



THE  
**CYCLONIC**  
**APARTHEID**

Report by People's Inquest Team

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**December 28-29, 2017**

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# 1. INTRODUCTION

## **Rationale for People's Inquest into Devastation Caused by Cyclone Ockhi**

Cyclone Ockhi, which is named after the Bengali word for "eye" is considered to be an intense cyclone to traverse the Arabian Sea. The cyclone's origin can be traced back to the low-pressure areas that formed along the Gulf of Thailand on November 21, 2017. This low-pressure build-up turned into a deep depression in the Bay of Bengal on November 29, 2017 near Sri Lanka. The deep depression then intensified into a cyclonic storm on November 30, 2017. The Indian states affected, severely, by Cyclone Ockhi are namely; Tamil Nadu, Kerala and the Union Territory of Lakshadweep. Cyclone Ockhi moved over the Arabian Sea via the coastal town of Kanyakumari, triggering heavy rains and high-speed winds which has caused subsequent damage and destruction on the shore as well as at sea during its passage.

Kanyakumari in Tamil Nadu with a population of around 1.8 million and a total coastline that stretches nearly 71.5 kilometres, remains one of the worst affected by Cyclone Ockhi. The town has the highest density of fisher folk in the country and produces more than 40,000 tonnes of fish, which amount to approximately 200 crore rupees in revenue. According to the Department of Animal Husbandry, Dairying and Fisheries (Fisheries Department), about 30,465 families are engaged in fishing in the Kanyakumari district alone. Nagercoil is the district headquarter for Kanyakumari.

The people's inquest into the devastation caused by Cyclone Ockhi started with preliminary data collection by a group of volunteers through a preliminary Fact Finding (***Annexure 1- List of Preliminary the Fact Finding Team***) who visited Kanyakumari between December 11 – 26, 2017. The volunteers also visited Vallavilai, Thoothur, Poonthurai, Chinnathurai and other coastal settlements. The door-to-door survey and verification conducted by the volunteers, recorded that over 500 fishermen were still missing at sea and more than 100 fishermen had died as of December 29, 2017. Around 100 testimonies and statements by fisher folk and their families were also gathered. These statements and testimonies, recorded gross discrepancies in the search and rescue operations conducted by the Coast Guard and Indian Navy. The volunteers also documented agricultural and infrastructural loss to one of the marginalised tribal group called the Kaani.

With this preliminary investigation and data collection as the background, a group of organisations in Tamil Nadu (***Annexure 2 - Name of the organisations which jointly organised the People's Inquest***) convened a '*People's Inquest on Cyclone Ockhi and Its Impact in Kanyakumari District in Tamil Nadu*' which took place from December 28 to December 29, 2017.

The People's Inquest panel consisted of –

1. Justice (Retd.) B.G. Kholse Patil, Former Judge of Bombay High Court.
2. Dr. Ramathal, Former Chairperson, Tamil Nadu State Commission for Women.
3. Prof. Dr. Shiv Visvanathan, Professor, Jindal Law School, O.P. Jindal Global University.
4. Ms. Saba Naqvi, Senior Journalist, New Delhi.
5. Dr. K.M Parivelan, Associate Professor, Tata Institute of Social Sciences, Mumbai.
6. Mr. D.J. Ravindran, Former Secretary of the UN International Inquiry Commission on East Timor and Director of Human Rights Division of UN Peace Keeping Operations in East Timor, Sudan and Libya.
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9. Dr. K Sekhar, Registrar, National Institute of Mental Health and Neurosciences, Bangalore
10. Prof. Dr. Ramu Manivannan, Department of Political Science, University of Madras.
11. Mr. Nanchil Kumaran, IPS (Retd.), Tamil Nadu Police
12. Dr. Suresh, Former United Nations Development Programme and Danish International Development Agency.
13. Prof. Dr. Fatima Babu, St. Mary's College, Tuticorin.
14. Mr. John Samuel, Former Head of Global Program on Democratic Governance Assessment - United Nations Development Programme & Former International Director – Action Aid.

The people's inquest focused mainly on issues relating to missing fishermen, loss of lives and livelihood, damage to housing and agricultural property, etc. The team sent out notices and request letters seeking appointments to various stakeholders, this included the Kanyakumari district administration, the Kanyakumari district police department and officials, the fisheries department, the marine police, the coast guard and the Indian Navy (***Annexure 3: Intimation letter sent to District and state officials by email about the Public Inquest***). The inquest looked at the response of the central and state governments vis-à-vis disaster management structures and functions, role of local administration, measures undertaken from cyclone warning till this date and the rescue and rehabilitation processes and actions. The inquest panel travelled to the coastal villages of Neerody, Marthandanthurai, Vallavillai, Eraviputhenthurai, Thoothoor, Thengapattinam, Coalchel, Muttom, Chinnathurai and the tribal hamlets in Kuravillai, Kalpadi, Unnankulam and Pambanvilai villages and met the families of the missing fishermen and the ones who managed to return, several affected farmers, the *Kaani tribes* in Puravillai village and finally the district and state officials. All attempts by the inquest panel to meet officials directly involved in the rescue operations, failed.

The mandate of the inquest panel was –

1. To meticulously ascertain
  - a. the extent of loss of life, number of missing persons, loss of boats and fishing nets, other fishing related equipment, damage to fishing harbour(s) and damage to houses of fishermen with substantial evidence;
  - b. the extent of loss and damage to rubber, coconut and banana plantations belonging to farmers, and;
  - c. the extent of loss of housing settlements and damage to the properties of Kaani tribe.
2. To ascertain the disaster preparedness of the central and state governments, prior to Cyclone Ockhi and evaluate the disaster response by both governments with a focus on the three-level Coastal Security Scheme comprising the marine police (to patrol up to 12 nautical miles from the coast), the Indian Coast Guard (to patrol from 12 to 200 nautical miles) and the Indian Navy (to patrol beyond 200 nautical miles).

3. To evaluate if the disaster preparedness of and mitigation by the central and state governments has deep-sea-fishing policy, deep sea safety adequately and sufficiently covered under its ambit.
4. To evaluate the extent to which the right to freedom of assembly and association has been respected in response to peaceful protests of the affected families of fishermen and their spiritual leaders in the early days after Cyclone Ockhi and study the nature of all the criminal cases registered against such protestors.

## 2. OVERVIEW

### **Important Figures and Facts**

In Kanyakumari district, there are around 47 fishing villages and most of these are situated along the coastline. There are approximately 80,000 fishermen directly involved in fishing, many of whom indulge in deep sea fishing. They go up to and beyond 200 nautical miles. It usually takes around 10 days for the fishermen to reach the fishing spot. Once they reach the spot, they fish for the next 10 days, catching a variety of deep-sea fish before they return to the shores. Deep-sea fishing on an average takes between 20 – 30 days.

According to figures provided by the South Asian Fishermen Fraternity (SAFF), the total number of fishermen from Kanyakumari, killed by Cyclone Ockhi, as of December 31, 2017, stands at 173. It is alarming that out of the 173 fishermen reportedly killed, only 8 bodies have been recovered, leaving a staggering 165 fishermen still lost at sea. It is largely believed by the people of the fishing villages that the missing fishermen, if alive, would have returned by December 25, 2017 to spend Christmas with their families and since they have not returned, they are now considered dead by their families, who have performed traditional rituals to the dead and offered prayers in the various fishing villages of Kanyakumari. It must be noted that 41 bodies of fishermen have been found from other districts in Tamil Nadu, namely; Cuddalore, Nagappattinam and Ramanathapuram and 8 from the states of Assam and Uttar Pradesh, bringing the death toll to 222 as of December 31, 2017.

### **(Annexure 4- Submission by South Asian Fishermen Fraternity (SAFF))**

A press release, concerning the report submitted by the Kanyakumari administration to the central visiting team on December 28, 2017 categorically states that the number of dead fishermen in Kanyakumari is 18 and the number of fishermen gone missing is 170. The press release also states that the number of missing fishermen from other districts is 41 and from other states is 9, bringing the total number of missing fishermen to 220. Even as there exists some disparity in the numbers stated by the SAFF and the Kanyakumari district administration, the difference remains marginal and both show the quantum of fishermen lives lost in Cyclone Ockhi.

There is still no specific information, issued by the Kanyakumari district administration, regarding agricultural and infrastructural loss in the public domain. The only reference to agricultural loss, however, appears in the relief package

sought from the central government by the government of Tamil Nadu. **(Annexure 5 - Press release by the Kanyakumari District Administration on 28.12.2017)**

According to a report published in The Hindu on December 17, 2017, the number of houses damaged in the cyclone stands at 5032, while the number of villages facing a shortage of drinking water is 1155 (around 95 panchayats). Roughly 299 out of 4284 hectares of paddy has been damaged, 13,150 coconut trees have been uprooted, 5.63 lakh rubber trees damaged, 48.15 lakh banana trees destroyed. The number of trees uprooted on government land stands at 11,299 while the number of trees uprooted along the roads are 175 and 3623 hectares of horticultural crops has been damaged. In total 18 primary school and 9 middle school buildings have sustained damage. Nearly 192.23 kilometres of panchayat and panchayat union roads, 9.8 kilometres of state highways, 11.9 kilometres of important roads and 53.34 kilometres of other roads need immediate repairs. Around 802 kilometres of power cables and nearly 13450 electric poles have been damaged in Cyclone Ockhi.

As per the preliminary assessment of the crops damaged, shared with the inquest team by the farmers' association of Kanyakumari district, the damages expand to 80 lakh banana plantations, 25 lakh coconut trees, 20 lakh rubber trees, 1200 hectares of paddy cultivation, 1000 acres of tapioca cultivation, 20,000 arecanut trees, 2000 hectares of mango and jack fruit trees, 1000 hectares of vegetable plantations, 1000 hectares of pepper, clove and other spices and more than a thousand livestock. **(Annexure 6- Memorandum to the Hon'ble Prime Minister Khodayar Irrigation System Project Committee dated 10.12.2017)**

The *Kaanis*, an ancient tribal group, whose members reside in 58 hamlets in the Western Ghats region along Kanyakumari and Tirunelveli districts, have been left more vulnerable by Cyclone Ockhi. The group, whose members were originally hunters and gatherers have taken to semi-organised agriculture over the last two decades. Although, the government has given them land for agricultural use, it is without legal title hence the effects of the cyclone have had a compounded impact on the *Kaanis*. Many have lost their houses, crops, access to basic facilities and place on record that no compensation or aid, of any kind, has reached them either the district administration or the state government. Chapter 4 (Page 14) of this report explains the position of the *Kaani* tribes in detail.

Chapter 3 (Page 9) of this report explains in detail the cyclone predictions and warnings issued. The early warning system which is supposed to be effective as per Hyogo framework for Action (HFA) **(Annexure 7- Summary of the Hyogo**

**Framework for action 2005 – 2015 : Building the resilience of Nations and Communities to Disasters)** as well as the Sendai Framework for Disaster Risk Reduction 2015-2030 (**Annexure 8- Sendai Declaration of March 2015**) to which India is a party, emphasise the need for effective early warnings to save lives. However, testimonials and statements collected from the coastal communities makes it evident, prima facie, that there has been gross negligence on the part of the district, state and central government machinery in the early warning and also the search and rescue operations.

This report also analyses the Ministry of Defence's claim that relief and rescue measures were initiated from November 30, 2017. The report argues, to considerable extent, that the number of Coast Guard and naval ships and helicopters deployed were minimal and the search was restricted as it covered very few nautical miles from the shores and this seems to have remained the trend till December 2, 2017. According to the information gathered by the inquest team, it is clear that only from December 3, 2017, major search and rescue operations were undertaken. This delay of about 48 to 72 hours, appears to be the single-largest reason for the loss of several fishermen lives. The lack of coordination among civil administration, the Coast Guard and the Indian Navy is blatant. Fisherfolk from several coastal villages complained about lack of willingness on the part of the relief and rescue teams to search the sea, despite handing over Global Positioning System (GPS) coordinates of the regular fishing spots. Chapter 4 of this report looks at these complaints in greater detail.

According to a tweet (**Annexure 9- Weather forecast by Tamil Nadu SDMA on November 26, 2017**) by the State Disaster Response Force (SDRF), it is evident that only on November 30, 2017, the National Disaster Response Force (NDRF) and the State Disaster Response Force (SDRF) were called into action. What is striking is that on November 30, 2017, only 2 teams each of NDRF and SDRF were deployed. Quick action was not initiated in the absence of early warning and no evacuations were carried out before the heavy rainfall and winds struck Kanyakumari. On the contrary, 7 NDRF teams and 1 SDRF team were deployed at Surat, Navsari, Amreli, Valsad, Bhavnagar and Somnath in Gujarat when the cyclone made its landfall on December 5, 2017.

It is mandatory to place on record that in the year 2004, in the aftermath of the Tsunami, the World Bank had commissioned the 'Tamil Nadu and Puducherry Coastal Disaster Risk Reduction Project'. The aim of this project was to increase the



resilience of coastal communities in Tamil Nadu and Puducherry to a range of hydro meteorological and geophysical hazards, along with improving project implementing entities' capacity to respond promptly and effectively to natural disasters. The total project was approximated to cost US\$ 337.20 millions, out of which the World Bank committed to pay US\$ 236.00 million. The baseline for the project was started in 2012 and a mid-term review was conducted in July 2017 for which the data was last updated on August 11, 2017. According to sources, this project is scheduled to be completed by July 31, 2018. A look at the data provided by the World Bank on its website gives some critical insight into the implementation and outcome of the project. As part of its results framework, the Bank reviewed 11 Project Development Objectives (PDO) Indicators and 19 Intermediate Results Indicators.

