

**EL DERECHO INTERNACIONAL HUMANITARIO
Y EL PAPEL DEL COMITÉ INTERNACIONAL DE LA CRUZ ROJA
EN LAS SITUACIONES CONFLICTIVAS**
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"Cada vez que se pone un freno al furor de los combatientes, se protesta implícitamente contra la guerra misma." G. Moynier

ORIGEN DEL DERECHO INTERNACIONAL HUMANITARIO

El Derecho Internacional Humanitario, que protege al hombre de las consecuencias de la guerra, atañe a cada uno de nosotros. Sin embargo, no se le conoce suficientemente. ¿Cuándo puede invocársele? ¿Qué protección otorga?

"El derecho humanitario es una rama del derecho internacional público inspirada en el sentimiento de humanidad y referida fundamentalmente a la protección de la persona". Esta cita, tomada de un trabajo del Profesor Jean Pictet, establece el alcance de este derecho, encaminado a "atenuar los sufrimientos de todas las víctimas de los conflictos armados que se encuentran en poder del enemigo, ya sea que se trate de heridos, enfermos y naufragos, de prisioneros de guerra ó de personas civiles".

Hasta mediados del siglo XX, los acuerdos tendientes a proteger a las víctimas de la guerra se celebraban ocasionalmente y sólo eran obligatorios para las partes contratantes, según fórmulas que establecían una estricta reciprocidad. En realidad, se trataba de acuerdos relativos a capitulaciones militares y, en la mayoría de los casos, su vigencia se limitaba a la duración de un conflicto.

El nacimiento de derecho humanitario, vinculado por la creación del Movimiento de la Cruz Roja, modifica sustancialmente esa situación: desde entonces, los Estados están comprometidos por un tratado de carácter universal, aplicable en todas las épocas y en todas las circunstancias. Se trate de un gran avance de la humanidad.

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De 1869 a 1979

En 1859 Henry Dunant atraviesa Lombardía. La región está devastada. Una noche llega a Solferino, donde acaba de tener lugar una sangrienta batalla y comprueba con horror, que miles de soldados heridos se encuentran abandonados sin recibir ninguna clase de asistencia, condenados a una muerte segura. La idea de la Cruz Roja, nace de esta terrible imagen.

Allí mismo, Dunant improvisa una acción de socorro, valiéndose de los escasos recursos a su alcance. Pero se propone, además, transmitir al mundo lo que ha visto y publica, en el estilo del os que en nuestros días se consideran los más elocuentes artículos periodísticos sobre los horrores de la guerra, un libro que conmoverá a Europa: *"Recuerdo de Solferino"*. En él, Dunant plantea una solución: la de paliar la carencia de los servicios sanitarios de los ejércitos preparando "socorredores voluntarios" en tiempo de paz y logrando su "neutralización" aún en el campo de batalla.

Cuatro ciudadanos ginebrinos -Moynier, el General Dufour y los doctores Appia y Maunior-, se unen a Dunant para constituir el *Comité Internacional de Socorro a los Heridos*:, que más adelante se convertirá en el *"Comité Internacional de la Cruz Roja"*.

Con entusiasmo y perseverancia, en 1864 logran convocar una Conferencia Internacional. En ella participan 12 Estados y se llega a un resultado tangible: ese mismo año, se firma el *Convenio para el mejoramiento de la suerte de los militares heridos en los ejércitos en campaña*.

Desde entonces los militares heridos y enfermos son asistidos y curados, sin ninguna distinción de carácter desfavorable, cualquiera que sea el campo al que pertenezcan. Por otra parte, se respeta el personal, el material y las instalaciones sanitarias, que se identifican mediante un signo distintivo: una cruz roja sobre fondo blanco.

El derecho internacional humanitario nace con el primer Convenio de Ginebra, firmado en 1864. En 1899, se aprueba el La Haya un convenio por el cual se aplican a la guerra marítima los principios del Convenio de Ginebra de 1864. En 1906, se completan y perfeccionan las disposiciones del Convenio de 1864. En 1907, en el IV Convenio de La Haya, se establecen las categorías de combatientes que en caso de ser capturados tienen derecho al estatuto de prisionero de guerra y gozan de un trato especial durante todo el período de su detención. En 1929, se reafirman y desarrollan estos tres convenios. En 1949, se revisan nuevamente y se aprueba el IV Convenio para la protección de la población civil en poder del enemigo y, finalmente en 1977, se aprueban los Protocolos Adicionales a los Convenios de 1949: el Protocolo I aplicable en los conflictos internacionales y el Protocolo II aplicable a los conflictos internos.

