilitation as they have nobody to fall back on; nor can they earn a livelihood for themselves.** Old age pension ought to be increased and the role of the community institutions is very crucial here for their every day care and community based rehabilitation. This is necessary to secure their rights under Art 21 and Art 41 of the Constitution.

**5.1 The exclusion from Gratuitous relief of those covered by social security schemes such as widows, and other pensioners violates Art 16, the right to non-discrimination and Art 41, the right to public assistance under undeserved want.** It excludes old and young widows, the aged from Gratuitous Relief when the pension amount is only Rs.100/-. Laws on protective discrimination are also violated.

- 6.1 The able-bodied criteria of FFW norms violates Art 41 of the constitution** under which the state shall secure the right to work, to education, to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of 'undeserved want'. It also violates **Art 15(3) and Art 15(4)** Right to protective discrimination as there is no specific targeting of women-headed households/destitutes in FFW. **There is no FFW work option for the disabled as the able-bodied criteria excludes them.** This violates **Art 14 the Right to Non-Discrimination and The Persons With Disabilities (Equal Opportunities) Act, 1995**. FFW for disabled should be provided for in order to ensure their dignity and capacity for self-help. **There is no protective discrimination norm for women, SC, OBC, although landless labour & small farmers find inclusion under FFW.** Artisans are also discriminated in the present FFW framework as skill-based FFW is absent. FFW needs to have at least 30% involvement by women and at least 5% by disabled.



6.2 There are no quality or quantity norms laid down in the FFW programme. In order to preserve the dignity of disaster victims, quantity and quality standards of food components should be developed. They should be able to fulfill minimum calorie and nutrition based requirements. Action Aid in its Norms of Humanitarian Assistance has laid down that the moisture, refraction and broken percentage shall not exceed 14%, 1% and 15% respectively. As regarding the quantity of the food basket, atleast 25 kgs of rice, 5 kgs of pulses and 2 ltrs of oil per month was suggested as a quantum standard, in the Workshop on Humanitarian Standards of Assistance organized by UN House II. This could be accepted as a standard norm by all NGOs. It was also suggested that some component of FFW payment should be in cash so that people may buy other essential things. This could be fixed at the Minimum Wage minus the monetised value of 25 kgs rice, 5 kgs pulses and 2 ltrs of oil.

6.3 The Disaster Mitigation Policy should stress the norm of increasing wage rates against Food For Work when a calamity situation is declared in an area. Or as suggested by the Special Relief Commissioner, Ajit Tripathy, in a workshop on Standards of Humanitarian Assistance, the wage rates can be increased to four times the normal rate as an incentive for work rather than giving food for free. This would ensure self-respect rather than charity. This can gradually be tapered down as people regain their capacities. However, wage rate at all time periods should must commensurate with Consumer Price Index, and should ensure comfort level of existence. For this Minimum Wage Act needs to be modified.

7.1 Within government policy, the aim of livelihood restoration has been to take the individual or household back to the status they enjoyed before the disaster. This reversal to status quo ante is problematic as it does not solve the problem of poverty which was responsible for differential impact in the first place. Nor does it solve the problem of differential access and control over existing infrastructures and institutions that existed due to factors of gender inequality, caste, class, ethnicity, disability, age and singleness. In order to reduce differential impact of disasters in the future, the well-being status of categories like 3, 4 and 5 of Pradhangheri village ought to be improved beyond what their pre-disaster status situation was. But the Code talks only in terms of alleviation or amelioration; it does not address elimination of poverty.

8.1 Since policy is silent on what livelihood- building capacities will be restored by the govt. for non-farm communities and in what time frame, the recovery processes are delayed and differential for fisherfolk, animal rearers, artisans like weavers, carpenters, potters and others. So, livelihood restoration of non-farm communities is yet another area of entitlement failure. The lack of provisions for animal rearing non-farm communities violates Art 39 - Right to livelihood. The recovery opportunities are thus diminished especially for small animal rearers of poultry, goatery. There are many women, dalits and also small farmers in this category. The case study of Pradhangheri village also shows the greater dependance of categories 3, 4 and 5 on incomes from selling of milk, incomes from poultry and fish prior to the cyclone.

8.2 Livelihood restoration of women in fishing, animal rearing, farming activity have not been covered under livelihood restoration. Restoration process has been oblivious of recovery opportunities for women. Their access to material support and credit are reduced in the absence of clear policy. However, this form of restoration in this 43 crore project has completely sidelined women in the fisherfolk community. This reflects very badly on the gender-equity norms of both Govt. and DFID rehabilitation policy. Art. 39 in the Directive Principles of State Policy is an affirmative policy which lays down certain principles of policy to be followed by the State to secure (a) that the citizens, men and women, equally, have the right to an adequate means to livelihood. Art 14 affirms the Right to Non-discrimination and Art 19 the Right to Equality. Both are violated. Orissa Relief Code has no mention of restoration of livelihood opportunities for women as



a category. Although women from fishing communities do not go out to sea because of the constraints of socialization, they are involved in many other fishing activities such as dry fish preparation, sorting, cleaning, packing and local marketing. Even though fishing households may be covered, **we need to address intra-household distribution of entitlements and protections, looking at the patriarchal character of our society and to ensure that women have food command within the house.** For this it is not enough to focus on their health and nutrition through feeding programmes but to tackle head on, entrepreneurial activities that will ensure the ownership of endowments such as cattle, income-transfers, purchasing powers and skills and strengths to have control over both.

8.2a Women have not been explicitly stated as a beneficiary group under the restoration programme in ORC. Lack of clear eligibility criteria leads to marginalisation in entitlements. A Rehabilitation policy should identify women as primary stakeholders for whom recovery is slower as such because of inherent biases within community, within governance and existing social policy. Very clear standards of assistance should be laid down for women in the different vocational groups in the farming and non-farming communities. Government, NGOs, INGOs and Bilaterals should earmark a certain percentage of their funds for non-farm community support, and within that for women.

8.3 Inadequate social/livelihood insurance, especially for non-farm communities: where shock absorbing systems like animal insurance, animal replacement have not been set in place. Rehabilitation Policy that intends to mitigate the impact of disasters should address the Replacement of Livestock for animal rearers. Since animal husbandry is mainly a primary livelihood base for women-headed households and poor farmers, dalits, landless, food insurance systems for cattle and other smaller animals should be laid down by the community. The ORC has no provisions for replacement of lost livestock or any means of supplementing their loss as there is in Bangladesh.

8.4 We identify some of the key standing orders for the Ministry of Agriculture, Bangladesh. During normalcy, preparations are to be made to receive seeds, seedlings, fertilizers and agricultural implements by the people in disaster prone areas under loan/grant. **Arrangements are made to keep stocks of seeds, fertilizers and insecticides, and the seeds are those that are suitable for the disaster prone areas.** Arrangements are to be done for seedling beds according to season and kept in stock near the disaster prone areas. High lands for seedlings beds are to be identified. **Arrangements are made for power tillers at Thana Head Quarters of the Disaster Prone areas to meet emergency requirements of land cultivation.** Various levels of officers are trained in cyclone preparedness activities; all essential commodities are stocked at places convenient for quickest distribution without any loss of time. **During rehabilitation stage, it ensures the proper use of all aid/assistance and loans to farmers.** A Thana Agricultural Loan Committee to determine the necessity of crop loans and receipt of the same is to be ensured by the Agricultural Extension Directorate.

8.5 Yet another policy gap in the ORC is that it has no scope for long-term livelihood restoration of the non-artisan landless, i.e., agriculture and construction labour. There is nothing for them beyond FFW. No provisions exist for their skill training or skill upgradation or mechanisms by which they may acquire ownership over assets that will assist them in recovery and well-being. **This is a violation of Art 39 and 47, Directive Principles of State Policy of the Constitution of India.** The former gives directives to the state to secure adequate livelihood for men and women and the latter lays down that the state must also regard among its 'primary duties', the raising of the level of nutrition and the standard of living of its people and the improvement of public health. Govt. cannot ignore the livelihood concerns of vulnerable communities in a situation of 'undeserved want' as per Art 41 which also stands violated.



8.6 This is corroborated by the apprehensions of food insecurity expressed by categories 3 & 4 of Pradhangheri village who are more vulnerable.. For the 4<sup>th</sup> group, daily wage constitutes the main source of livelihood and for the 3<sup>rd</sup>, it is the second principal source of income. They have categorized their problem areas in livelihood restoration. The lack of long-term employment opportunities thus constitutes the number one problem for both the groups, even 8 months after the cyclone.

8.7 ORC does not take into account the different categories of labour in its livelihood restoration programme. As a result of which the highly-skilled, skilled, semi-skilled and unskilled, the four different categories in the Minimum Wage Act are treated at par with a uniform wage rate.

8.8 The Minimum Wages Act, 1948, is an Act for doing social justice to workmen employed in scheduled employments by prescribing minimum rate of wages for them and to obviate chances of exploitation of labour. This applies to unorganized labour. Minimum wage fulfills in part at least the obligations of the state under the Directive Principles of State Policy. Wage can be categorized again into basic minimum wage which provides bare subsistence at poverty line, fair wage which is a little above the poverty line, and the living wage which is at comfort level. Yet another view is that Minimum wage should not just be 'maintenance' wage providing bare physical survival, worker's sustenance and that of his family but should also preserve his efficiency as a worker. This norm of upgrading the wage to comfort level should be formalised during rehabilitation as normal wage for well-being. The Minimum Wage Act which specifies Rs40/- as the minimum wage rate does not specify the factors to be taken into consideration in computing the cost of living index or the Consumer Price Index.. The price of essential commodities is the principal factor if not the only one relevant for the purpose of fixing the cost of living index number. Although the Minimum Wage is not adequate for comfort level living, it should be the minimum offered. If during relief people are paid lower than Minimum Wages then the court considers it forced labour, which is a punishable offence. (Sanjit Ray V State of Rajasthan, AIR 83 SC 328)

9.1 ORC does not address long-term mitigation of food insecurity impact of disasters on women, children, destitutes, aged, small farmers and non-farming communities. For this there is need to have greater focus on investing in people's infrastructural capacities, their assets, institutional mechanisms for decision-making, planning, managing and monitoring and their knowledge systems and coping mechanisms.

9.1a The livelihood restoration policy in the ORC does not address the rights for cultivable land for post-disaster settlement but only homestead land. This violates Art. 17 of the United Nations Human Rights Declaration says: (1) Everyone has the right to own property alone as well as in association with others (2) No one shall be arbitrarily deprived of his property. It also violates the Orissa Land Reform Act. Para 51 of the Orissa Land Reform Act, 1960 This states under the Settlement of Surplus Lands that 75% of the surplus lands shall be settled with persons belonging to the SC & ST categories in proportion to their respective populations in the villages in which the lands are situated. 51(2) of the Act also lays down the main categories under which land settlement for non-cultivation purposes may be done : (a) Co-operative farming societies formed by landless agricultural labourers (b) raiyats who personally cultivate not more than 1 standard acre of contiguous land.

9.1b What are the commitments of the state vis-a-vis land reforms in the Ninth Five Year Plan of the State land reform measures are sought through abolition of intermediary tenures, regulation of rent and security of tenures to tenants/sharecroppers, conferring of ownership rights on tillers, imposition of ceiling on land holdings, distribution of ceiling surplus land, consolidation of agricultural holdings and updating of land records through survey and settlement operations. The outlays proposed for 9<sup>th</sup> plan and provided for



the Annual plan, 1997-98 under Land reforms are Rs. 9734.00 lakh and Rs. 2115.49 lakh respectively. **This shows that land reforms is actually a budgeted head of the state.**

**9.1c** As regards the implementation of Ceiling Law, the Ninth Plan states that ceiling surplus land is being allotted to the landless persons of the state at the rate of 0.7 standard acre free of salami. In order to enable the allottees to develop the assigned ceiling surplus land, financial assistance at the rate of Rs 2,500/- per hectare is being given under this scheme.

**9.1d** However these land reform measures do not reveal any district wise categorization, nor do they reveal whether women were benefitted through the reforms. What remains to be found out is whether the rights have been changed only on paper or the beneficiaries have actually taken possession of their land. It is a known fact there is much resistance from male and upper caste communities as well as the administration towards land rights of women and dalits. **In Balijori village of Baramunduli GP, Balikuda Block, district Jagatsingpur, there are 50 Scheduled Caste households comprising 90% of the inhabitants. The rest 10% comprises of OBC. Out of these 50 SC households, only 31 have Record of Right over their land. A major concern in the area is that 300 acres of Patta land is under the illegal possession of a few influential people for prawn cultivation. (Jagatsingpur Update. Super Cyclone Social Reconstruction Project. Action Aid India & BGVS. 1 – 31<sup>st</sup> July 2000)**

**9.1e** The Orissa Disaster Mitigation Mission had undertaken an exhaustive survey in May-June 2000 of the most vulnerable families in the aftermath of the Oct 1999 Supercyclone. The survey identified 4090 most vulnerable families in 81 gram panchayts in 14 blocks of the districts of Jagatsingpur, Kendrapada, Bhadrak, Puri and Ganjam. Some key findings that were circulated by the members of ODMM can be cited here to understand the food security scenario as it was after more than 8 months of the Supercyclone. Five-six most vulnerable families were selected from each village, with a total of 50-55 most vulnerable households from each GP, whose vulnerability was authenticated by the Panchasabha. **A majority of these vulnerable households were women – headed. As per this study, all the vulnerable households identified were suffering from acute food insecurity. Of the surveyed population 60% were landless and 30% were marginal farmers. 5% of the households surveyed, especially the physically handicapped and older persons are in a similar situation equivalent to starvation. As per the survey, about 20% of the vulnerable households have not been listed in the BPL list prepared by the Govt. No rehabilitation programmes had reached out to them either from the Govt. or from Non-govt. agencies. This shows that there are links between landlessness, gender, disability and general exclusion from public relief and rehabilitation assistance.**

**9.1f** These are small examples of a larger experience of land alienation which has been responsible for starvation of the above mentioned communities. The land reforms intent of the State should be read with the Orissa Land Reforms Act in order to understand the land entitlements of the weaker sections. **If redistribution has not been effective, then it is a failure of the social policy of the state. Mitigating starvation impact of disasters on the poorer sections and reducing differential impact and recovery will mean taking the land rights of women, especially widows, single women, divorcees and dalits, refugees and disabled should be given priority for food security both during normal period preparedness and rehabilitation.**

**9.1g** A Disaster Mitigation Policy should thus stress on the implementation of the Orissa Land Ceiling Act and Land Reforms Act so that the vulnerable may be endowed with shock absorbing assets. There is need to frame a proper Rehabilitation Policy for Flood and Cyclone Affected Victims which will address their ownership over land, animals, boats, nets, art and craft instruments and other means of production, scope for skill-building, credit and subsidies. There should be a conscious policy focus on women in the various farm and non-farm



vocational groups so that it influences targeting and programme design. This should be the aim of both government and NGOs. The absence of such a policy prevents the achievement of the principles stated in Art 39, Art 41 and Art 47 of the Constitution.

- 9.2 Access to common property resources, in this context, can be important in ensuring food security during times of food stress for the landless poor. The Disaster Mitigation Policy should emphasize on usufruct rights of landless and BPL over commons. According to the Participatory Poverty Profiling Study, fish, fruits and livestock that roam freely can provide some sustenance when normal food sources are not available. However, the flip side here is that most of the CPRs in the coastal regions have been encroached upon and very little remains for use by the marginalized.

10.1 There is need for a Relief Provision Act so that relief from disaster induced distress is looked upon as a right. The Orissa Relief Code does not permit the involvement of the risk/loss-bearer in the process of relief distribution. The Relief Provision Act should be based on participatory norms where relief distribution of food and other essentials are managed by relief committees formed by the vulnerable, and who are sensitized to values of protective discrimination assured under Art 15(3) and Art 15(4). This will ensure that dalits and women, disabled, aged, children and others from vulnerable socio-economic backgrounds are not marginalized in relief administration. Also, that specific diet needs of each of these groups are met.

- 11.1 A Disaster Mitigation Policy should lay down (a) standards of entitlements and (b) standards of service that must be humanitarian and based on international Sphere standards for food security. The non-detailing of standards will expose the vulnerable to activities prohibited under Art 23. (Right against Exploitation)

11.1 ORC does not lay down a time standard by which FFW should be initiated after which it becomes a violation. Not setting time standards breaks norms of humanitarian assistance as it forces people into survival strategies. It also impedes recovery process for the vulnerable groups dependant on FFW for capacity and short-term income transfer. The Govt.'s FFW was initiated as late as May 2000 in Jagatsingpur. In the Workshop on Humanitarian Standards of Assistance organized by UN House II, it was suggested that FFW should start within a week of the calamity. FFW for relief should be distinct from FFW for rehabilitation. The former can involve immediate cleaning of the village environment, restoring drinking water sources. Rebuilding of individual and community assets like houses, reclamation of land, cleaning of ponds, irrigation facilities, road construction, community ponds, community hall/school, tree plantations may be considered under rehabilitation work.

11.1a The quantum standards of compensations for different kinds of farm and non-farm damages should be raised to real prices. The time period of deliverence of all compensations and social security must be clearly mentioned. The quantum of compensation for different kinds of crop damages and damages to non-farm livelihood implements have to be seriously addressed according to real prices. If the amount is inadequate, then it will be diverted to other activities.

11.2a Para 249 & 250 of the ORC states that weavers and artisans can be helped under the Agriculturists Loan Act 1884 or Special Rules there under for subsidised loans (but the rules to this act say that one can get a loan under it only if one owns land or if they are members of Co-operative Societies to re-establish themselves in their arts & crafts. If they are not members of cooperative societies, then the govt. may give them some free grants so as to enable them to become members of the Co-operatives and derive benefit from such societies. But the nature of these grants have not



been spelt out. This shows lack of entitlement standards which puts in jeopardy the opportunities for recovery.

**11.2b** A newspaper report (Oct. 30 2000) in the New Indian Express carries the Chief Minister's statement on the review of the Textile and Handloom Department at the State Secretariat. As many as 22,020 weavers were affected in the supercyclone. Of these, 2250 were fully affected and 19,770 were partially affected. According to the Chief Minister the Centre had released Rs 2.55 crore to cover the 2250 weavers for construction of workshop, supply of looms, accessories and margin money for seeking bank loan. Of these 1512 weavers were found to be eligible for financial assistance from the Govt. The review revealed that Rs 2.25 crore had already been paid to 1500 weavers. A decision was taken to pay the compensation money to the remaining 12 weavers, as well as to strengthen the weavers co-operative societies such as Sambaipuri Bastralaya. **A major problem revealed here is that there is total marginalisation of all weavers who are not credit-worthy in the eyes of the govt. Provision of credit opportunities is a line of defence for the disaster-affected to recover and mobilize well-being. Since recovery opportunities are not the same, there will be slower recovery for those deprived of credit. In Pradhangheri the two weaver families fall into this category. This deprivation is a violation of the directives to the state to secure Art 41, Right to public assistance in situations of undeserved want and Art 39 - Right to adequate livelihood.**

**11.3** A set of uniform standards among NGOs regarding the nature and time of assistance to be given to the various vulnerable sections for food security in the different time periods is **absent**. This reduces their accountability to people and also jeopardizes people's chances for a speedy recovery. For instance, the food component of the FFW package differs from one NGO to another. In other cases, NGOs and INGOs have promised agricultural or credit which has either not materialized at all or have been untimely provided. Time lapse is not just time lapse. It is violation of human rights when it concerns people's right to life and livelihood. Thus time, quantity and quality standards of assistance, keeping in mind humanitarian objectives of protecting the dignity and culture of the victim and the need for speedy response, should be developed by the NGO sector.

**12.1** Livelihood restoration has not really grounded itself because standards of risk-sharing beyond the relief period are not well carved out. In order to develop a base for a State level Rehabilitation Policy for Disaster Affected Persons, we may turn for some insights to the 'National Policy for Development- Induced -Displacement and Rehabilitation of Persons Displaced as a Consequence of Acquisition of Land'. This comprises a GOI's Draft, 1994 as well as a Citizen's Draft, 1995. Both the drafts address the need for technical education & training to the displaced persons, promotion of independent entrepreneurship and self-employment schools which can be started. They also advocate the creation of an Employment Cell which will act as a forum for procuring loans from financial institutions to the displaced persons for self-employment and arrange for suitable technical advice and guidance for self-employment. They also address the crucial need to encourage displaced persons and project affected persons to organise themselves into co-operative societies based upon their skills and functioning. Areas of work will need to be identified and reserved for the co-operatives. The Project authorities should help the co-operatives in procuring finance, management, acquisition of skill and other allied subjects. Similarities can be drawn between rehabilitation for development induced displacement and that of disaster-induced displacement. The Rehabilitation Policy for Disaster Affected Persons should have clear areas of role division and co-operation between government and the NGO sector.

**12.2** According to AGM, SC ST Finance Corporation, Debabrata Das, the eligibility criteria to avail the loan schemes either eliminate the really needy to avail or push them into a debt trap with very high rates of interest even before they avail these loans. Eligibility criteria like annual incomes of



42,000/-, mortgage equivalent to the value of the total unit cost, plus ability to pay a promoter's contribution of 3% to 5%, and repayment within 5 years through 20 instalments, has prevented the most vulnerable from accessing these schemes. The poor recovery rate of these loans prove that the beneficiaries are under pressure, paying high rate of interest elsewhere. Cases of benami transfers have also been observed where general caste persons, mainly land owners are trying to avail the benefits of subsidized powertillers and tractors by using the names of their SC ST farm labourers or sharecroppers. **There is thus a need to change these eligibility criteria and to involve community institutions to identify the really vulnerable .**

**12.2a** Apart from the finance received from NSFDC to provide tilling support, the only other scheme which has been set aside specifically for the Super Cyclone districts is to help scavengers in setting up small units. For this a total assistance of Rs 82.83 lakhs from NSFDC is available with the Corporation. The other schemes are ongoing schemes, part of normal priod development. Under these credit and subsidy assistance schemes, there is a reservation quota of 15% for women, 5% for physically handicapped and 10% for economically vulnerable and the rest for all others. Maximum subsidy offered under these schemes is Rs 6000/- . Weavers are assisted if they have common workshops; credit assistance for modernisation of looms is also provided; assistance of Rs 10,000/- is given per fisherfolk who is part of a collective of at least 10 members to set up kiosks in market places. Share capital assistance to initiate co-oper atives is also provided by the Corporation. **But there is no inventory system through which one can assess the gender or vocational background of the beneficiaries, according to Debabrata Das. Thus it is difficult to estimate how many SC ST weavers or farmers or women have been assisted. There is a need to increase the reservation quota for women and the economically vulnerable in these schemes.**

**13.1a** Writing off existing debts of the Disaster Affected Persons should be a crucial loss-sharing mechanism set in place in the Rehabilitation Policy, if the intent is to prevent pre-disaster indebtedness situation from affecting recovery. In Orissa, the only Rehabilitation Policy that exists has been developed by the Water Resources Department, the main displacing agency. At least 4 government orders on rehabilitation policy for the displaced persons of various medium and multi-purpose irrigation projects were put together by the Government of Orissa. Water Resources Department, to formulate a comprehensive policy on resettlement and rehabilitation. **This is known as the Orissa Resettlement and Rehabilitation of Project Affected Persons Policy, 1994.** Though development induced displacement may be different from disaster induced destitution, the nature of loss and trauma incurred are similar in many ways, and parities may be drawn accordingly.