The rating of this project in terms of progress towards achievement of PDO has been downgraded from 'Satisfactory' to 'Moderately Satisfactory' during the last review. On a critical note, the target achievement for completion of percentage of coastal area with electrical cabling transferred underground and percentage of fishers with wireless communication facilities remains, nil. The target to increase institutional capacity for risk mitigation and response at state level remains only half done over the period of five years. In intermediate results indicators, achievement target such as transmission lines constructed or rehabilitated, integration of multiple emergency operation centre depicted, nil progress. Significantly, the project had setup a target to provide 5000 fishermen with communication network equipment but no physical progress has been made so far. On the other hand, out of the 450 early warning systems only 273 have been installed.

### **Officials Visiting Kanyakumari Post Cyclone Ockhi**

The first high-level official to visit Kanyakumari was the Union Defense Minister, Mrs. Nirmala Sitharaman on December 3, 2017, almost 72 hours after the cyclone. She stated that all efforts will be undertaken to ensure all missing fishermen return safely to their families. As a consequential result, the search and rescue operations were up scaled. (***Annexure 10: Media Report – On Manorama dt 23.12.2017 titled “Why 7 NDRF teams for Gujarat and only 4 for Ockhi hit Kerala ?”***). During her visit, the Union Defense Minister, claimed the number of fishermen missing was far less compared to her submission in the lower house of the parliament, the Lok Sabha, where she stated the number was 400 on December 27, 2017. (***Annexure 11: Media Report – Indian Express dt 28<sup>th</sup> Dec, 2017 titled, “400 Tamil***

**fishermen still missing says Nirmala’.**) The inquest team was shocked to learn that the Tamil Nadu Chief Minister, Mr. Edappadi.K.Palanisami, visited Kanyakumari on December 13, 2017, 13 days after the disaster had struck and did not find it suitable to visit the affected fishing villages immediately. It was only after the public protests in Kanyakumari on December 7, 2017, the Chief Minister decided to visit Kanyakumari. (**Annexure 12- Media Report-Times of India dt 12<sup>th</sup> Dec, 2107 “ Tamil Nadu CM to visit Cyclone Ockhi – hit Kanyakumari district today.”**) The visiting Chief Minister even reiterated the Union Defense Ministers words of re-assurance and hope to the fisherfolk that “Search operations will continue till the last missing fisherman is found”. (**Annexure 13: Media Report – Times of India dt 4<sup>th</sup> Dec 2017 titled, “Rescue operations to continue till all fishermen are brought back : Nirmala Sitaraman .”**). Prime Minister, Narendra Modi, visited Kanyakumari on December 19, 2017, after his long campaign, of almost two weeks, ahead of the Gujarat state election. The Prime Minister also did not visit any of the fishing villages and only met a few representatives in the city. (**Annexure 14 - Media Report – DNA titled, ‘PM Narendra Modi visits Ockhi – affected Kanyakumari .’**). However, the reality continues to remain far from what was stated by Chief Minister and the Union Defense Minister.

There have been legitimate demands to declare Cyclone Ockhi as a national disaster and enough compensation (**Annexure 15- Media Report – Deccan Chronicle dt 7<sup>th</sup> Dec 2017 titled, “ Declare Cyclone Ockhi as natural disaster CM to Modi.”**). and relief to be granted to the affected families of fisher folks in Tamil Nadu, Kerala, Karnataka and Maharashtra and to the farmers and tribes who lost their land and agricultural produce. While the cabinet of the neighbouring state of Kerala met immediately after the havoc, it remains unclear if the Tamil Nadu cabinet has met yet to take a stock of the situation and related responses.

Cyclone Ockhi points to both the Centre and the State’s lack of preparation in the face of such natural disasters. In the case of the missing (now considered dead) fishermen, these failures are blatant at every stage, from the lack of adequate and early warnings to a delayed launch of search and rescue operations, from inaccuracy and discrepant counting of those missing and dead to providing adequate relief.

### 3. CYCLONE OCKHI AND THE EARLY WARNING SYSTEM

Since the Tsunami in 2004, the state of Tamil Nadu has faced several cyclones of various degrees. In the past 13 years, the state has witnessed 8 major/severe cyclones. By the number of cyclones faced by the state, it should be safe to assume that the concerned national and state disaster management teams should be prepared to tackle any emergency situation and weather extremities, however, in reality, the disaster preparedness remains nil.

Many of the legal-institutional mechanisms/systems were conceived and put in place after 2004. This includes the introduction of the National Disaster Management Act, 2005; formation of Disaster Management Authorities at national level (NDMA), state level (SDMA), district level (DDMA) and local bodies level (Panchayat and urban local bodies). Agencies such as the National Institute for Disaster Management (NIDM) and the National Disaster Response Force (NDRF) were created to coordinate similar structures at national and state levels. Early warning processes were revamped with Indian Meteorological Department (IMD), Central Water Commission (CWC) and Indian National Centre for Ocean Information Services (INCOIS) to address multi-hazard prediction and sharing actionable, early warning information to the public ensuring 'last mile connectivity'. Under the Sendai Framework Priority 1: 'Understanding risks, it is stated in para 24 (f) that: *'To promote real-time access to reliable data, make use of space and in situ data, including geographic information systems (GIS), and use information and communications technology innovations to enhance measurement tools and the collection, analysis and dissemination of data.* In para 25 (a) *'To enhance the development and dissemination of science-based methodologies and tools to record and share disaster losses and relevant disaggregated data and statistics, as well as to strengthen disaster risk modelling, assessment, mapping, monitoring and multi-hazard early warning systems;* and further, in para 33 (b) *'To invest in, develop, maintain and strengthen people-centered multi-hazard, multi-sectoral forecasting and early warning systems, disaster risk and emergency communications mechanisms, social technologies and hazard-monitoring telecommunications systems; develop such systems through a participatory process; tailoring them to the needs of the users, including social and cultural requirements, in particular gender; promote the application of simple and low-cost early warning equipment and facilities; and broaden release channels for natural disaster early warning*

information<sup>1</sup>. Chapter 5 (Page) of this report encompasses more information on the system installations and practices in the aftermath of the Tsunami.

A closer look at the Cyclone Ockhi will prove a complete failure at several stages, most importantly to detect, recognise and alert people along the line of impact.

During the Cyclone Ockhi, the three official information sources were the Tamil Nadu State Disaster Management Authority (SDMA), India Meteorological Department (IMD) and Ministry of Earth Science (MoES). **(Annexure 16: Media Report – Deccan Chronicle dt 7<sup>th</sup> Dec 2018 titled “Insider view : It is a fatal error of judgment.”)**

Below is the table capturing the information processed by these three sources on a timeline.

Date	Time	Source	Content
November 26, 2017	13:53	SDMA (Twitter)	Heavy to very heavy rain is likely to occur over Tirunelveli and Kanyakumari districts on November 26-27, 2017 and heavy rain is likely to occur at isolated places in Tamil Nadu on November 28, 2017. No rainfall predicted for November 29-30, 2017. <b>(Refer to Annexure 9)</b>
November 29, 2017	11:50	IMD Bulletin No. 01 (BOB 07/2017)	Observed a ‘depression’ over Southwest Bay of Bengal and that ‘the system is very likely to intensify further into a deep depression during next 24 hours’. <b>(Annexure 17- India Meteorological Department Bulletin No.01 (BOB 07/2017) dt 29.11.2017 timed 1150 Hrs IST)</b>

November 30, 2017	08:30	IMD Bulletin No. 06 (BOB 07/2017)	Depression has further intensified into a deep depression and is very likely to intensify into a cyclonic storm during next 12 hours (around 17:30 Hrs) <b>(Annexure 18 - India Meteorological Department Bulletin No.06 (BOB 07/2017) dt 30.11.2017 timed 0830 Hrs IST)</b>
	08:53	SDMA (Tweet)	
	12:00	IMD Bulletin No. 07 (BOB 07/2017)	The deep depression had intensified into Cyclonic Ockhi at 08:30 Hrs. <b>(Annexure 19- India Meteorological Department Bulletin No.07 (BOB 07/2017) dt 30.11.2017 timed 1200 Hrs IST)</b>
	13:48	MoES (Press Release)	Cyclonic Storm 'OCKHI' over Comorin area & Cyclone Warning for South Kerala, adjoining districts of south Tamil Nadu and Lakshadweep Islands – ORANGE message. <b>(Annexure 20- Ministry of Earth Science press release posted on 30<sup>th</sup> Nov, 2017 at 1.48 PM)</b>
	15:55	MoES (Press Release)	Same as above – ORANGE message (Position as at 14:30 hrs) <b>(Annexure 21- Ministry of Earth Science press release posted on 30<sup>th</sup> Nov, 2017 at 3.55 PM)</b>
	19:06	MoES (Press Release)	Same as above – ORANGE message (Position as at 17:00 hrs) <b>(Annexure 22- Ministry of Earth Science press release posted on 30<sup>th</sup> Nov, 2017 at 7.06 PM)</b>

The MoES issued two press releases on December 1, 2017, however, a 'Code Red' was only issued for the Union Territory of Lakshadweep, stating high alert. For Tamil Nadu, all the messages were coded 'Orange'. As per the information available on IMD's website by the '*Regional Specialized Meteorological Centre for Tropical Cyclones Over North India Ocean*', there are four stages of warning issued to state government officials. First stage – '**Pre-Cyclone Watch**' issued 72 hours in advance, second stage – '**Cyclone Alert**' (Yellow) issued at least 48 hours in advance of the expected commencement of adverse weather over the coastal areas, which should contain information on the location and intensity of the storm likely direction of its movement, intensification and advice to fishermen, general public, media and disaster managers. The third stage is the '**Cyclone Warning**' (Orange) which is also issued at least 24 hours in advance. The fourth stage is '**Post Landfall Outlook**' (Red) which is issued at least 12 hours in advance of the expected time of rainfall.

A quick analysis of the table above and the codes of procedure to be followed by the IMD in issuing alerts is sufficient to conclude that in the case of Cyclone Ockhi, IMD failed to predict and disseminate the same in a timely manner. The first warning of cyclone was issued by IMD at 8:30 AM on November 30, 2017, followed by the SDMA tweeting the same at 8:53 AM, both stating that the deep depression will take the form of the cyclone at 5:30 PM. However, the IMD bulletin issued at 12 Noon on November 30, 2017, stated that the deep depression has formed into a cyclone at 8:30 AM on November 30, 2017. These were coded 'Orange' by the MoES in its press release stating that it is the cyclone warning stage. It is important to note that in this case there was no 48-hour prior cyclone alert issued either by SDMA, IMD or MoES. Further, the advisory issued by SDMA on November 26, 2017, stated heavy rainfalls between November 26-28, 2017 and November 29-30 were marked as 'NIL'.

All these have ensured that there was no to very little time available for the information to reach the people and through them to the fishermen at sea. During the inquest, it was confirmed that the information reached some of the villages only after 12:30 PM on November 30, 2017 when the churches were alerted to communicate with the fishing villages. This also leads questions towards the village level early warning systems installed during post tsunami (2004) context. None of them were in operations as public sirens failed to alarm fishing villages of an approaching cyclone. In the post-tsunami context, village-level early warning sirens and very high frequency (VHF) communication equipment were provided to all multi-hazard-prone and vulnerable coastal districts by the District Collector's office. All of these measures were missing during Cyclone Ockhi.

The IMD had ample time to track the cyclone, which originated in the Gulf of Thailand on November 21, 2017 and if reliable forecasts, advisories and alerts were issued around November 25, 2017, along with a mitigation exercise, it would have certainly saved hundreds of lives and reduced, considerably, the extensive loss of property.

The Distress Alert Transmitters (DAT), which were developed by the Indian Space Application Centre of the Indian Space Research Organisation (ISRO) to improve coastal security after the 26/11 (***Annexure 23- Media Report – Business Line dt 26 Nov, 2009, titled, “ ISRO develops low cost device for coastal security.”***) attacks in Mumbai, have also failed miserably. It was brought to the inquest team’s notice that on receiving the distress call from the boats through DAT, the Maritime Rescue Coordination Centres (MRCC) which had to immediately identify the boat and its precise location through INSAT-3 satellite and inform rescuers, failed to do so. The fishermen on the shores placed on record that over 90 boats had sent distress alert calls through the DAT but the Coast Guard did not rescue any. The inquest team also found that a verification call by MRCC was made after 11 days of the cyclone to the fisherman whose mobile number had been registered while receiving the DAT device. This clearly shows extreme culpability and gross negligence on part of the Coast Guard for not taking immediate measures to address the distress calls and raises serious questions about the functioning of such systems.