**NORMAS FUNDAMENTALES DEL DERECHO INTERNACIONAL HUMANITARIO
APLICABLES EN LOS CONFLICTOS ARMADOS**

- ▶ Las personas fuera de combate y quienes no participen directamente en las hostilidades tienen derecho a que se les respeten la vida y la integridad física y moral. Serán protegidas y tratadas, en toda circunstancia, con humanidad, sin ninguna distinción de carácter desfavorable.
- ▶ Está prohibido matar ó herir a un adversario que se rinda ó que esté fuera de combate.
- ▶ Los heridos y los enfermos serán recogidos y asistidos por la Parte en conflicto que los tenga en su poder. Esta protección se extiende, asimismo, al personal sanitario, a los establecimientos, a los medios de transporte y al material sanitarios. El emblema de la cruz roja (de la media luna roja), es el signo de esta protección y ha de ser siempre respetado.
- ▶ Los combatientes capturados y las personas civiles que estén bajo la autoridad de la Parte adversa tienen derecho a que se les respete la vida, la dignidad, los derechos personales y las convicciones. Serán protegidos contra todo acto de violencia y de represalias. Tendrán derecho a intercambiar noticias con sus familiares y a recibir socorros.
- ▶ Cada persona se beneficiará de las garantías judiciales fundamentales. A nadie se considerará responsable de un acto que no haya cometido. Nadie será sometido a la tortura física ó mental, ni a castigos corporales ó tratos crueles ó degradantes.
- ▶ Las partes en conflicto y los miembros de sus fuerzas armadas no tienen un derecho ilimitado por lo que respecta a la elección de los métodos y de los medios de guerra. Se prohíbe emplear armas ó métodos de guerra que pueden causar pérdidas inútiles ó sufrimientos excesivos.
- ▶ Las partes en conflicto harán siempre la distinción entre la población civil y los bienes civiles. Ni la población civil, como tal, ni las personas civiles serán objeto de ataques. Los ataques se dirigirán sólo contra los objetivos militares.

ACTIVIDADES DEL COMITÉ INTERNACIONAL DE LA CRUZ ROJA EN SITUACIONES CONFLICTIVAS

El Comité Internacional de la Cruz Roja (CICR), es una institución independiente, particular y neutral en los aspectos político, ideológico y religioso. En su calidad de asociación regida por los artículos 60 y siguientes del Código Civil suizo, el CICR posee personería civil, tiene su sede en Ginebra. Su emblema es la cruz roja sobre fondo blanco y su divisa es "*Inter arma caritas*" (caridad entre las armas).

El CICR es internacional en lo que se refiere a su campo de acción, pero no en su composición. Más de un siglo de experiencia y cientos de conflictos armados han demostrado la conveniencia de esta circunstancia, pues Suiza goza de una neutralidad reconocida; es por ello que todos los integrantes del CICR son de la misma nacionalidad del país que vio nacer a la Cruz Roja; en todo caso no sería aconsejable confiar a más de una nación el cometido del CICR porque las ideologías políticas y la neutralidad de cualquiera de los nuevos miembros que participaran en su labor, podrían ser puesta en duda por algunas naciones en un momento dado. Si ello llegara a suceder, la función del CICR estaría gravemente comprometida e incluso su existencia estaría en peligro.

COMETIDO Y FUNCIONES

- ▶ Mantener los Principios Fundamentales de la Cruz Roja, tal como fueron proclamados en la XX Conferencia Internacional de la Cruz Roja. Esta misión de Guardián de los Principios, elemento y denominador común de nuestro Movimiento, es garantía esencial de su cohesión y de su universalidad.
- ▶ Asumir las tareas que le son reconocidas por los Convenios de Ginebra del 12 de agosto de 1949 y trabajar por la fiel aplicación de estos Convenios.
 - Convenio de Ginebra para mejorar la suerte de los heridos y enfermos de las Fuerzas Armadas en campaña, del 12 de agosto de 1949.
 - Convenio de Ginebra para mejorar la suerte de los heridos, enfermos y naufragos de las fuerzas armadas del mar, del 12 de agosto de 1949.
 - Convenio de Ginebra relativo al trato de los prisioneros de guerra, del 12 de agosto de 1949.
 - Convenio de Ginebra relativo a la protección de las personas civiles en tiempo de guerra, del 12 de agosto de 1949.