**13.1b** A critique of the Orissa Rehabilitation Policy done by Aniruddha Dey emphasizes on a serious shortcoming in the Policy. Mortgage, debt or other encumbrances on the land held by the DPs/PAPs at the time of acquisition are deemed to be transferred to the land allotted to them at the rehabilitation site. This places the oustees at a disadvantage. **Instead all the liabilities of DPs/PAPs duly contracted, should be transferred to the project authorities, according to Aniruddha Dey. Without such measures compensation which is meant for future resettlement gets used up to pay off these liabilities and little remains for the future. (Rehabilitation Policy and Law in India : A Right to Livelihood. Walter Fernandes and Vijay Paranjpye; Econet, Indian Social Institute)** This recommendation also applies to disaster induced rehabilitation. Waiving of loans will be in keeping with the Orissa Debt Relief Act which provides for total exemption from informal loans. Furthermore, the loans taken from the government before the calamity by vulnerable people should also be written off.

**14.1** Specific Food Insurance systems for vulnerable sections of women such as pregnant women or ailing women and children, the aged and disabled can be initiated by the community through creation of separate funds. They can fill up the protection gaps created by the iniquitous food



distribution patterns within the household; as well as the non-existence, failure or inaccessibility of the Supplementary Feeding Programme and ICDS services. The role of NGO sector is high in creating such insurance systems and encouraging community innovations. At the same time, there should be advocacy for greater control and ownership of women from BPL sections over the Government Feeding programmes, as in Tamil Nadu. This will strengthen poor and vulnerable women's access and control over food distribution in the community.

14.1a In Pradhangheri, such an attempt at food insurance had been created by the women through the Maa Kali Self-Help Group. This group started its activities before the supercyclone, on 13<sup>th</sup> November 1998. For the first 2 months the women kept aside monthly savings of Rs 100/- each. In the third month, their monthly savings was Rs. 300/- per member. From the 4<sup>th</sup> month onwards they started depositing Rs 25/- each till cyclone struck them on October 1999. One of the key services and opportunities availed from this SHG was in terms of short-term credit accessed by pregnant women belonging to BPL categories. This was intended to supplement the diet of the expectant mothers with nutritious food. The interest charged on the credit amount was 3% per month. Along with this, the SHG also provided the women of the village a forum to discuss their everyday problems. This institution ran on a participatory basis. **After cyclone this group remained defunct for a long time.** Seven months after the disaster, they tried to make it functional again. They also have an aim to link it with formal credit institutions. **This gap in restarting their SHG has implications for their recovery. A Disaster Mitigation Policy should recognize these coping institutions set up by the community and should have priority in restoration in the eyes of the Govt., the NGOs and the community to prevent differential impact and recovery.**

14.2 Government policy for livelihood restoration for those belonging to the most vulnerable, i.e., the 5<sup>th</sup> category of persons in Pradhangheri village and other areas, has nothing beyond FFW for the able-bodied destitutes. Specific provisions for skill-building, entrepreneurial activities, credit or education for women and children at risk are absent in ORC. Their recovery, in a socio-economic sense, is thus left to their own efforts or the intervention of NGOs or community institutions. The food needs of the destitutes created by the disaster – widows and orphans – were met in the Mamata Gruhas which were initially started by the Govt. of Orissa and later managed by Action Aid. There is a gap between the provisions of gratuitous relief for widows and orphans provided in the ORC and the lack of intermediate and long term food security provisions for these ultra-vulnerable sections. This was attempted to be fulfilled by the Mamata Gruhas. 8 members from 3 families from Pradhangheri village were staying in the Mamata Gruha constructed in Gholpada by the Government of Orissa to house the orphans, women and children at risk, destitutes and the senior citizens of their village. They were : Saraswati Rout and two of her sons; Minubala Pradhan and 2 of her sons and two siblings, Ambika Pradhan and Subhadra Pradhan. The women of Pradhangir observed that as these members of their village did not have an earning member left in their families, their basic needs of food, clothing and medical support were being provided for by Action Aid in the Mamata Gruha. Moreover, these families will also be provided houses from Action Aid. The people felt bonded with the Mamata Gruha and its monitoring institution, the Sneha Committee. By staying in Mamta Gruha, they felt that all the residents belonged to the same family. This, they feel, has also helped to heal the scars they received when their families were swept away.

14.2a While their long term livelihood restoration and rehabilitation is being facilitated by Action Aid and the village committees created after the disaster, the absence of government policy relating to long term rehabilitation opportunities for destitutes, young and older orphans shrinks recovery opportunities and has a differential recovery pattern.

15.1 The Mamata Gruhas are controlled by the Sneha Committees which are a part of the Punar Nirman Sabha (PNS is a committee comprising of members of the village created to monitor the reconstruction



activities of the village). The Sneha Committees have been taking the responsibility to manage the Mamata Gruhas and to maintain peace and security in the village. They also maintain the link between the Mamata Gruha and the village, according to the women of Pradhangheri. **A Disaster Mitigation Policy should advocate for the capacity building of these evolving community institutions by both government and NGO sector. The laws or code of conduct developed by village committees like the PNS should be respected by emergency managers, relief distributors, panchayats, government officials, NGOs and other service providers.** The govt.'s institutional mechanisms working through the Collectorate, Block and Tahsil need to take cognizance of these institutional mechanisms. **This is so that community may emerge as a key stakeholder in disaster mitigation.**

**15.2 The Orissa Relief Code does not take into account community perspectives and preparedness. A Disaster Mitigation Policy should identify interventions that build on existing capacities and coping mechanisms and institutions of the people.** In Nollasahi, Kujang block of Jagatsingpur, the fisherfolk did not want the damage compensation. Instead of repairing their boats they wanted complete replacement. They did not want relief. They wanted to be put back at sea and wanted to help others. According to Rajan Mohanty from CARE, they came forward to contribute some amount for joint ownership of boats. People in groups of five were supported with boats by CARE under such an arrangement. **Even in a disaster situation, people still have some capacities left, and it is these residual capacities for self-help which need to be explored.** For this, vulnerable communities should probe into the histories of their coping mechanisms in the use of seeds, cattle health, food and seed storing, institutional mechanisms for decision making like sabhas and mahasabhas, share humanizing experiences of coping with other vulnerable groups as part of disaster –proofing. **The Policy may identify this as an area for research and documentation to be fed back into the work of service providers and development workers.**

**15.3 The Disaster Mitigation Policy should give recognition to disaster task forces rescue & relief committees, reconstruction committees like the PNS, self-help groups, youth clubs, sanghs and sabhas in the village, wherever they are formed.** As per the Community Based Preparedness Plan Guideline prepared by Oxfam in Andhra Pradesh, there can be planning and decision-making committees and task forces for each of the different time periods. They may be entrusted with different responsibilities. These institutions should monitor the normal period of preparedness, activities during emergency response and rehabilitation and establish participation, ownership and management over the three different processes. **Role of community institutions in monitoring interventions by government and other service providers should be legitimized in the Disaster Mitigation Policy. The Govt and sanctioning authorities need to give recognition to people's committees. The people's committees in turn should develop monitoring systems to ensure transparency for themselves. Social audits can play a major role, public checking of muster rolls and accounts registers, material registers.** Community institutions should monitor the PDS, the Supplemenatry Feeding Programme as well as employment schemes such as SJGSY, DWCRA, conducted through the panchayats. Women and children from socially disadvantaged sections such as the disabled, dalit, tribal and other BPL marginalized sections need to have first priority in this need to take ownership of this. Unless this is done, and a wider net is thrown to reach the poorest, improvements in IMR and MMR will be doubtful.

**15.4 A parallel accountability system to that of the govt.'s needs to be built. These audits need to be organized as a frequent exercise of transparency.** Gram panchayat members, local NGOs, government officials should also be part of such processes. The capacities of members of people's committees, GP members and NGOs need to be developed through training for adherence to humanitarian standards and process of accountability. Participatory social audits involving and ensuring accountability to community institutions should be built into the Disaster Mitigation Policy.



**15.5 Communities should have a contingency plan regarding what to do for food security before, during and after a disaster.** All livelihood implements at risk should be identified and stored, implements that can be used during rescue and emergency should be kept ready. Cattle and other livelihood aiding implements should be kept in safe places. **Underground storage systems** can be devised or shelters for livelihood implements, cash savings of individuals and collectives, account books, pass books should be kept in waterproof material. Fodder saving for risk period and storage places should be identified before a flood and cyclone.

**16.1 There should be legislation for a separate Right to Information so that vulnerable people have access to information on govt. policies, Govt and NGO finances, expenditure and their own benefits/entitlements.** The policies of the different central and State Govt. depts., the programmes of NGOs, policies of INGOs and Bilaterals for development and disaster mitigation should be made transparent before people. The different insurance policies, credit policies for the poor should be made available at the Gram Sabha level. **The existing Development Plan and Contingency Plan of the State relating to Food Security – Short term and Long term, should be made public.**

**16.2 The communities should also be mobilized to use the Consumer Protection Act, 1986** to gain control over essential commodities. The Food Supplies and Consumer Welfare Dept. of the State which is primarily responsible for the smooth operation of the PDS looks after various activities intended to protect the interests of the consumers, according to the plan Document of the State.

**16.3 Yet another problem has to do with the information gaps between the various departments and the Collectorates.** It is pointed out that although regular information is sent to the Collectors regarding the various welfare schemes for the weaker sections, they either disregard it or misplace it. As a result, they fail to implement schemes which exist. There are similar gaps between the Central Government and the State Government Departments. For instance there is a housing scheme under the National Rural housing corporation wherein per unit cost is Rs 60,000/- Under this scheme, the Central Government is to provide Rs 50,000/- and the remaining 10,000/- has to be met by the State Government. This scheme could have been used during rehabilitation. But the Panchayati raj department had no knowledge that such a scheme existed.

**17.1 There is policy gap in ORC in stating the full range of vulnerable people's entitlements to employment assurance in a post-disaster situation for recovery.** This can be made possible by the Disaster Mitigation Policy recognizing the strong links between poverty and disaster mitigation, differential impact and recovery. The Policy should clearly lay down the various poverty alleviation and employment generating development schemes, under the various line departments and institutions of the Govt. These can be activated for restoration of the livelihoods of SC, ST, women, fisherfolk, small farmers, and the different vocational groups. These development programmes should be integrated to form a comprehensive Flood/Cyclone/Tidal Disaster Mitigation Programme. The list of Multilateral, Bilateral and NGO programmes that should be ready to be put into gear to activate recovery of the people may also be brought under a similar pool. **This emphasis will help in the fulfillment of Art 39 for vulnerable sections – the right to adequate livelihood which the ORC is unable to achieve for all vulnerables.**

**17.2 The Policy should stress on greater focus by NGOs, INGOs and Govt. on the Poverty Task Force started one and a half years back.** According to Utpal Maitra, DFID, this was a govt. initiative and not World Bank's or DFID's. This was formed with the involvement of the Human Development Department, Health and Panchayati Raj Department. **Instead of looking at Calamity as an ad-hoc event, there is a need to connect it to poverty alleviation.** This Task Force has not started functioning yet. But this is the time to stress on it as it has strong connections with disaster mitigation. **A**



similar view is also put forward by Shri Shyam Sundar Das from CLAP, that poverty should be brought under the definition of 'undeserved want'.

**17.3**The suggestion of the International Decade for Natural Disaster Reduction (1990-2000) that atleast 1% of total GDP must be set aside for disaster management must be considered seriously for a Disaster Mitigation Policy in the State.

**18.1**Right to Disaster Insurance should be another area of Legislative action. ORC has no provision for insurance of livelihood assets and implements such as boats, nets, looms or crop insurance laid down. There is a clear need for policy decision on the state's insurance delivery mechanism so that it may be activated in a disaster situation. **A proper Disaster Insurance Policy needs to be chalked out in the state involving the insurance companies like LIC, GIC and the 4 units under it - New India Assurance, National Insurance, Oriental Insurance and United Insurance whereby a separate Disaster Insurance Fund can be created.** This decision has to be taken by the Central Government. **Damage assessment standards can be finalized on the basis of the Disaster Insurance Act.**

**18.2**Disaster Mitigation Policy should address the role of Private companies in providing insurance to disaster prone people. Adoption of specific areas or sectors by each of these companies for giving financial support may also be identified, such as transport costs for providing relief, essentials like polythene, blankets, livelihood implements, baby food. **This should be looked upon as an obligation on private companies to fulfill their responsibilities towards the poorer sections of their consumers.**

**18.3**Provisions for self-help and risk-reduction for the most vulnerable thus have to be part of disaster mitigation to prevent this differential impact and recovery process. One can think of a Risk Reduction or Emergency Fund with the concerned Department to be activated for restoration as in Bangladesh. There is a need to have standing orders for all insurance companies under the GIC to provide coverage to small and marginal farmers and non-farming communities, especially women to protect them against future risks. The losses would have to be shared by the Govt. here. To bear this additional expenditure the government may need to modify its taxation policies. While this study does not go into the details of insurance concepts and formulations, it tries to draw attention to a very crucial need to give policy thought for Disaster insurance.

**18.4** There is a need to probe into the social security schemes with insurance companies with coverage provided for non-premium payers, with the State sharing the losses with insurance agencies. The low premium-payment based social security schemes and premium subsidy schemes with insurance companies need to be popularized with the vulnerable people, according to Partha Sarathi Patnaik, Administrative Development Officer of National Insurance Company. The 'Hut & Paise' Scheme and the Janata personal Accident Scheme are examples, although they may not cover livelihood restoration, low-premium crop insurance schemes such as through the Rashtriya Krishi Bima Yojana of the GIC. The objectives of the Scheme are (1) to provide insurance coverage and financial support to the farmers in the event of failure of crops as a result of natural calamities, pests and diseases. (2) to encourage the farmers to adopt progressive farming practices, high value in-puts and higher technology, (3) to help stabilize farm incomes particularly in disaster years (4) to support and stimulate production of Food crops and Oilseeds. It covers all farmers including sharecroppers, tenant farmers growing insurable crops, loanee and non-loanee farmers.

**18.5**Moreover, as the Branch Manager of New India Assurance, R P Samal, points out that the insurance companies look upon themselves as commercial organizations. After the 1984 riots,



the insurance policies were revised to give coverage to all calamities and losses. But coverage is according to premium paid and subsidies on premiums depend upon coverage, partial or total. The total support provided by the GIC for the SuperCyclone was 1 crore to the PM Relief Fund. Mr Nagarjuna, Officer in charge of the GIC Crop Insurance unit in BBSR points out that the total claims for Supercyclone affected districts was Rs 66.54 crores under the Comprehensive Crop Insurance Scheme. The number of GPs receiving compensations were 2160, number of blocks receiving claims were 145 in 14 districts. Farmers who availed loans from Co-operative banks, Commercial banks and RRBs (Gramya Banks) were covered by insurance. Although these banks finance crop production and rural artisans, no loan and insurance coverage were given out to the latter. The total number of farmers who benefited from insurance were 2.14 lakhs out of which small and marginal farmers were 2.08 lakhs. There has been no insurance coverage for non-loanee farmers.

18.6 In spite of the existence of risk-sharing policies such as in the area of crop-insurance, tillage support, credit, there are no standing orders to these institutions created for the purpose of risk-sharing to inform the poorer public about these schemes during normalcy, nor any instructions to provide compensation for crop loss or cattle loss, or provide immediate coverage against future loss. On coming to crop-insurance for the kharif crop in the vulnerable areas after the disaster, one finds that the entry of General Insurance Corporation into the scene was late but withdrawal speedy because it realized that the kharif crop is going to be a loser. This is a clear case of absence of clear cut govt. policy and schemes for livelihood restoration. There is a need to have standing orders from the Central government for all insurance companies under the GIC to provide coverage to small and marginal farmers and non-farming communities, especially women to protect them against future risks. The losses would have to be shared by the Government here.

19.1 Provisions for self-help and risk-reduction for the most vulnerable thus have to be part of disaster mitigation to prevent this differential impact and recovery process. One can think of a Risk Reduction or Emergency Fund with each of the concerned Departments to be activated for restoration as in Bangladesh. Parallel to it vulnerable people may have for themselves an Insurance System giving coverage to more than one vulnerable vocational group from a large geographical spread. The Government may also need to play a role in this system as well.

19.2 Some of the key preparedness measures taken by the Ministry of Fisheries and Livestock in Bangladesh to fulfill the responsibilities of a welfare state are pointed out here. The Ministry is supposed to open separate Emergency Funds so that post-disaster recovery needs can be met immediately; train the officials of Fisheries and Livestock about disaster, loss and damage to environment and rehabilitation. Apart from this, the Directorate of Livestock is also responsible in the normal times to select and earmark high lands in consultation with local administration and CPP, for use as shelter of livestock for their protection. It arranges for emergency stocks of medicines and articles for protection and control of livestock and poultry, against contagious and infectious diseases; arrange a survey of the number of livestock and poultry in cyclone/flood prone areas and prepares an inventory which must be updated at regular intervals. This directorate must assist the local administration with shifting of livestock to safer places in the event of imminent cyclone/tidal bore and prepare plans for vaccination and treatment in advance. The directorate must also prepare schemes for supplementary arrangements for rehabilitation of livestock and recouping their loss. It must take up schemes for procurement of animal feed on emergency basis for distribution in the affected areas. In the rehabilitation stage, it must prepare measures for the purchase of livestock under loan and supply of animal feed as rapid relief and co-ordinate with other Ministries and Departments, if necessary import livestock. The Directorate of Livestock is to maintain a permanent Fund for the purpose of rehabilitation of livestock & to make supplementary arrangements for lost cattle wealth.



**19.3 Parallel to it vulnerable people may have for themselves an Insurance System giving coverage to more than one vulnerable vocational group from a large geographical spread. The Govt. is also needed to play a role in this system as well. Here Japan's Mutual Relief Fund may be cited as an example as it is a system developed not only for farming community but also for non-farming community, collectively. Moreover, it is a Mutual Relief Fund for small farmers and not big land owners. It may therefore be possible to draw some insights from this experience.**

**19.3a** In Japan, where agriculture is practiced on a large number of small farms rather than on a few large farms, disasters tend to cause heavy financial losses for farmers who lack the capital resources to meet or absorb them. To afford some measure of protection for farmers, an insurance scheme was formulated in 1947 and is known as the Agriculture Loss Compensation System. (The scheme is fully described in the Proceedings of the Regional Seminar on Community Preparedness and Disaster prevention, Tokyo, 1976, published as Water Resources Series No.49, by the United Nations, New York, 1978.) In the light of experience, the system has been expanded and strengthened and is currently applied to such crops and commodities as rice, wheat, barley, silkworms and cocoons, livestock and fruit. The system is basically one of mutual relief among different categories of farmers. **A joint reserve fund has been formed through the contribution of mutual relief premiums from the farmers, and the Government has provided subsidies to the mutual premium and also office expenses for the mutual relief operations, with a view to stabilizing agricultural management and improving productivity.** The fundamental principles of the operation of the system is that the risks are shared widely and not just by local sub-divisions (In our case, such wide sharing of risks can only be possible through Mahasabhas and Federations & Networks) Thus the insurance programme is centralized in the Federation of Agricultural Mutual Relief Associations which is able to function, by means of branch offices, down to community level. Moreover, the Federation is able to conduct re-insurance schemes on a nationwide basis. **(Preparedness Aspects. Disaster Prevention & Mitigation. Vol. 11. A Compendium of Current Knowledge. United Nations)**

**19.3b** Communities should be supported to initiate or strengthen their own mutual insurance systems through disaster task forces, self-help committees and groups, Co-operatives with emergency funds for risk-sharing and livelihood insurance systems for different vocational groups. Both Govt. and NGO can support this process with initial working capital to groups of vulnerable individuals and households who may repay back to the collective. This is to encourage self-help and mitigate the poverty effect of disasters. **These collective systems of insurance will help in securing Art 21 and in fulfilling objectives stated under Art 38 and Art 39 of the Constitution.**



## SHELTER

The question is whether vulnerable people can be provided with security of shelter enough to provide protection against disasters like floods, cyclones and tidal waves. In the most immediate sense, shelter may mean one's own hut or house, i.e., individual housing, and in the broadest sense shelter can be taken to mean the habitat which may comprise of forests, sand dunes, and man-made structures like embankments and dams. Either one removes the hazard or removes the individual ; or one encloses the hazard or encloses the individual as a step towards mitigation. As it is not possible to enclose a flood or a cyclone as it may perhaps be to enclose a toxic fluid, we address shelter from the need to remove or evacuate the individual and to enclose the individual from the hazard. Thus rescue and early warning systems, individual housing, community shelters, flood plain zoning, drainage systems have significance.