This concern is far graver when it comes to disaster mitigation and alerts in deep sea areas. In the current scenario, the sole mode of communication with fishermen is through the naval and Coast Guard vessels but in the absence of significant and timely alerts, it is obvious that this would continue to fail. The government has failed to use the traditional knowledge of the fishermen in their rescue and relief operations. It is imperative that the governments recognise that fishermen from Kanyakumari and the adjoining areas are practicing deep sea fishing and provide them with the latest communication systems and ensure that they function during an emergency and other safety device including lifejackets, flare guns, etc. The inquest team was shocked to hear from the few fishermen, whom had the fortune to return ashore, that they didn’t find any Coast Guard or Indian Navy ships or patrol on their way back to the shores. Several testified stating that their distress calls and reaching out to naval and Coast Guard ships were not even answered and that they had to find their own way to survive the brutal conditions.

## 4. FINDINGS

### Cyclone Ockhi's Devastation to the Fishing Community in Kanyakumari

#### *Plight of fishing community*

The fisher folk from the coastal villages of Kanyakumari district are known for their skills in deep-sea fishing. Ever since the early 1990s, after the Government of India had allowed foreign fishing vessels to fish beyond their territorial waters, the catchment of the Indian fisher folk has significantly reduced forcing these fishermen to venture, sometimes, as far as a 1000NM in search of fish. As a result, the length of their boats had to be increased to sustain such long journeys and to withstand the brutality of the sea during rough weather conditions. However, these fisher folks continue to remain invisible when it comes to government schemes and policies. This allegation is substantiated by the fact that most of their boats are not registered due to the restrictions placed under the Tamil Nadu Marine Regulation Act, 1983, (***Annexure 24- Tamil Nadu Marine Regulation Act, 1983***) which only allow registration for boats with length up to 15 metres. As a result of non-registration, the fishermen are not able to register for insurance of their boats, which costs them up to 2 crore rupees (20 million) to construct, and hence remain extremely vulnerable. Though, through fishing a lot of foreign exchange is generated for the government, the fisher folk receive no recognition for it and this becomes more apparent and pronounced during a natural disaster such as Cyclone Ockhi.

The lives of fishermen remain undervalued by the government despite the dangers and perils involved in their occupation. The tragic story of Ramya from Chinnathurai (***Annexure 25- Statement of Ms. Ramya w/o Anro Jan, Chinnathurai village***) village, gives an insight into the plight of the fishing community and the position of their families when it loses its breadwinners. Ramya's father and brother-in-law died at sea in October 2017. A marine accident, where her family's boat collided with a cargo ship, caused their deaths. Ramya tells the inquest team that even after months after the incident, there has been no investigation into the matter and the family has not been contacted by the government or given relief and compensation. Unfortunately, the family's struggle was far from over as Cyclone Ockhi claimed her husband, Andro, and brother, Rakesh's lives. They went out fishing on November 30, 2017 and did not return. It is testimonials like Ramya's that makes it strikingly evident that there lacks any form of protection to the lives of the fishermen in our country. This only brings to the foreground the lack of investigation and impunity



when it comes to shipping vessels, especially foreign ones and its inaction in the face of natural disasters.

### ***Early warning system of Cyclone Ockhi***

Mr. M.G. Devasahayam, a former IAS officer, who met the team, in an article in The Hindu, dated December 15, 2017 (***Annexure 26- Article by Mr. M.G.Devasahayam IAS (Retd.) in the Hindu dt 15<sup>th</sup> Dec, 2017 titled, “ Whither disaster management after Ockhi ?”***) writes, *“There are three basic failings in the government’s response: the cyclone warning was delayed; the warning, when it came, was ineffective because it could not be conveyed to thousands of fisher folk who were already out at sea; and once the cyclone struck, there was no war-like mobilisation and action, which are the hallmarks of good disaster management”*

The inquest team was told that on the morning of November 30, 2017, the churches were informed, informally, about the cyclone and were told to ask the fishermen not to venture into the sea. (***Annexure 27- Statement of Ms. Albera w/o Irudayadasan, Mel Midalam village,***)

*“I received a call from a personnel of Marine CID police station and was told, informally, that there will be a cyclone and to tell the fishermen not to go to the sea today”* said Fr. Lucien Thomas, the parish priest of the Neerody coastal village, which was one of the first villages visited by the inquest team.

The inquest team observed that the communication sharing by the state Government, especially across Kanyakumari district administration was not uniform, clear, time-bound and sufficient.

*“We received the information from the office of Assistant Director of Fisheries that there might be a cyclone and hence ask the fishermen to not to go the sea”,* said Fr. Xavier, the parish priest of Marthandanthurai, who had announced the same through the loud-speaker from the church. He added *“This information was very late as many of our men were already at sea”*.

In Vallavillai fishing village, Fr. Darwin said there was some information that there might be a cyclone on November 29, 2017, however more than a hundred boats had already left before the information could reach the village. This proves that there were no coordinated efforts by the district administration to disseminate the alert and warning about the cyclone to the community. Almost all of the fishermen who were at sea during Cyclone Ockhi did not have adequate communication equipment to receive warnings about the cyclone. If those at the sea were alerted and evacuated

in advance, much of the loss could have been averted. (**Annexure 28- Statement of Mr. Robinson s/o Sabariar Adimai, Thonithuraivilagam village**)

*“A group of fishermen from our village, who had left to the sea in the early week of November returned safely after the cyclone and told us that they did not know about the cyclone when they were at the sea”* added Fr. Darwin.

This proves that there was no intimation or warning whatsoever about the cyclone to those who were at sea before November 30, 2017.

During the visits to the coastal villages, the inquest team observed that the fishing community was well informed and updated about the latest communication systems and other technological aspects of deep-sea fishing. Many of them even possessed the expertise to advise the government in their relief and rescue measures however, the government has failed to tap into this resource. Several people placed on record the need for a separate provision for youths from the community to work with the Indian Navy, Coast Guard, Marine Police, Meteorological Department, etc, especially during time of extreme weather events and natural disasters.

When asked about the failure of early warning system, the Kanyakumari District Collector, Mr. Sajjansingh. R. Chavan, told the inquest team that there was no power supply in most parts of the district and hence the poor connectivity. This only proves there, in fact, was a technological and communication gap in the early warning system. Early warning systems are supposed to have and function with uninterrupted power supply (UPS) back-ups during emergencies. The inquest team finds it shocking that the lack of power is even an excuse by a government official, for the gaps in early warning system. The inquest team feels, in times of a natural calamity, it should be the duty of the state to gather its officials and disseminate the information and warning about the same. None of the early warning mechanisms installed post-tsunami were in operation and almost every fishing villagers visited by the inquest team recorded the same.

### ***Search and Rescue Operations***

In their testimony to the inquest team, the local fishermen, who had accompanied the Coast Guard during search and rescue operations, stated that the Coast Guard limited their search up to 60NM. The Coast Guard personnel had even told the fishermen that they do not have jurisdiction beyond that. The possibility of strong winds carrying boats beyond 60NM was not considered by the Coast Guard.

Prof. Dr. K. Vareethiah, an expert in coastal disaster management, shared with the inquest team the extent of the search and rescue operations. He said,

*“The search and rescue operations were not adequate and should have been done at same place and same time in a coordinated manner. After the cyclone, the boats would have been scattered as it got drifted away. People who went to the sea keep coming, which proves that the search operations were incomplete or inadequate. The type of vessels used for mid-sea fishing are ones which will not sink even in strong winds as they have heavy containers at their bottom which will maintain its balance. The missing boats can be located as it would have drifted and even if it had been broken, the pieces would be floating. Hence, there should be combing operations in five places –*

- 1) Between the west coast and Lakshadweep islands along the path of the cyclone from a sub-marine using radar to check the submerged parts or boats.*
- 2) To the west of Lakshadweep islands, between Equator and to the south of Pakistan*
- 3) South-west of Maldives in the Indian Ocean*
- 4) Between Maldives and Sri Lanka & Cape Comorin and Equator*
- 5) In the uninhabited islands in Lakshadweep and Maldives.*

*Unless this is done, the government should not declare the missing persons as dead. Defence Minister, Mrs. Nirmla Sitharaman, in the Parliament claimed that 400 persons are still missing, but only for four recovered bodies, the DNA matched with their family members. When no bodies have been recovered, they cannot be declared dead.”*

There were comparisons between the search and rescue operations undertaken after Cyclone Ockhi with that of the Malaysian Airline flight, MH-370, which disappeared in March 2015. There was international collaboration in the combing operations and the search area extended from international waters to the territorial waters of many countries. Even India had contributed to the rescue and relief measures. Fisherfolk and the community raised several questions as to why no such combing operations were not carried out by the Indian Government for its own

citizens. (**Annexure 29- Statement of Ms. Mary Kala w/oSagayaraj, Navajeevan Nagar, Manakudi**)

The inquest team had sent prior intimations about their visit explaining the objectives of the people's inquest to the District Collector and the Superintendent of Police of Kanyakumari and had sought an appointment to meet them. On December 28, 2017, when the inquest team went to meet the District Collector, the Commissioner of Revenue Administration, Government of Tamil Nadu, Mr. Satyagopal, IAS and Agricultural Production Commissioner of Tamil Nadu, Mr. Gagandeep Singh Bedi, IAS and a member of the team from the Central Government were present and met the inquest team. When the inquest team asked about the status of the search and rescue of the fishermen who were at deep-sea, Mr. Satyagopal mentioned that the fishermen who went beyond the legal limits in the sea are not of concern since they had ventured out of the legal fishing limit. The team considers this as a very inhumane argument and abandoning a group of fishermen at sea for the same cannot justify it. It is the responsibility of the state machinery to search and rescue those who are in distress and not abandon them because they had crossed some imaginary line or sea boundary.

The inquest team here would refer to the submissions made by Prof. Dr. K. Vareethiah. He said:

*“Lakshadweep is at 200 nautical mile distance, and west of Lakshadweep we have another 200 nautical miles, and beyond this is another 150 nautical miles which are international waters where we are free to fish. If we calculate this distance, it comes to 550 nautical miles which is nearly 900 kilometres from the shore”. He also added that “The Government of India has given permission to 193 foreign vessels to fish in Indian waters, and they indulge in illegal, unreported, unregulated and destructive fishing in our seas and their catch never land on our shores, as they either carry-out mid-sea transfers or they land in their respective countries and the government provides diesel at production cost to these vessels”*

This practice of favouring international fishing vessels and dismissing the traditional and domestic fisher folk is certainly discriminatory.

An analysis of the data provided by the Ministry of Defence and Tamil Nadu SDMA on the search and rescue operations: (**Annexure 30-Fact sheet – ICG / IN / IAF SAR efforts – Cyclone Ockhi as of 2<sup>nd</sup> Dec, 2017 on search and rescue**)

**operation. Fact sheet – ICG / IN / IAF SAR efforts – Cyclone Ockhi updated as of 1800 Hrs on 5th Dec, 2017 on search and rescue operation. Search and rescue areas as on 2<sup>nd</sup> Dec 2017. Search and rescue areas as on 3rd Dec 2017 – 0800 Hrs)**

S. No	Description	India Coast Guard			Indian Navy			Indian Air Force			Total
		TN	KL	L&M	TN	KL	L&M	TN	KL	L&M	
1.	<b>Deployment since 30 November</b>										
	Ships	2	7	1	-	3	-	-	-	-	10
	Fixed wing aircrafts	2			2			1			5
	Helicopters	1			1			2			4
2.	<b>Deployment on December 2</b>										
	Ships	1	8	1	1	7	2				20
	Fixed wing aircrafts	1	2		2		1				6
	Helicopters		1		4			2			7

***Deployment since November 30, 2017***

- Indian Coast Guard: 10 ships, 2 Dornier aircraft, 1 helicopter
- Indian Navy: 3 ships, 2 fixed wing aircrafts, 1 helicopter
- Indian Air Force: 2 Mi-17 helicopters, 1 AN-32 aircraft (On 1 December)

***Deployment on December 2, 2017***

- Indian Coast Guard: 10 ships, 3 Dornier aircraft, 1 helicopter
- Indian Navy: 10 ships, 3 fixed wing aircrafts, 4 helicopters
- Indian Air Force: 2 Mi-17 helicopters

Though these numbers are being projected by the government, the situation on the ground does not reflect it. It is clear that the search and rescue operations were

intensified only after a few days after the cyclone, to be precise, from December 2 onwards when the Defence Minister visited the area. (**Annexure 31- Media Report – IANS dt 3<sup>rd</sup> Dec 2017 titled, “Cyclone Ockhi: Nirmala Sitaraman visits Kanyakumari, reviews relief work.”**) The inquest team observed many fisher folk claimed (**Annexure 32- Statement of Ms. Mary Indira w/o Delphinraj, Leon Nagar, Colachel**) that if the search and rescue operations were undertaken with full intensity and on an emergency basis right from November 30, 2017 onwards, several lives would have been saved. It is evident that there was an element of miscalculation about the number of fishermen at sea when the cyclone had passed the coast of Tamil Nadu and Kerala. Only after there was a furore (**Annexure 33- Media Report – Deccan Chronicle dt 8<sup>th</sup> Dec 2017 titled ‘Cops book 15,000 protestors in Kanyakumari.’**) from the community, the government intensified its search and relief operations. Had there been no protest or dissent by the community, there would have been no response from the government as demanded by the people. Given that the Chief Minister and the Prime Minister visited the area only after 13 and 19 days respectively and were busy campaigning for the elections, it is evident that without the people’s protest they would not have visited and assessed the situation.

A fisherman from the Marthandanthurai fishing village, who had returned to the shore stated that in Cochin on December 2, 2017, he informed the Coast Guard about the probable location of other persons who had gone in other boats with him, but they refused to undertake a mission since it would involve getting clearance and the weather was also not conducive.

