

# Human Rights Issue in Disaster Management: Lesson from Gorkha Earthquake 2015

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## Abstract

There are various international and national human rights provisions with inalienable character, in spite of such provisions human rights violation cases have been reported. There are other variables playing behind the scene. This research paper aims to (1) define the relationship between human rights and disaster management, (2) state the human rights issue in disaster time, and (3) identify the causes of violations of human rights during disaster and (4) establish the relationship between violation variables. This paper is based on analysis of qualitative data collected through observation and field visit during mega Gorkha earthquake of 2015. It further cites significant writings, reports, and literatures. The results show that (1) Human Rights protection during disaster is dependent on Capacity of the Nation, Awareness level of Citizens, Negligence of Responder and Mal Intention of Victims. (2) The Capacity of the Country and Awareness level of the Citizens increase the pace of human rights protection, whereas negligence of responders and mal intention of the victim itself lead to the violation of human rights. (3) Government and citizen both must play significant role to respect, protect and promote human rights of citizens. The human right violation during disaster is extreme violation of right to life of the citizens. Human rights violation cannot be mitigated only by ratifying the law, but it needs improved capacity, awareness, lack of negligence and positive intention of victims. To get sustainable human rights development index these issues measure above mentioned issued.

**Keywords:** Capacity of Nation, Disaster Management, Human Rights, Victims, Gorkha Earthquake 2015

## Introduction

Natural disasters are the consequences of events triggered by natural hazards that overwhelm local response capacity and seriously affect the social and economic development of a region (Brookings-Bern Project on Internal Displacement, 2008). Nepal is among the 20 most disaster prone countries in the world. In part, this is because Nepal lies in a seismically active zone with a high probability for a massive earthquake. Globally, Nepal ranks 4th and 11th in terms of its relative vulnerability to climate change and earthquakes respectively. Out of 21 cities around the world that lie in similar seismic hazard zones, Kathmandu city is at the highest risk in terms of impact on people. (Ministry of Home Affairs, 2017) It shows that Nepal is always prone to different types of disasters. High hills and asymmetric landscape further ease the disaster occurrence. Glacier Lake Outburst Flood (GLOF), Avalanches and Road Accidents are the disasters of higher mortality rate. The mega earthquake of 2015 has left around 2.3 Million people deserted from the original place of habitants with more than eight thousand death casualties, more than four hundred thousand houses were damaged (Ministry Of Home Affairs, 2017). The concept of disaster management is linked with the

theory of Sustainable Development, Emergency Management Theory, System Theory, Policy Making theory and Networking and Management theory (Dhakal, 2015). Human Beings are facing different nontraditional security threats like disasters and the small state like Nepal has to deal with several internal and external issues during the time (Baral, 2017). These data have raised new issues on protection of human rights of victims or probable victims before, during and after disaster.

Politically government has led role for overall system design, economically government's primary role is to strengthen resources and structures, culturally government's role is to increase awareness, trainings, disaster research, skills development and technical development (Shi, 2012). Aronsson-Storrier (2017) in her scholarly article highlighted the obligations of state to provide sanitation and other facilities to its citizens during disaster as assistance to Disaster Management and to strengthen the respect for human rights. There are wide varieties of disaster-related human rights violations and corruption in all phases of the disaster. These cases range from failure to plan/implement an adequate response to the impending danger, failure to protect the public from inadequate products/services to enacting every day, lack of public policy on discriminatory practices, denial to human rights. (Voigt & Thornton, 2015)