This section deals with policy provisions for vulnerable **individual, community and habitat shelter** in the Orissa Relief Code, in three time periods - (i) normalcy and pre-disaster situation where preparatory measures are to be integrated with general development programmes (ii) provisions for early warning systems, rescue and evacuation, and interim shelter as part of emergency response and (iii) provisions for Shelter Entitlement Transfers/Permanent shelter arrangements for disaster-destitutes during rehabilitation in the form of land rights, Record Of Right to the marginalized such as the refugees, single women, widows, dalits, aged, disabled. In the rehabilitation stage we look at scope for entitlement transfers in their various forms at the individual, household and community level such as housebuilding grants and partial transfers through subsidised loans. (iv) Reflections by various stakeholders on the adequacy of these shelter capacities as compared to legal provisions are also integrated.

We thus look at the policy gaps and the implementation gaps to understand the protection deficit. This is with a view to understanding disaster mitigation (mitigation of differential impact & recovery) and preparedness within an entitlement and development framework. In order to identify these gaps we use the case study of Pradhangheri village, Padampur GP , Ersama block, Jagatsingpur, whose villagers have identified the problems in preparation and rescue in the Supercyclone . Insights and substantiation is also drawn from the Poverty Profiling and Need Assessment Study done by Action Aid, Bhubaneswar, in Balikuda and Erasama blocks of Jagatsingpur district in January-February 2000 .

### IMPLEMENTATION GAPS IN SHELTER ENTITLEMENTS

We look at some of the key areas of implementation gaps in the shelter entitlements of vulnerable people which have resulted in entitlement failure for vulnerable groups.

#### **1.1 Implementation Gaps in Rescue & Evacuation:**

**1.1a Under Para 61 and 67(3) of the Code the Revenue Department is supposed to send a report to the Home Department to seek Army assistance. Para 61(ii) and 67(3) of the Code state that the State shall make advance arrangements for Army assistance if rescue parties are insufficient. However, Army was brought in after a delay of one day . Its positioning was not linked to information. The prior stationing of the army in the vulnerable areas could have brought down the casualties. Evacuation could have been possible. Para 108 places the responsibility on the Collector to ensure that search and rescue parties have gone out for the rescue and relief of marooned parties. This negligence is a violation of Art 21 – the Right to Life.**



**1.1b Absence of Adequate Rescue Infrastructure :** Para 53 also calls for Deployment of boats – The SRC and his technical staff and Collectors are responsible to ensure that repairs of country boats are done in time and stationed in the needy places. Necessary boats and food stuff are to be immediately deputed to the affected areas. However, the reality was different. Pre-disaster deployment of boats was not ready. This is also backed by the experience in Pradhangheri where both 3<sup>rd</sup> and 4<sup>th</sup> categories point to the absence of life boats prior to the supercyclone. This is a violation of the preparedness provisions of the ORC. The lack of rescue infrastructure led to the loss of 33 human lives out of a total of 61 households. Where people managed to save themselves they did so by climbing coconut and other trees, taking shelter in the only two pucca structures. The poorer amongst them took shelter in the school building.

**1.2 Lack of Connectivity :** Most of the coastal villages were not accessible by road at all even before the cyclone. The differential infrastructural developments during normal period development had their impact with many vulnerable communities being cut off from rescue and relief. **This lack of connectivity to vulnerable areas shows lack of implementation of Basic Minimum Services** listed under the Plan Document of the State. Absence of adequate technology and infrastructure with the government for cleaning up of roads blocked by fallen trees prevented rescue and relief teams from reaching by road. There were not enough power boats to reach marooned islands. Army also declared many areas inaccessible. Although, according to DN Padhi who was SRC at the time of the cyclone, they actually evacuated some people, **death casualty due to lack of rescue provisions, evacuation, pathways for escape, and timely shelter was 9885 according to the White Paper on Super Cyclone, Govt. of Orissa. Official figures point to death in Jagatsingpur district alone at 8386, while unconfirmed reports consider it to be three times more. This is again a violation of Art 21, the Right to Life for which the Government, the Collectors in the 14 districts must be held responsible.**

**2.1 Implementation Gaps in Warning Systems & People's Right to Accurate Information & Right to Safety :** Early warning systems are essential to prepare a community to face a disaster. According to the ORC, the Metereological Centre of the GOI at BBSR sends forecasts on depressions in the Bay of Bengal, direction & velocity of wind, rising of waves & tidal bore, heavy rainfall, to the Chief Secretary, Collectors, RDCs, the Board of Revenue/SRC, Revenue Dept. & Water Resources Dept., AIR, Doordarshan. The PWD, Ports, P&T, Fisheries, Tahasils also get direct messages from the Metereological Dept. **A system of three stage warning has been introduced by the Metereological Dept. by which first set of warnings are sent by observatories on the coast to the Metereological Centre.** A system of two stage warning operates from the Centre by which Collectors of coastal districts are given warnings of depressions and cyclonic storms. The warnings are then disseminated to the SP, Water Resources, BDOs and other officers. The first warning is generally issued 48 hours before the commencement of bad weather and the second about 24 hours. The ORC states that the Control Rooms should function throughout the year in the Revenue Dept. and in the Collector's office, Block HQ throughout the year. Temporary Wireless & Telegraph stations till November, i.e., the end of cyclone season can be sanctioned by the Home Dept. in the vulnerable areas not connected with telecommunication.

**2.1b According to Mr. Sagar Dhara, a disaster management specialist from Serena Foundation, a study of the warnings given out by the IMD shows that there were no distinctions between the early warning messages received for the Ganjam cyclone and those for the Supercyclone. No wonder people underestimated its force. The gap between risk perception and actual risk was very high in case of the Supercyclone. This shows failure to disseminate information responsibly to prepare people. According to Director, IMD, Bhubaneswar, in some places control rooms were unmanned – there were no Collectors, or second line command**



to receive messages. Along with Art 21, people's Right to Information which follows from Art 19, The Right to Freedom of Speech and Expression, has been violated. Warnings have to be clear, implications of the early warnings should be made explicit. People did not understand that a 30 ft high tidal wave means sea waters eating into 15 kms of the land. Nor did they understand what the impact of a windspeed of 300 km per hour would be. This is corroborated by the villagers of Pradhangheri.

**2.2a The Time Line of Disasters** prepared by the villagers of Pradhangheri village when put against their preparedness levels shows that impact of damages in the form of loss to life, cattle and shelters was inversely proportional to the prevalence and accuracy of early warnings received. In the 1955 October floods due to the collapse of Dalei Ghai, the people were warned well in advance through radio warnings. Thus they stocked enough fuel and food and refrained from venturing into sea or river waters, staying with the family. Thus, the only loss was in terms of standing crops. In the case of the 1962 October cyclone and saline inundation, because of their preparedness, the only damage was to their crops and farm land which got submerged under saline waters, thatched roofs got blown away and small trees got uprooted. Saline waters prevented them from producing anything for the next 2 years. In the case of the 1967 September cyclone and saline inundation, the people were warned over radio and a continuous drizzle for 3 days prior to the cyclone and saline surge. The velocity of the wind was between 90 to 120 kms per hour. Mud/thatch houses were damaged and trees were uprooted. In the 1971 flood in September and cyclone and saline surge in October, as standing crops were destroyed it resulted in food scarcity the following year. Walls of the houses had collapsed due to the cyclone. In 1981 October there was a cyclone in which roofs were blown away and small trees uprooted. 1982 September brought a flood, before which radio warnings were given and women folk and livestock population were moved to safer places. The only loss was to standing crops as flood waters rose to plinth level and entire village remained waterlogged for 20-22 days. The 28th-29th October Supercyclone was the most devastating in the history of this country with a windspeed of 320 kms per hour and saline inundation with a tidal wave 30 feet high. According to the people of Pradhangheri, even though they received radio warnings they could not comprehend the gravity of the situation. This was mainly because they were given similar warnings on the 17th but that cyclone did not cause any damage in their area, hitting instead Ganjam district. The loss caused cannot be measured, according to the people, as not only did the cyclone destroy all their materials belongings, it also snatched from them their near and dear ones. For the first time there was human casualty. 33 human lives from a village of 61 households were lost. The animal population was completely wiped away; there was total destruction of all the fruit-bearing and non-fruit bearing trees.

**2.2b Members of vulnerable groups such as Category 3** from Pradhangheri village have stated that Preparation was set back as there was no warning through loud speakers, absence of cyclone shelters, non-availability of drinking water, non-availability of food and medicines, houses were set apart from each other; Rescue was affected by the absence of life boats, non-availability of jerry cans, ropes and motor tubes, rescue teams were not dispatched by the government, lack of good roads for quick evacuation. Most of these were problems which figured in a similar analysis with the 4th category of people from Pradhangheri. This lack of infrastructure, failure of govt.'s institutional mechanisms for warning and rescue aggravated the impact of the disaster on them, increasing the threat to their lives. This resulted in violation of Art 21, the Right to Life.

**2.2c The Recommendations of the Model Cyclone Plan** prepared by a committee set up by the Ministry of Irrigation & Power in 1971 Nov. to mitigate loss of life due to cyclone took into account the 'Cyclone Plan' of the Distress Mitigation Committee, Andhra Pradesh. A key recommendation was the setting up of a close network of about 30 stations equipped with simple wind instruments like wind-vane and hurricane resistant anemometer along the Orissa



coast line as 'Co-operative Cyclone Reporting Network'. This according to Mr. Gupta, Director IMD, Bhubaneswar, has not been achieved.

**3.1 Gaps in Temporary Emergency Community Shelter preparedness :** Para 60 of Ch IV of the ORC states that community buildings like panchayat buildings, educational institutions, mahila samitis, recreation centres and other institutions of public nature may be selected for use as emergent shelter against floods & cyclones on evacuation. But, many villages did not have even a single pucca structure. They were very often dalit and refugee habitations. Where pucca structures existed, they were not always accessible to the vulnerable.

**3.1a This creates differential impact of disasters. The Poverty Profiling and Need Assessment Study done by Action Aid shows that shelter opportunities, during normalcy and emergency, are linked to one's position in the social hierarchy of caste, class, gender, ethnicity.** The social mappings of the study villages of Erasama and Balikuda reveal that the SCs remain the most deprived section among all the case groups. Because of their lowest rank, the SCs are found living outside the main settlement area, while the upper caste sections occupy the most advantageous location in the village settlement. Their disadvantaged location deprives them of access to basic services like drinking water. The study reveals that normal period social interactions of sharing food, water, ceremonies and community infrastructure are marked by untouchability. This relationship pattern reduced the chances of shelter for SCs during the cyclone. While intercaste solidarity during cyclone may have been experienced in some places, in Siali, the temple in which the SCs took shelter during the cyclone, was purified with collection of donations from the people who took shelter in it. In Badakula, caste restrictions led to the SCs being driven out of a concrete building of an upper caste person when the cyclone was in full swing. The Bengalis of Siali and Kalabedi did not access the Padampur cyclone shelter owing to ethnic tension that was prevailing. This led to maximum impact of the cyclone on life and property in both the villages.

**3.1b There was major entitlement failure in provision of emergent shelter although Collectors under Para 60 are supposed to make provisions for temporary structures with bullahs, bamboos, talais and tarpaulins on high mounds or embankments. Collectors are responsible for selecting these places and making temporary arrangements.** A circular passed on shelter against tornados also points to preparedness with tents, mats, clothes like dhotis, sarees and garments for distressed people, polythene, bamboo, lighting facilities, drinking water through tankers, construction of barracks on work sites. According to the Code, this may be arranged through the assistance of voluntary organizations like Red Cross. If these are not forthcoming, assistance can be asked for from Chief Minister's Relief Fund. Expenditure from departmental budget should not be incurred on this without special sanction by Govt. But such preparedness was absent.

**3.1c Although the ORC states the prevention of destitution as one of its objectives, no outline existed on arrangements for mass destitution, a situation of chaos prevailed till Mamta Gruha came up as alternative. These were temporary shelters created by the government of Orissa and later managed by Action Aid. According to the ORC if the parents cannot be found, nor any suitable relative, then the orphanage is the final option. There is no space for the community to be recognized as the right place for rehabilitation. The whole process of recovery is delayed in the face of debatable norms. Neither Govt. nor other service providers are clear as to what course of action to take. Many NGOs opposed such institutionalization. The lack of such a guideline exposed women and children to abuse and further deprivation. This Violates constitutional provisions Art 39 (e) - the state shall direct its policy to secure the health and strength of workers, men & women; Art 39(f) - state shall direct its policies towards securing that children are given opportunities and facilities to develop in a healthy manner. Not much thought has gone into gender or child welfare.**



**3.1d According to the ORC, the Collector is supposed to have guardianship responsibilities till a suitable guardian, under the Guardian & Wards Act, 1890, is entrusted with the responsibility of taking care of the orphan. But there is no clear norm of what should happen to them till then. The Welfare Department and Women & Child Development Department delayed in taking up their responsibilities. State Govt. while remaining busy with relief measures neglected the speedy estimation of the number of orphans and widows. The delay in enumerating the number of orphans and destitutes and to put up mid-term shelters for them created a differential recovery pattern. Many destitutes and orphans were packed off to orphanages. The Government advertised in the media about these places instead of arranging for community based rehabilitation. There were no clear cut norms as to where this huge number of orphans (12, 200) and widows should go. According to a Sambad report dated 26.11. 99, while representatives from the Welfare Dept. said that the Govt. will make a yojana for orphanages for these orphans, representatives from organizations like ODMM, Mr Jagdish Pradhan, stated that it is not fair to uproot children from their community after they have already gone through one loss. Instead, one can have shishu bhavans inside the village for their care. According to Mr. Sumanta Kar from SOS Village, care in the family is better and more important than institutional care. Family care helps the child to forget his/her loss. But the delay in providing such shelters, definitely an area that can be identified under entitlement failure, pushed many orphans into institutional care while others were made vulnerable to trafficking, abuse, homelessness**

**3.1e There was no ready arrangement for temporary shelter materials, market was uncontrolled with hoarding of polythene and other essentials. Collectors failed to use the Essential Commodities Act timely and to use the police effectively in managing the market. This delay increased risks to exposure, abuse, health ailments for women, adolescent girls, and children, violating Art 41, the right to public assistance under situations of undeserved want.**

**4.1 Gaps in Long-term Community Shelter Preparedness: Two types of permanent Cyclone Shelters have been suggested in the Cyclone Preparedness Plan - for tidal inundation and for cyclones. The former should be 15 kms from the sea & in case of cyclonic areas, 15 to 60 kms inland. The Central Water & Power Commission had also suggested two-storeyed buildings as per its Model Cyclone Plan of 1971 for tidal inundation areas. However, actual preparedness level was only 23 shelters before the supercyclone while Andhra Pradesh has 1041 shelters on a coastline of 1000 kms. 2000 people took shelter in each of these shelters intended for 1500. According to Hrushikesh Harichandan from Red Cross, peacetime intervention is necessary for shelter preparedness. The implementing authority of these shelters, they have built 23 shelters based on collaboration between the State Govt's plan expenditure & German Bank of Construction. High risk areas like Kendrapara, Balasore and Bhadrak have been chosen for their locations. However, the use of these shelters has also been selective. The Poverty Profiling Study reveals that tensions in prevailing social relationships inhibited the Bengali migrants from using the Padampur cyclone shelter on the night of October 2000. According to the Bengalis, the animosity between them and the Oriyas prevented them from accessing the shelter. Thus, people from other panchayats close to the Padampur cyclone shelter could take coverage such as from Ramtara village but nearby Bengali villages did not go. This is yet another experience of differential impact.**

## **5.1 Implementation Gap in Individual Housing Assistance:**

**5.1a There has been a history of implementation gaps in government provisions for housing assistance, violating Art 41 and Art 39. In the village of Pradhangheri people point to the nature of government response against the time line of disasters faced by the community. From this it is clear that after the 1967 cyclone and saline inundation which damaged mud and thatched houses, no efforts were made by the government for restoration and rehabilitation; after the 1971 floods, the people recall**



the government providing them a polythene each and Rs 300/- to families whose houses had collapsed. There was no government response to damages faced in the 1971 cyclone and saline inundation and 1981 cyclone. After the September 1982 floods the government provided still less - Rs. 250/- each for repair of houses, a polythene, a blanket and 2 clothes per family. The Lok Yojana done by the people of Pradhangheri village, 8 months after the cyclone, has prioritised 3 problems out of several to be absolutely essential for human existence and dignity – **Employment opportunity, Concrete houses and Potable water.** After the cyclone, all that they can call a house is 4 mud walls with a polythene top. This is what has been serving their purpose of cooking, (which, of course, is risky under a polythene top), taking rest and all other purposes. This is insufficient to shelter a family of 4 to 8 members. They feel that once the concrete houses are built, it will ensure their safety. It will also assure them that they need not have to reconstruct their houses after a disaster or repair them every year.

**5.2 Change in scale of deliverance attempted after the 1999 Supercyclone :** The scale of house building grant or compensation to be sanctioned in respect of houses of people damaged due to flood, cyclones or heavy rainfall for repair or reconstruction of their houses is as follows, according to Revenue & Excise dept Resolution dt. 24.11.95. – (i) Rs 3,500/- for completely washed away houses per family (maximum aid) (ii) Rs 2,000/- for completely collapsed houses per family (maximum aid) and (iii) Rs 1000/- for partially collapsed houses per family (maximum aid). But there have been attempts by government officials to bring down these amounts to Rs 2000/- for fully collapsed and Rs 1000/- for partially collapsed houses. A case was filed in Orissa High Court on 7<sup>th</sup> December protesting against this but was asked by the Division Bench to withdraw on ground of locus standii. If inflation rates are taken into account or the Consumer Price Index then compensation would not be less than Rs. 8000/-. The eminent jury in the Public Hearing organized by CLAP was of the opinion that the scale of housebuilding assistance should be raised. Attempts by the government to avoid these social insurance responsibilities is a breach of human rights.

**5.3 Corruption is nothing new to the coastal area.** The vulnerable people have always been harassed in trying to access government programmes like IAY, BPL benefits and Old Age Pension, according to the Participatory Poverty Profiling Study. But even when people were in distress after the supercyclone, they have not been spared, thus affecting their recovery. House damage compensation was channelised from the Tahsil office to the Revenue Inspector (RI) who in turn delivered the compensation in the village. There are instances, as in Siali and Athgharia, where villagers have had to pay Rs 500/- as forced bribe to get compensation of Rs 3,500/- for a washed away house. In Balijori village, it was reported that the local leaders have collected Rs. 500/- to Rs. 700/- from each household to enlist additional names for the benefit of compensation. These experiences are also supported by the cases put up before the Jury in the the Public Hearing organized by CLAP in September, it was revealed that Bainsidhara Behera, S/O Laraji Behera, Village Oldi, Thana Kendrapara of Kendrapara district has received house damage compensation out of which the RI has taken Rs 200/- as compulsory bribe.

**5.4 Gap in time of deliverance -** As per the circular issued by JN Poddar, SRC, 1996., the Code has laid down the maximum time period within which people should be provided with housebuilding grants. According to this circular, passed in June 1996, the whole process of enumeration of houses damaged, verification, approval of lists of damaged houses, collection of applications, enquiry, sanction and final disbursement should not exceed 2 1/2 months. Govt. has violated the provisions of its own code. It is going to be a year and people are still waiting for housebuilding grants. The Need Assessment Study in Jagatsingpur has found housing to be a pressing need. Even after three months after the cyclone this study found many taking shelter under a sheet of polythene. Since individual housing had not materialized by that time other livelihood



activities were getting stalled . A timely individual shelter would have meant that they could place their surviving belongings, livestock in the new house and go out in search of wage employment and gradual recovery to normalcy. We have already mentioned that the house damage was greater for Bengali migrants, SCs and Bangladeshis. Thus the speed of recovery for the people deprived has been affected.

- 5.5 Implementation Gap in housing Rights of SC, ST & encroachers : Sub para (4) of Para 81 states that in the matter of payment of housebuilding grant priority should be given to SC & ST, landless labourers, marginal farmers and small farmers in this order. Para 81, sub-para (5) , pp43 of the ORC states that house building grant shall not be denied to encroacher on Govt. land whose houses have sustained damage in accordance with the scale of assistance prescribed in sub para (1), but as far as possible they may be asked to shift to unobjectionable sites, if such sites are available. But if they have been recipient of the grant then they cannot be eligible for housebuilding loan. But this has been violated. But many are being excluded on grounds of ROR. Therefore, the need to implement land reforms and regularize their status.

5.5a Govt. passed a circular lifting the criteria of fully damaged and partially damaged houses. Compensation was given only to those who had ROR. This is a violation of ORC provisions . It also shows that enabling provisions for weaker section can be withdrawn through a circular. Many migrants and refugees, SC people, many of them women-headed households, have been sidelined in housebuilding grant because they are without Record of Right (ROR). Here, the verdict of the Jury in Public Hearing should be referred to - that compensation should not take into account whether they had land rights or not, but whether they had a house. There are numerous case studies proving three different kinds of aberrations that have taken place in housing grant assistance: People with damaged houses but unlisted in RI list because of lack of ROR or other reasons , people who have been listed but who have not received compensation, people who have received less than the specified scale. This is a violation of Art 41 - the right to public assistance under situations of undeserved want and Art 23 – the right against exploitation.

5.6 The Participatory Poverty Profiling Study points out how house damage compensation got diverted to those who were fairly better off than SCs and the BPL categories, inspite of prioritization for them under policy provisions. . In Era village, the Baishnabas who are like SCs in socio-economic status, did not receive any compensation as they were out of the village when the distribution took place. The upper caste Mohantys are better off as all of them are either salaried or businessmen. So, they did not really require compensation . Yet they grabbed it . In Kumbhari, the Khandayats (General Caste) said that relief was 'dumped' on the Mohantys, yet when it came their way, none of them hesitated to take it.

## 6.1 Housebuilding Loan under IAY and HUDCO scheme:

6.1a The Panchayats, responsible for implementing Rural Reconstruction Works like rural roads, culverts, school buildings, primary school buildings, are also the implementing authority for housebuilding under Indira Awaas Yojana . This is a programme of the Central Govt. under Poverty Eradication Programme run with 20% Central assistance and 80% State assistance. The Gram Sabhas are supposed to identify the beneficiaries for Indira Awaas Yojana under which a sum of Rs. 22, 000/- is to be given to each beneficiary. (But, even the Rs 22,000/- from IAY is proving insufficient as the emphasis is on RCC housing) .The beneficiary is one whose house has been damaged and comes under BPL. Unfortunately, this has been turned into a lottery system because money is less and beneficiaries are more. This system is ridden with vested interests.. No one in Pradhangheri village has received assistance under IAY, although they had got damage compensation.