Most of the people, whom met with the inquest team stated that there was no communication from the Kanyakumari district administration directly to the villages about the missing persons and the rescue operations (**Annexure 34 - Statement of Ms. Mary Vikini w/o James, Marthandanthurai village**). Several fishermen also said that the emergency communication equipment given by the state government did not work.

On the other hand, local fishermen who were frustrated with the lack of response from the government, initiated their own rescue missions. The villagers of Vallavillai went on a rescue-mission, spending nearly, 14 lakh rupees and rescued 17 fishermen who were adrift at sea. There was another rescue mission from the same village from December 11 to 23, 2017. In this mission, they were able to rescue 18 persons and spent nearly 18 lakh rupees.

The information provided by fishermen who had returned safely were not acted upon by the authorities. 31 GPS locations of boats last seen by those who returned were handed over to the Kanyakumari district administration on December 1, 2017, and also to the Defence Minister on December 3, 2017, but no action was taken based on the information provided by the fishing community.

Another fisherman who has returned home had narrated that

*“The Coast Guard and Indian Navy did not search in locations which we shared with them as we definitely knew about the locations of the other boats around us. The equipment given by the government were of no use during this emergency”*

The inquest team was informed at Iraiviputhenthurai village that the post-mortem report of one of the fishermen recovered from sea, stated categorically that although the fisherman’s body was floating for 7 to 8 days on the water, the person was alive for almost 6 days.

It is evident that there has been a complete lack of efforts by the Tamil Nadu state and district authorities to seek and provide information to the families of missing fishermen. Ms. Regi from Thoothoor village who has lost her husband Mr. Cleetus Pathrose in Cyclone Ockhi said that: **(Annexure 35 - Statement of Ms. Regi w/o Cleatus Pathrose, Chinnathurai village)**

*“My husband left to the sea on November 29, 2017, with another person in a small boat. We were expecting that they would return on November 30, 2017, but they did not return and there was strong wind due to the cyclone and we did not have any information about my husband for two days. On December 1, 2017, we got information from Kerala government that a person has been admitted in a hospital in Kerala identified as my husband and only when my relative went there we got to know that my husband had died in the sea”.*

This shows that there was no coordination or information sharing between governments of Tamil Nadu and Kerala. In most of the cases it was the families themselves who had gone to the hospitals in Kerala to check whether their family members had returned as there was no information shared with them directly by Tamil Nadu Government.

A person whose son went out fishing on November 20, 2017, said

*“After protests, the government allowed two persons from our village to join the Coast Guard in the air-rescue operations to show the probable locations where the missing fishermen would be, but the Coast Guard personnel refused to go beyond 60 NM as they do not have jurisdiction. If the government had acted properly many fishermen could have been rescued, or at least the dead bodies could have been taken. Due to the lethargic attitude of the government not only our livelihood also many lives have been lost”*

Mr. Ranjith, a fisherman who was with the Air Force during the rescue operations said,

*“The aircrafts which were used for the rescue operations were of the capacity to fly only for three and a half hours and we went up to 300 nautical miles. It took around two hours to cover the distance and get back to the base and there was only little time to look for boats and fishermen in the sea flying in a low level, which was not sufficient”* **(Annexure 36 - Statement of Mr. Nagaseer Francis Poonthurai village)**

A member of the team who had went to a rescue mission organised by the villagers said,

*“We ventured out with five boats a few days after the cyclone to look for missing people. When we were in 120 nautical miles, we saw five dead bodies and a bag which had eight mobile phones and two purses. We searched for three days, and one night. We received an emergency message through wireless to save them, we searched around but were not able to spot anyone.”*

It has been observed by the inquest team that there is no registry of arrival and departure of boats from the fishing harbour, hence there is no account of fishermen who had gone to the sea and did not return after the cyclone. Such a registry would have helped in identifying persons who had not returned and those who needed assistance.

*“On December 29, 2017, another rescue team organized by the villagers of Vallavillai have left in six boats from Kochi in search of the missing persons from their village. They have gone to Lakshadweep and then to the west of Maldives in their territorial waters and beyond with the permission of their government through*



*the help of the Indian Embassy in Maldives”* said Ranjith from Poonthurai village to the inquest team.

One of the questions reiterated to the inquest team was when a group of fisherfolk can arrange for a search and rescue mission in foreign waters and save people, why not the government?

The inquest team got the impression that there was no clear line of communication among various state agencies involved in the search and rescue operation. There was no regular communication with the affected communities; no sense of urgency and finally it was a haphazard effort.

One of the demands from the community was to issue death certificates to those who are missing after the deadline announced by the Government of Tamil Nadu, within 30 days.

During the meeting with the inquest team, the Kanyakumari district administration claimed that there was a ‘door-to-door’ verification regarding the total number of missing fishermen in Kanyakumari. The people from the affected coastal villages and the parish priests rebutted this claim and told the team that what is worse is that the government officials have not even visited the families of those who are dead. (**Refer Annexure 35**) The already fissured relationship between the state and the community only seems to have deepened in post Cyclone Ockhi Kanyakumari.

### ***Fishermen’s Distress Calls Ignored by the Relevant Agencies***

Mr. Pushparaj, a fisherman from Thoothor village in Kanyakumari, who had not gone to sea during Cyclone Ockhi, received a call from the MRCC, Chennai, on December 11 and 12, 2017, asking for names of other fishermen from his village and enquired whether they have returned home.

He told the inquest team that,

*“I had applied for DAT which could communicate the alert message of fishermen in distress to the government. For registration of the DAT, we had to give our mobile numbers. Two of the fishermen from my village had given my mobile numbers for the same as they did not have mobile phones. Thoothukudi fishermen had received 120 DAT devices from the government.*

*I received two calls from 044 23460405 (MRCC Chennai) at 11.30 AM and 4.00 PM on December 11, 2017, and the person on the phone asked if the*

*boat IND TN -15MM-5346 returned back? I replied yes and questioned that why is he asking it? A man answered that we had received a message on November 29, 2017, that it was in danger that's why he is enquiring about it.... On the same day evening I received another call from the same number and asked that did all the mechanised boats return back to the shore?*

*On the December 12, 2017, at 3.45 PM, I received a phone call from 044 25395018 (MRCC) to my other number. A person spoke in Malayalam and asked that they had received a signal that 90 boats were in danger due to Cyclone Ockhi, did all those boats return back to the shore? Immediately I replied that maximum numbers of boats are still in the deep sea and have yet returned back to shore. I asked him, to whom was the information about the situation of those boats were shared. He replied that they had informed it to a ship. When asked which ship was it was, there was no clear answer. He also told that they had safely rescued four to five mechanised boats.”*

The calls made to Mr. Pushparaj were from the MRCC of the Coast Guard, which is located in Chennai (the numbers are mentioned in Coast Guard's website).

This testimony by Mr. Pushparaj categorically proves that this emergency distress communication system has proved to have failed miserably. It is extremely shocking that when 90 boats have sent distress alert calls through the government DAT, none of them were rescued by the Coast Guard and a verification call is being made after 11 days of the cyclone. It shows extreme culpability and gross negligence on part of the Coast Guard for not taking immediate action to these distress calls. This poses serious questions about the functioning of such systems and given that it was set in as a measure for national security, it is doubtful if such is the response mechanisms, whether Indian citizens can be safe under human security angle.

Mr. Maria Sajan Dass, from the Chinnathurai village, who went to sea with eight others, and returned with only one person, told the inquest team that: **(Annexure 37- Statement of Mr. Maria Sajan Dass s/o Thatheus, St. Jude colony, Chinnathurai village)**

*“Our boat started sinking on November 30, 2017, afternoon and when we drowned in the water, everyone caught hold of water cans which were tied to a rope. We informed the Indian Navy and Coast Guard through wireless but they did not respond. Later a merchant vessel came near us, and they also tried to contact the Indian Navy but they also were not able to communicate*

*with them. Then we were holding the cans for a long time and at a distance we saw a small damaged boat floating, we then swam to that and caught hold of it. In the meanwhile, one by one, the other fisherman I was with started drowning and only myself and another person survived. Six persons including my brother died. After two days, we saw a boat and they rescued us and called the Indian Navy. The Indian Navy came after about two hours and took us in a helicopter to Kerala and we were admitted in a government hospital"*

From the testimonies documented by the preliminary fact-finding team, the inquest team observes that the distress calls made by the fishermen through the wireless were not immediately answered either by the Indian Navy and Coast Guard.

In all the coastal villages visited by the inquest team visited, there were strong demands regarding provisions for modern communication equipment for at least one-way communication from the shore to the sea, to provide information about real-time weather forecast to the fishermen at sea. There were also demands that the Tamil Nadu government should request the Government of India to lift the ban on satellite phones and provide licensed phones to fishermen who are involved in deep-sea fishing and also provide very high frequency (VHF) sets, radio telephone and Automatic Identification System (AIS).

During the preliminary fact-finding team's visit to Mel Midalam village of Kanyakumari district, a fisherman even mentioned an initiative being undertaken by a telecom company's foundation that aims to disseminate data on weather forecasts and warnings via mobile phones of registered fishermen. The fisherman raised questions so to why the government did not take this initiative while a private, non-profit foundation has managed to.

### ***Conditions of fishing harbours in Kanyakumari***

The team visited the fishing harbours of Colachel, Muttom and Thengapattinam in the district of Kanyakumari. In Thengapattinam fishing harbour, the team observed that there were no security checks in place to monitor both entry and exit of vehicles. In Muttom fishing harbour, the team observed extensive damages to the sea walls. Though this is a fishing harbour built, owned and transferred by a private entity, the fisherfolk of the area use it to dock their boats. The government should incur the cost of repair to the damages to the port due to Cyclone Ockhi.

### ***Damages to the Boats***

The fishermen who are into deep-sea fishing take loans to procure boats, fishing vessels, nets, engines and other equipment. They have to spend around Rs.

8,000,000 to Rs. 20,000,000 for each fishing boat. They generally do not get loans in banks to buy this essential equipment. (**Annexure 38 - Statement of Mr. Benedict s/o Amirthampillai, Micaelpuram, Neerodi village**)

Hence, they are forced to mortgage their houses, jewels to secure a loan to buy boats and other equipment. Many of them take loan from individuals for high rate of interest and it comes under the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003.

A sample study by the preliminary fact-finding team reveals the following loss in the village of Chinnathurai alone.

<b>Description</b>	<b>Cost</b>
Cost of repair to partial damages in boats	Rs. 12,78,700/-
Cost of sunken boats	Rs. 70,12,000/-
Cost of fishing net	Rs. 1,94,17,800/-
Cost of engines	Rs. 66,26,600/-
Other equipment & accessories	Rs. 47,48,500/-
<b>Total</b>	<b>Rs. 5,05,91,900/-</b>

### **Damages to Salt Pan**

In Kovalam, Manakkudi areas of Kanyakumari district there are around 600 acres of salt pan. Over 80% of the salt pan area is now merged in water due to Cyclone Ockhi as the sea water entered in to the salt pan areas. As this is the time for harvest in the salt pans, there is a huge economic loss to the owners and the workers. The government has not taken any steps to clear the water till now. The salt pans are worth Rs. 80,000 per acre.

There are around 200 daily wage earners working in these salt pans who are from the marginalised community. Since there is no work for the past one month, these labourers are suffering with no income as they are dependent only on these salt pans for work and livelihood. There has been no assessment done by the government regarding the damage to the salt pans.

The owners of these salt pans face extreme difficulty as most of them have taken loans and are not in a position to repay the loans. The cost to be incurred to restore salt pans and clear water from it is Rs. 70,000 per acre.

### ***Impact on Livelihood***

Many of those who are reported dead and/or missing are labourers who work on fishing boats and are daily-wage earners from the other villages of Kanyakumari district, other districts in Tamil Nadu and other states including Uttar Pradesh, Andhra Pradesh, West Bengal and Assam. They do not have social security for their families. Hence the government should take into account this aspect for the long-term rehabilitation of the families and provide adequate education, employment and livelihood opportunities.

Most of the fisherfolk who have been affected due to damage to boats and other fishing equipment in this cyclone are under debts. (***Annexure 39- Statement of Ms. Vijirani w/o Resolin, Thoothur village***) All of them who were at sea during the cyclone, have lost their fishing catch, especially the ones who had gone for deep-sea fishing for up to 60 days. They have also lost their investment made on their fishing expedition, which involves the cost of diesel, ice, food and other costs. Apart from this they will also have to pay their loan amount back with interest, often to private money lenders. Hence, there needs to be a micro-assessment of the damages made, so that adequate compensation is given to all the affected fisher folks.

The people's inquest team was also informed about the high rates of interest for loans from the usurers got by the fishermen for purchase of boats, nets, engines and other fishing equipment. The fishermen are arbitrarily charged with a high rate for which they had to pay an interest ranging between Rs. 4,000 to Rs. 10,000 for every Rs. 1,00,000 they have borrowed per month. Charging of high rates of interest is illegal under the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003.

As a result of non-registration of boats, the fishermen are not eligible to buy subsidised diesel and are forced to buy diesel at market price.