Las tareas reconocidas por estos convenios están relacionadas con la asistencia y protección. El CICR se preocupa, en primer lugar, de la suerte que corren los combatientes hechos prisioneros y de los internados civiles, cuyas condiciones de detención trata de mejorar; para ello, envía delegados que visitan los lugares de detención e intervienen ante el país detentor para obtener mejoras en la condición humana de los detenidos. Protege a la población civil que se encuentre en territorio enemigo ó bajo un régimen de ocupación; así mismo, asiste a la población civil que la guerra haya dejado en la miseria y/o en la enfermedad.

- En caso de conflicto armado entre países, de guerra civil ó de disturbios internos, actuar ante los adversarios en calidad de institución neutral, para aliviar la suerte de las víctimas de estos conflictos; servir en el plano humanitario, como intermediario neutral entre las partes en conflicto.
- Perfeccionar, desarrollar y difundir el Derecho Internacional Humanitario.
- Garantizar el funcionamiento de la Agencia Central de Búsquedas, prevista en los Convenios de Ginebra.
- Tomar toda iniciativa humanitaria que entre en su misión de institución específicamente neutral e independiente.
- Reconocer toda Sociedad Nacional de la Cruz Roja ó de la Media Luna Roja, nuevamente formada ó reconstituída, que responda a las condiciones de reconocimiento en vigor.

Bases de acción del CICR

El CICR fundamenta su trabajo en:

- Los Convenios de Ginebra del 12 de agosto de 1949.
- Los Protocolos Adicionales a los Convenios de Ginebra del 12 de agosto de 1949.
- Los mandatos confiados durante las Conferencias Internacionales de la Cruz Roja y de la Media Luna Roja.
- Los Principios Fundamentales del Movimiento.
- Los mandatos confiados por los gobiernos, las relaciones con las autoridades gubernamentales tienen una base estrictamente humanitaria.
- El Derecho de Iniciativa consagrado por los Estatutos del CICR (artículo 4 párrafo 2) y los Estatutos del Movimiento Internacional de la Cruz Roja y de la Media Luna Roja (artículo 5, párrafo 3), por el cual el CICR puede emprender toda iniciativa humanitaria comprendida en su papel de institución específicamente neutral e independiente.

Campos de Acción

El CICR desarrolla sus actividades especialmente en tiempo de guerra debiéndose distinguir, dentro de este ámbito, cuatro situaciones particulares:

Conflictos armados de carácter internacional, considerando éste como todo litigio que surja entre dos ó más Estados, provocando la intervención de los miembros de sus fuerzas armadas.

Conflictos armados de carácter no internacional, siendo éste un "conflicto que tiene lugar en el territorio de un Estado, entre sus fuerzas armadas y fuerzas armadas disidentes ó grupos armados organizados que, bajo la dirección de un mando responsable, ejerzan sobre una parte de dicho territorio un control tal que les permita realizar operaciones militares sostenidas y concertadas", según el Protocolo II adicional a los Convenios de Ginebra.

Disturbios interiores. El CICR considera esta situación cuando, sin que haya conflicto armado no internacional propiamente dicho, hay, dentro de un Estado, un enfrentamiento que presenta cierta gravedad ó duración e "implique actos de violencia". Ejemplo de disturbios interiores son: actos espontáneos de rebelión, lucha entre grupos más ó menos organizados, ó contra las autoridades que están en el poder.

Otras situaciones. El CICR las considera como las situaciones de grave tensión en un Estado, pero sin enfrentamientos violentos, de origen político, religioso, racial, social, económico, etc. También las considera como las secuelas de un conflicto armado ó de disturbios interiores que afectan al territorio de un Estado. Esta situación está enmarcada dentro de características como: arrestos en masa, numerosos detenidos políticos, alegaciones de desaparición de personas, etc.

Hoy en día el CICR tiene delegaciones en más de 40 países del mundo.