**6.1b** The aberrations that have taken place are exclusion of women-headed households, disabled and BPL members through lottery, non-BPL persons emerging as beneficiaries, corruption by Tahsildars and RIs and Sarpanchs. This is a violation of Art 15(3) and Art 15(4) guaranteeing the right to protective discrimination, Art 46 which aims at the protection of weaker sections like SC & ST. The marginalisation on the basis of ROR violates Art 16 the Right to Non-Discrimination. Women-headed households (widows, single women, divorcees) disabled and aged who should be consciously targeted have lost out in the system. While IAY has a 60% SC/ST targeting there is no quota for women.

**6.1c** Cases put up during the Public Hearing organized by CLAP also point out other aberrations. Nimai Charan lenka, S/o Bauri Bandhu Lenka, of Erasama block has received only compensation for partial collapse even though roofs of four rooms have completely collapsed. So he has received only 1000/- instead of 2000/-. He has also been simultaneously deprived from IAY lottery scheme because only those coming under 'washed away' and 'fully collapsed' categories are eligible for IAY. In another case, a disabled person, Bilash Chandra Swain, village Mathasahi, Nuadihi GP, has not received IAY loan even with full eligibility.

**6.1d** Tarani Sen Giri, Village Oldi Fakirabad, Thana Kendrapara, whose collapsed on the night of October, has received house damage compensation, but has not received IAY housing even though selected in the lottery as a beneficiary. It was revealed that he lacked Record of Right and is living on government land. According to ORC provisions for the encroacher, Para 81(5), house building assistance should not be denied to encroacher on government land whose houses have sustained damage in accordance with the scale of assistance prescribed in subpara 1 but as far as possible they may be asked to shift to unobjectionable sites, if such sites are available. In Japa alone there are more than 300 such cases. Land Rights status should thus be regularized or thee people. They are mainly Bengali migrants and dalits. In a distress situation they should be treated at par with patta holders.

**6.2** According to the ORC provisions on Housebuilding Loan, under para 83, these may be given at the rate of Rs 500/- if sanctioned under the provisions under the Agriculturists Loan Act, 1884. This is to be decided by the Revenue Officer or a RI. Persons who are desirous of taking a loan higher than Rs 3,500/- may avail of the loans under "Low Income Group Housing Scheme" or "Village Housing Scheme." A person availing this loan shall not be eligible for housebuilding grant or loan mentioned above. The Govt. sanctioned HUDCO loans to Class IV, III, II and class I government employees from the affected blocks with loan amounts of Rs 30,000/-, 50,000/-, 75,000/- and 1,00,000/- respectively. This is with a moratorium of one year after which the process of recovery will begin with interest. Even in August when reconstruction should have been over, the Orissa Rural Housing Development Corporation (ORHDC) was unable to release necessary funds for housing, according to Mr. Utpal Maitra, DFID (Department for International Development). ORHDC was identified by HUDCO & the Housing & Urban Development Dept. as the disbursing body to finance families. A key limitation in the HUDCO loan has been that it gives preference to government employees. While the HUDCO scheme has excluded the BPL categories, the IAY eliminated those who had not qualified for damage compensation. This was a double marginalisation for people without ROR.

**6.2a** According to a newspaper report in the New Indian Express dated 27 Sept 2000, the Cabinet Sub-Committee presided over by the Chief Minister reviewed the Rehabilitation and Restoration work undertaken by the Orissa State Disaster Mitigation Authority (OSDMA) in the cyclone affected areas. So far, the Govt has distributed house building assistance to the tune of Rs. 271.6 crore to the affected people. So far, construction of 19, 819 houses under the IAY has been completed in the affected areas. Besides, 13, 908 houses have been completed up to the roof level. The number of IAY houses completed up to various levels are, 16,592 up to lintel level and 16,247 up to plinth level.



According to sources, the report states that work order has been for construction of 69, 486 IAY houses. The Govt. has selected 75,648 beneficiaries to avail houses under the IAY. The report states that the Chief Minister has underscored the need for speeding up the rehabilitation and reconstruction work as the monsoon is almost over. Funds are available for construction of two lakh houses under IAY, 1.75 lakh more houses financed by the HUDCO and 5000 by non-govt organizations and other donors. However, work by the OSDMA, has slowed down because the organization is yet to get the World Bank assistance of Rs 430 crores. The organization which was under the Finance Dept has now been shifted to the Revenue Dept.

6.3 Govt's estimate of the total no. of households who suffered house damage in the super cyclone is 16 lakhs. If Indira Awaas Yojana covers only 2 lakh households, that too with a corruption element where non-BPL categories will divert the grant; Maharashtra Govt. and Tatas provide around 1000 or so houses and NGOs provide houses to around 5000 households, what will happen to the rest roughly 13 lakh households? The housing programme of the govt. should have been over by June but even August finds people in Jajpur and elsewhere still under polythene shacks, according to Mr Kutty from Lutheran World Service. Over 300 people in Japa are not being given housebuilding assistance because they lack ROR. Housing loans and construction are held up because people are settled on forest land. These delays and obstructions in reconstruction activities inspite of available financial allocations reduce the pace of recovery for the potential beneficiaries who are BPL, SC, ST categories, violating Art 46, Art 41 and Art 39.

#### 7.1 Implementation Gaps in Flood Prevention Policy :

7.1a Para 91 (1) states that after the devastating flood and cyclone of October, 1971, Mr. H.A. Ferguson, a Dutch expert visited this state from the 15<sup>th</sup> to 21<sup>st</sup> February, 1972 on invitation of the State Govt. In his report he emphasized the preparation of a Master Plan for the entire delta area for efficient protection against floods and cyclones to be realized in phases. Sub-para 3 of para 91 of the ORC states that the Water Resources Department, the Agriculture and Forest Departments are in the active line for the construction of the sea-defence belt, and for taking measures like raising of embankments, optimum utilization of surplus water in the rivers and similar other flood control and afforestation works. The endeavour is to make the flood prone areas a flood free zone. However, canal building, drainage, and connecting waterways through canals has been a much neglected area, according to Mr. P. C.Pal Addl. Revenue Secretary at the time of the Supercyclone. So also the maintenance of embankments. Instead there has been emphasis on dams as flood protection systems which are resource-intensive and involve displacement.

#### 8.1 Implementation Gap in Cyclone Prevention Policy :

8.1a The GOI, Ministry of Irrigation & Power, on 15<sup>th</sup> November 1971, appointed a **Cyclone Distress Mitigation Committee (Orissa)** to examine various measures to mitigate human suffering and to reduce the loss of life and property in the event of recurrence of such cyclones in future. The committee was headed by K.P.Koteswaram, Director General of Observatories, India Meteorological Department. **Pre-cyclone Measures, Post-Cyclone Distress Mitigation Measures & Community Preparedness Programme** were three aspects to this policy. Many of them related to Meteorology and Communication, Drinking water, Role of Education Dept. have not been implemented. The Model Cyclone Plan prepared by the committee was recommended for day to day use by the state but has not been taken seriously. The number of cyclone shelters as mentioned above are grossly inadequate

8.1b Long-term Shelter Plans : Para 126 addresses the construction of tidal breakers, shelter plantations and coastal afforestation and plantation, bandhs and embankments to reduce the



**vulnerability to storms. While the government has constructed and repaired breaches in some of these embankments along with the UN, their maintenance remains a much neglected area. So also afforestation on these embankments. Much of this work has been taken up under FFW programmes of NGOs. But these implementation gaps have resulted in the violation of Art 21 - the Right to Life and Art 39 – the Right to Adequate Livelihood.**

- 8.2 Differential impact has been created by these lapses. Vulnerable geographical location of settlement, over which the socially and politically weaker sections have little control combined with lack of eco-shelter such as plantations. The Poverty Profiling Study shows that human casualty has been higher in the SC, Bengali migrants and Bangladeshi sections for these reasons. Loss of life was most among the minorities particularly due to the habitation disadvantages. This was due to geographical location of their settlements being within 1/2 kms of the sea as in the case of Siali and Kalabedi; lack of environmental shelter in the form of casuarinas or other forests, low-land location as opposed to protection by sand dunes and saline embankments elsewhere was also responsible for heavy toll even if they were 5 kms away from the sea. This has been the case in Ajarbedi and Kochilabedi villages which are low-lying open lands.



## POLICY GAPS

These are protection gaps created because of lack of policy provision. Process of recovery from a disaster will not only be slowed down but also differential in the face of deprivation from policy entitlements. Here we compare with Fundamental Rights and the Directive Principles of State Policy of the Constitution which are supposed to guide the State in making its policies.

### **1.1 Policy Gaps in Warning Systems, Rescue and Evacuation :**

**1.1a Alternative to landlines needed in Warning Systems :** A major problem in the existing warning systems is the reliance on landlines, according to Director, IMD, Bhabaneswar. There is need and scope for looking at reliable alternatives such as the **Amateur/HAM radio network**. It offers scope for greater decentralization, simple technology which can be used by fisherpeople at sea, panchayat officials and community task forces. In the last Supercyclone they were provided by Andhra Pradesh Government. According to PC Pal, Addl. Revenue Secretary at the time of the supercyclone, the State Government can surely invest 1 crore in this technology. Very recently, the Eleventh Finance Commission has sanctioned 15 crores for Information systems like ham radios and satellites, according to Mahadar Panigrahi, the Addl Relief Commissioner .

**1.1b The ORC has no investment guideline for development of community warning systems as there is in Andhra Pradesh and Bangladesh.** The involvement of Ngos in this area is greatly required to facilitate community ownership and use of these warning systems. Traditional warning systems such as drum beating, conch blowing can be combined with a flagging system that exists in Bangladesh using different colours and numbers to signal the extremity of the cyclone.

**1.1c Community Shelter Policy should prioritise certain geographical areas that are low lying or closer to the sea as more needy. Operation Black Board to be implemented in the most inaccessible areas as part of normal period development so that people have an accessible structure for safety when they receive warnings.**

**1.1d There should be Standing orders to the Army and State Special Armed Police to have their personnel and rescue infrastructure stationed in the risk prone areas before a disaster strikes so that they are ready to rescue and evacuate. Need for policy provisions to have the State police trained by the Army in rescue operations so that dependency on the Army may be reduced and response time to a disaster by State Police may also be quickened.** Reserve teams to assist the police in their operations may also be developed. In Andhra Pradesh Govt. has trained teams in emergency that are attached to the police. There is also a need to strengthen institutions like Gopabandhu Training Academy for training of government officials in disaster management .

**1.1e Connectivity to risk-prone inaccessible areas should be established through roadways or waterways as normal development preparedness under Basic Minimum services assured under the Five Year Plans of the State. Mechanised tree cutting equipments to remove trees from pathways and investment in more numbers of power boats is necessary to reduce response time .**

**1.1f Lack of Vulnerability-targeting/Protective Discrimination in Rescue & Evacuation and Interim Shelter during Relief.** There is policy silence on addressing the specific rescue and evacuation needs of women, children, physically challenged and aged. A directory of such people



developed by village institutions is necessary with the rescuers. Rescue Management should be sensitized to the safety needs of these vulnerable categories.

**2.1a Orissa Relief Code does not address the provisions for rescue infrastructure with the vulnerable communities such as roads, waterways, boats, ropes, floaters; nor does it address the need to train community volunteers with rescue skills and attitudinal sensitivity to the weaker sections.** While Govt. needs to invest more in roads to vulnerable villages, the role of the NGOs is needed acutely in the area of rescue training. Policy for training community volunteers should be built into the contingency plans for preparedness with the help of NGOs. Capacity-building skills and infrastructure like floats, ropes, pickaxes, boxes should be provided for this purpose. **A rigorous analysis of the waterways of Orissa is required to reach people in island villages faster,** to ensure planned means of escape with ready pathways and infrastructures. **Dry runs and drills,** as suggested by Saroj Jha, UN House II, also forms a crucial component **to ensure speedy response.**

**2.1b Community should have an emergency response team trained in rescue and evacuation. This training should be budgeted for.** There is need for an alternative arrangement such as through the training of volunteers who will act with knowledge and speed where it comes to the obtaining of compensations/claims. These volunteers could be selected from the community. **This should be supported by other institutional arrangements such as starting educational institutions or courses on disaster management whose students can be trained and entrusted with disaster management work in the affected areas.** They can act as a kind of Reserve Army assisting the Police, Defence forces, Government officials and NGOs.

**2.1c A Disaster Mitigation Policy should stress upon the role of the NGOS in such training.** The Red Cross has been the only NGO training community volunteers in the places where they have set up Cyclone Shelters. But larger community has to be linked to these capacity-building processes and should have control over them. In Pradhangheri, the Red Cross had formed a Committee of 18 women members and trained them in disaster management, i.e., responding to warnings, cyclone rescue methods and relief operations and long term environmental protection. **However, according to the women members of the Red Cross Committee, they had no control or ownership over the activities taken up by the Committee.** Furthermore, where women are trained in rescue and relief, it should be the policy of the capacity-provider to sensitise the larger community so that it recognizes and heeds the new knowledge placed with them. Otherwise, a patriarchal community will sideline their voice which will have dangerous implications for safety of the entire community. In Pradhangheri, the committee members state that before the cyclone 6 women from their village had gone to the cyclone shelter in Padampur and to Red Cross, Bhubaneswar for training. But no male in the village would listen to them when they urged people to shift to the cyclone shelter in the GP HQ, because in the village nobody gives importance to what a woman says. **Thus community attitudes need to be developed so that knowledge and capacities are optimally used.**

**2.1d There are no provisions in the ORC to build on existing local capacities. A Disaster Mitigation Policy for the State should strengthen existing coping mechanisms, community knowledge, attitudes and skills which can reduce risks and casualty.** In Pradhangheri village the people have identified the existing knowledge base. They have also stressed on attitudes to take warnings seriously and disseminate as widely as possible as preparedness measure; they have identified skills of swimming in the sea, climbing trees, using a motor tube, and rowing as necessary skills for survival. For rescue their attitude is one of saving themselves and helping others; they have the skills of using rope for rescue, they know boating and to warm a person if he has collapsed. While their attitude towards relief distribution is that all relief materials should be distributed equally amongst themselves through the village



committee, there is a need to sensitize the village committee and other members to the need for protective discrimination which is based on equity rather than equality. For rehabilitation, their attitude, however, is to give priority to the poor, old, destitute and orphan. In other areas, people have identified strengths in indigenous housing, old techniques in braving floods without casualty – such as by tying a rope to a strong tree at one end and a chain of human beings tied by their legs at the other.

**2.2 Gender, destitute, disability and child- sensitive provisions for interim shelter during relief and rehabilitation are absent/inadequate in the Code** although the impacts of homelessness are felt more on widows, single women, adolescent girls and children, disabled and aged. **Art 15(3) and 15(4) guarantee protective discrimination for weaker sections are violated. Art 39 (e) under which the state shall direct its policy to secure the health and strength of workers, men & women, and tender age of children are not abused also stands violated. There is also violation of Art 39(f) which states that the state shall direct its policies towards securing that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity so that childhood and youth are protected against exploitation and against moral and material abandonment. It also violates the UN Convention on Rights of the Child.**

**3.1a No standards on how and by what time the material component for shelter should be provided, where to stock ready materials for temporary shelter in order to reduce response time to disasters. Provisions are not specific to safety standards that must be observed for widows, destitutes, adolescent girls. According to the Humanitarian Charter of Assistance, shelter needs broadly cover three areas – housing, clothing and basic household items like utensils. We may also include fuel as a shelter need. Shelter Preparedness measures to prevent impacts of destitution and homelessness such as physical and sexual abuse, child labour, prostitution are not elaborate or specifically laid down as Standing Orders as in the case of Bangladesh. Material component of interim shelter like clothes, bamboos, talais, polythene, tarpaulin, cooking vessels can be stocked in advance at the Block level to reduce response time. In Bangladesh, the shelter materials are kept ready at the Thana level before a disaster strikes.**

**3.1b In the ORC there are no specifications for special shelter materials for the vulnerable groups, such as clothing for adolescent girls in the relief package, or aids to the disabled. Nor has any linkage been drawn between climatic conditions, culture and relief clothing to be provided. These lapses increase vulnerability. The Participatory Poverty Profiling and Need Assessment Study shows that women were the worst sufferers when it came to clothing. As they did not have proper sarees to cover themselves, they stayed close to their kith their kin in their embarrassment and worry. While determining entitlement bundles for emergency response and relief, the needs of these special groups need to be planned for on the lines of sensitivity and protective discrimination.**

**3.1c Lack of Market- Regulating Measures in Materials Management : ORC has no provisions for regulating the prices of material components of temporary and more durable shelter/building materials or in organizing adequate no. of masons and appropriate masonry skills This leads to exploitative exchange and violates Art 23 & Art 24 on right against exploitation. Only few can afford skilled labour and materials. In Nimol, the Poverty Profiling Study points out, people started making bricks in a co-operative manner while others started making bricks from their own soil in order to rebuild homes with brick walls. In Jagatsingpur, post cyclone prices of 1000 bricks was Rs. 2250/- Finally the District Collector intervened and the prices were brought down to Rs. 1650/- per 1000 bricks for IAY beneficiaries so that they would not be exploited in the market and Rs. 1800/- for all other constructions like schools. The price of chips which was Rs 28/- per cubic metre was subsidized to Rs.22/- A meeting of all brick-making units and Tehsildars was called to fix these new rates. There**



should be instructions/standing orders to District Collectors to use Essential Commodities Act, 1955 as soon as distress signals are received so that hoarding of materials like polythene or cement may be prevented and prices of essential commodities controlled. The use of this Act is a much needed protection for the BPL sections, IAY beneficiaries.

- 4.1 There should be Standing Orders to PRIs to activate immediate repairs to school buildings and other community buildings after disaster so that they may be used as mid-term shelters by destitutes and orphans. Funds should be placed accordingly with them.

5.1 Lack of Long-term Shelter Provisions for Special Groups like Destitutes ( Young and old Widows, single women, adolescent girls) And Orphans to prevent impacts of destitution : This has been a major area of entitlement failure leading to differential recovery between those individuals with families, shelter and livelihood protection and those without. This failure can be attributed to the Women & Child Development Department which as per its own Five Year Plans is responsible to take care of destitutes and orphans and disabled children. The Code has addressed only institutionalization and not community rehabilitation. Community is also evolving its monitoring mechanisms to ensure that guardianship and family rebuilding do not become exploitative. But the lack of a rehabilitation policy is a violation of Art 15(3) and 15(4) and Art 39 - the Right to adequate means of livelihood and Art 41 which guarantees social security in the face of undeserved want. The rehabilitation policy should detail each and every option for each and every category of destitute or orphan, taking into account their life-skills, entrepreneurial skills, support systems. The policy should stress on the Community Based Rehabilitation of the destitutes and orphans, aged and disabled in the pre-cyclone period, emergency, with provisions for mid-term shelter and permanent shelter.

5.1a Livelihood options for the adult destitutes, especially young and old widows need to be planned along with resource mobilization for the same. Much of it can perhaps be integrated with govt's ongoing employment & entrepreneurship-promotion activities such as DWCRA as well as the micro-credit activities of the NGOs in the area. Guardianship of orphans needs to be formalized under the Guardianship & Wards Act, 1890. Family Rebuilding options for widows & orphans also need to be taken into account during rehabilitation. Options of marriage, singleness, adoption of a child or a family ought to be taken into account. While the extended family is a rehabilitation option for the orphan, the element of exploitation cannot be ruled out because of the financial attractiveness of the orphan who has become a beneficiary to one or more death compensations. The monthly interest from the fixed deposit to which the orphan is entitled becomes an attraction to take over his/her guardianship. In the rehabilitation phase. Here, the role of the CBOs, village committees and reconstruction committees becomes very crucial to watch against exploitative trends in this guardianship. The Sneha Committees formed through Action Aid facilitation have been playing this role as a monitoring institution. The Guardianship & Ward Act should be amended to create scope for lock-in-deposits for these orphans so that these fixed deposits are not touched till the child comes of age. The same applies to the ex-gratia compensations received by widows. Permanent shelter for widows and single women, many of them of migrant and refugee status, must be prioritized by rehabilitation policy as having first priority in housing rights so as to mitigate differential recovery pattern.

5.1c However, the various categories of destitutes have not been addressed in the Code. For instance, there may be destitutes with land and landless destitutes, or destitutes who may have patta land but which is not controlled by them. There may be some who have had experience of forming and working in collectives, or rearing small animals, sharecropping, fishing-related activities, weaving, while others may not have any entrepreneurial, mobilisational or craft skills or opportunities. While a few of them may have some physical resources left over after the disaster, others may be left with only their skills, while a large number with neither. There may be widows with more family responsibilities, some



less, and some without. Some may have extended families who may or may not care for them, while others may be totally without family support. Some may have the option of going back to a standing house while others may be entirely displaced. There may be widows/ single women/ divorcees with extended families but wanting to live independently. Others may be willing to consider remarriage or to take on the guardianship or adoption of an orphan child in the community. Their social and livelihood options will also vary according to their age, whether they are young or old, their caste and community, which will decide the kind of security they require. **A Rehabilitation Policy for Disaster affected victims should identify the numerous kinds of destitutes created based on such norms, the opportunities that should accrue to each, so that the nature of assistance and capacity-building for each group by different service providers may be clearly outlined.** This will reduce their vulnerability

5.1d We may look at some social and economic options. Under social option, (i) family rebuilding and (ii) living alone emerge as two options. (i) the former is possible through adoption/remarriage, living with extended family, relatives, or foster family. (ii) Living alone in the same village. Under economic options, (i) Skill development and vocational training (ii) Provision of house (iii) provision of land. Availability of legal support systems, community and govt. officials' sensitization to their rights to land/ROR; relief distribution and reconstruction teams should involve them, provision of interim shelters, management of which should be entrusted to them, assessment of existing survival skills, knowledge. **A Rehabilitation Policy for Disaster Affected Persons should make Community Based Rehabilitation of these special groups a key standard of assistance. It should lay down the specific roles of Government and NGOs in these areas as well as a monitoring and accountability system that empowers community institutions. This policy should then be made into a law.**

5.1e For long term shelter preparations, rehabilitation of disaster affected BPL persons should be linked to the welfare housing schemes of the government for the weaker sections. Under House Site Distribution of the 20 Point Programme (5<sup>th</sup>, 6<sup>th</sup> & 7<sup>th</sup> Plan) all landless labourers are to get 4 decimals of land for construction of house site and 8 decimals if undergone family planning operation – (green card holder). The Ninth Five Year Plan in ch 30, Welfare of SC, ST & OBC throws light on Housing schemes provided by Govt. to SC scavengers and sweepers. The scheme is designed to be implemented through the urban local bodies. The unit cost of each house has been fixed at Rs 9000/- of which Rs 4500/- is provided as grant-in-aid to the concerned Urban local body and remaining 50% is met from their own resources. The unit cost of each house was enhanced in 1996-97. Besides land required for the purpose is provided free of cost by the urban local bodies. During the 9<sup>th</sup> Plan Rs 5.00 lakh has been proposed.