Prof. Vareethiah told the inquest team that "*I have come across a list of five widows who lost their husbands 30 years back from Chinnathurai, till date no death certificate has been issued and also no relief. Now this is the time to enlist all these damages, all these problems and make a report on the issue*" He further added that "*Ockhi made a selected onslaught on the breadwinners of the family*", hence this aspect needs to be emphasised while assessing the livelihood damages.

### ***Expression of Dissent among the Fishing Community***

Protest is a form of expressing and ventilating tension, angst and sorrow that the members of the fishing communities are facing now due to the cyclone and its aftermath. As a reaction to the inaction by the government, on December 7, thousands of fisher folk, from more than eight coastal villages of Kanyakumari district, walked in protest for nearly 23 kilometres. The coastal people were forced to engage in road block, rail block, sit-ins, village vigils and many other forms of protest just to get the attention of the district collector and the Chief Minister. They felt they were counted as equal citizens and not taken seriously as the powers-that-be considered them second-class citizens.

As the fisherfolk and their families felt that the search and rescue operations were not intensified, a 'rail roko' was organised in Kulithurai railway station in Kanyakumari which witnessed the participation of thousands of people on December 7, 2017. Days later, the Kanyakumari police have registered complaints against nearly 10,000 persons for participating in the rail roko. According to the FIR's accessed by the people's inquest team (***Annexure 40*** - Copy of FIR in Cr. No 548 of 2017 of Marthandam PS in KK District dt 08.12.2017. Copy of FIR in Cr. No 275 of 2017 of Manavalakurichi PS in KK District dt 08.12.2017 .Copy of FIR in Cr. No 413 of 2017 of Kaliyakkavilai PS in KK District dt 08.12.2017. Copy of FIR in Cr. No 451 of 2017 of Colachel PS in KK District dt 08.12.2017), 4685 persons have been booked under sections 341 (wrongfully restraining), 143 (unlawful assembly), 188 (disobedience to order promulgated by public servant) of the Indian Penal Code. The cases have been filed in different police station including – Colachel (Cr. No 451/2017), Manavalakurichi (Cr. No 275/2017, Marthandam (Cr. No 548/2017) and Kaliakaavilai (Cr. No 413/2017) in Kanyakumari district. Those who have been booked include prominent human rights activists, parish priests, etc. The inquest team while visiting the villages were told that the private car and van operators who had taken part in the protesters to the railway station were also fined heavily. The inquest team emphasises that the survivors, along with other citizens, have the right to dissent and protest and approaching this as a law and order problem negates the principle of natural justice. It is important that our law enforcing agencies abides by the international standards and procedures, which are also explained by the UN Special Rapporteur on Freedom of Assembly and Association. A spontaneous peaceful protest is permissible in a democracy and in no way was the peaceful protestors in Kanyakumari a law and order issue. It would have been better if the state agencies reached out to them to understand their plight and sorrows.

The police by registering criminal cases against the peaceful protesters has criminalised the people who were gathered to place on record, in public, their dissent against the government and its inaction during a time of crisis. The inquest team observes that the already existing mistrust with the government has increased with the filing criminal charges against the peaceful protesters. The visit of the Chief Minister of Tamil Nadu and the Prime Minister took place only after the protests and hence the community views the protests as an effective way to garner attention of the government and their representatives and officials as they were feeling neglected.

### ***Communal Angle to the Issue***

The inquest team was informed that there are efforts being made to communalise the situation by dividing the victims in terms of religion and caste. The government should be firm on any such attempts to create a divide among the people. It is shocking that the state government has announced a meagre amount of Rs. 5000 as relief to the families of the affected fishermen, this is being seen as an insensitive act by the government. The inquest team also caught a drift of a few, in some coastal villages, who said that the central government, the ruling party and its leaders and cadres here at Kanyakumari were indifferent about the plight of the coastal people because they had opposed the Enayam International Container Transshipment Terminal (EICTT) project so vehemently. ***(Annexure 41- Media Report – Business Line dt 11<sup>th</sup> July 2016, titled, “Fishermen, locals worried over Enayam port project impact.”)***

Since thousands of human lives were involved in the coastal impact of the cyclone, their plight naturally got a lot of media coverage and public attention. Though the farmers' and Kaanis lost property, their family members were safe. This high attention, by the media and officials, on the coastal population was manipulated by some communal elements to sow the seeds of hatred and jealousy.

When the relief package was announced, these elements spread a canard that the coastal people were paid a lot more than the interior people. Several posters appeared on the Kanyakumari walls that compared the compensation amounts for the coastal people and the interior people. Some sections of media projected the image that the whole struggle and consequential protests was instigated by the Church.

Electoral calculations have also seeped into the Cyclone Ockhi's aftermath. Few of the dominant political parties, fearing poor results in the upcoming elections due to the sloppy relief and rescue operations have turned to communal politics leading to polarisation of people, along caste and religious lines, to ensure their victory.

The International Container Transshipment Terminal that was supposed to come up at Inayam has been shifted to the coastal area between Keezha Manakudi and Kovalam villages near Kanyakumari. These coastal villages are interspersed with several villages of a particular interior community. Deliberate attempts are being made by some communal forces, with a lot of money and muscle power, to project the image that some "patriotic" sections of the local population support India's development whereas the other communities are hindering national development. This kind of caste and religion-oriented polarisation is readily accepted by the people who have been victims of divisive politics for generations.

Unfortunately, such situations of socioeconomic-political turmoil and human suffering in India continue to be used to gain political mileage by the communal forces to future marginalise the minority communities and gain approval from the the majority community.

The inquest team also recognises the submission made by the organising committee for the various reasons to have not organised a people's tribunal instead of a people's inquest. The organising committee felt that people's tribunal, a public gathering, shouldn't be used as such occasions be religious and caste extremist groups to propagate their agenda. It is also to recognise the Kanyakumari is an extremely fragile district and the deep wounds of the 1982 Mandaikadu communal riots. Six fishermen were killed due to police firing consequent to religious clashes between the Christians and Hindus at the time of Mandaikadu temple festival.

### **Cyclone Ockhi's Devastation to the Farming Community in Kanyakumari**

Kanyakumari district is known for its banana plantations. Most of the farmers here do not own lands by themselves and they lease land from other persons and cultivate it. The farmers of Kanyakumari practise inter-crop cultivation along with coconut trees.

According to a memorandum submitted to the Prime Minister by the Social Action Movement Tamil Nadu & Pondicherry, which was also shared with the inquest team, thousands of rubber, coconut, banana, nut and other crops such as paddy, tapioca have been severely damaged. The inquest team visited the affected farmers and the



areas where severe damage and agricultural loss had been recorded. (**Annexure 42 - Memorandum from the District Chief Convenor of Social Action Movement Tamilnadu & Pondicherry, KK District to the Hon'ble Prime Minister dt 19<sup>th</sup> Dec 2017.**)

*“In one area in our village, we had cultivated banana on 120 acres of land, which has been completely damaged. Initially, the government officials said they will provide a compensation of only Rs. 5000 per acre of banana plantation, but this is very meagre as we plant around nearly 1200 trees per acre. Hence, we need Rs. 2,00,000/- for an acre of banana plantation”* said Mr. Thangappan, a farmer who had testified to the Inquest Team. (**Annexure 43 - Statement of Mr. Thangappan s/o Kutti Nadar, VArukkai Thattu, Kalpadi village**)

Mr. Visagakumar, a farmer from Pambanvilai village said,

*“When we told the damage to the crops to the Village Administrative Officer and the Director of Horticulture Department, they told us that they will recommend to the government regarding compensation only to banana and coconut trees and not to other trees”* (**Annexure 44 - Statement of Mr. Visagakumar s/o Narayan Perumal, Pamban villai,**)

The inquest team observes that most of the farmers in this region have other plantations such as mango, jack-fruit, papaya, orange, cashew and teak. If these damages are not taken into account by the government while providing relief and compensation to the farmers, who are already suffering due to loans, they will be pushed to a state of distress. The farmers also complained that there has been no adequate damage assessment done by the government officials so far.

As per the preliminary assessment of the crops shared with the inquest team by the farmers' association of Kanyakumari District, the damages amount to 80 lakh banana plants, 25 lakh coconut trees, 20 lakh rubber trees, 1200 hectares of paddy cultivation, 1000 acres of tapioca cultivation, 20,000 arecanut trees, 2000 hectares of mango and jackfruit trees, 1000 hectares of vegetable plantations, 1000 hectares of pepper, clove and other spices and more than a thousand livestock.

The removal of broken trees is cost-intensive and cannot be afforded by the farmers and needs adequate compensation from the government. The government should conduct a complete assessment of the damages to crops, plantations, trees, livestock, belonging to the farming community and needs to adequately compensate the farmers as per their demands.

## **Cyclone Ockhi's Devastation to the Kaani Tribal Community in Kanyakumari**

The *Kaanis*, an ancient tribal group, whose members reside in 58 hamlets in the Western Ghats region along Kanyakumari and Tirunelveli districts, have been left vulnerable by Cyclone Ockhi. The group, whose members were originally hunters and gathers have taken to semi-organised agriculture over the last two decades. Although, the government has given them land for agricultural use, it is without legal title. As a result, the Kaanis lack even the ability to clear the trees that have fallen around their houses due to the cyclone and are required, by law, to seek government permission to do the same. The inquest team observes that among the Kaanis there is a very high level of illiteracy, poverty, and under nutrition. Cyclone Ockhi has caused a devastating compounded impact on the tribal group making them further vulnerable and marginalised.

As per the data compiled by the preliminary fact-finding team in Kanyakumari, the Kaani tribals reside, mostly, in the villages of Kayalkarai, Amubudinjan, Puravilai, Villuchari, Vekkalimoodu, Koovakadu, Tchachamalai, Killikonam, Valiyamalai, Aandipothai, Thonikuli, Valayanthukki, Ettamkundru, Meengilamadaku, Paaduparai, Korvaikuli, Maaramalai, Thottamalai, Mudavanpoitarai and Vellambi. There are a total of 243 houses which are sustained damage and 49 houses which have been fully destroyed.

During the visit to Puravillai village, which houses nearly 106 Kaani families, the inquest team assessed damages to houses and farms caused by Cyclone Ockhi. Representatives of the Kaani tribals shared with the team their concerns, which included incidences of harassment by forest officials to evict the tribal group from the land; non- implementation of welfare schemes and irregular provision of rations; and lack of basic amenities particularly toilets and drinking water. The inquest team is struck by the pitiable living conditions of the Kaani tribals.

It comes as no surprise to the inquest team that the Kaanis have not received any compensation so far by the government. Another major concern expressed by the Kaani was with regard to the constant threat of eviction faced by them. The team was also told that forest officials routinely foist false cases against members of the tribal community in an attempt to intimidate the group. The team believes that the Kaani tribals do not have any voice or recognition by the state. Cyclone Ockhi has further exacerbated their situation. Their survival as a group will be threatened if timely relief and rehabilitation measures are not undertaken to help them cope with the effects of Cyclone Ockhi.

### **Role of the Member of Parliament**

The Member of Parliament of Kanyakumari constituency and the Union Minister of State, Ministry of Road Transport and Highways and Ministry of Shipping, Mr. Pon Radhakrishnan, till date, has not visited all the affected coastal villages in Kanyakumari, despite huge protests and by the community. On December 8, 2017, a day after the protest against the government, news reports stated that Mr. Pon Radhakrishnan had visited his constituency to attend the inauguration of a store but failed to visit any of the affected coastal villages. On December 2, 2017, the Member of Parliament, left for Iran to attend the opening ceremony of a port right after the cyclone hit the district. All this has led to much resentment and frustration among the people in the coastal as well as the interior villages.

### **Impact on Society**

Several families remain completely devastated as they have lost their sole breadwinners to Cyclone Ockhi. There are incidents of two or more persons from the same family who have lost their lives.

In the Vallavilai fishing village, five children below the age of 5, seven children between the age of 6 to 10, six children between the age of 11 to 14, seven children between the age of 15 to 18 have lost their fathers to Cyclone Ockhi. The same village has also lost twelve young men between the age group of 18 to 25.

***(Annexure 45 - Analysis of status of women and children from Chinnathurai village whose husbands and fathers are missing)***

A few women from the Vallavillai fishing village even complained that their children, who are receiving their higher education are being discriminated based on their background.

Cyclone Ockhi has left several women widowed. In Vallavillai fishing village alone, 21 women have lost their husbands and out of them 11 women are below the age of thirty.

“As the aspect of remarriage is not prevalent among the fishing community, the future of these women is worrying” said Fr. Darwin, the parish priest of the village.

The sloppy and misguided search and rescue operations has created a deep distrust towards the government. The psychological trauma is evident and it is apparent that the community is in serious need of professional help, care and counselling.

## 5. A CRITIQUE OF DISASTER MANAGEMENT STRUCTURE IN INDIA

### International Disaster Risk Reduction Frameworks

In the late 1980s, the nations realized that the world is increasingly becoming vulnerable to natural disasters and that it impacts the society and economy and also hampers its growth. In order to reduce the risk of the disasters, the nation's felt the need to act proactively to prevent the impact of the same.

The decade from 1990-2000 was declared by United Nations as the International Decade for Natural Disaster Reduction (IDNDR), subsequently, in the year 1994, First World Conference on Natural Disaster Reduction was held and Yokohama Strategy and Plan of Action for a Safer World was formulated. Globally, this framework created a paradigm shift from a reactive approach to pro-active approach to deal with natural disasters. The increasing concern of disasters made the United Nations to launch a separate institutional structure named as an International strategy for Disaster Reduction (ISDR) which is called as UNISDR to deal on disasters related issues within the United Nations system.