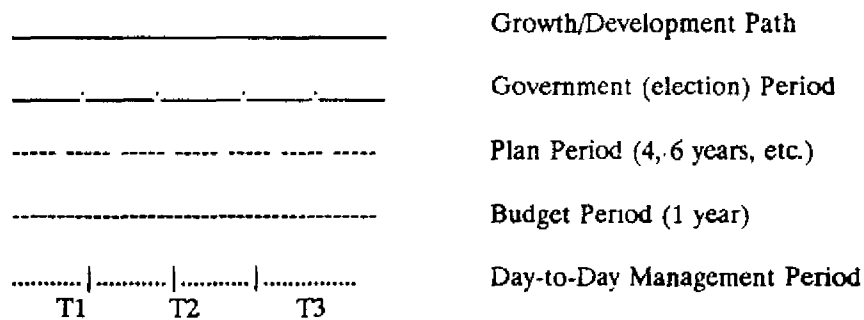
FACTORS AFFECTING THE DISASTER MANAGEMENT AND THE RECONSTRUCTION PROCESS

Thakoor Persaud¹

GENERAL

Background

One way of analyzing the overall impact of disasters upon a country is to look at the underlying basic cycles within which all activities in the country originate. The diagram below presents a schematic view of some of the principal cycles of this framework.



These cycles are used to illustrate the various levels within which changes are designed. At the first level is the Growth and Development path of the country which may change speed, direction, etc. over time, but continues as a result of actions associated with the periods cited below it. The Government Period refers to the time between changes in government; these can be through elections or otherwise, but they show distinct administrative terms. The Plan Period refers to the time that a government prepares its blueprint for guiding the country's policies and begins to implement these policies. It usually lags the Government Period cycle since it has to be finalized and

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implement these policies. It usually lags the Government Period cycle since it has to be finalized and adopted after the new government is in power. Most plan periods are usually "wish lists" which rarely reflect actual conditions and achievable targets consistent with resource availability. The next level is the Budget Period which is usually a year in length and has an identified investment plan and most, if not all of the funding for the activities so identified. In theory, there is supposed to be a very integrated relationship among these various cycles. However, in practice, most LDC governments are usually found almost exclusively in the Day-to-Day zone of operations where they are invariably in a crisis management mode and responding to the most pressing issues of the moment.

The above cycles form the basis for asset management within the country with respect to its population, stock of capital and natural resources. Investment programs to promote growth and development are aimed at improving the overall welfare of the population. However, over the past two decades, most LDC governments have been operating in the crisis management environment where it becomes extremely difficult to even maintain current living standards. Consequently, resources for investment in new assets and operation of existing ones are very inadequate while funds for maintenance of existing facilities are practically non-existent even though the yields of such investments have been shown to be very high. Resource constraints also affect the government's ability to provide adequate housing facilities for a large segment of the population. As a consequence, many poor families have to use their limited resources to build makeshift units in crowded and unregulated settlements in marginal areas.

External Assistance

Even with the same level of destruction, a disaster striking a country at the time period noted by the line T1 above would most likely elicit a different response compared to a case where the same disaster strikes as shown in T2. This is primarily because of where it occurs during the various cycles mentioned above. Other factors being equal, a government with a disaster occurring during its final months in office would tend to be more short-term oriented than one which is just beginning its term in office. Similarly, if a disaster strikes during the latter half of the budget year, it may take longer to begin domestically-funded relief and reconstruction tasks since most of the funding for the period would have been already spent. Within this framework of operation, external assistance from governments and multinational agencies are usually provided to LDCs to assist them in both their immediate and their longer-term development needs. In the World Bank, for example, loans are provided for project-specific investments as well as sectoral adjustment or structural loans (SECALs and SALs). In such loans, the investment needs of a country are reviewed in line with its long term prospects and required institutional and policy changes. To this end Country Economic and Sector Reports are prepared and a lending program is developed consistent with Bank findings and government priorities. Within the Bank/country relationship there may be agreements among the country, Bank, IMF and other lenders regarding certain basic targets which are to be met if the country is to make progress along its growth path. For example, in order to reduce budget deficits or make a program self-sufficient and replicable, the government may agree to keep public spending stable or to reduce it, allow prices to reflect market conditions, raise more revenues from higher taxes, user charges, etc.