**6.1 Shelter entitlements have not accrued to many of the vulnerable because of faulty system of damage assessment over which people have no ownership or control.** It has become a very bureaucratic affair done by Revenue Inspectors and Tahasildars, sidelining many women dalits, refugees and migrants from being enumerated in eligibility list for house building compensation and grants. **But the non-inclusion of dalits and women in the process of damage assessment violates Art. 16 which guarantees non-discrimination and created differential recovery pattern. It also violates UN Convention for Refugees which gives them equal rights to public relief. This right can be better fulfilled with the involvement of the loss-bearer in damage assessment. Participation of women in identifying women victims who have lost their homes is very crucial.** In Maharashtra, after the 1983 earthquake the Rehabilitation Policy had a very strong guideline for involving the women in damage assessment which ensured that women were identified as victims. **A State Level Disaster Mitigation Policy should emphasize upon Participatory Damage Assessment Processes in which loss-bearers and NGOS can be involved. In fact, the**



involvement of the NGOs in the entire process of rehabilitation should be made statutory so as to ensure that the fundamental rights of the victims are protected.

**6.1a Damage assessment ought to be speedy, keeping in mind the vulnerability of groups like SC, ST and women-headed households.** Their vulnerability is more if there is delay. If they start salvaging their materials to build their homes then govt. will not build it for them. So that the vulnerable people do not forego shelter either way, the assessment should be quick. **House-building assistance should materialise before the process of salvaging begins.** There is also a need for damage assessment standards to be universalized to prevent conflicts and delay. The initial assessment must be over in 48 hours, according to Saroj Jha, UN House II, and detailed assessment is to be over by 15 days. The responsibility should be taken up by Orissa State Disaster Mitigation Authority. In Bangladesh, a rapid approximation of damage is done within a day of the disaster and information sent to the Thana HQ for immediate action and restoration. It is later followed by a detailed assessment.

**6.2 Protective Discrimination norms are inadequate in the ORC for individual shelter/ house damage compensation, housebuilding assistance and community shelter.** Although housebuilding assistance under Para 81 (4) entitles SC, ST, landless labourers and marginal farmers, it does not mention women, especially single women, widows and destitutes, which is a setback. Rehabilitation Policy should aim at protective discrimination in housebuilding grants and loans such as IAY. While IAY has a 60% SC /ST targeting, there should be a similar targeting for women-headed households/destitutes.

**6.2a The status of migrants and refugees must be regularized by the State so that they are not excluded from permanent shelter on grounds of lack of ROR, especially widows and single women from these backgrounds.** According to the Government, if the encroachment of the migrants and refugees has been before 1980 which is before the promulgation of the Forest Conservation Act, then State Govt. can have a say in giving ROR to the migrants and refugees, according to Siddhant Das, ED, OSDMA. But where encroachment has been after 1980, Central Government's permission is mandatory. But since the Government is not taking an open stand on the issue, the recovery opportunities for these categories, especially the women, have been held in abeyance. The criteria of encroachment before 1980 should be lifted so that these vulnerable sections may be properly entitled. This will ensure the fulfillment of international covenants on human rights of migrants and refugees as well as Art 15(3) and Art 15(4) the right to protective discrimination. If at all they are shifted, then under the Rehabilitation Policy of the State, a subsistence/maintenance allowance as proposed to be given to them for the wages/earnings lost to meet the daily necessities @ Rs 500/- per family given for one year to be counted from the actual date of shifting, should be implemented. The policy also states that there may be provision for escalation every year and the revision of the amount in every fourth year. The maintenance allowance may be updated according to current prices.

**6.2b Compensation for house damage should not be withheld against people residing on forest land even if they do not have ROR.** Question is not whether they owned land, question is whether they had a home or not. This is according to the Expert Panel in the Public Hearing organized by CLAP (Committee for Legal Aid to the Poor). Under the Orissa Rehabilitation Policy developed by the Water Resources Department encroachers are supposed to prove occupation of the land for more than 30 years. They will get only one acre of land if the encroached land is more than one standard acre. Thus these biases are seen in corresponding policies of the state. Although the 30years criteria is harsh, the cue that can be taken from this policy is that if giving land to encroacher is possible for a project displaced person, it should be so for a disaster affected



person as well. But for proving residential status BPL card, name in voters list or census that will be necessary ought to be regularized.

6.3 The scale of house building grant should be fixed according to the real cost of building materials under the Consumer Price Index. As per the recommendation by experts in the Public Hearing, the scale of compensation for damage repair in housing should go up instead of being evaluated by the prices of a decade back.

6.4 Housing needs under Minimum Needs Programme & Basic Minimum Services should be fulfilled in the disaster prone areas as part of normal-period preparedness. Informal shelters were not always friendly to vulnerable communities. Therefore, the need to strengthen individual housing of vulnerable dalit, BPL and women-headed households, especially those living in low-lying areas. The Provision of Public Housing Assistance to all shelterless poor families, Extension of Public Housing Assistance to all shelterless poor families and Provision of Connectivity to all unconnected villages and habitations assured under the Basic Minimum Services and Minimum Needs programme of the State must be made a rehabilitation objective. For this there must be legislation on Right to Housing and Government must seriously implement the Land Reforms Act, 1960.

7.1 One of the basic principles of the Rehabilitation Policy should be that all adult members should be treated as separate family units for purposes of rehabilitation. This should apply irrespective of their sex and marital status, depending only on their sharing the joint family resources. This is also a key principle underlying Rehabilitation Policies suggested for Project Displaced Persons.

8.1 Need for Legislation on Technological standards in Housing & Shelters : The Poverty Profiling and Need Assessment Study shows that in some places like Sumuda cemented houses built under IAY have also collapsed in the cyclone. This shows the need to integrate the basic need of housing of the SC, migrants, women-headed households and other vulnerable groups with cyclone-proof technology. Differential impact has resulted from the nature of housing which has depended on economic status. Impact of the disaster has been more on the SCs, the migrants from West Bengal (Bengalis) and Bangladeshis (Muslims). While the latter are staying in the disaster prone areas along the coast, the former are mostly landless people depending heavily on the agriculture wage. The study has observed the houses of the SCs to be of wattle and daub type having no resistance to withstand the disaster of even a lesser magnitude. In Noliassahi, all thatched houses have been fully damaged, with heavy loss to property and loss of 233 livestock and 5 human lives. In Siali, Kalabedi, Ajarbedi, Kochilabedi, Sumuda all thatched houses have fully collapsed. There is therefore a need for technology transfer to these sections of society who are victims of differential impact.

8.1a The Indian Standard Code and the National Building Code have developed building codes for different calamity prone regions. Building codes pertaining to areas with frequent visitation by high velocity cyclones emphasize on (a) anchorage (b) bracing (c) connection as part of cyclone resistant construction. Appropriate technology must be used for walling, roofing, foundation, doors and windows fixing, etc. using materials like mud, stone, steel, cement, concrete, roofing materials. Institutions like SERC, Development Alternatives should be brought into the picture. The Sphere Project abided at an international level by INGOs, NGOs and the Govts of 10 countries has also developed a set of technical standards with an aim to improve the quality of assistance in emergency response. Both Govt. of India & State Govt. should institutionalise these norms in their Rehabilitation programme. Technical assistance must be sought from specialized institutions in low-cost, disaster-proof housing. Appropriate Building Codes and compulsion to adhere to them through legislation is necessary for safety. For instance, prohibiting construction below the past flood levels are



**necessary.** In Maharashtra, after the Koyna earthquake of 1967 the seismic zonation of three districts of Maharashtra were upgraded to Zone 4. Now 13 more have been upgraded to Zone 4 after the 1993 earthquake, declaring nearly half the state earthquake prone. Such a legislation is required to mitigate the future impact of disasters. But the formulation of a code is not enough It has to be abided by and not evaded. The Maharashtra Emergency Earthquake Rehabilitation Programme, although legally bound by a building code, became prey to corruption both by implementing authorities and local people/houseowners. Ultimately, the seismic safeguards that were supposed to be built into the construction did not materialize. Structural Engineering Dept. of Roorkee University which has been able to provide cyclone-proof low-cost housing within Rs.12,000/- in Andhra Pradesh should be roped in.

**8.1b** Another area where technical assistance must be sought for shelter entitlements is in the area of alternative non-conventional sources of energy for fuel and lighting. Both solar and micro-hydro options should be explored in these areas with investment by both government and NGOs. Guidance can be sought from Development Alternatives, and Centre for Appropriate Rural Technology, Mysore. Entitlements to electrification and cooking energy covered under Basic Minimum Services and Minimum Needs Programme should be combined with these alternative technological standards.

**9.1** Uniformity in Quantum and Size Standards in Housing is necessary: Uniform standards are required as there are numerous players in the housing field, Govt., NGO, INGO, private parties. The Minimum Standards should be laid down below which it should be considered against the dignity of the individual. A standard of entitlement will ensure that it is not left to the discretion of the providers. Size can be based on family size norms. All resource providers should decide on the norms based on the needs of the people, keeping in mind Art 16, i.e., Right to Non-Discrimination. According to the Charter of Humanitarian Assistance, shelter and site planning should have as its objectives : (i) to meet the physical needs of individuals, families and communities for safe, secure and reasonably comfortable living space. (ii) to meet their primary social needs incorporating as much self-sufficiency and self- management as possible. Housing should take into account provisions for drinking water and sanitation.

**10.1** The National Housing & Habitat Policy should be made an Act. Nearly 1% , about 15 lakh houses of the housing stock of the country is destroyed every year due to natural hazards. The Policy addresses the housing needs of the poor, housing with basic sanitation facilities. It states a demand based approach to housing, looking at what people want, using technologies of energy-efficiency, quality. It addresses specific needs of women headed households, SC/ST disabled population, bonded labourers, slum dwellers. It looks at housing sector as one which can generate employment for the poor. The norms of quality and cost-effectiveness of the National Housing & Habitat Policy should be implemented through the various housing schemes of the govt. and should be reflected in the kind of structure, design and materials offered to people through these schemes of house-building grants and loans.

**11.1** There is need for coverage under housing and life insurance schemes which are low-premium based. These schemes of insurance companies, such as the 'hut & paise' scheme and Janta Personal Accident Scheme need to be popularized. An Emergency Risk Reduction Fund needs to be created with the Departments concerned with housing and with OSDMA to strengthen shelter capacities.

**12.1** Shelter Provisions for Cattle : Bangladesh's shelter provisions for cattle should be taken note of by building high mounds in the vulnerable areas in whose preparation the PRIs can play a key role. A revolving fund from the community can be fed into its maintenance.



### 13.1 Policy gap in Flood Control & Management :

**13.1a** In the early 1970s, A.N. Khosla, Governor of Orissa also a renowned engineer put up a plan for flood control and irrigation. It had 3 components – (i) connecting the rivers with tanks through canals. So surplus water is suitably utilized and overflooding is avoided. (ii) multi-purpose projects on rivers (iii) lift-irrigation projects to tap underground water. While the latter two were and are still being carried out, the first was not taken seriously. The alternative to dams such as diversion weirs (diversion created through creation of a door) should be explored through canals (like Taladanda canal.)

**13.1b** While GOI and the State of Orissa seem to have invested in a Flood Management Policy of structural methods such as dams and embankments, Bangladesh seems to have a twin approach of structural and non-structural approach. The former has very little people-focus, involves displacement and is more cost-inducing involving great damages to life and property if they break down is also more. The Water Resources Dept. should address non-structural means of flood management such as (i) flood plain management or zoning and (ii) managing the impact on vulnerable people. Flood plain management involves the regulation of land use patterns and latter involves introducing loss-sharing systems by government and community. Evolving Disaster Insurance Funds at the level of both Government and Community is essential here. To some extent loss-sharing mechanisms are provided for by the provision of ex-gratia compensation, subsidised loans for housebuilding but these need to be strengthened and their delivery more vulnerability-oriented. A Rehabilitation Policy should stress on greater investment in the area of managing the impact of flood on vulnerable people.

**13.1c** The role of the community in maintenance of embankments should be part of a Disaster Mitigation Policy. This has also been pointed out by ex-SRC K.S. Srinivasan. The Embankment Construction & Improvement Act, 1950, enacted by the State also specifies the role of the users in maintaining the embankments. Any public structure should be maintained through public pressure on elected representatives and bureaucrats, especially the former. Public action can act as a tremendous force for accountability. However, the community needs to be capacitated and mobilised for the same. The role of NGOs is high in this area. As part of Flood Management Policy, some suggest that maintenance of embankments be met out by hiking irrigation rent which has been kept low. However, in Bangladesh, settlers living close to the embankments contribute seasonally and annually to plantations on the embankments to prevent soil erosion and raising the heights of these structures. This contribution is offset by the enjoyment of usufruct rights. The Bangladesh government is bound by a bond signed between itself and the village committee to make a contribution for the maintenance of these embankments.

**13.1d** Wherever embankments breach, spurs were built to give local protection, but they have become very unplanned and short-term, according to K.S. Srinivasan. There is a separate fund for flood damage repair, but major criteria in damage being funded from this source is the clause that restoration should be restricted to status quo ante. But breach has occurred because status quo ante was inadequate. So, this criteria ought to be changed. Actually, repair ought to be a permanent repair, based on an engineer's certification.

**13.1e** The Coastal Zone Regulatory Act is another law for the protection of the coastline. This is to achieve a kind of flood zoning which restricts certain kinds of activities, structures that may make it vulnerable to disasters. But one finds a contradiction between the shelter rights of the refugees and migrants and protection of the habitat through the use of these laws. There is need to explore if these



people can continue to habitate during normal period using forest area sustainably or through joint forest management, and moving to other locations only during risk period.

**13.1f** Laurie Baker actually suggests the making of **human-made hills as part of flood management policy** instead of going on building colonies and villages and town extensions on flood prone land, without taking the rational step of making the hills. Although this would cost double that of building a house, the annual repairing and rebuilding of flooded and flood-collapsed houses will cost even more. In order to find earth to build human-made hills, permanent water channels can be dredged, and the silt and soil can be used for making of new hills. (Shelter During Disasters – Laurie Baker, India Disasters Report)

**13.1g Flood Control Policy** should target drainage systems & flood plain management, connecting rivers to tanks through canals and loss-sharing systems rather than construction of more dams which are resource draining, anti-people and create more floods. But entire money on canal maintenance is spent on Muster Rolls, according to K.S. Srinivasan, who served as SRC for almost a decade in the 1980s.

#### **14.1 Policy Gap in Cyclone Control Policy :**

**14.1a Shelter-belt Plantations & afforestation :** Para 126 of the Code addresses the construction of tidal breakers, shelter plantations/ coastal afforestation, bandhs and embankments to reduce vulnerability to storms, cyclones and tidal surges. **The Environment Protection Act, 1986, is an Act to provide for the protection and improvement of environment and for matters connected therewith. One reason behind this Act is the growing risk of environmental accidents and threats to life-support systems. The eminent jury in the Public Hearing organized by CLAP (Committee for Legal Aid to the Poor) also declared the need for coastal afforestation. This Act needs to be implemented seriously.**

**14.1b** But as one sees the dependance of several dalit, migrant and refugee families and women-headed households on the mangroves, the use value or livelihood value of the environment/forest must not be sidelined. Settler's Rights should be a key area of concern in the Rehabilitation Policy. Art 39 which guarantees the Right to adequate livelihood should not be impinged upon. Instead opportunities for joint forest management should be addressed by the government. But according to Neera Singh from Vasundhara, the people's process that ought to evolve for this is at a very nebulous stage. Moreover, community bonds and relationships are in a very fragmented state due to new material gains in the society, power imbalance and distrust. Joint forest management can be feasible only after cohesive binding of a responsible community.

**14.2Community Shelters :** Although policy provisions exist for the building of community shelters, there are no specifications to socio-economic vulnerabilities in location and use. **Construction of cyclone-shelters should take into account ramps for disabled people. Non-discrimination should be built into the environment to protect the rights of the disabled as specified in the Persons with Disabilities Act.** These shelters can also act as emergent shelters for destitute women. But there are no provisions for how these community shelters will be managed and maintained, what are the items to be stored, norms of quantity, quality, expenditure, distribution. Provisions for drinking water and sanitation should be of top-most priority in these shelters. In the last cyclone, these community shelters became almost death houses in the absence of such basic things. **In the Poverty Profiling and Need Assessment Study done by Action Aid, the villagers have pointed to three basic requirements to be placed in these shelters – (i) 2 power boats to ferry people during disasters, (ii) one overhead tank to store drinking water for enough supply during disasters and (iii) enough stock of food grains and medicines for use during and after disasters. Shelters**



should be housed at a close level to community, not more than 3 kms, for easy access and should be used during normal times. The State Govt. has already taken a decision about multipurpose shelters by combining it with the reconstruction of schools through Operation Black Board. In Bangladesh, where community shelters are used by NGOs for their activities, the maintenance costs are borne by them. The State Govt. has now developed a Master Plan for 512 multipurpose cyclone shelters within 10 kms of the entire coastline based on a satellite survey done in January 2000. State Government is to build 40 numbers with World Bank assistance, according to Siddhant Das, Executive Director of OSDMA.

**14.3** There is need for both structural and non-structural flood control measures. But the former cannot compensate for the lack or inadequacy of the former. Reducing the impact of flood and cyclone is most important through reducing loss-burden on the vulnerable sections. Flood Zoning and Afforestation also should be considered important with zones of prohibition followed by zones of restriction and zones of land use. This is as part of modifying the susceptibility to floods. Modifying the flood has displacement costs and environmental costs apart from the obvious economic ones. Risk-reduction measures as part of modifying impact of floods should be more strictly built into planning – evacuation, disaster response, tax relief, credit, insurance.

**14.4** Policy should lay down clear standards of shelter assistance to different categories of people. There should not be any ambiguities. And both materialist and non-materialist aspects should be addressed as specified under the Sphere Project. **The Setting of Standards has to be followed up by (i) training** in the areas of values & attitudes, knowledge and skills. The Bangladesh Standing Orders, while it may not answer to standards of gender sensitivity, has atleast standards of technical competencies of the various Government Departments, the Community Volunteers, NGOs, Defence Forces. **(ii) a framework of accountability must be set up within the community. Social audits with good frequency should be built into the system & organised within the community as a space to inform public, to check corruption & ensure vulnerability targeting. There should be co-ordination between the Government, NGO and community for this.**

**15.1** The NGO sector needs to develop a Contingency Plan for short term and long-term capacity transfer keeping in mind the norms of protective discrimination. It also needs to build up sensitive cadre or person power who competencies in strengthening community institutions, developing information systems, and who are trained in appropriate technology and humanitarian standards of assistance.

**16.1** The Disaster Mitigation Policy needs to empower community institutions so that accountability to them by all those intervening is legitimized. The Policy should emphasize on making the community a key stakeholder in this manner. This policy should then be made into law. Community institutions like palli sabha, panchayat, village committee, rehabilitation and reconstruction committees like Punar Nirman Sabhas, lok adalats, mahila sanghs, SHGs, co-operatives, youth clubs, institutions like Mamta Gruhas and Sneha committees should be strengthened by Government and NGO efforts during rehabilitation and normal period preparedness. These institutions can be trained in areas of damage assessment, official procedures for claims, information systems like HAM radios, monitoring quantitative and qualitative aspects of reconstruction activities of individual housing, community shelter, roads and flood control works. These community institutions should be represented and owned by the vulnerable groups like women, dalits, migrants and refugees. They should evolve their own standards of assistance and laws keeping in mind human rights and need for protective discrimination. A community which has its own laws will be able to decide what kind of intervention is needed and acceptable from the various service providers and what is objectionable and to be rejected. The minimum standards of assistance should be researched for



each region highlighting the role of Victims, Service Providers, Government, Donors and International Agencies. Community institutions must play a key role in evolving these standards.

**16.2** Aberrations are observed however in empowering these community institutions. Although the State Government has been part of the process of preparing a Community Based Disaster Preparedness Plan, it has been sidelining community based institutions like the Panchayats. Presently, one is observing that many programmes which were under the powers of the Panchayati Raj dept are being diverted to Rural Development Dept. In a newspaper report in The New Indian Express dated 6<sup>th</sup> September, Rudramadhav Ray, All Orissa Panchayat President has made a demand that the implementation of the Prime Minister's Gramodaya Yojana (PMGY) and rural connectivity programme be placed with the Panchayati raj Dept. for better result in a more transparent manner. According to him, under the Tenth Finance Commission's recommendations the panchayati raj department had received allocation under the rural connectivity programme from 1997-2000 as nodal agency. This programme had been successfully implemented and a number of villages were provided with all-weather road facilities as per guidelines of the govt. **Ray mentions that the Govt. decision violates a Govt of Orissa notification issued on December 25<sup>th</sup> 1993 which stated that all matters related to Prime Minister's programmes are responsibility of the Panchayati Raj Dept.** The AOPP President said that PMGY aimed at providing all weather road connection to every habitation, improvement of panchayat samiti and gram panchayat roads should be given top priority and its planning and execution should have been done by the panchayats as per article 243 (G) of the Constitution. In the same article, Ray alleged that though a huge amount of fund was placed with rural development dept. under the rural connectivity programme for the last three years, the standard of work was far below compared to work conducted by the blocks and the 60% of the funds was unspent. **Now 212 crores has come from the center for this programme.**

**16.3** Finally, for community to emerge as a key and active stakeholder in the whole process of mitigating disaster impact the **Right to Information is a definite area of legislation.** Community must have easy accessibility and right over information with resource and service providers so that they may be better able to plan their preparedness and recovery. **The Minimum Needs Programme and the Basic Minimum Services under the Five Year Plan must be seriously implemented** as they constitute the basic entitlements for protection against disasters.