After reviewing the Yokohama Strategy, the global community evolved a new framework to address disasters called as the Hyogo Framework for Action (HFA) during the period 2005-2015. Its priority actions insisted on an integrated, multi-hazard approach to disaster risk reduction upon all policies, planning and programming related to sustainable development in disaster-prone countries. The importance of HFA was the inclusion of gender perspective, cultural diversity, age, and vulnerable groups taken into account while designing or framing disaster risk management policies, patterns and all decision-making processes for Disaster Risk Reduction (DRR). Third World Conference on Natural Disaster Reduction was held on March 2015 and adopted a Post 2015 Disaster Risk Reduction Framework as "Sendai Framework for Disaster Risk Reduction for the period 2015-2030". Sendai Framework states that making out the risk of disasters should aim at protecting the persons and livelihoods, cultural, environmental and material assets while managing this all human rights should be ensured including the right to development.

From the Human Rights viewpoint, HFA insisted on the inclusion and participation of vulnerable communities in all levels of decisions making in a disaster context, but it lacks the promotion and protection of human rights of the vulnerable communities. Sendai Framework addressed these gaps stating that "Protection of persons and their livelihood assets, as well as cultural and environmental assets, while promoting

and protecting all human rights including the right to development as one of their guiding principle”. Eventually, these disaster risk reduction frameworks which have been passed over and revised every decade conveys that the nations should formulate disaster management programmes with their own people’s participation and ensuring their rights and then admit disaster management programs into the development policies which pave way for a sustainable development policy for the sustainable growth of the nation.

However, the irony of the international disaster reduction framework is that it is “voluntary, non-binding agreement which recognizes that the State has the primary role to reduce disaster risk, but that responsibility should be shared with other stakeholders including local government, the private sector and other stakeholders”. Therefore, any nation state cannot be made accountable for not protecting their own citizens during the time of disasters because it is voluntary and non-binding arrangement in nature.

### **India – Voluntary Commitment on Sendai Framework**

Even though, SFDRR is voluntary Framework, India actively took initiatives to reduce the disaster risk. India Commitment on HFA made to the inclusion of HFA priorities of action into the National Disaster Policy on 2009. India’s Disaster Management Mechanisms boosted during HFA year 2005-2015 and implementation of Disaster Risk Reduction programmes with relation to HFA made disaster vulnerable regional states like Odisha, Gujarat to build resilience among communities. As a consequence, India took proactive disaster management measures during Phailin Cyclone 2013 which minimised the loss of lives and property in the state of Odisha. This was well appreciated in the Post HFA 2015 Sendai World Conference on Disaster Risk Reduction. Subsequently, the India developed the National Disaster Management Plan 2016 with relation to the Sendai Disaster Risk Reduction Framework and insisted the regional states to prepare their State Disaster Management Plan with regard to NDMP 2016.

### **National Disaster Management Structure**

India is one of the most disaster affected countries in the world. According to the National Policy on Disaster Management (NPDM) 2009 revealed that Indian geographical landscape is predominantly vulnerable to disasters with a long coastline of 7517 km that stretches from West Bengal to Gujarat (covering 9 states and 4 Union Territories). Out of which, 5,700 km coastline is prone to cyclones,

storm surges, coastal erosion, coastal flooding and tsunamis. Apart from this, the existing complex ethnic, cultural, religious practices, societal, political patterns and practices expose the marginalized and weaker communities to fall under the prey for the disasters.

In the colonial period, the British faced series of disasters such as earthquake, cyclones, famines and storms. The British administration adopted the hazard centric approach; the hazard centric research centres such as Storm Warning System, Meteorological Department were evidences for the same. Later, the post-independence Indian administrators followed the same approach. However, our Indian administrators envisioned many disaster mitigation development projects like Drought Prone Area Development Programmes, Construction of Embankments to overcome impacts of disasters.

The declaration of IDNDR and the Yokohama Strategy and Plan of Action for a Safer World sensitised the nation's perception on Disasters Management. In August 1999, Government of India (GoI) constituted a **High-Powered Committee**<sup>2</sup> (HPC on Disaster Management under the Chairmanship of Shri J. C. Pant to suggest steps to bring about institutional reforms and planning of disaster management. It was the first attempt in India towards evolving a systematic, comprehensive and holistic approach towards all disasters. The devastation and suffering of the Supper Cyclone of Orissa (1999) and Bhuj Earthquake (2001) fastened the HPC which came up with report on October 2001. The report insisted and recommended a Comprehensive Multi-Hazard Holistic Approach towards disasters. The commission also highlighted a separate institutional structure and to enact a suitable law to address disasters. In 2002, as suggested by HPC report, except Famine all other entire disaster related work shifted from Agriculture to Ministry of Home Affairs.

The Indian Ocean Tsunami 2004 further catalysed the process of the recommendations of the HPC report. In 2005, the Government of India (GoI) enacted the **Disaster Management Act**<sup>3</sup> (DMA). The salient features of the DMA mandate the Government to establish a separate body National Disaster Management Authority (NDMA) which will involve in the preparation, implementation and monitoring of the Disaster Management Plans from National to State level, District to

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<sup>2</sup> [http://nidm.gov.in/PDF/pubs/HPC\\_Report.pdf](http://nidm.gov.in/PDF/pubs/HPC_Report.pdf)

<sup>3</sup> Disaster Management Act, 2005 enacted by the Ministry of Law and Justice, Government of India

Village level and also the act mandates the role to various institutions' structures to coordinate and implement national disaster policy and plans. The Act also paved way to set up support institutes such as National Institute for Disaster Management (NIDM) - to promote research and training in the area of Disaster Management and National Disaster Response Force (NDRF) a specialist force to respond to disasters situations. Consequently, DM Act 2005 was passed, which only explains the mandates for the members of NDMA, SDMA<sup>4</sup> and DDMA<sup>5</sup>, it reveals that no space for the members of Civil Society Organisations (CSOs) who really work the grass root people. The Act does not explain about monitoring mechanisms of the NDMA and its affiliated members. The act also failed to address issues of the affected communities; it sues the affected communities if they their claims are exacerbated. Therefore, the DMA provide an overall institutional and instructional framework to setup DM structures in India but without the existing ground of disaster situations i.e. Top to Bottom approach or bureaucratic centric approach was adopted. Finally, disaster emergency situations grow into a situation command and control system.

Later, in the year 2009, Gol issued **National Disaster Management Policy (NPDM)**<sup>6</sup> 2009 with the vision statement stating that to construct safe and disaster resilient India is through proactive development in disaster management strategies. The policy statement was in line with to DMA, therefore it reveals us only the scientific data about Hazard Centric Vulnerability of India, the Institutional mechanisms of DMA, and also describes the disaster management cycle such as Response, Relief and Rehabilitation, Reconstruction and Recovery and Preparedness and Mitigation in detail with support institutional mechanisms provided by Gol.

Recently, NDMA released the **National Disaster Management Plan (NDMP)**<sup>7</sup>2016 as mandated by DM Act 2005 which is one of the prime suggestions of the HPC in the year 2001. The NDMP broadly aligns with the global Sendai Framework for Disaster Risk Reduction. It directs all levels Ministries and Departments with regard to the implementation of disaster management. NDMP is also seen as a dynamic

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<sup>4</sup> State Disaster Management Authority

<sup>5</sup> National Disaster Management Authority

<sup>6</sup> National Policy on Disaster Management 2009 approved by the Union Cabinet on 22<sup>nd</sup> October, 2009, National Disaster Management Authority, Ministry of Human Affairs, New Delhi

<sup>7</sup>National Disaster Management Plan, 2016 published by National Disaster Management Authority, Government of India. May 2016, New Delhi

document which will periodically review the emerging global best practices on disaster risk reduction. However, NDMP looks like a larger compilation of all the existing Guidelines, Act and Policy with relation to disaster management in India.

Though, India has established a well-structured Disaster Management Institution, Act, Policy, Guidelines and Plan, still disaster management is not effectively implemented on the ground. The time line adoption of DM Act 2005, NPDM 2009 and NDM Plan 2016 has huge difference which cannot synchronize with one another i.e. Policy is updated than Act and the Plan is a more updated version of the Policy. However, the Act remains old which can not address the both. In addition DM Act 2005, NPDM 2009 and NDM Plan 2016 evidences that they lack in exploring the social protection perspectives of the vulnerable communities in the context of natural disasters. Hence, DM Act 2005 should be reviewed in the lines of “Article 21 of the Constitution of India”.

### **Tamil Nadu Disaster Management Structure**

Tamil Nadu is Multi- Hazard Prone State which is subjected to all kind of disasters. The Indian Ocean tsunami 2004 wake up for Tamil Nadu to setup a State Disaster Management Structures which has be mandated in the DM act 2005.

According to recent G.O.(Ms.) No.181 dated on 19-05-2017 states that Change of name of Revenue Department to Revenue and Disaster Management Department. Further, it tells us that aftermath of Tsunami, the Governemnt of Tamil Nadu (GoTN) has setup a **Tsunami Programme Unit** [G.O.(Ms.) No.418<sup>8</sup> dated on 20-07-2005] headed by Project Director viz. Officer on Special Duty (Relief and Rehabilitation) who will function as Project Director of the office of Revenue Administration, Disaster Management and Mitigation Department, Ezilagam, Chepauk, Chennai. This will coordinate and monitor the disaster related works. Later, **Tamil Nadu State Disaster Management Agency (TNSDMA)** was constituted to act as the executive agency for coordinating various disaster related activities in the state with CM as Chairperson, , Preparation of State and District management plans, to operationalise **State Emergency Operation Centre (SEOC) and District Emergency Operation Centre (SEOC)**. In order to reduce the vulnerability of coastal districts, **Coastal Disaster Risk Reduction Project (CDRRP)** was launched. Consequently, **Tamil Nadu State Disaster Management Plan (TNSDMP) 2016** was prepared with relation to NDMP2016. TNSDMP 2016 reveals us that Tamil Nadu as published a

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<sup>8</sup> [http://cms.tn.gov.in/sites/default/files/go/revenue\\_e\\_181\\_2017.pdf](http://cms.tn.gov.in/sites/default/files/go/revenue_e_181_2017.pdf)



**State Disaster Management Policy** in the year 2004, updated in the year 2013, which gives overall picture of disaster management of the state. However, both are not in the public domain till date.

In the context of Cyclone Ockhi, members of People's Inquest field observations evidences that

➤ ***Failure of Early Warning Dissemination from SEOC to DEOC***

Coastal Disaster Risk Reduction Project (CDRRP)<sup>9</sup> was not properly implemented. The total cost of the project was Rs. 1,481.80 crores. Who monitored? and who is accountable? is not clear. This project is being implemented by the Project Management Unit at a cost of Rs. 50 crores supported by World Bank. We need to inquire in to the World Bank assisted Community Based Disaster Risk Management (CBDRM), whether installation of Early Warning Systems are done in Kanyakumari, if so what is its status, where all it has been installed? Whether it is truly done with community participation.

- Providing Wireless communication facilities to ensure safety of Tamil Nadu Marine Fisheries (New Works)- Rs.92.30 crores allocated. The implementation status of the same is not clear.
- Under the Early Warning System work it is proposed to provide 439 Disaster Warning Announcement System remote location (DWAS) for all the habitations in the 13 coastal districts of Tamil Nadu. One Disaster Warning Announcement System – District Unit is proposed in each of the 13 Coastal District Headquarters. The Tamil Nadu State Wide Area Network (TNSWAN) with Very High Frequency (VHF) radio last mile connectivity and GSM/ GPRS mobile network are the two redundant communication networks. The project shall be implemented at three levels, which are the State level with the overall controlling Central Unit at the State Emergency Operation Center (DWAS-C), district level with the control and monitoring for the district at the Collectorate unit (DWAS-D), and from there to the vulnerable habitations through the Taluk/block headquarters at the remote habitation level.
- According to CDRRP policy note no.2.8.4.3, it is stated that it has been proposed to provide wireless communication to the fishermen, so that they

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<sup>9</sup> The administrative sanction was accorded by the Government vide G.O.(Ms)No.23, Revenue [DM IV-(I)] Department, dated 21.01.2014 for Rs.1,481.80 crore.

can be contacted at all times, especially during disasters and warning issued to them to be able to take preventive steps to save themselves. An action plan has been proposed by the Fisheries Department, which includes providing cellular phones, VHF sets, HF sets and satellite phones depending upon the distance to which the fishing crafts venture into the sea. If this proposal had been put in action, many of the fisher folks would have received information at least at the last hour and many lives would have been saved.

➤ ***Absence of District Disaster Management Plan***

Though Kanyakumari is prone to coastal disasters and has already faced a huge devastation by Tsunami 2004. there is no District Disaster Management Plan in place.

➤ ***Non-Functioning of TNSDM Authority and TNSDM Agency***

Impacts of Cyclone Ockhi proves that Tamil Nadu Disaster Management Authority is not functioning and no periodical review meeting of preparedness is taking place. This negligence on disaster management by the state government has made the marginalised communities as the victims of disasters.