Such agreements under SALs, SECALs or project lending are designed to get the government to focus more upon the longer planning horizons mentioned above rather than exclusively focussing upon the day-to-day cycle of operation. Even with a great deal of close country dialogue, achievement of target policies and institutional changes have not been an easy task mainly because of socio-economic and political pressures for addressing the more immediate needs of the population first. As such, the capital stock (infrastructure, health, education and other social welfare and production facilities), in most countries continues to deteriorate, and in general, decisive actions in several key areas are not taken. It should be noted parenthetically here that this condition is not only occurring LDCs; New York and Detroit are two cities in the US which face similar problems.

IBRD DISASTER RELATED ASSISTANCE

Background

One of the main goals of the Bank after it was established in 1947 was to assist in the post-war reconstruction effort. Since that time, the Bank has made about 100 emergency reconstruction loans (see Annex 1). Over the last decade alone, about 66 emergency reconstruction loans were made (a figure which more than doubled the 27 loans made during the previous decade), with Bank commitment amounting to approximately US\$1.5 billion over the past two years for emergency recovery operations.

With a clear trend toward relatively greater Bank participation in reconstruction activities, steps have been taken to look more closely at the process and to prepare and update guidelines in this area (see Annex 2). In discussing the various directives governing emergency reconstruction loans, the Executive Directors and Bank Management acknowledge such lending as an important role for the Bank which began since its inception. However, there have been various observations made regarding the overall framework for such lending. These reflect concerns about making sure that normal development loans are not labeled emergency ones in order to address maintenance problems or to have less focus or delays in implementing ongoing medium and long-term policy reform measures, for example. Much interest has been expressed in improving the impact of emergency reconstruction lending, and more recently, the environmental implications of overall Bank lending make this even more prominent.

One underlying concern in many discussions centers on the apparent increased frequency of occurrence of large-scale disasters throughout the world and the difficulty involved in using traditional means of categorizing them as man-made or natural disasters with their associated randomness. While it is true that wider access to global communications media has drawn attention to these events more than in previous decades, as discussed elsewhere in this workshop, there is clear evidence that the magnitude, duration, frequency and impact of disasters are much greater at this time than in earlier periods. Most of this is due to the cumulative effects of population growth and human intervention in the eco-system. Recent actions by the United Nations to declare this the

International Decade for Natural Disaster Reduction are also aimed at addressing what is perceived as a serious global threat if current trends continue.

The Bank's approach to emergency assistance is governed by the principles that the Bank (a) finances productive activities and investment, rather than relief or consumption; and (b) focus on areas of its comparative advantage. Reconstruction efforts are generally geared to assisting the country to quickly restore its productive assets to pre-disaster levels and to minimize the negative impact of the disaster. One of the difficulties with this goal is that in most cases replacing the physical facilities to pre-disaster levels may not be possible because of the poor pre-disaster state in which they were, or because the pre-disaster institution and/or policy framework was inappropriate to begin with. Most of the poorly maintained infrastructure usually have to be totally replaced at a multiple of the cost it would normally have taken to repair them, had they been well-maintained. In terms of reconstruction investment, there has always been the question as to whether the Bank should be involved in projects where significant damages can be attributed mainly to poorly built and maintained structures, which for the most part, the Bank was not able to address through traditional lending programs because of Government resistance to the policy changes which such an approach would have necessitated.

Emergency Lending

Upon being asked for assistance after a disaster, the Bank usually conducts a quick review of its relationship with the stricken country and it contacts other donors and lenders in order to determine an appropriate response. As already noted, Bank lending for emergency operations is intended to be for short-term works, the assumption being that longer-term operations should be left for normal Bank lending with all of the associated policy, institutional, technical and other requirements appropriately addressed. While this approach is a sensible one, it can sometimes lead to difficult choices in some emergency operations. For example, in a recent reconstruction project, repairs to a damaged hydro-electric dam along with several agricultural rehabilitation works were urgently needed to restore economic activity in the affected area. However, these were costly investments which had several policy and institutional issues to be addressed and the investments were expected to span several years; they could not therefore form part of the Bank's reconstruction operation.