## **Literature Review**

Human Rights are as old as human society, for they derive from person's need to realize his/her essential humanity (Paudel, 2017). The inherent concept of human rights acknowledges that every single human being is entitled to enjoy his or her human rights without distinction as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (United Nations, 1999). In an ancient times Human Rights was defined in spiritual and religious books of Hinduism, Buddhism, Confucianism, Christianity etc, and they all have focused on Humanity and Equality (Sharma, 2016). Disaster is a situation when the internal capacity of the government cannot heal the situation produced by Nature or Manmade incidents like earthquake, land slide, flood, and hurricane or Aviation accidents, the situation needs external support and the situation must affect Human Beings otherwise it is calamity not a disaster (Modh, 2010). This definition clarifies that the incidents beyond the capacity of the government are regarded as a disaster or disaster situation. Disaster management is not only limited with the post disaster response but it covers the issues of pre disaster situation like prevention, mitigation, preparedness and issues of post disaster activities like response, recovery and development. Disaster management aims to reduce, or avoid, the potential losses from hazards, assure prompt and appropriate assistance to victims of disaster, and achieve rapid and effective recovery (Warfield, 2017). Critical issues that have been emerging in recent disaster management include the following: non-discrimination; equality; legal protection such as right to identity, security, etc.; access to health services, shelter and housing, clean water and education; compensation and restitution; rights of internally displaced persons (IDPs); land and property issues ( United Nations Development Program, 2007).

## **Research Question**

Disasters are as old as human history but the dramatic increase and the damage caused by them in the recent past have become a cause of national and international concern (Central Board of Secondary Education, 2006). Human Rights are an inherent rights of the people, which cannot be differentiated, it is inalienable, universal and indivisible (UDHR, 1948). All the member nations are obliged to respect, protect and promote human rights. Constitution of Nepal, 2015 also provides various human rights through fundamental and constitutional

rights of citizens. In spite of such provisions, countries are being unable to mitigate the human rights violation cases. (1) Why such cases of human rights violation happen? (2) What are the factors behind this? (3) Who are responsible for it? These issues are the major concerns of Human Right and Disaster Management.

## **Research Objective**

The objectives of the research are to (1) define the relationship between human rights and disaster management, (2) to state the human rights issue in disaster time, (3) to identify the causes of violations of human rights during disaster, (4) to establish the relationship between violation variables.

## **Research Methodology**

This paper is prepared with the data collected during mega earthquake of 2015 around Gorkha, Kathmandu Valley, Sindhupalchok and Rasuwa districts of Nepal. Researchers have used analytical design for this research. Qualitative data have been collected through primary (Field visit, observation) and secondary (Published writings, books, disaster reports) sources. Researchers have used analytical and descriptive technique for the analysis of the data.

## **Research Result**

### **Human Rights in Disaster Management**

Disaster Management is not a single event rather a series of activities which is called disaster management cycle (High Commission for Human Rights Center for Human Rights, 2000). It clarifies that disaster management is not only a post disaster rescue and relief activities, but it starts from the prevention and mitigation phase of disaster risks, preparedness for the disaster, response to the disaster and works of early recovery and rehabilitation. This cycle might vary from person to person and organization to organization. Prevention, Mitigation and Preparedness are the proactive activities in the disaster management cycle. In each and every phase of disaster management the issue of protection and promotion of human rights prevails. So disaster management cycle incorporates the proactive nature of Human Rights.

UDHR (Article 1) says all human beings are equal in dignity and rights. UDHR (Article 5) describes about the provision against torture or cruel, inhuman or degrading treatment or punishment. In addition, Constitution of Nepal (2015) has provisioned the different rights under fundamental rights of citizens like Article 16 (Right to Live with Dignity), Article 18 (Right to Equality), Article 29 (Right against Exploitation), Article 30 (Right to Clean Environment), Article 38 (Rights of Women), Article 39 (Right of Child), Article 41 (Right of Senior Citizens), Article 43 (Right of Social Security). The abovementioned rights of the citizens are prone to be violated during disaster period due to the activities of disaster responders and victims, and this has direct impact on right to life. We can affirm a conclusion that every human right violation during disaster is violation of right to life of the citizens.

### **Human Rights issue in Natural Disaster**

When disaster hits the normal life of the nation it creates an insecure environment where security and safety of the people, access to food, health and sanitation is challenged. The disaster leaves major impacts on old age people, children, women, and the disabled people. During disaster women's lives are at stake as women are the primary victim of gender based violence such as rape, women trafficking etc (Pinkowski, 2008). Women are the easy victim and can be abused, stigmatized with fear and neglected. The children can be easily distressed due to shock of the disaster and can be the object of exploitation by the interest groups which hinders their physical and mental development.