## HEALTH & EDUCATION

According to the White Paper of the State Government brought out in December 1999 the total number of blocks affected were 97 in 12 districts. The number of primary schools damaged was 14,901 and the number of high schools and colleges damaged were 3425 and 66, respectively. (Orissa Supercyclone. Emergency Information Pack. UNICEF, Bhubaneswar) A significant number of Anganwadi centers (local community health and care centers for women and children) were damaged in the cyclone, with a resulting impact on the local health care that could be offered. Many ICDS buildings were also destroyed or damaged. An estimated 19,000 schools have been damaged by the supercyclone and a further 8,000 totally destroyed. This has had an impact on the provisions of local health, education and other welfare services for children.

We have mentioned in our introductory note that there are crucial links between health, education, disaster and development. Health and Education needs of the people have already been mentioned as two core needs recognized under the Minimum Needs Programme of the State as well as provision of health services under the Basic Minimum Services (BMS). The availability of health insurance and education facilities to the more vulnerable groups like children, women, aged and disabled, especially from under-privileged socio-economic backgrounds, will determine their adaptability to disasters with humanized coping mechanisms. Health status of a people is directly related to the accessibility to nutritious food, all components of shelter, educational levels, health infrastructure in the right quantum in the right quality in the right time. On education depends the income, livelihood, and health opportunities that people as it expands the skill base. Thus, there is need to look at these aspects inter-sectorally rather than in isolation when one is talking about mitigating the impact of disaster on the vulnerable. Healthier and better-educated people are more capable of self-help and more able to contribute to their own protection and development.

To emphasize a point, the normal period health and education delivery mechanisms of the state and the delivery mechanisms during rehabilitation and reconstruction stage are interwoven with development process and opportunities. During the relief period health is dependant largely on the emergency supplies of the govt. such as blankets, polythene sheets for shelter, ORS, emergency quick-relief drugs against epidemics, disinfectants like bleaching powder and halogen. The rehabilitation and reconstruction phase presents itself as an opportunity to create equity in society, to consciously prevent restoration to status quo ante that was iniquitous.

**People's health and educational entitlements are secured under the constitutional provisions such as Art 39 (e) and Art 47.** According to Art 39(e) of the Constitution, the State shall direct its policy towards securing health and strength of workers, men & women and under Art 47 the State is directed to regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health among its primary duties. Art 39 addresses directives to the state to secure the Right to livelihood for the people which if interpreted also implies right to education.

The availability and accessibility of adequate health and educational infrastructures, and institutional mechanisms from within the vulnerable sections of the community to own and use these structures will determine adaptability and recovery from a disaster. Thus it becomes essential here to look at the range of health and educational entitlements accruing to women, children, disabled, children in especially difficult circumstances like orphans and destitutes, the aged, especially from the poorer sections. Such policy investment in human capital will lead to expanded skill-base, productivity and self-reliance.



## IMPLEMENTATION GAPS IN HEALTH & EDUCATIONAL ENTITLEMENTS

- 1.1 Under the Orissa Relief Code, para 7, Nature of Relief Measures, the Nutrition and Supplementary Feeding Programme has been mentioned as one of the relief measures to be taken by the state as well as health measures and veterinary measures. The arrangements of food stuff and stocking and stocking of food gains in strategic places is yet another related measure which concerns health. The last we have dealt with under Food security.

As part of preparedness measures, the Health & Family Welfare Dept. will conduct the nutrition survey, take steps to immunise pregnant women & children against tetanus, the Women & Child Development Programme is to run the supplementary feeding programme out of funds from the Relief Budget. The ORC states that CARE assists with the supply of food stuff. According to Para 210 of the ORC, Mother & Child Care centres are to be started in each village or group of villages affected by scarcity and distress. These centers are to provide the minimum health & nutrition needs of pregnant women, pre-school children and nursing mothers –nutritionally the most vulnerable section of the community. They will try to meet the gap between the minimum nutrient requirements of these different groups and the food intake at home. Severe malnutrition will be treated through nutritional therapy and preventive measures will be taken through public education. Providing the minimum level of nutrition for each of these categories in each of the affected areas, immunization requirements, clean drinking water and environmental hygiene falls within the responsibilities of these centres.

1.1a The ICDS and Anganwadis which are supposed to provide the health and educational back-up for children from poor families as stated above were not able to provide nutritional and health facilities adequately before and after the cyclone. Many Anganwadis according to the Plan Document of the State are operating without shelter. Out of 47 non-ICDS blocks in the state 41 belong to the cyclone affected areas. Out of these 41, only 2 were sanctioned in December 1999. The State Govt. expected Central assistance for the remaining 39.

ICDS has not been restored yet in many affected areas. Even where food is reaching for the Mid Day Meal scheme, children cannot avail it in places where they have already become child labourers, according to Centre for Women and Child Development.

A study done by CLAP on the status of ICDS centers in Chatua GP, Erasama block of Jagatsingpur district between July-August 2000 reflects on the failure of the ICDS programme. There are 5 ICDS centers running in this GP. The key findings of the study point out that : (i) there are no permanent structures for these centers. While 4 run under open tents, the last is functioning from a half-built community centre. Due to lack of structure, there are no sanitation facilities; learning in the open is also inhibiting girl students to learn by the play way method

(ii) There is no drinking water facility nearby.

(iii) locations are unsuitable and inaccessible as several children have to walk more than one and a half kilometers to reach it. Although the registered strength is 40 in these centers, hardly 15 or so children have been going after the cyclone

(iv) weighing instruments to take the weight of the child, washed away in 2 or 3 of the centers had not been restored. At another level, it is also pointed out that mothers are resentful of physical measurements involved in nutrition surveys.

(v) Children used to go to some of these centers only for the Mid-Day Meals, during normalcy. These meals are provided according to the Supplementary Nutrition Programme of the State. Although,



attendance at the eating time has been more after the cyclone, 80% of the children take the food away to their homes. The standards for ICDS food specify 80 gms of wheat, 15 gms of moong dal, 220 gms of molasses cooked in soyabean oil, per head per day. For malnourished children and expectant mothers the quantity of the food is doubled. There is also provision for dry food for expectant mothers. But the quality of food is so poor it is not known whether the children have it themselves or it is given away to their cattle

(vi) educational aids that should have been provided to these centers are absent. So, the Anganwadi teachers' training in those methods is also going waste

(vii) the Nutrition Surveillance system set up in the ICDS centers is not effective. Monitoring and reporting systems are not streamlined. In many places the Supervisor and CDPO do not visit the centers. The former is supposed to visit atleast once a month the three centers under him. The CDPO of a block should atleast visit once every few months. There is barely any reporting to higher authorities regarding the results or gaps in the surveillance system. Furthermore, most of the centers lack sanitation and drinking water facilities.

(viii) The involvement of community and its ownership is lacking, elements that are high in the Tamil Nadu experience of ICDS management. People neither interfere nor co-operate. They are highly skeptical of the educational benefits of these centers. Also, since the Anganwadi worker is a local woman, she is not taken seriously. The Anganwadi workers expect greater co-operation from the CDPO to mobilize the community which too is missing.

(ix) The financial position of these centers is also very weak as each ICDS centre is given only Rs 1000/- for meeting medicine expenses of malnourished lactating and expectant mothers. But both APL and BPL categories have been availing this.

(x) The Anganwadi workers are badly remunerated - they are paid Rs 500/- per month, that too, irregularly, once in 2 or 3 months; they get a travel allowance of 20 paise per km to lift food stocks from the block every month - an amount which is paid to them at the end of the year. Along with this, their unorganized status add to the poor functioning of the ICDS. As a result, poor families are forced to access health services from other quarters, thus increasing their vulnerability at the time of a disaster.

**1.1b The failure of ORC objectives and entitlements are further supported by the high Infant Mortality Rate and the low Literacy levels which are indicators set by the Human Development Index and the health indicators set by the state in its Plan document.**

The first contradiction between the objective of reducing infant mortality and Maternal mortality is in the Infant Mortality Rate. The Human Development Index points to the Infant Mortality Rate and Maternal Mortality Rate as key indicators to signify the health of a community. Infant mortality rate is the highest in Orissa. It is 98/1000 and 739 per 1,00,000 live births respectively. (New Indian Express, September 12, 2000) Maternal mortality rate is also high in Orissa. - it was 740/1,00,000 before the cyclone. This is a reflection of the quality of Maternal health care provided by the state as well as health care provisions in the first year of the child. The under 4 malnutrition rate was 53% and the population below poverty line was 21 million out of a total of 35 million before the supercyclone. (Orissa Supercyclone. Emergency Information Pack, Unicef, Bhubaneswar.) The failure of health entitlements of mothers and children under the ICDS, Supplementary Nutrition Programme is a violation of Art 15(3) and 15(4) Right to Protective Discrimination and directives to the state under Arts 39(e), 47 and 41.

**2.1 Health is directly related to availability of the number and nature of shelter and availability of safe drinking water, the availability, quantity and quality of food, accessibility, connectivity infrastructure for medical services to reach. However, Health & Educational insurance systems were inadequate during normalcy and unprepared for disasters.**

**2.1a The Study also points out that the villages which had poor access to health and sanitation facilities during normalcy were the ones which had difficulty in availing medical attention in time. This was true of villages like Siali, Kalabedi, Sankha, Athagaria, Balijori and Pariabeli. For**



instance, villagers of Pariabeli travel about 7 kms normally to reach the PHC.; during rains the distance of travel is nearly 15 kms. Balijori villagers travel about 10 kms to reach the PHC that is located in Baramunduli the panchayat HQ. Communication wise all these villagers are cut-off. For them it is a traumatic experience carrying a patient on a cot or bamboo poles tied with cloth all the way. A PHC or a sub-centre in their areas would have reduced their vulnerability.

The villages that had drinking water problems in the pre-disaster period were more vulnerable to diarrhoea. For days people drank polluted or saline water. Most of the tubewells became dysfunctional after the cyclone. At many places, the government installed fresh tubewells and repaired others, but the crisis prone panchayats like Kusupur and Baramunduli remained untouched

This fact of differential enjoyment of development infrastructures during normalcy created differential impact and recovery is also supported by the Lok Yojana exercise done by the villagers of Pradhangheri village, Padampur GP, Erasama block. The people of Pradhangheri village, used to access health services from a government ayurvedic dispensary located at Padampur and 2 private homeopathic clinics in the village. But for emergencies and casualties they were dependant on the PHC located in Erasama, i.e., 27 kms away or used to go to Padampur. The seriously ill patients are carried to these hospitals. Due to lack of all weather roads and irregular service of public transport it is very difficult and fatal to take such patients. What health care these people would have got from the PHC in Erasama is for anybody to guess, when it did not even have basic equipments for stool and urine test, the doctors did not want to keep the patients there. The health care services were being carried out by SUCI and other volunteers. This is a failure of the health delivery mechanisms of the government, during both normal period and emergency.

**2.1b Differential availability and access to shelter also had differential health impacts. More than a thousand cyclone shelters have been recommended for this coastline out of which only 23 existed before the cyclone, 16 in Kendrapara. The only one in Jagatsingpur district is in Padampur. People were forced to be out in the open, braving the wind and water, without food and water preparations; those who accessed shelter were compelled to stay on for 4/5 days without relief. Nowhere along the entire susceptible coastline from Orissa to Bengal was any government machinery activated to evacuate vulnerable sections. These shelters having capacity to house 2000 turned into death traps without sufficient drinking water and sanitation facilities..( In Memory Of Countless Victims, Supercyclone Orissa 99. Health Spectra, A Special Bulletin. A Journal of Medical Service Centre)**

**According to the Participatory Poverty Profiling Study**, during the cyclone, people stayed outside under the open sky. There was heavy rain with the area being under water. The villagers had very little chance of protecting themselves. Many stayed in water for more than three days. As a result they got severe fever, cough and cold. The poor delivery mechanisms in providing emergent and interim shelter made children, women vulnerable to respiratory tract infections and epidemics. By being in and drinking saline water and mud water, they were affected with stomach disorders, fungal infections and scabies. After eating coconut and raw rice for more than a week, people started having diarrhoea. Those who were cooped up for a long time in shelters suffered from pain in knee joints and backbone due to overcrowding during and immediately after the cyclone. This was especially marked amongst the old. Diseases common in the study areas were fever, cold, cough, dysentery, constipation, scabies and diarrhoea. But their magnitude increased manifold after the cyclone. In the first month after the cyclone, diseases such as diarrhoea, scabies fever, cough, measles and headache broke out extensively causing some deaths. In places like Ajgarbedi, chicken pox and measles broke out affecting especially the children.



**3.1 The CDMO, as per ORC provisions, is to oversee preparatory arrangements for health and sanitation in the risk periods.** However, the sanitation coverage in the state, before the cyclone was only 4% and access to safe drinking water was 8% through the Drinking Water Supply Programme. The Plan Document of the State shows that the Rural Drinking Water Supply Programme consists of (i) Rural piped water supply scheme(ii) handpump tubewells and (iii) sanitary wells . The government has failed to implement its own policies.

**3.1a Government was not prepared with stocks of halogen, bleaching powder & other disinfectants, spare parts for damaged tubewells; there was acute shortage of halogen and safe drinking water.** Govt. has failed to fulfill its own standards of health care as specified in the ORC. Preparedness provisions in immunisation, stocking, were totally inadequate. Government Dispensaries were without staff to man them. Epidemics were controlled only by intervention of outside agencies like MSF, Medical Service Centre, (Red Cross, Calcutta) and other voluntary agencies.

**ORC provisions to meet drinking water requirements of affected populations through provision and repair of tubewells have been differentially implemented.** Acute drinking water problem still exists in many places, especially where normal period deficiencies existed, as pointed out by grievance cases taken up by the Human Rights Network.. The problem identification done by the villagers of Pradhangheri village, Erasama block, Jagatsingpur district, done 7 months after the disaster reveals that potable water continues to be a major problem. There were two shallow tube wells (up to 25 ft) in the village before the cyclone. The water due to salinity is not potable and is used by all the 61 families for cleaning of clothes and utensils and cooking. Earlier they used to fetch drinking water from the village ponds but after the cyclone, water in these ponds have become highly saline, not fit for consumption. Thus, they now have to travel 1 kilometre to the cyclone shelter at Padampur where a tube well yields sweet water. All the 61 families have now become dependant on this one tubewell.

The Poverty Profiling and Need Assessment Study done by Action Aid in Erasama and Balikuda blocks of Jagatsingpur highlights the differential impact and recovery process by pointing out the drinking water problems in migrant villages. Ever since the Bengali migrants from West Bengal occupied Kuspur and Baramunduli GPs under Balikuda block, they have been facing serious drinking water problem. The ground water level is low . Villagers in the region feel that deep bore wells are the alternative to their water crisis. A well, dug about five years back in a village called Dandabedi near Pariabeli did not reach fesh water level even after digging for about 1000 feet. Athgaria and Balijori have similar problems. At Athgaria, villagers cross a river and travel about 2 kms to fetch drinking water. For this they pay Rs 3/- for every trip they make which makes the water they drink very expensive.

**4.1 The ORC states that the Health & Family Welfare Dept. shall deal with the disposal of unclaimed dead bodies while identified ones can be handed over to relatives. The Fisheries & Animal Resources Dept. is responsibe for disposing of animal carcasses. In the absence of claimants this will be done at govt. cost.** The Code also states that police assistance is required for disposal of dead bodies. However, police behaved like passive onlookers, exposing their unpreparedness for emergencies. But major work of rescue has to be done by police, volunteers and help from the Army. In places like Erasama, the police understated the death rate; they had no records or enumeration of carcasses.

**5.1 Although ORC addresses women and children from their health rights perspective, even this provision is incomplete, there are no service standards set for medical help.** For 24 panchayats in Ersama, there was one PHC and 2/3 sub-centres. With 1 doctor and 1 caretaker, a distance problem, health was neglected immediately after cyclone. There is no sensitivity to standards of services – such as in gender composition of service providers. **There were no lady doctors to deal with specific ailments of women. This has resulted in women being neglected in health care and chaotic management of health centres. Women had miscarriages out of shock. Trauma was high but there were no**



psychiatric Treatment Centres. Only social counselling was provided for. Food was main focus and so, health became neglected. Many health problems have also emerged due to survival strategies. Cases of sexually transmitted diseases like gonorrhea, an outcome of organized prostitution, are being observed in some places like Kunjakothi dispensary run by Sarvodaya Samiti..

**6.1 Cattle Health :** The Director, Veterinary Services, and Animal Husbandry may make necessary arrangements for prevention of cattle epidemics at the time of distress. Necessary animal health squads with medicines, vaccines and other equipments may be kept ready for treatment of cattle diseases. Adequate medicines to be stocked in the dispensaries of the area. As part of preventive fodder arrangement people may be given liberal advances, according to the Code to construct temporary wells , purchase fodder seeds. During emergency when people and cattle are encircled by flood waters for more than a day it would be necessary to provide fodder to keep the animals alive. 'Kunda' may be sanctioned by Collectors, not exceeding 1kg per animal per day upto a maximum of 3 days depending on severity of flood. There were no such arrangements in place.

**7.1 Regarding the Educational Entitlements,** the Constitution of India under Art 45 casts an obligation on the State to provide free and compulsory education for all children until they complete the age of 14 years. The Conference of Chief Ministers held on July 1995-96 has recommended Universalisation of Elementary Education as one of the components of the Basic Minimum Services . Accordingly, in the Ninth Five Year Plan the Universalisation of Elementary Education has been accorded over-riding priority. The National Policy on Child, 1974 is a policy to protect and ensure 'best interests' of the child. The 83<sup>rd</sup> Amendment to the Constitution assures free education to children till the age of 14 years.

The Poverty Profiling and Need Assessment Study done in Jagatsingpur proves the gaps in the achievement of these policy provisions. Many of the coastal villages covered by the study did not have government schools. In Nandera, Balikuda block, villagers are running a high school on their own. The students are charges Rs 25/- as tuition fees. Two teachers appointed for the school are paid Rs 1200/- each , out of this money. Similar situations are marked by in Siali and Kalabedi. A non-formal school was being run by the government in Sankha village before the cyclone. After the disaster, the school was being run by a NGO that pays a collegiate volunteer Rs 300/- per month to teach the children. The study pointed out that that the key educational needs of those areas were repairing of primary school buildings which were not pucca structures to start with; student counseling and provision of study materials according to their needs in the different villages. Another problem area in accessing education pointed out by the study is communication. Crossing rivers to go to school is a hazardous affair for Balijori, Badakul and Sankha villages. During the entire rainy season, the children are, therefore, not allowed to go to school.

**7.1a The grant of educational concessions has been mentioned under Para 7, Nature of Relief Measures, in the ORC.** Thus this is one of the measures that the government is expected to take if an area is declared to be in "distress", subject to the directive of the Board of Revenue/Special Relief Commissioner. The chapter on Administrative Relief Organization in the ORC also lays down the responsibilities of the Mass Education Programme. This department is to provide relief measures to student and educational institutions in the affected areas, mobilizing student volunteer force when needed, and restoration of damages to educational institutions and buildings. **However, there have been delays in book banks being started. Many School buildings are yet to be restored. In many places as evidenced from the Fact Finding Team from CLAP, school children are being taught in the open without shelter, sufficient books and notebooks. No volunteer student forces were created.**

**7.1b Para 38 of the Code also addresses the Relief to students and educational institutions.** in case of serious distress conditions occurring to the people consequent on a wide spread natural calamity,



resulting in suspension of collection of taccavi loans in certain villages. Govt. may consider the grant of any of the following as relief to the students in such villages. (i) Grant of full freeship (ii) Distribution of text books free of cost to primary school children (iii) remission of tuition fees and examination fees. This provision also states that the question of payment of full deficit to aided institutions may also be considered.

In contrast to these provisions, the shortage of basic classroom materials has been a major concern for all those committed to restarting education in the cyclone affected areas of Orissa. This has been pointed out by the TISS study report and the UN assessment . Panchayat libraaries, book banks are not available in each panchayat or village. The school building restoration is being carried out through Operation Blackboard under the Panchayati Raj . These are designed as multi-purpose shelters. Apart from destroying civic pride and community's sense of ownership over key community services, the lack of school buildings reduce the opportunities for girl children to access learning. In pre-disaster times the opportunities are fewer for girls because of social pressures. The people of Pradhangheri have pointed out in their problem identification that girl children are backward in education as they generally take care of younger siblings when the parents are at work, and help their mothers in the collection of prawn and fish seedlings. There is difficulty of finding a match for her and they have to append more on her dowry if she is educated.