Except for a few cases, the Bank usually has an active lending program in the affected country and there are usually undisbursed loans for projects under implementation. In such situations, the Bank usually tries to channel undisbursed funds to the needy sectors while it contacts other lenders and donors in order to determine what additional reconstruction assistance it should provide. With the primary focus upon restoration of damaged assets, the Bank usually does not insist upon country acceptance of any far-reaching sector, policy, institutional or other such reforms as conditions for providing emergency assistance. Prior experience has shown that such conditions generally delay the recovery process and result in delays in project implementation. Depending upon the severity and nature of the disaster, the Bank may also temporarily suspend various conditions governing ongoing loans. For example, a tariff increase may be postponed or the pace of liberalization of interest rate

policies may be delayed in order to provide temporary respite from losses suffered by the affected groups.

At the country level, if the losses to basic infrastructure and productive assets are widespread and significant, the unplanned emergency reconstruction investment needs of the government become a critical budgetary issue. Under such a situation, any agreement on spending limits under sector or structural loans become inoperative and the Bank usually works with other lenders and donors to arrange financing, loan rescheduling, bridge loans, etc., in order to reduce the deficit and immediate budgetary pressures caused by the disaster. Throughout this exercise, the principal goal is to assist the country to achieve its pre-disaster level of operation and place it once again on the path of policy and institutional reforms which are consistent with its medium and long-term growth and development program.

Damage Assessment

Apart from logistical problems related to assessing damages (assembling appropriate staff and equipment, visiting affected regions, recording accurate and timely information, etc.), there is also an associated conceptual problem since both qualitative and quantitative factors are generally intertwined (assessing the value of historical buildings, ranking losses for priority attention, etc.). In the Bank, a damage assessment team comprising the relevant experts is usually sent to the country shortly after Bank management decides to offer assistance. The main goals of this team include evaluation of the macroeconomic impact of the disaster and assessment of damages and reconstruction needs in light of all available internal and external resources. In some instances the Bank is also asked to help coordinate assistance flows.

Shortly after a national disaster, the country is usually at its most vulnerable point. As noted above, most of its physical assets (factories, roads, bridges, houses, schools, hospitals, etc.) are usually in a poor state of disrepair and the pre-disaster level of operation and service is usually also very weak. The disaster thus makes a bad situation worse. Assets which may not be directly affected (mines, hotels, crops, etc.), may still not reach the market because of damages to communications, transport, utilities and other basic services. Because of the above-mentioned reasons, in the immediate aftermath of a disaster, it is very difficult to obtain reasonably accurate damage assessment information. While this is natural under the circumstances, the process is invariably complicated by deliberate attempts of the government to overstate the nature and extent of losses in order to obtain a more sympathetic response from the international community and also to be able to blame poor economic performance on the disaster or claim greater credit for the recovery process. (In a few cases, for a variety of reasons, a government may do the opposite and deny that it has problems). Within this environment, the task of the Bank team is to undertake an objective evaluation of the macro-economic situation in line with damage assessment figures prepared in coordination with other participants.

To the extent possible, the team of experts try to visit the affected areas to get a firsthand view of the physical destruction. These first assessments are usually referred to as "windshield surveys" since

they are quickly done whilst driving through the areas. Nevertheless, given prior experience of the staff with similar situations, these surveys do provide a reasonably accurate damage estimate. These estimates of losses are usually recorded by sector (see Annex 3). The mission also estimates the time required to restore such assets as well as the associated production losses and these are used to provide initial global impact figures for the economy. It should be noted that in parallel to this preliminary exercise, detailed field surveys are also initiated in order to obtain more reliable data. However, since a quick response is usually needed, there is invariably some trade-off in accuracy, especially since many of the affected groups immediately begin their own reconstruction work (especially for housing), and the figures thus change on a daily basis.

Once a baseline estimate of the overall economic impact and preliminary damage assessment figures are obtained, these are reviewed in light of available resources (loans, grants, insurance reflows, owners' resources, etc.). A funding gap usually results from this exercise, and this, along with other policy and technical factors, forms the basis for the Bank to determine the size of its reconstruction loan and for any additional funding to be sought.

In attempting to quantify the losses, several important socio-cultural and economic factors are usually omitted. For example, loss of life cannot be valued for obvious reasons. Also, the immediate and long-term psychological, physical and health impact of the disaster are not taken into account in assessing losses nor are losses measured in relation to the total assets of those who suffer such losses.