During disaster, the main concern becomes the fair distribution of the goods and services at right time at right places. The distribution of aid and assistance is ruptured by the embezzlement and systematic discrimination by the distributor which culminates in creating a gap between the people who are highly affected and the one that are less affected.

The displacement of the family members, children, older people, people with disabilities and those who rely on their family for the survival becomes a paramount problem during the disaster that needs to be addressed promptly. The official as well as unofficial document that bolsters the rights, duties, liability and power of the people becomes susceptible to damages. The unforeseen disaster makes it impossible for people to predict the havoc and secure the documents beforehand and less preparedness for the disaster surges the probability of destruction or damage of the documents.

The turbulence during disaster makes it impossible to maintain the legal standards and the effectiveness of the law enforcement mechanism. This might condense people's faith towards justice and law as people might experience restricted access to a fair and efficient justice system, where there is no effective complaint or feedback mechanism to address the problems of the people.

If a state fails to mitigate the problems of unemployment and introduce alternative livelihood opportunities after the disaster, the state puts itself in constant jeopardy. The involuntary relocation of the displaced people or forced relocation impedes the cultural, social solidarity of the people. This action also disrupts the people from enjoying their right to property and affects their access to land or the assets which determines their economic future or development.

Nepal is a landlocked country with Mountains, hills and plane land. The diversified terrain and diversified ecological condition had placed major challenges to government, rescuers and human right activists to perform their duties.

### **Causes of Violation of Human Rights during Disaster**

The Researchers have identified four independent variables to infer Human Rights issues during disaster and realized different human rights issues. People do not lose their rights when disasters strike (Ferris, 2014) and it is the role of everyone to respect, promote and protect human rights.

**Table 1** Human Rights Variables

<b>1. Capacity of the Nation</b>	<b>2. Human Rights Awareness</b>
National Plan and Policies	Awareness of Rights
Legal Provisions	Institutional Provisions
Budget Allocation	Awareness of Existing Legal Provision
Infrastructural Development	Awareness of Legal Aid
Human Resources	Government Mechanism
Other Life Saving Facilities	International Practices
<b>3. Negligence of Responder</b>	<b>4. Negative Intention</b>
Professional Ethics	All forms of Discrimination
Professionalism	Human Trafficking
Ignorance of Facts and Laws	Market Manipulation and Curtailing Abetting

Damaged roads due to avalanche, landslides at places and weak supply facilities had affected the rescue activities, hindered the distribution of life saving materials, services, security, information & communication system, which was the major barrier for human rights protection during 2015 Gorkha earthquake. It was realized that the Human Rights violation happens due to the "*Capacity of the nation*". Capacity of the Nation covers National Plan and

Policies, legal provisions, budget allocation, infrastructural development (roads, railways and airports, warehouses, open spaces, common shelters, rescue equipments, Schools, Hospitals), human resources (disaster management training and awareness programs, disaster response exercises and security forces) and other life saving facilities.

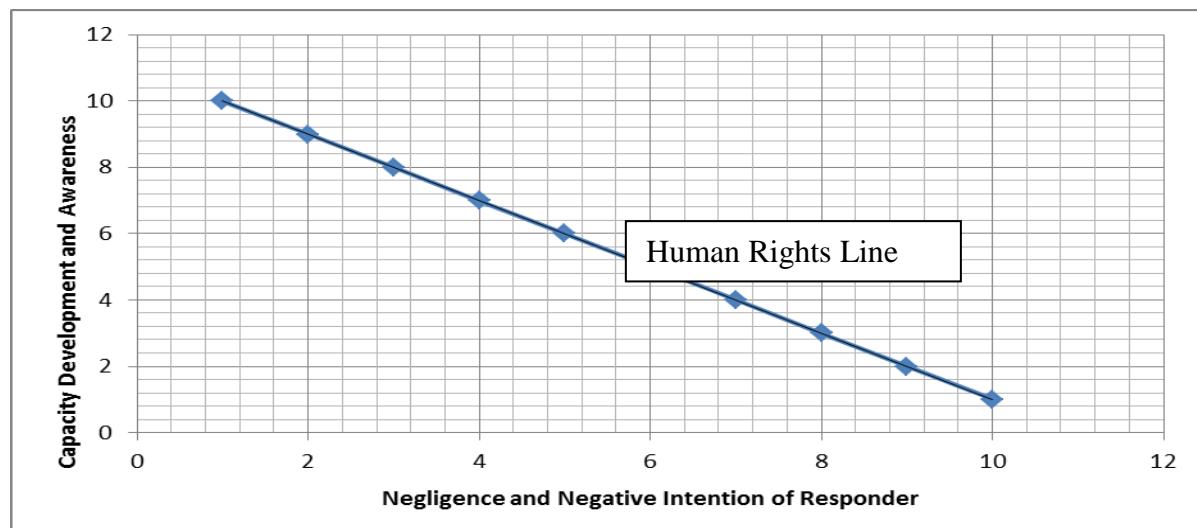
It is also realized that sometimes "*Negligence of responder*" plays major role in violation of Human Rights. It is related to the professionalism, ethics of the responders and ignorance of facts and laws. It was reported that responders from different organizations sometimes compromised their professional ethics and responsibilities and also violated domestic laws during earthquake rescue 2015. It might because of the lack of monitoring mechanism, hegemony of responders, image and economic condition of the country.