The State Disaster Management Plan has to take in to cognizance of the risks in deep sea fishing and the last mile connectivity aspects of early warning system. Though the proposed date of completion of the World Bank sponsored Coastal Disaster Risk Reduction Project (CDRRP) was due on May 2018, it has been abruptly closed with effect from October 31, 2017. This raises serious doubts and questions regarding the implementation of the project. It has been informed to the inquest team that the audit of the Auditor General of this project revealed some discrepancies on the financial aspects. The inquest team hence strongly recommends and calls for a white paper on this project to be submitted in the floor of the Tamil Nadu legislative assembly. **(Annexure 46 - Samples of a series of documents referring to the World Bank supported Community Based Disaster Risk Management Project closed now on 31<sup>st</sup> Oct 2017 without any prior warning to the people for whom it was meant to serve at times of disaster)**

## 6. OBSERVATIONS

Based on the extensive field visits conducted, which included meeting with the family members of victims, meeting with survivors in the villages and those with representatives of district and state administrations and the review of existing government documents, civil society reports and media reports, the inquest team makes the following observations –

1. Very little or no lessons seem to have been learnt from post-Tsunami disaster response, which is almost 13 years now. Cyclone Ockhi has again shown a clear state of apathy where the citizens have been literally left in the lurch. They were considered as outside of some bureaucratic/governance map, for example the deep-sea fishing community who left before November 29, 2017, were completely abandoned. The invisibility of this group, supposed to be equal citizens, is extremely distressing. Citizenship does not cease in a disaster situation because it mainly affects their entitlements. It took several protests to attract the attention of the government, for example the Tamil Nadu Chief Minister visited only after 13 days of the Ockhi cyclone disaster.
2. There has been no attempt to establish a framework of accountability post Ockhi cyclone at all levels, even as it remains completely evident that there has been gross negligence and failures at multiple levels and a case of complete mismanagement of emergency response system. The government has taken no action to hold the concerned ministries, institutions, departments and individuals.
3. The World Bank commissioned 'Tamil Nadu and Puducherry Coastal Disaster Risk Reduction Project' in the aftermath of 2004 Tsunami disaster with an aim to increase the resilience of coastal communities in Tamil Nadu and Puducherry has completely failed. The quantum of progress made in this project as on December 31, 2017, supposed to be completed by July 31, 2018, is extremely worrying and portrays grave lapses. This is also a reflection of the lack of priority and seriousness of the Tamil Nadu government towards the fisherfolk and those residing in coastal villages and settlements in the state. There is an urgent need to ensure accountability given that people's lives and money, to the quantum of US\$ 337.20 millions, has been spent.

4. It is shocking to see the lack of robust responses by the elected - representatives, particularly with regard to the indifference shown by the local Member of Parliament, who has not even bothered to visit all the affected fishing community.
5. Since 1990s, the policies of the Indian government, which permitted trawlers and foreign vessels to fish in areas where traditional fishing was being carried out, has forced the Indian fisherman to venture further into the sea in search of fish, often sending them more than 300 plus NM. The Tamil Nadu Marine Regulation Act, 1983, allows registration for boats with length up to 15 metres only, these boats are not suitable for deep-sea fishing and as a result many of the boats are not registered and hence have no access to insurance or any benefits, such as subsidised diesel and are forced to buy diesel at market price.
6. There is no registry of arrival and departure of boats maintained at the fishing harbours, hence there is no account of the fishermen who were at sea and did not return after the cyclone. Such a registry would have helped in identifying persons who had not returned.
7. The disaster management systems installed post tsunami have evidently failed in Kanyakumari district. While there was no early warning dissemination by the IMD and SDMA, the Kanyakumari administration relied on individual phone communications rather than alerting people as a whole through public communication systems and channels. In the aftermath of the tsunami, large investments have been made in developing and installing public alert systems which are now out of operation.
8. The community, in collaboration with the Church, has played a remarkable role in attending to the physical, emotional and psychological vulnerability of its people. In this context, the state must recognise the local communities whilst responding to disasters. The difference between the language of the government and that of the community was stark and troublesome. Bureaucratic responses tend to emphasise policy details and demographic numbers and more often than not the language of suffering is completely muffled.

9. The survivors were forced to a position where they questioned whether their lives were less valuable when compared to the powerful few. In situations of natural calamities, the differential value of life becomes sadly apparent and has to be consciously resisted.
10. The IMD, MoES, SDMA and NDMA completely faulted in predicting the cyclone and the gravity of the same. They had enough time in hand to observe the movement of the depression, which turned into deep depression and then a cyclone. There were no disaster mitigation efforts in place and absolutely no early warning which would have saved hundreds of lives. Factually incorrect information and a lack of communication in Kanyakumari worsened the situation.
11. A closer look at the search and rescue operations raise several questions regarding the intensity, approach and accurateness of the same. From November 30 to December 2, 2017, the search and rescue operations were limited and were only carried out by a smaller number of ships and helicopters and only along the shore. Fishermen who have returned have testified that most of the rescue efforts were undertaken by the community themselves. There were no or little aid by the marine police, Coast Guard and the Indian Navy. Those fishermen who left before November 29, 2017, i.e. a day before the cyclone were completely deserted and abandoned.
12. DAT, developed by ISRO, was used by the fishermen stranded in the sea, however, the MRCC failed to respond to these distress calls, numbering as many as 90, and when they responded it was only after several days. None of the fishermen who used DAT were rescued by the Coast Guard. It shows lack of coordination between MRCC and Coast Guard and extreme culpability and gross negligence on part of both the MRCC and Coast Guard for not responding immediately to these distress calls. It poses serious questions about the functioning of such systems and given that it was setup as measure for national security, it is doubtful if this is the standard of safety mechanisms, how safe are we, as citizens of this country.
13. The search and rescue operations were limited by the Coast Guard to only 60 NM as confirmed by the local fishermen who had accompanied them. The

Coast Guard personnel had even told the fishermen that they do not have jurisdiction beyond that. During the cyclone, it was possible that boats could have drifted beyond the 60NM and the search and rescue operations upto 60NM would not have helped to find the missing fishermen. It is shocking that the Commissioner of Revenue Administration, Government of Tamil Nadu, Mr. Satyagopal IAS, categorically stated that those who were beyond the legal limit are not of concern.

14. There has been no direct communication between the district administration and the villages about the missing persons and the rescue operations. The information provided by the fishermen, who had returned safely, were not acted upon by the authorities. 31 GPS locations of boats last seen by those who returned was handed over to the Kanyakumari District Administration on December 1, 2017 and also to the Defence Minister on December 3, 2017, but there was no action taken by the administration and the officials based on this information.
15. There exists no clear line of communication and coordination among the various state agencies involved in the search and rescue operations. There has been no regular communication with the affected communities, the response lacked the urgency and was a haphazard and sloppy effort. There was no coordination or information sharing between governments of Tamil Nadu and Kerala. In most cases, it was the families of those missing who visited hospitals in Kerala to check whether their family members have returned as they received no information from the government.
16. Though the district administration claims that there was a 'door-to-door' surgery conducted to determine the total number of missing fishermen in Kanyakumari. The people from the affected coastal villages and the parish priests rebutted this claim and told the team that what is worse is that the government officials have not even visited the families of those who are dead. The already fissured relationship between the state and the community only seems to have deepened in post Cyclone Ockhi Kanyakumari.
17. In the absence of essential communication devices and technological assistance, there are valid demands for modern communication equipment for

at least one-way communication with the shore to get information about real-time weather forecast. There were also demands that the Tamil Nadu Government should request the Government of India to lift the ban on satellite phones and provide licensed phones to fishermen who are involved in deep-sea fishing. There is also a request for provisions of very high frequency (VHF) sets, radio telephone and Automatic Identification System (AIS) to improve drastically much-needed connectivity.

18. The fishing community was well informed and updated about the latest communication systems and other technological aspects of fishing. Many of them even possessed the expertise to advise the government in their relief and rescue measures however, the government has failed to tap into this resource and traditional knowledge.
19. Most of the fishermen, whose boats and other fishing equipments were affected by the cyclone, have procured these on loans. This has caused severe financial distress among the fishermen and their families. All of them who were at sea during the cyclone, have lost their fishing catch. They have also lost their investment made on their fishing expedition, which involves the cost of diesel, ice, food and other costs. Apart from this they will also have to pay their loan amount back with interest, often to private money lenders. Hence, there needs to be a micro-assessment of the damages made, so that adequate compensation is given to all the affected fisher folks. The team was also informed about the high rates of interest for loans from the usurers got by the fishermen for purchase of boats, nets, engines and other fishing equipment. The fishermen are arbitrarily charged with a high rate for which they had to pay an interest ranging between Rs. 4,000 to Rs. 10,000 for every Rs. 1,00,000 they have borrowed per month. Charging of high rates of interest is illegal under the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003.
20. Several citizens have criminal charges against them for holding peaceful protests and calling on the government to take swift action in identifying and rescuing their family members after Cyclone Ockhi. It is fair to say, that it was only in response to these protests, that the Chief Minister and the Prime Minister of the nation visited the affected areas. The act of criminalising

peaceful protests and charging the protesters is completely condemnable. The survivors, along with other socially-concerned citizens, have the right to dissent and perceiving this as a law and order problem negates the principle of natural justice.

21. There have been attempts to communalise the rescue and rehabilitation after Cyclone Ockhi. There are posters in public spaces clearly on communal lines fuelling communal hatred. No action has been initiated against those spreading hate in the district. The state has the responsibility for understanding the unity of citizens and any attempts by political and other groups to communalise / ethnification of the situation should be openly condemned. However, it is interesting to note and acknowledge that the community is emphasising the unity of the society cutting across caste and class while being sensitive to the requirements of marginalised within the community.
22. The Kaani tribes face severe agricultural loss and most of their houses have been either partially damaged or entirely destroyed. It is interesting to note that despite having an Aadhaar, they have no access to any of the welfare schemes, including the food distribution system. The Kaanis have no access to clean drinking water and toilets too. It is observed that the Prime Minister's famed Swachh Bharat Mission has not reached the Kaani settlements. Living in constant fear of criminalisation and harassment by the forest officials has only made the Kaani tribe more vulnerable. They face constant threat of eviction with misuse of FRA Act and Wildlife Acts. The members of the tribe even allege that wild boars and poisonous snakes are unleashed on them as measures to promote eviction. They strongly believe that they belong to this land and they cannot be relocated elsewhere. Their representation in the governance structure is absolutely minimal.
23. The compensation of 5000 rupees to each affected family, which has been announced by the Tamil Nadu government, is insensitive and calls for strong condemnation. Attempt to reduce compensation to mere doles and nominal sums of money should be condemned. For the compensation, the government has not taken into account the extent of damages and loss to lives, livelihoods and property and the debts the affected families are in. The



compensation procedure and packages should also take into account the migrant workers from other districts and states and the farmers and labourers who often worked on leased lands. The fishermen and Kaani tribals are often living on the fringes of the society and have very limited economical means to sustain their lives and often have no insurance for life and property.

24. The inquest team observes that large sections of the farming community are agricultural labourers carrying out farming on orally-leased lands, therefore the debt-burden arising out of cumulative financial stress – lease amount, investment and sale proceedings, etc. is linked to a debt-trap. The level of distress within the farming community requires equal attention.
25. There is an urgent need of professional help and counselling, trauma-care, psychosocial support and emotional recovery in the aftermath of Cyclone Ockhi. Unfortunately, there has been no traces of this in Kanyakumari and the mental health of the families of the victims and survivors continues to remain another aspect that is being completely ignored by the district and state administration.
26. The size and design of the fishing vessels was also one of the causes which lead to capsizing and sinking of boats during Cyclone Ockhi. As per experts, the lesser width of the traditional fishing vessels makes them unstable in rough sea conditions. Fishing vessels with a length of 30 feet ideally should have a breadth of 10 feet but most of the vessels have a width of only 8 feet which increased the damages caused during this cyclone.

## 7. RECOMMENDATIONS

### Introduction

Based on the principle of 'right to life' and the subsequent obligation of the state to protect life, 'All states have positive human rights obligations to protect human rights. Natural hazards are not disasters, in and of themselves. They become disasters depending on the elements of exposure, vulnerability and resilience, all factors that can be addressed by human (including state) action. A failure (by governments and others) to take reasonable preventive action to reduce exposure and vulnerability and to enhance resilience, as well as to provide effective mitigation, is therefore a human rights question'.<sup>10</sup>

The People's Inquest (PI) team taking cognisance of Cyclone Ockhi's impact in Kanyakumari district of Tamil Nadu, broadly express their concerns for dead and missing fisherfolk and farmers, loss of livelihoods and damage to housing, crops, agriculture, horticulture, infrastructure and suggests the following recommendations to the Union Government, the Tamil Nadu state government, I/NGOs, academia, civil society and the community of survivors themselves for transparent, accountable and effective relief, rehabilitation and reconstruction.

What has happened to the people affected by Cyclone Ockhi is a gross 'human rights violation'. Human rights as defined under Sec 2 (d) of the Protection of Human Rights Act 1993 reads, "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India'. In addition, this involves a violation of human rights arising out of negligence in the prevention of such violation, by a public servant.