Rehabilitation and Reconstruction Works

After damages are quantified and the overall economic impact upon the economy is assessed, a rehabilitation and construction program is prepared. During this stage, the Bank and other lenders and donors and the government have to finalize damage assessment analyses and estimate the reconstruction and rehabilitation costs involved, formulate an appropriate work program and identify who would be responsible for financing and implementing what subcomponent, decide upon the institutional structure for overall coordination, supervision, and follow-up actions, etc.

Compared to its normal lending operations, emergency loans of the Bank involve abbreviated preparation and appraisal stages and report documentation and processing. Thus, instead of about two years of preparation work and a full appraisal report, emergency loans are prepared within a matter of weeks and a summary report is prepared with technical annexes which present details on how the Bank's component would be implemented (see Annex 4).

In deciding on how to begin rehabilitation and reconstruction works there are several organizational and technical aspects which have to be considered. Among these are questions on institutional responsibilities and the role of the affected population in formulating and implementing the works. Should the works be done by a special reconstruction group or should they be done according to the responsibilities of the ministries and agencies which normally address sector needs? How should input of the beneficiaries be used? How should the funds be channeled and under what conditions? Through a centralized account or via the agency's budget? Should any portion be directly recovered?

How? What degree of coordination should exist with other agencies? On the technical side, what reconstruction standards should be applied in view of the risks involved and affordability criteria? Should there be reconstruction and renovation in a clearly recognized hazard zone? If so, under what conditions? If not, who decides where to relocate the works and under what criteria?

Additional questions which have to be addressed, either explicitly or implicitly, deal with beneficiaries and their economic and social situation. Should there be loans or grants to victims? Under what criteria and how are these to be administered? For displaced renters, for example, should they be given grants or loans to rebuild on sites which they may not own? How much should be offered, to whom, and under what conditions? Who should supervise and monitor the progress of works and how should compliance with established criteria be enforced? How should beneficiaries be selected? By whom and when?

The above shows an example of the range of complex issues which have to be addressed in the process of getting reconstruction and rehabilitation works underway, especially for public and social sector works. In most instances, there are no right or wrong answers and efforts have to be made to take a path which has the least negative impact under the circumstances. Thus for example, in some projects where rented units are damaged, the landlords may be given grants or loans to reconstruct their buildings but with a condition that they provide written undertaking that they would rent the units to the displaced tenants and not raise rents for a fixed period of time. In deciding whether or not to rebuild in a hazard zone, if it is located in a central area, even though ideally it would be best to vacate the zone, a more practical solution would be to build to the highest tolerance level consistent with cost and equity considerations. Otherwise, squatters would enter and erect even more precarious buildings. The goal is to be creative and flexible in setting the criteria to suit the circumstances but at the same time, to maintain control over the process. This is especially true when politics, race, religion or some other similar factor is injected into the system and it causes divisiveness and infighting. Under such conditions, it is advisable to establish clearly defined neutral criteria and operational systems and to seek the active support from leaders of all groups, including churches and other NGOs. Strong monitoring and auditing are necessary at all times and accountability must be established at all stages. When an election process is simultaneously underway, there is even greater necessity to be vigilant to avoid waste and other abuses.

For a reconstruction and rehabilitation operation to be successful, it is necessary to have the affected population, especially householders, participate actively in all stages. Otherwise, the works are seen as a government hand-out and residents adopt a totally dependent attitude with everything being demanded from the government and no effort being made even to provide minimum maintenance for what is received. Beneficiaries should not be made to feel that they are automatically entitled to handouts because they suffer damages from a disaster. This is much easier said than done since this is a very high-profile situation involving huge sums of money and the perceived potential for earning widespread political support. Incentives for beneficiary participation could be a simple declaration that they have to provide clear evidence of loss and that they have to also make an in-kind or similar contribution as part of the condition for receiving assistance. Similarly, criteria could be established to offer priority assistance to those who form cooperative groups to repair or rebuild

damaged structures and who show willingness to do more for themselves. Annex 5 presents details of the Jamaican reconstruction project which was partially financed with Bank funding. It gives examples of most of the issues discussed above and it also follows the reconstruction process to its conclusion with an analysis of the results