Third major cause of human rights violation was "*Negative Intention of the citizen itself*". Extensive discrimination, crime, gender based violence, unequal distribution of resources, looting; human trafficking, and price hike, abetting were the major violation cases. Intention of crime is basically related with victims and the component of society.

And the fourth cause of human rights violation was the lack of "*Human Rights Awareness*". It is defined in relation to the demand based approach of Human Rights. People residing in the rural as well as the extended rural areas lack the knowledge about their own rights. That's why they do not report their requirements, sometimes they do not complain about human rights violation cases due to the fear of uncertainty or sometimes they perceive the violation situation as normal phenomenon.

Armed Police Force, Nepal has developed community based approach to involve community in disaster management and its implementation (Thapa, 2015) which is somehow relevant to address the issue raised by the researchers in this article.

#### **Relationship of Capacity Development and Awareness with Negligence and Negative Intention in Relation to Human Rights**



**Figure 1** Human Rights Relationship

The scatter graph shows the relationship of Negligence and Negative Intention of Responder with Capacity Development and Awareness. The diagonal line from top left towards down is Human Rights line. It shows that it has negative relationship with negligence and negative intention.

There are mainly four variables in Human Rights protection during Disaster period. Awareness and capacity developments are the positive strength to maintain the human rights norms whereas the Negligence and Negative intention are the weaknesses of the human rights

protection. The variables in on the OY axis requires huge financial investment and needs concentrated resource mobilization, which takes longer time. It will support to sustainable development, develops system and requires policy changes and developments. The variables on OX axis require lesser investment and time in comparison to OY axis. Developed awareness and development of policies, laws, and human resource management have positive impact on it.

Here we can infer another theory that is: Negligence and Negative intention are dependent to capacity and awareness. And they have significant opposite relationship. If capacity and awareness is increased the negligence and negative intention drop down.

A new commitment to professionalism by practitioners, government leaders, and contractors can help contribute to methods, processes, and effective implementation (Pinkowski, 2008). This research analyzes the issue of human rights violation in macro level. It says that there are four independent factors that augment human rights violation which are: Negligence, Awareness and Capacity on the part of government and the fourth factor is the intention of people.

## Conclusion

Disaster management is a complete package which covers all aspect of disaster activities along with the protection and promotion of human rights of the citizens. Here we can conclude that every Human Right violation case during disaster has direct link with right to life of the victim. Either the protection or the violation of human rights is intertwined with the capacity of a country to cope up with the problems of disaster, the level of awareness of the victims of disaster, the professionalism of the service provider, and the intention of the victims. Main cause of Human Rights violation in least developed and developing country is the economic condition, infrastructure and preparedness of the country. Negligence and mal activities are the outcome of lack of supervision and the legal provisions which can be manipulated by the law evaders. However the improved awareness about disaster, its risk and connectivity to human rights does supplement the initiation of a nation to address the need for supervision bodies, to mitigate the problems of inadequate and ineffective laws and fight back the withering economic condition of the country.

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