**8.1 Protective discrimination in health and education assured under Art 15(3) and 15(4) of the Constitution are violated. The assurance provided under the Basic Minimum Services in the Plan Document of the State remain unfulfilled. Provisions for basic needs and minimum self-help capacities need to be made statutory so that implementation failures may be punishable.**

**8.2 The Orissa Essential Services (Maintenance) Act, 1988 is also violated. This is an Act to provide for the maintenance of certain essential services and the normal life of the community of Orissa. Essential service means any service connected with supply or distribution of water and maintenance of water works, public health and sanitation, including hospitals and dispensaries, production, supply and distribution of electricity including services of OSEB, any service connected with transportation of persons and goods. Because health and education are the minimum needs required for survival and have the capacity to redistribute opportunities, they ought to be amongst the first things to be restored in a community to prevent debilitating effects. Thus Govt. has violated this Act.**

**8.3 The lack of restoration of health and educational facilities has had a greater impact on the orphans and children in the pre-primary and primary age group, children from BPL, SC, ST, migrant and refugee families. This shows implementation failure of ORC provisions to take care of children in these age groups. Case studies collected through the observations and interventions of the Centre for Child and Women Development from 4 different villages - Nendara, Panitira, Amarapet and Dandabedi - of Kusupur GP, Balikuda block of Jagatsingpur district, show that distress is more in the children who come from landless families, and are dependant upon shared cultivation or fishing. The total number of distressed children found were 46, out of which 9 were orphans, having lost both parents, and 37 belonged to single parent families. We cite some case studies :**

Yudhisthira Das, who made his living by selling milk, in the Sandhakanda NAC area of Paradeep, died in the Supercyclone. After his death, his wife and three children, Kunu Das, Jhunias Das, Nia Das, three daughters and Kuna Das, a son, came back to their home village, Panitira, of Balikuda block after all their belongings were washed away. His wife has no agricultural land except the homeland which has also affected. She has not received death compensation from the Govt. and is struggling to get work outside with the support of relatives. The children who were studying in Sandhakuda before the cyclone, are now deprived of education in Panitira as there is no school,; they are also deprived of health and all other basic necessities of life. **(Case Study 1, CCWD)**



Satu See, a 7 year old boy of Dandabedi village, who has studied up to the 2<sup>nd</sup> Standard lost his father in the Supercyclone. He is now living with his mother without going to school. The family is landless and mother depends on wage-earning. **(Case Study 2)**

Bulu Rana, 15 year old boy of Dandabedi village who had studied till the 8<sup>th</sup> standard lost his mother, Nupur Bala Rana, in the cyclone. He has not gone back to school. **(Case Study 3)**

Siva Mandal, a 12 year old boy of Nendara village lost his father in the cyclone and is unable to get education. **(Case Study 4)**

Geeta Gochhayat, a 14 year old girl lost both her parents during supercyclone is unable to access basic health and educational facilities. Her situation is very desperate. **(Case Study 5)**

There are many such cases where recovery process of children has been slowed down by vulnerabilities like the child's orphan status, poverty, dependance on relatives and non-existent or unrestored infrastructure and institutional mechanisms to deal with their trauma, and to fulfill their needs for health care and education. Where Mamata Gruhas existed, they tried to take care of the health and educational securities, but these were stop-gap arrangements and cannot compensate for the lack of sustainable health and educational infrastructures, adequate person power with adequate resources at their disposal to ensure quick recovery of the vulnerable.



## POLICY GAPS

- 1.1 **The gaps between ORC provisions and the Plans of the WCD Department should be fulfilled for mitigating impact of disasters on vulnerable populations.** Universal access to safe drinking water and improved access to sanitation facilities to all by 2000 AD is a major goal set by the **Women & Child Development Dept.** (i) To provide one handpump for a population of 150 in all villages and hamlets; universal access to safe drinking water in all urban areas. (ii) Increase coverage from 20% to 25% rural population and from 70% to 100% urban population under sanitary facilities like excreta and garbage disposal. (iii) Achieve 100% in education on environment and sanitation through course curriculum of both formal and non-formal education system up to the secondary level. **Its specific goals are** - 100% access to primary education of adolescent girls, provide adolescent girl schemes in all ICDS and non-ICDS project areas; prevention and early detection of childhood disability, induction of disabled children (mild or moderate) to formal/non-formal. **This will help achieve the constitutional provisions under Art 47.**
- 1.2 If we look at the Ninth Plan Document of the State, we find that the focus of the 8<sup>th</sup> Plan in the health Sector was to improve the access to health care for under-served and under privileged segments of the population. This is to be achieved through the consolidation and operationalisation of primary, secondary and tertiary health care infrastructure. One of the key health objectives stated in the Plan Document of the state is to reduce infant and maternal morbidity and mortality. Apart from these, control of communicable diseases, improved disease surveillance and improvement of hospital services particularly at primary and secondary level are also its objectives.
- 1.3 What are the infrastructures that the state government promises in its plan document to build up? According to GOI's population criteria, there should be one sub-centre for 3000 population in tribal areas and one sub-centre per 5000 population in other areas. The Plan states that Orissa required 6568 nos. of sub-centres in 1991, whereas in 1997 it had 5927. The existing gap will be attempted to be filled up during the 9<sup>th</sup> Plan period ; additional requirements based on increase in population will be filled by the GOI. The functioning of the existing sub-centres is handicapped by the lack of physical infrastructure. Of the 5927 sub-centres in 1997, only 2582 have buildings of their own. Efforts are on to get sub-centre buildings constructed through different sources of funding : externally aided projects, district development funds, the Reproductive & Child Health Project. In the 9<sup>th</sup> Plan too resources under the Basic Minimum Services have been proposed to be utilized for the construction of sub-centres. An amount of Rs 21 crore has been earmarked for construction of 700 sub-centres during the 9<sup>th</sup> plan. **The population based criteria is grossly insufficient for PHCs or ICDS centers as many communities get left out or are unable to access due to distance. Location of these centers should be determined according to vulnerability of population so as to reduce impact of disasters on health and to reduce response time as well.**
- 1.4 There are no protective discrimination norms laid down to ensure that health and educational facilities are made accessible to the orphans and children with single parents or those disabled. Health and educational requirements should be considered integral to Total Rehabilitation.
- 2.1 **ORC has not addressed the training of health volunteers and has not addressed traditional health care coping mechanisms.** The Code does not address the role of the community in raising its group of volunteers who will be trained in basic health aspects of health and sanitation, repair of drinking water and sanitation structures. **Barefoot engineers** need to be created in vulnerable villages who will move between disaster affected areas to repair and change parts of tubewells to make them functional. Provisions for mobile clinics, availability of generators for power, refrigerators to store drugs and vaccines; fuel, **.barefoot doctors, special lady doctors, child specialists, disability specialists,**



mental health care specialists, should be addressed by a Disaster Mitigation policy. **The Disaster Mitigation Policy should address the training of a Core of Volunteers from the community in different sectoral areas.** Women and dalits can be specifically targeted for training as barefoot doctors and engineers as part of capacity- building and reducing response time to restoration and repair. Funds could be tapped from Govt., NGO, and community.

**2.2 Absence of any provisions for Psycho-Social Health** care in the Code is an obstruction to recovery from trauma, reveals insensitivity to community's coping mechanisms and **violates Art 39 and Art 47 of the Constitution.** Trauma and its effects like nervousness, nightmares, fear psychosis, were found to be a major cause preventing children from recovering and going back to schools. Schools provide the alternative to child labour prohibited under Art 24.

**2.2a Scope for Psycho-social healing must be built into disaster health care policy as a crucial non-materialist standard for traumatized victims of disaster.** The loss of family members resulting into loss of livelihood and blockade of satisfaction of the primary needs - food, safety and security, needs to belong and be accepted, need for self-esteem, dignity, self-respect, and need for identity and achievement - needs to be addressed firstly through psycho-social care and then later supported by alternative livelihood arrangement, shelter and family rebuilding options, skill-building and legal assistance. Here the role of the Community groups, the disaster response team, relief distribution committees and rehabilitation teams as well as govt. officials need to be sensitive to these needs of the traumatized, especially destitutes and orphans. Absence of post-disaster psycho-social healing has been known to result in loneliness, helplessness, powerlessness. People develop negative attitudes towards life and lose interest in their lives. In a study on the Uttarkashi earthquake by Dr. (Mrs) Rajesh Singh and Prof Vinod K. Sharma it was observed that people started going to the fields only after two years and tried to help themselves in coming out of the traumatic situation. No psychological measures were provided to the community either by the govt or the ngo to help them come out of their grief. Research has shown that mental health consequences could persist for years in the absence of intervention. **(Psycho-social Consequences of Disasters, Mrs Sashi Prabha Tandon, University of Rajasthan. Towards a Safer World in the 21<sup>st</sup> Century With Hope – A Report on the 9<sup>th</sup> National Convention on Disaster Reduction. JAC)**

**3.1 Elevated drinking water and sanitation facilities in cyclone shelters, drainage and soakpits in the vulnerable areas, temporary latrines during emergency, are not provided for in the ORC provisions.** This violates Art 47 of the Constitution and Art 39 (e). Although Code addresses the installation of tubewells, repairs, pipeline water supply & new drinking water projects, **the Code has no provisions for saline resistant drinking water infrastructure.** Provision of protected water source in every village is also important. Stagnation of water due to lack of proper drainage results in vector-borne diseases like malaria. Need for deep tube wells in saline-ingress areas has been expressed by the people. And they should be at elevated height based on flood levels of the past 10 years. **But more long term measures to prevent salination such as creating and maintaining natural barriers of stone and sand dunes is important.** Saline-resistant water harvesting technologies should also be explored.

**3.2 The Citizen's Draft on Total rehabilitation** points out that civic amenities like drinking water should be available for every 100 population. This should be taken up seriously for fulfillment. Very often, marginalized people may need a separate water source for better accessibility, even if it breaks the population norm set by the government. **A Disaster Mitigation Policy ought to address this need in order to secure rights of protective discrimination under Art 15(3) and Art 15(4) of the Constitution.** Marginalized people very often need a separate water source due to existing practices of discrimination that reduce their accessibility, even if it breaks the population norm set by the government. A Disaster Mitigation Policy should address this need in order to secure rights of protective discrimination under Art 15(3) and Art 15(4).



- 4.1 Standards of Assistance have not been clearly outlined in ORC .** The rights of people to speedy recovery from a disaster cannot be left to an unspecified goodwill or welfare of the people. No standards of food quality – GE food such as Corn Soya Blend being is distributed through CARE with govt. acceptance. To prevent epidemics and to protect the right to life and cultural rights of vulnerable people, it is essential that edible and culturally sensible food reaches the people in time. Very often during disasters it has been the experience that all kinds of food are supplied to affected areas - useful and superfluous. The supply of GE food is a violation of Sphere standards. The study done by CLAP in Chatua GP also proves the poor quality of food being distributed under ICDS.
- 4.2 No time standard for restoration of educational and health infrastructures has been specified in the Code.** To restore and build educational infrastructure, the Govt. has sanctioned 3.5 lakhs each for 801 schools under Operation Black Board which is to be implemented through PRI institutions. This has been corroborated by Rudra Madhav Ray, President, AOPP and Surath Ch. Mallick Addl. PD, DRDA, Jagatsingpur. Educational institutions are still under repair after a year of the disaster. These schools will have multipurpose cyclone shelter facilities. An educational reconstruction project is also pending with DFID for sanction. But the great delay in the educational and health rehabilitation of disaster affected people, is having greater impact on the poorer households. Unless these schools are restored, more children will drop out due to pressure on them to become child labourers. **This delay in restoring health and educational facilities violates Art 21, Art 39 (e) and Art 47.** The government needs to invest in providing physical structures to Anganwadis and Public Health Centres in the vulnerable hamlets. Some amount of convergence is possible by having them operate from the Cyclone shelters during normalcy.
- 4.3 There is no SC/ST prioritization in ORC provision for educational infrastructure restoration even though the Plan Document states that for the development of SC/ST students Library books and science apparatus are supplied to High Schools by Welfare Dept.** The Welfare Dept. is to supply nationalized text books(NT) to SC/ST students in Classes I-V of the schools managed by Education Dept. and in Classes I-VII of the schools managed by the Welfare Dept.. The 9<sup>th</sup> plan outlay, however, shows a reduction as compared to the total amount allotted and spent in the 8<sup>th</sup> Plan period. This is a policy set back.
- 4.4 No specific targeting of SC/ST, or for the aged and disabled is there in the health care provisions of the Code, except in the form of immediate gratuitous relief.** This is a violation of Art 15(3) and 15(4) of the Constitution, the Right to Protective Discrimination. There was no planned health intervention to look into the specific health and educational needs of disabled children, although the targets set in the Plan Document of the WCD Department reveals their responsibilities. These provisions should be made statutory so that action may be taken against non-implementing officials.
- 4.5** The ORC does not mention pre-identification of those areas and setting up health camps/ centers/ dispensaries at those points. **Dispensaries should be at neglected end-points and upgradation of existing ones should be built into .** This should be integrated with normal period infrastructure development plans of the government . Infrastructures like roads and transport facilities to access these services should be prioritized for underdeveloped SC ,ST, and other vulnerable areas to secure the rights under Arts 21, 39(e), 41 and 47 of the Constitution.
- 5.1 The Code has no provisions to capacitate people for self-help by providing community-based health information .** Community mechanisms for running information points must be specified in the disaster preparedness plans so that people know where to go for which ailment.



Identifying community health workers and barefoot doctors should be built into the Disaster Health Care policy of the community. Apart from that, the local health knowledge and health practitioners should be identified for self-help.

5.2 Right to Information should be legislated upon. There is need for community to have information of all state govt and central govt schemes that will help in disaster mitigation. There is need for community to know the resources available with the state for disaster mitigation - for food security, shelter, health, employment, relief budget and other sources, NGO expenditure as well. Government, INGOs, Bilaterals and NGOs need to get their funding allocations prioritized according to these existing vulnerabilities. Percentage allocations may be cast aside for disability, for women, children, SC and ST, perhaps going by demographic arrangements in the specific areas.

- 6.1 A look at The Standing Orders on Disasters by the Ministry of Disaster Management & Disaster Management Bureau, Bangladesh : It lays down the involvement of the various levels of government, volunteers and NGOs at different time periods. The Public Health Engineering Directorate is responsible for continuous supply of safe drinking water and decrease of health hazard. In the normal period it will identify the disaster prone areas and ensure sinking of sufficient number of tube wells for continuous supply of safe drinking water. Keep stock of spare parts for repairing the tube wells likely to be damaged in disaster (tidal bore/floods), keep stock of bleaching powder every six months & ensure the availability of cash fund.
- 7.1 Para 150 © of the Relief Code while stating that the repairs of schools and departmental buildings can be included as relief works, however, points out that they may be given a low priority. This is a contradiction of the objectives stated in Para 7, and show the attitude of the state towards the rights of the child.
- 7.2 The provisions in the ORC treat the child as a dependant. It is not child-focussed just as it is not woman-focussed. This is visible through the lack of policy provisions in the Orissa for transit schools for school children after disasters. No alternative books/texts kept ready. ORC has no provision for school in a box or mobile schools. Disaster mitigation policy should address these preparations, especially for children from vulnerable backgrounds, the girl child, the disabled child.
- 7.3 Provision of school kits and book banks in each village from where they can be sourced is important.. No materials means drop-outs will result, while a school activity also keeps them from brooding over their losses. Restoring infrastructure and resources will also restore the values the community placed in sending their girl and boy children to school. Once that value is lost, enrollment will be affected. Children may be pushed into child labour. So, the community should try to mobilize these resources from the govt. which it is under obligation to provide by constitutional provisions and its own policies.
- 7.4 Developing educational material and learning to inject value systems in the mind of children to avoid social disaster during calamity is also important. The role of voluntary organizations is important in this area. Changes in school curricula are necessary that would ensure the inclusion of the last disaster experience into collective memory along with why they occur and what preparations a community should have to make to prevent losses - infrastructural, institutional, cultural and technical. Institutions and individuals with creative learning experience can help to demystify disaster mitigation with the help of theatre, puppetry, cinema, educative literature suited to micro-level situations. Disaster Management & Mitigation should be integrated into University course curriculum. Separate educational institutions with the joint efforts of the State Govt., NGOS and specialized personnel should be initiated



in the state to create expertise. The students from such courses and institutes should be involved in drills and dry runs, in facilitating the relief and rehabilitation processes. NGOs can also organize educative programmes on the different areas of competencies essential for emergency managers – technical, legal, psycho-social health, damage assessment, vulnerability analysis.

- 7.5 There should be greater focus on secondary education as that can widen skill base and employment opportunities.
- 7.6 Functional literacy for women and dalits is highly crucial component in education so that they can handle weights and measures. This has been excluded from ORC provisions and violates Art 23 & 24 - the right against exploitation. Functional literacy ought to be built into the monitoring mechanisms of the community so that vulnerable people may participate in relief distribution with capacities to prevent their exploitation. NGOs and CBOs and National Literacy Mission and Adult Education Programme should be actively involved in this task. So, also Krishi Vigyan Kendras and Panchayat Raj institutions, co-operatives, NGOs working with farmers and fisherfolk.
- 8.1 Participation of community in management and ownership over the educational and health institutions through village health and education committees or task forces Disaster Mitigation Policy should address the involvement of the community and its capacities. Community needs to mobilize its resources. Therefore the PRIs, especially the panchayats and gram sabhas should be involved. Committees comprising the more vulnerable like women and dalits should be brought into monitoring health and educational relief and restoration. This has to be linked with awareness building within the community in terms of preparing a risk-directory of the elements at risk – people, public utilities, individual possessions. Involvement of the anganwadi workers, school teachers and ANM in the planning and preparations would be helpful.
- 9.1 There are too many government departments looking into the health and education related activities. The funds available with each of these Departments like Panchayati Raj, Women and Child Development Department, Mass Education Department, Health Department can be brought together to form an Emergency Pool and allocations on the lines of protective discrimination secured under Art 15(3) & (4), may be made. During a disaster, all funds placed with different departments for welfare of SC communities, for example, can be brought together and resource planning should take place accordingly. Similarly for women, children.
- 10.1 The Code has not addressed the need for insurance systems to be placed with the community to act as shock absorbers. Accessibility to health and educational systems is becoming more and more determined by purchasing power. Along with strengthening existing health insurance systems like the ICDS, it becomes essential to build up sustainable livelihoods of women, dalits through collective enterprises such as micro-credit and co-operatives which will improve their abilities to access health care and education. These will act like community insurance systems. For instance, the women of Pradhangheri village had initiated a collective called Maa Kali Self Help Group which was intended to provide expectant women from BPL families with additional nutritional assistance required during that time. Furthermore, it also provided educational assistance to the children from dalit families.
- 10.2 Role of rural collectives in emergency health funding for disaster preparedness and mitigation need to be explored. Such Co-operative health systems for health insurance existed in China & Vietnam. By the end of 1970s, China's co-operative health system covered about 85% of the population, with a clinic in almost every village. There were about 1.6 million 'barefoot doctors' in place,



or one to every 400 rural inhabitants – a high doctor-to- patient ratio. Admittedly, coverage was not uniform and the quality of service provided was limited and variable. But the availability of basic medical care and immunisation, and a strong emphasis on preventative practice, contributed significantly to improvements in public health. **(Prioritising Human Development: the Social Policy Fundamentals. Economic Growth with Equity: Lessons from East Asia. Kevin Watkins. An Oxfam Publication)** There is a need for co-operative medical system which could be fed through micro-credit programmes of the people and parallel funding from the State . **Placing such shock absorbers will help in achieving the objectives stated under Art 47.**

**10.3** At the Government level, insurance systems similar to Maharashtra's Disaster Insurance Fund and Andhra Pradesh's Hazard Mitigation and Emergency Cyclone Recovery Project – Vulnerability Reduction Fund Trust, set up by the Finance & Planning Dept. of the AP Govt., is seriously needed. The State Govt. of Orissa should take this as a cue for similar steps. The High Powered Committee set up at the Centre, under the leadership of P.C.Jain, to look into the formulation of a Disaster Mitigation Act also addresses the need for such insurance systems. **This will help fulfill the directives to the State under Art 39(e) and Art 47, and help secure for vulnerable people the Right to Life under Art 21.**



## **LEGAL SUPPORT MECHANISMS**

Recovery from a disaster and coping mechanisms of the community are linked to available spaces for redressal of grievances. Effective Legal support mechanisms can humanize coping mechanisms of the community by bringing to notice the violations of rights and the gaps between precept and reality, i.e., the entitlement gaps. The failures in the existing delivery mechanisms and the defects in the standards of assistance are also exposed through this process. More significantly, it can also help in bridging some of these gaps by enhancing and enforcing the accountability of the parties who are under obligation to entitle, key amongst which is the Govt.

Disaster mitigation, impact and recovery must address legal and related mechanisms for grievance hearing and settlement. In a post disaster situation, a 'claims' situation is created. Especially during the reconstruction and rehabilitation stage, people require legal counseling on procedures to obtain death certificates, fill claim forms, know the inheritance laws. At the same time there is need to build up the legal awareness base of the community as part of its capacity building process to speed up recovery of the vulnerable. Thus demystifying legal provisions, awareness on Panchayati Raj, policies and schemes of the state, entitling provisions, will help in mitigating the impact of disasters in the long run. **Three forms of legal assistance are generally required - legal aid, legal education and litigation.**

Entitlement gaps in legal support mechanisms are created because of (a) lack of implementation of existing policy and (b) lack of policy provision. Provisions should be made statutory so that lack of implementation of policy can be met with punishment.

Which were the key areas of entitlement failure that were highlighted through legal support structures? There have been aberrations in availing ex-gratia death compensation and ex-gratia house-building assistance, aberrations in the area of drinking water provisions, availing insurance benefits and educational entitlements. Some of these, we have already dealt with in their specific sections.

Here we highlight the nature of gaps in legal support mechanisms based on a review of case studies relating to entitlement lapses in ex-gratia death compensation. These case studies are sourced from the Human Rights Network initiated by Adhikar, FARR and IWD as well as from the Fact Finding Study of CLAP, Committee for Legal Aid to the Poor.

**Legal Aid and Public Interest Litigations and spaces for grievance hearings such as Public Hearings** have been able to expose some key areas related to entitlement failure. **Protection Gaps** that have been legally exposed through litigation have been mainly experienced by people in the area of **ex-gratia compensations** such as death compensation and house-building compensation and grants. Grievance hearings with the Collectors or Public hearing, however, have dealt with other entitlement gaps such as irregularities of relief management and lapses in the restoration of entitlements for food, livelihood, education, water and health security. Some of these lapses have been addressed under the specific sections in this report.