GENERAL OBSERVATIONS

At this point, it is instructive to review the existing framework within which disaster assistance is managed. Under current conditions, it is possible that the characteristics of a natural disaster and the response of the international community provide incentives for most policymakers not to take serious preventative or mitigative actions with their available scarce resources. Since the disaster has a random probability of occurrence, chances are that it may not strike during the tenure of the administration in power and so, from an individual short-term perspective, the risk may be worth taking. Also, the general tendency is to consider such disasters as Acts of God, and this reinforces the position of policymakers who can argue that they are powerless to avoid them. Additionally, there is an international system of relief, grants and loans which tends to reinforce and reward domestic inactivity in disaster prevention and mitigation efforts. Under this system, if a country takes precautionary steps to the extent that available resources allow and a disaster strikes and causes only partial damages, it is likely that its neighbor which took no such action and suffers greater damage would be the first to receive assistance. A similar situation holds true for individuals within the country and this gives rise to actual situations where residents with partially damaged but structurally sound buildings would destroy them in order to receive greater assistance. Of course, it can be argued that a country which takes preventative and mitigative steps is more likely to save lives and get its productive assets repaired in less time than one which does not do so, and this should be incentive in itself for such actions. However, under current international aid systems, this may not convince many policymakers to act differently.

Recent actions by the United Nations in declaring this the International Decade for Natural Disaster Reduction (IDNDR), could provide the international framework necessary to develop a more rational incentive system which rewards positive preventative actions and discourages inaction in disaster mitigation. This would essentially call for greater coordination and consistency among assistance criteria for donors and lenders and it should also include a structure for assisting countries to develop the framework needed to move ahead with preventative measures, research, etc. Between the two extremes of a very well-prepared Japanese system and the poorly functioning ones in LDCs there is an area of operation which, if it is carefully structured, can get LDC governments and citizens to be more aware of natural disasters and to adopt measures for avoiding or reducing their impact in ways which are consistent with available resources and external assistance programs through UNDP, OAS, the Bank and other governments and agencies working in a coordinated manner. The Bank and other resource providers should also complement this by paying greater attention to prevention and mitigation aspects of their non-emergency assistance programs. Recent emphasis upon environmental aspects have drawn more attention to disaster prevention and mitigation. However, more explicit consideration should be focused upon these topics which should be well-integrated into policy

formulation and project design exercises. The above-mentioned reorientation of incentives and provision of facilities promoting technical assistance programs for disaster prevention and mitigation should also result in wider acceptance of these elements in non-emergency lending operations.

Apart from changing the current reward system and incorporating disaster prevention elements in more normal project lending, there is also need to address the rather delicate topic of accountability for reconstruction funds, whether they be loans or grants. Because of its nature, the history of this issue is unfortunately not well documented and publicized although there have been rather frequent accusations of improper use of reconstruction funds in a large number of disaster operations. Of course, such charges are also made with respect to other investment programs. However, conditions which exist just after a disaster often provide relatively greater opportunities for misuse of resources. In many cases, the lack of clear accountability and reliable data gives rise to such charges and accusations. In others, there are, unfortunately, many instances of outright mishandling of such resources, but here also the IDNDR and other international participants can provide guidelines and develop systems for channelling, monitoring, auditing and otherwise accounting for efficient use of the resources provided for disaster reconstruction operations. In many projects, donors and lenders do not comply with their initial commitments and this has also been a source of misunderstanding when the volume of promised and delivered funds cannot be reconciled. Under circumstances where there are large sums of money involved, the temptation is very great for misappropriation at all levels. For politicians, civil servants and potential beneficiaries these amounts can easily be a multiple of their annual earnings and if an effective system of controls and penalties is not in place, abuses are very likely.

Even with all of the shortcomings associated with relief and reconstruction operations, questions have always been on ways of improving efficiency of the resources provided, not on whether or not to provide assistance. Although such assistance could generally be justified on economic grounds alone there is an element of altruism which transcends the economic realm and can sometimes be seen as paternalism. Indications are that while some degree of paternalism may be needed (e.g., in providing assistance in kind rather than in cash to avoid short-term non-basic consumption expenditures), care should be taken to ensure that the gap between the market and beneficiary-assessed values do not diverge enough for beneficiaries to try to sell the acquired asset.

The overall structure for international assistance should be rationalized and complemented by policies aimed at preventing and mitigating the impact of disasters and then providing assistance to recover from damages and losses which cannot be avoided after such measures have been taken. The attention generated by the IDNDR decade could provide an opportune moment for these actions.