## IMPLEMENTATION GAPS IN LEGAL SUPPORT ENTITLEMENTS

- 1.1 Although grievance cells were started with the Collectors of affected districts, they proved inadequate to deal with the human rights violations. Because of which several Public Interest Litigations had to be filed to prevent exploitation; legal counseling and awareness building had to be initiated by voluntary legal aid centers. Public Hearings which draw their legitimacy from Art 10 of the UNHCR were also conducted. The aim was to provide space for grievance hearing of people whose entitlements had been lost or diverted.
- 2.1 Death compensation has been mentioned as an entitlement in the ORC under the chapter on Fire only. The ORC has no provisions stated for death compensation for flood, cyclone and tidal wave disasters. Even then, the Code must be interpreted in an integrated manner. After the supercyclone, the death compensation amount was declared by the State Government as Rs 75,000/- per person. Of this 50,000/- is a grant from the Centre and 25,000/- is an ex-gratia payment from the State.
- 3.1 Five categories of victims have emerged who have experienced entitlement failure in the area of ex-gratia death compensation : (i) who have not been enumerated at all in the death list of the RI. (ii) deprivation arising from wrong enumeration by the Sarpanch and RI (iii) compensation withheld because of the type of land that the victims are staying on. (iv) those whose records are perfect, even according to the govt. circular mentioned above, but who have not got the compensation because govt. has stopped giving it. (v) competing claimants (vi) cases of unnecessary delay even when records are perfect. **We cite some case studies of these implementation gaps:**
- 3.1a. **Refrained from Getting Death Compensation Due to Improper Enumeration By the Revenue Inspector (RI):** Adhikar has taken up the cases of 15 persons of Nuadihi GP under Ersama block of Jagatsingpur district who have not been enlisted in the Revenue Inspector list of death enumeration. Due to improper and insincere enumeration by RI, the bereaved family members of all the 15 deceased persons have not been able to receive the death compensation till date, even if death occurred on 29<sup>th</sup> Oct. 1999. Death certificates from PHC Ersama to that effect have been collected by them and they have been identified by the Sarpanch who has submitted the list of names to Tehsildar, Kujanga. 4 of these persons have rushed to the Collector Jagatsingpur with their grievance who has referred to the Tahsildar Kujanga since Feb 2000, for necessary enquiry. But no such enquiry has been made so far, i.e., by 16<sup>th</sup> Sept 2000, and the families are in a distress condition. Timely provision of compensation would have given them a regular bank interest amount to survive on. **(Cyclone Case Study I, Adhikar Legal Counseling Centre)**
- 3.1b **Wrong Enumeration by the Sarpanch & Revenue Inspector :** A case of wrong enumeration by the Sarpanch and the RI can be cited here. Gurupada Manna aged about 35 years, S/o Late Shashank Shekhar Manna, of village Gadaharishpur, P.O. Olara, Gadaharishpur GP, P.S. Ersama, District Jagatsingpur lost his two year old daughter, Lilybla Manna on 29<sup>th</sup> October 2000. The name of the deceased is found in death enumeration list made by the Sarpanch, Gadadharishpur, Mr. Radhashyam Rout vide his Sr. No.-64. The legal heir of the deceased has obtained the death certificate from PHC Erasama vide Regd. No. 2841. But he has not got the compensation till date as the concerned RI of Padampur Circle has not rightly enumerated the name in his list by that time. As alleged by the victim, the RI has intentionally played mischief. The victim has approached the Collector, Jagatsingpur grievance cell but no action has been taken in this regard till now. The victim is



now in a distressed situation. There is no relief inspite of the repeated complaints before the competent authority. (Cyclone Case Study III, Adhikar Legal Counselling Centre)

**3.1c Death Compensation not allotted for the Kissam/Type of Land the Victim is staying on:** The victim is Lallu Paramanik residing in govt. land in village Sunadiha Kanda, P. O. Japa, PS Ersama, Dist. Jagatsingpur since 1976. And the same has been recorded in his name during the major settlement held in 1984. His name has been entered in voter list, BPL List and he has acquired ration card. Lallu Paramanik lost his mother and three children during the supercyclone 29.10.1999. As per the govt. decalaration Lallu is entitled to get the ex-gratia compensation for his mother and children. As per the direction of the Collector (vide no-9967, dt. 20.11.99), the Tahsildar is to grant the ex-gratia compensation after verifying of voter list, election identity local school record, Anganwadi register, and ration card. But Tahsildar, Kujang, demanded that Lallu produce the Record of Right at the time of granting the compensation. When Lallu produced the record of right granted in the settlement of 1984, Tahsildar did not entertain the record because this land belonged to Abadya Jogya Anabadi. Tahasildar did not recognize the ROR provided in 1984 by the settlement officer and has not yet sanctioned the ex-gratia compensation to Lallu Parmanik. Not only Lallu but 300 such families of Ersama block are suffering without ex-gratia compensation for this problem. (Cyclone Case Study II, Adhikar Legal Counselling Centre)

**3.1d Cases of Unnecessary Delay:** (i) The victim is Usha Rani Nayak, an old widow of 80years from village Chormuha, Dharmashala, jajpur district. Her huband, Dukhishym Nayak, who was a freedom fighter, died on the day of the supercyclone because of roof collapse. She has the death certificate certifying date of death . Sarpanch has also affirmed cause of death to the cyclone. The local Health Officer has also verified the death. But she has not received death compensation. Her son met Minister, Kanhu Lenka, who asked the Collector to look into the matter. The collector in turn asked the Tahsildar to conduct an enquiry. According to the Jury of the Public Hearing, in the face of the existing proof of death, the need for enquiry does not arise. This is unnecessary delay to avoid payment. (Source: Pubilc Hearing on the Supercyclone, 16<sup>th</sup> & 17<sup>th</sup> Sept,2000 organized by CLAP)

(ii) Suresh Chandra Singh, aged 53, s/o Nityananda Singh, village Jhatipari, Ersama, Jagatsingpur district appeared before public hearing Jury to state that his son-in-law was washed away on 29<sup>th</sup> October . His daughter had claimed compensation but not yet got. She made a representaion to Sarpanch and Tahsildar with death certificate., and along with her visited the latter 5/7 times, the last being on 11<sup>th</sup> Sept. But Tahsildar informed her in July that the death compensation scheme will be withdrawn for two months . In the public hearing, the question was raised as to why she had not received it till July? It was also informed to the Jury that the govt. had withdrawn it because of shortage of funds. (Source: Pubilc Hearing on the Supercyclone, 16<sup>th</sup> & 17<sup>th</sup> Sept,2000 organized by CLAP)

(iii) **Other Irregularities :** In the case of Sahikala Barik, a widow from Kujanga, the RI demanded Rs. 1000/- for paying her ex-gratia death compensation. So far she has not yet received the amount. (Source: Pubilc Hearing on the Supercyclone, 16<sup>th</sup> & 17<sup>th</sup> Sept,2000 organized by CLAP)

**3.1e Competing Claimants :** The ORC has no such norms laid down as to who to prioritize in the case of competing claimants. Norms of succession are not laid down. Legal assistance thus becomes crucial to deal with these conflicting claims. In most such cases the death compensation has had to be divided or someone has had to forego it. We cite here two case studies:

(i) **Competing Claims due to Bigamy :** The case of Basanti Maiti , disabled first wife of Rasabihari Mandal with mentally retarded son, Panchanan Mandal, village Patana, Ersama block, Jagatsingpur district. Second wife having two children counter claimed for compensation. The Supreme Court gave



a ruling that the 2<sup>nd</sup> wife is not entitled to get it but her children are eligible. So, in Basanti Maity's case, the compensation amount was divided between herself, the 2<sup>nd</sup> wife's two children, each of whom got Rs 25,000/- and the remaining 25,000/- only came to Basanti Maity. Her only other source of living apart from the meager interest she will get from this 25,000/-, is a pension worth Rs 100/-. (As narrated by Sudeshna, Action Aid, Erasama)

(ii) Deprivation of Compensation in case of dependant father : Bholi Majhi, 65 years old, of Achyutdasapur, PO Japa, GP, PS Erasama, Dist - Jagatsingpur was totally dependant on his son Padan Majhi, 25 years old who died on 29.10.2000. His wife who used to live together with the family, has now started staying separately with her parents; the deceased's father is living in the previous house helplessly. Now both wife and father of the deceased have applied for the ex-gratia assistance. The wife of the deceased wants to receive the compensation alone but the dependant father very much wants that the amount should be deposited jointly as there is no one to look after him after the death of his son. (Cyclone – 99 Case Study IV, Adhikar Legal Counselling )

These case studies show that the State government, by creating unnecessary delays and irregularities in compensating people, has violated human rights, the directives under Art 41 and Art 39. It has failed in implementing its own policies and standards of service. Implementation lapses should be prevented by making entitlements statutory and by having provisions for punishment .

4.1 In the expert opinion of the Jury, the Supercyclone was not an act of God whose impact could not have been reduced. As it was a cyclone-prone region, government should have been more prepared. This verdict placed the responsibility of the high casualty at the door of the govt.

4.2 By trying to draw distinctions between people who lost their relatives on the day of the cyclone and after, through a circular, it has violated Art 41 under which people are entitled to public assistance during a calamity and Art 14 which guarantees right to non-discrimination. So, Govt.'s numerous attempts to withdraw or limit its responsibilities in compensating people for losses not created by them, violates human rights of distressed people to public relief.

4.2a Orissa High Court also passed a favourable verdict to this effect, regarding the PIL filed by Adv. Shri Prasant Jena on behalf of SLIC. We cite a newspaper clipping from the New Indian Express, dated 21<sup>st</sup> Sept, in this regard, titled "HC directive to Govt. on cyclone victims". In a significant judgement the Orissa High Court has ordered the state govt. to give financial assistance to the next of kin of those who were injured by the supercyclone and succumbed to the injuries subsequently. It is for the claimants to establish with cogent material and supporting evidence that the deceased suffered injury during the supercyclone and succumbed to the injury, Justice P Ray said in his order. The order came in response to a petition filed by Dipali Mandal, wife of late Biren Mandal, of Jatipari village under Erasama block in Jagatsingpur district. In her petition, Mandal stated that her husband who sustained injuries during the cyclone succumbed to his injuries subsequently in hospital. Her claim for ex-gratia announced by the state govt. was not considered by the district authority on the ground that her husband did not die either on October 28 or 29 of 1999 when supercyclone hit the state. Although the additional district magistrate, Jagatsingpur, had sought clarification on payment of ex-gratia assistance to the above category, the state govt. has not yet given any direction. There is no intelligible distinction and difference between the people who died on the date of the supercyclone or who died subsequently due to injuries sustained in the cyclone. Exclusion of such people from paying assistance is ex facie contrary to the object and purpose of such grant of assistance, the order said. The court further said the govt. is at liberty to lay down appropriate procedure and set up suitable mechanism for determination but the govt. cannot exclude this group from benefits.



**4.2b In this verdict the High Court has laid down a crucial time standard by which period all death compensations should materialise.** It has stated that death compensation should materialize within 6 weeks from the date of registration. Setting time standards ensure accountability of the body under obligation to entitle and reduce risk on the vulnerable. These standards need to be built into the ORC and a State Level Disaster Mitigation Policy.

This delay in delivery of the death compensation is a violation of Art 14 which is Right to Non-Discrimination and Art 39 Right to adequate livelihood. The deaths themselves were a violation of Art 21 – Right to Life. Since casualty has been most amongst the migrants, refugees and dalits, it is basically these communities who have borne the brunt of the govt.'s negligence. The implications for recovery for these groups, especially women/widows is apparent.

**4.2c According to the Cabinet Sub Committee review meeting held on 25<sup>th</sup> Sept, says a New Indian Express article, dt 27<sup>th</sup> Sept., Compensation totalling Rs 33.41 crores has been paid to the next of kin of the dead. According to the govt., 8495 persons had died in the supercyclone. Of these, relatives of 4,557 dead persons have received compensations. Applications from persons claiming to be relatives of the rest 4,262 dead persons have been rejected, says the report.**

This reveals the govt.'s desperation to close the chapter on death compensation. Even now there are people from affected districts with all necessary documents authenticated by govt. officials proving their entitlements to death compensation but who have not received it yet. The Govt.'s avoidance to deal with remaining compensations in a legitimate manner is to be seen against its White Paper declaration in which the State Govt. announced shortage of funds to meet ex-gratia expenses. According to the White Paper the State Govt. needed 47 crores but had only 37 crores at its disposal. The inference is that it is not in a position to compensate everybody. The Expert opinion in the Public Hearing, however, stated that the paucity of funds cannot be a cause for govt. to deny responsibility to compensation. Furthermore, according to Art 41 of the Constitution, the state is directed to provide for public assistance in cases of 'undeserved want'. After a disaster, there is vast need for public assistance. The Government cannot take the plea of lack of funds. Instead, it should plan its resources. There are Supreme Court decisions stating that government cannot avoid such expenditure.

### **POLICY GAPS**

To help chalk out areas for policy changes necessary to prevent entitlement failure/gaps, we will draw upon the key findings and recommendations of the Public Hearing organized by CLAP on 16<sup>th</sup>, 17<sup>th</sup> of Sept. in Bhubaneswar where legal experts like Justice Rajindar Sachar (Ex-Chief Justice, Delhi High Court), Herbert Suresh (Former Judge from Mumbai High Court), Manoranjan Mallick from Calcutta High Court, V.Prithviraj, Senior Advocate were invited along with experts from the field of Disaster management like Vinod K. Sharma from IIPA. High court verdicts and newspaper clippings highlighting High Court directives to the state are also used for support.

- 1.1 The Orissa Relief Code is totally silent on the need of disaster-affected victims for any form of legal assistance – legal aid, legal education or litigation : This violates Article 39A of the Constitution entitled 'Equal Justice and Free Legal Aid' . Art 39A provides that the state shall secure the operation of legal system, promote justice, on a basis of equal opportunity and shall in particular, provide free legal aid , by suitable legislation or schemes or the other way , to ensure that opportunities for securing justice are not denied to any citizens by reason of economic or other disabilities.**



1.2 An enabling law that tries to meet the Constitutional requirement of free legal aid is the Legal Services Authority Act, 1987. Point 12 (e) of Ch IV of this Act, "Entitlements to Legal Services" states that a person under circumstances of undeserved want such as being a victim of mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster is entitled to get legal services from the state. SC, ST, women, children, bonded labour, artisans, mentally and physically disabled victims of prostitution and people whose annual income is less than Rs. 5,000/- and all people covered under Art. 41 of the Constitution, which addresses right to public assistance under situations of undeserved want, are legal aid eligible. This law has also been violated, impinging on the rights of the legal aid eligible groups mentioned above. In the absence of policy provisions in the ORC to provide legal aid to the disaster victims, the Legal Services Authority Act has been left almost entirely to voluntary organisations for the fulfillment of its objectives, and progressive lawyers and activists who have attempted Public Interest Litigations.

1.3 The forms of legal aid to which people are legally entitled have been laid down under The Legal Aid to the Poor Rules, 1975 : (a) court fees, process fees, application fees incurred with court proceedings (b) representation by a legal practitioner (c) cost of obtaining certified copies of judgements, decree and order or printing, translation. (d) consultation fee to a legal practitioner for investigating into the merits of a case. Under this the RDC appoints a legal practitioner from a District panel of legal practitioners who is paid Rs 400/- per month to appear on behalf of parties like 3C – debtors in proceedings under the Orissa Money Lenders Act, 1939, where the annual income of the debtor does not exceed Rs. 2,500/- ; ST transferors in cases under the Scheduled Areas Transfer of Immovable Property (by Scheduled Tribes) Regulation, 1956; ST/SC debtors in cases under the Orissa (Scheduled Areas) Money lenders Regulation, 1967; a plaintiff for declaration of title whose total annual income does not exceed Rs 2000/- . There has been total entitlement failure for these legal aid eligible groups according to the norms stated above. This affects their opportunities for recovery.

2.1 The lack of policy provision in the ORC for legal counseling and legal education of the people fails to secure the Right to Non-exploitation under Arts. 24 and 25. Instead it has induced the need for litigation. On the one hand, there is a gap between constitutional provisions, law and ORC on the legal aid entitlements of disaster affected people. On the other, there are numerous confusions about the eligibility criteria for other entitlements in the ORC which creates a need for legal assistance. Furthermore, protection from irregularities necessitates legal aid.

3.1 Another policy problem is presented by the lack of clear eligibility to entitlement for the Ex-gratia compensations. Ex-gratia Grants are given as compensations and are total entitlement transfers that can help in recovery from losses received in the disaster. The legal hassles in obtaining this compensation have been plenty as eligibility criteria kept getting modified by government officials. Lack of standards go against the norms of humanitarian assistance. People should not have to struggle for their entitlements. There has to be clarity in eligibility criteria, time period of delivery, scale of assistance, and simplified delivery mechanisms in order to secure rights under Art 15(3) & Art 15(4) of the Constitution guaranteeing protective discrimination, Art 14 guaranteeing Right to Equality, and, therefore, right to non-discrimination, directives under Art 41, the right to public assistance under situations of 'undeserved want' as well as Art 39, the right to adequate means of livelihood.

3.1a Firstly, there was no standing definition of how death due to disaster was to be defined. The govt. passed a circular identifying death cases as those that had happened on the 29<sup>th</sup> & 30<sup>th</sup> of October 1999. However, there was misinterpretation of this circular as people who had died after this date, although due to the cyclone, were not taken into account. A Public Interest Litigation was filed by Adv. Shri Prashant Jena for 11 persons, stating that this identification violates Art 14 on Right against Discrimination, with a prayer that death cases be considered beyond the 30<sup>th</sup> but



due to the common reason of cyclone. A Disaster Mitigation Policy should formulate clear entitlement standards if it believes in Humanitarian Assistance.

- 3.1b Second, whether land rights status was a criteria for eligibility or not. Third, who is more eligible in the case of competing claimants when norms of succession have not been laid down. Fourthly, irregularities by concerned officials. Fifth, the govt.'s unwillingness to accept registrations any further. In all these cases, people have had to forego their entitlements. Many of them are widows, and other legal aid eligible like SC and other BPL categories.
- 3.1c As one of its recommendations, the Jury stated that the role of revenue officials should be minimised. The Govt. should place Claims with a Claims Commissions Officer, instead of having so many different depts. dealing with claims, such as Textiles, Fishery Revenue . Claims Officers should move from village to village and should be linked to banks, instead of making victims run time and again to Tahsildars, Collectors and Magistrates.... Thus a standard for humanitarian assistance is to simplify the delivery mechanisms so that response time is reduced.
- 3.1d ROR should not be made a criteria for death compensation. This exposes govt.'s bias against landless and encroachers. According to the Jury of the Public Hearing organized by CLAP, govt. ought to take a sympathetic and human rights approach to compensation rather than a bureaucratic approach.
- 4.1 A Disaster Mitigation Policy should emphasize on legal assistance to vulnerable sections and for the implementation of Legal Services Authority Act by the Govt. This policy should then be made an Act.
- 4.2 The separate entitlements of vulnerable people such as of minors, widows, orphans, aged and disabled in situations of conflicting claims over Ex-gratia compensations rights should be clearly laid down to avoid retardation of recovery processes.
- 4.3 Also, legal norms for lock-in deposits of exgratia compensations of orphans, minors, widows so that they are not misutilised or misappropriated by relatives or others have not been laid down. The compensations should stay as lock-in deposits till minors and orphans come of age and the risk period for widows is over. For orphans, the lock-in-deposits can be in a joint account of the legal guardian and Collector. This policy gap again fails to secure Art 23 & 24 - Right against Non-Exploitation. Legal entitlement of foster parents to an adequate means of livelihood should also be laid down. Many aged persons are found falling into this category.
- 5.1 Right to Information is a definite area for legislation. In fact, information centres should be setup at the village level , or at the most, at GP level if the GP is not too big. The scope of self-help capacities of a vulnerable people can be expanded by decentralizing and demystifying the legal system, the bureaucracy, policies and laws. Legally trained volunteers should be ready with necessary claim forms and details of legal entitlements and assistance to protect the vulnerable against entitlement failure. The committees formed in the villages to manage relief distribution and to take care of rehabilitation should have capacities in legal education and in procedures for availing entitlements. School teachers and other educated youth from amongst the vulnerable community may need to be sensitized and mobilized for this purpose. In this act they need to be guided by NGOs and Legal Aid and Counselling organizations.
- 5.2 Both information and training are necessary for a community in this regard to bridge the 'protection gap'. Jan Vikas , an Ahmedabad based organization can be cited as an example here which has been regularly training youth in some of the rural districts of Gujarat with law, societal



analysis and pro-people values necessary to work with community. These youth when placed back in their own communities with this strength are able to assist in protecting the vulnerable and reducing their vulnerability.

- 5.2 Finally, the Right to life of the people which has been grossly violated in the past supercyclone should be protected by enhancing the institutional capacities with the people. Judicial mechanisms with the community should be strengthened, in the lines of human rights, such as Lok Adalats. Conflicting claims and corruption can be dealt with at the level of these adalats. Panchayats should also be sensitised to use their judicial powers in a productive manner. The role of NGOs in reactivating and humanising the prevailing community institutions should be highlighted.



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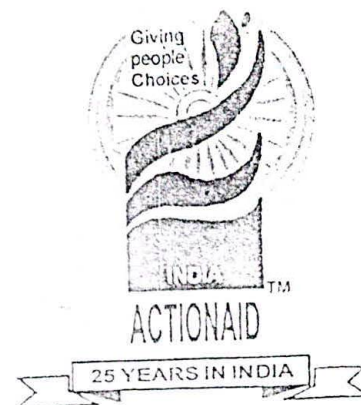


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31st May 2000

To  
Sana Das  
17/3, HIG, Chandrasekharapur,  
Bhubaneswar.



Dear Sana Das,

Action Aid is happy to support your study on the Orissa Relief Code . The duration of the study will be for a period of three months, starting from June 2000. During this period you will be responsible for :

- a. Identifying and analysing gaps between pre-disaster, during-disaster and post-disaster community-based requirements of drought-prone areas and coastal areas and provisions in the code
- b. Developing a Comparative perspective based on the relief codes of Bangladesh and other calamity-prone states in Orissa
- c. Identifying vulnerable groups, detailing specific needs based on visits and interactions in the calamity-ridden areas
- d. Incorporating legal analysis into the study to strengthen peoples entitlements and to suggest the areas for pro-active legislation for future action . For this you will be consulting Advocates Biswajit Mohanty and Shyam Sundar Das in Cuttack for a total period of 20 days.
- e. Presenting a first draft of your report around mid-July
- f. Final Presentation of your analysis/critique of the Orissa Relief Code at the end of your study period in August 2000 in a one-day consultation workshop with govt. officials, Ngo representatives, media and concerned others.

During your study period, you will be remunerated with Rs. 12,000/- per month and allowances for travel and other requirements as mentioned in the budget prepared for the study. *70% would be charged as per Orissa Govt. rules applicable*

Wishing you good luck.  
Yours Sincerely

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