The right to a remedy for human rights violations has perhaps been best articulated in the UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights and Serious Violations of International Humanitarian Law, based on existing human rights and humanitarian law principles. With respect to restitution these Basic Principles state that "restitution should, whenever possible, restore the victim to the original situation before the gross violations of human rights law. Restitution includes, as appropriate: restoration

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<sup>10</sup> Office of the United Nations High Commissioner for Human Rights (OHCHR) "Organization profile: Policies and Programmes in DRR"

of liberty, enjoyment of human rights, identity, family life and citizenship; return to one's place of residence, restoration of employment and return of property". In our scheme of recommendations our effort is to make sure that we do not make recommendations that are only humanitarian in nature but also those that respect principles of human rights since our findings have proved that this is a case of gross and wilful negligence of the instrumentalities of the state.

1. **Joint combing operation by the marine police, coastal guard and navy along with the fishing communities** : Taking into consideration that every private rescue efforts of the fishing community undertaken at their own costs has lead to the rescue of several fishermen, the fact that even as late on 29<sup>th</sup> December there have been six boats that have set out in a rescue mission, that the Hon'ble Minister for Defence, Mrs. Nirmala Sitharaman claimed in Parliament that 400 persons are still missing, that the search and rescue operations so far undertaken by the state and its instrumentalities have not proven to be adequate and finally since the state is ultimately responsible to protect the right to life of all persons, we strongly recommend that the

1.1 Combing operation to continue in five specific locations, at the same time, in a coordinated manner so as to not leave any fisherman at sea. These five locations are;

1.1.1 Between the west coast and Lakshadweep islands along the path of the cyclone from a sub-marine using radar to check the submerged parts or boats.

1.1.2. To the west of Lakshadweep islands, between Equator and to the south of Pakistan

1.1.3. South-west of Maldives in the Indian Ocean

1.1.4. Between Maldives and Sri Lanka & Cape Comorin and Equator

1.1.5 In the uninhabited islands in Lakshadweep and Maldives.

1.2.. This joint combing operation has to be state-funded and carried out in collaboration with the fishing community from all the affected fishing villages. The community members must be allowed to accompany the searching teams and Naval ships on their own fishing boats and all costs for the same must be borne by the government. This effort must be carefully planned to ensure that there is no chance of anyone who is not yet detected anywhere at sea or on any of the many islands in the regions specifically identified.

1.3. This has to be carried out as a precursor to the government declaring the missing persons as dead and hence this has to be done with no delay whatsoever.

1.4. Such an exercise carried out with the full participation of the community is bound to contribute to rebuilding the confidence among the fishing community on the authorities responsible for governance at the district, state and central level.

1.5. Search and rescue reimbursements: As reported to the PI, the villagers of Vallavillai went on a rescue mission by spending Rs.14,00,000 and rescued 17 fishermen who were adrift. There was another rescue mission from the same village from December 11 to 23, 2017 and that team was able to rescue 18 persons and spent Rs.18,00,000 to do the same. There is yet another mission undertaken with 6 ships on 29<sup>th</sup> December that is yet to return. The PI team strongly recommends that the government refund the community, the total costs of each of these missions undertaken, urgently.

**2.0. Declaring Missing Fishermen as ‘presumed to be dead’:** Many missing fishermen will have to be declared dead in order for their dependents to have access to their legitimate claims. The law as it stands today is set under Section 108 of the Indian Evidence Act which reads as follows :

**Section 108 in The Indian Evidence Act, 1872**

**108. Burden of proving that person is alive who has not been heard of for seven years.—1[Provided that when] the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is 2[shifted to] the person who affirms it.—1[Provided that when] the question is whether a man is alive or dead, and it is proved that he has not been heard of for seven years by those who would naturally have heard of him if he had been alive, the burden of proving that he is alive is 2[shifted to] the person who affirms it.”**

However, in case of persons who have gone missing as a result of a natural disaster, such as Cyclone Ockhi, we should follow the tsunami experience in Tamil Nadu as a valid precedent and ensure that all fishermen who are found to be missing, even after the joint combing operations for the final search of the missing fishermen is completed, as recommended earlier, in the month of January 2018, the process of presuming the missing fishermen as dead should commence.

2.1. The government may follow the procedure outlined in the G.O.Ms. No 135, dated 25.02.2005, of the Revenue (NC III) Department of the government of Tamil Nadu to pay the ex-gratia amount and relief package by the government and taking into consideration that the missing persons in this case are people who were lost at sea, the process suggested is as follows.

2.1.1. That the families where the person is missing is required to first file a First Information Report (FIR) in the Marine Police station in Kanyakumari district or any other district from where the person missing belongs to, explaining the circumstances leading to the loss of the concerned family member (fishermen/laborer).

2.1.2. As a next step, the family is to then approach a local committee, to be constituted by the Chairperson District Disaster Management Authority, namely the District Collector to be headed by an officer of the rank of a Thasildar or Deputy Thasildar and to comprise a local officer from the Fisheries Department, a local jurisdictional Sub Inspector of Police, the Rural Welfare officer of the village Panchayat, the Headmaster / Teacher of the nearest Government / Aided school local and one of the chief office bearers of the village, and present a complaint along with a copy of the FIR registered.

2.1.3. The said Committee will then undertake necessary enquiries in the native village of the said person and gather information as to whether the person was physically alive up to the date he set out to sea and was found to be missing on and after November 30 2017, and that his body could not be recovered or identified by the villagers or family members due to severe mutilation.

2.1.4. The existence of the missing person may be verified by the said Committee with any two of the following documents:-

The existence of the missing person may be verified for the following documents:-

2.1.4 (a). ration card

2.1.4 (b) electoral rolls

2.1.4 (c) house tax receipt

2.1.4 (d) EB card if he is the head of the family

2.1.4 (e) copy of accounts such as patta chitta

2.1.4 (f) member of any society or trust

2.1.4 (g) school / college certificate

2.1.4 (h) passport / driving license

2.1.4 (i) boat registration certificate with his name

2.1.4 (j) fishing cooperative society id card

2.1.4 (k) Fishermen Identity card issued by Tamil Nadu Fisheries Department

2.1.4 (l) Fishermen Identity card issued by Government of India

2.1.5. After conducting a through enquiry and due verification of documents mentioned above, the Committee has to submit a report affixing the photograph of the missing person, if available, to the concerned Tahsildar as to whether the person is actually found to be missing.

2.1.6. On receipt of the report of the Committee and the Tahsildar concerned has to forward the report to the District Collector, who in turn, will take necessary action to publish about the missing person in the district gazette in both Tamil and English, within 15 days of the complaint being received, mentioning the following details:

2.1.6 (a) Name of the person missing

2.1.6 (b) Names of the parents

2.1.6 (c) His / Her residential address

2.1.6 (d) Age

2.1.6 (e) Approximate Height and Colour

2.1.6 (f) Identification marks as found in the school records or disclosed by the parents.

2.1.7. In addition to the publication in the gazette, the notification of the collector regarding the missing persons must be published in the panchayat offices, ration shops, food distribution centres, the office of the jurisdictional Assistant Director (Fisheries) and the jurisdictional police station. An advertisement in the vernacular language daily may also be given at state cost.

2.1.8. In the district gazette / publication the following may be stated specifically:

2.1.8. (a) The Government has ordered to form a Committee through a G.O to find out whether the person reported to be missing due to Cyclone Ockhi that struck on 30.11.2017 is actually missing due to the said cyclone. The Committee after due enquiry and verification, has reported that the person is actually missing due to

Cyclone Ockhi and the fact of the missing person is published for the information of the public that he is missing and presumed to be not alive. If any member of the public has any knowledge of this missing person being alive, they may intimate or bring to the notice of the Tahsildar / District Collector concerned within 15 days from the date of publication of the gazette notification.

2.1.8. (b) If no information is received by the Tahsildar / District Collector concerned within the stipulated time about the missing person, it will be constructed that the missing person had died due to Cyclone Ockhi and is not traceable.

2.1.8. (c) In the meantime, the collector may obtain a non-traceable certificate from the police. After the expiry of the period specified in the gazette, based on the enquiry report submitted by the Committee, the collector has to sanction the ex-gratia amount to the next of kin of the missing person in three account payee cheques – one to next of kin and the other two deposited in the bank jointly in the name of the Tahsildar and next of kin of the missing person as detailed below:

2.1.8. (c) (i) 25% of the ex-gratia amount may be paid to the next of kin by way of account payee cheque (within 2 months of the receipt of representation / affidavit about the missing person); and

2.1.8. (c) (ii) Another 25% may be deposited in the bank, in a joint account in the name of the next of kin and the Tahsildar concerned (to be paid 6 months after the payment of first installment).

2.1.8. (c) (iii) The balance 50% may be deposited the bank, in a joint account in the name of the next of kin and the Tahsildar concerned (to be paid 9 months after the payment of second installment).

2.1.9. The ex-gratia amount will be released to the next of kin of the missing person, subject to the condition that they would execute an indemnity bond to the value of the total amount ordered I each case. In addition to that, a certificate may be prescribed as follows:-

#### CERTIFICATE

“I,.....S/o.D/o....., the next of kin of ..... agree to repay the amount received as ex-gratia along with another equal amount in the event of finding that I have received the said amount fraudulently. I also agree to the condition that penal action may be taken against me under the relevant provisions of the Indian Penal Code for making fraudulent claim.”

- Signature of the next of kin.

2.1.10. If no further information is received about the missing person, the balance two installments will be released in favour of the next of kin, after the prescribed period of 6 and 9 months.

2.2.1. If a person who was native of the any directly unaffected place / district had gone to Kanyakumari district for eking out his livelihood but reported to be missing due to Cyclone Ockhi after the 30.11.2017 and not reported in the temporary / normal place of living, action may be initiated by either the Tahsildar of the native place or by the Tahsildar of temporary place of living on the representation / affidavit / FIR received from anyone of the persons mentioned.

2.2.2. The Tahsildar of the native place of the reportedly missing person, has to send a requisition to form a Committee by the Tahsildar of the place where the person was temporarily residing at the time of his disappearance.

2.2.3. If a person who was a permanent resident of any other state and had come to Kanyakumari district in Tamil Nadu as a migrant labourer to the Cyclone Ockhi affected areas and was reported to be missing from 30.11.2017, action will be initiated on receipt of a representation from the family of the missing person. Based on the information given about the place of employment in Kanyakumari district in Tamil Nadu, the State Disaster Management Authority, Tamil Nadu, will get a report from the Collector of the district of the other state of which the said missing person belonged to. The Collector will have to send this report to the concerned state government and to the state Disaster Management Authority, Tamil Nadu, confirming that necessary enquiries have been made regarding the disappearance and that the claim is genuine. On receipt of the report and on the basis of the report given by the local Collector, the State Disaster Management Authority, Tamil Nadu, will arrange to send ex-gratia amount to the state government concerned. The state government will then release the amount to the next of kin of the missing persons.

**3.0. Process of assessing loss of fishing boats, nets, wireless sets, engines, damage to houses, as well as loss to farmers, plantations, horticulturists, floriculturists and salt pan owners through a special micro assessment exercise :** In addition to the loss of lives or the phenomenon of the 'missing fishermen' in Cyclone Ockhi affected areas, each of the fishing communities in particular have suffered several financial losses in relation to their assets – boats, fishing nets, wireless sets, engine, cooking vessels, other belongings and



communication equipments. Members of the farming communities – agriculture, floriculture, horticulture, plantations have also suffered either due to complete destructions of their farming activities or part damage of their crops and trees.

3.1. In order that a proper restitution is undertaken by the state it is important that proper assessment of all the losses is carefully, meticulously documented and for this reason it is important that the Chairperson of the DDMA, constitutes a Committee for the said purpose that will be mandated to visit the affected villages after due written notice with sufficient staff to undertake this exercise in one sitting in the village on the appointed day.

3.2. When the said loss assessment committee arrives it shall be accompanied by an officer of the stature of a Tahsildar who will ensure that all claims are recorded meticulously with proper documentation in relation to all the losses suffered by the family including loss of fishing boats, nets, wireless sets, engines, damages to the houses they were living in.

3.3. When the said documentation is undertaken extreme care will be taken to also record the pending private loans from usury and otherwise that each of the families on that date have, (for different purposes such as the building of the boat, the purchase of the engine/ the fishing nets / wireless equipment, the purchase of fuel, ice, labour charges, food for the last mission for fishing during the Cyclone Ockhi, etc. ). The team shall also record the amount of interest payable towards the said sums every month, the interest that has already been paid by them towards those specific loan or loans and if the interest rates are in violation of the Tamil Nadu Prohibition of Charging Exorbitant Interest Act 2004 then special efforts will have to be undertaken to ensure that specific FIRs are registered to this effect in the jurisdictional police stations so that efforts are made to get the loans written off and the families are not bound to further payment of interest on those loans and that the pending loans are written off as per the provisions of the law cited.

3.4. The said documentation Committee shall also take note of the total number of persons in each family who have survived Cyclone Ockhi, their respective ages, gender, educational qualification, the number of fatherless children in the family now, income from any other sources and the availability of any person for a governmental job – if any.

3.5. The government shall then take steps to ensure that the said documentation is transparently made available on the district website for all to see so that the disaster mitigation becomes a participatory and transparent process in the district.

#### **4.0 State's attention to fishermen / farmers who have died**

4.1. The state's figures of people who are expected to have died in the Cyclone Ockhi from Tamil Nadu (including Tuticorin) stands at 10 persons. However, we have been able to demonstrate that we have testimonies of more than 100 people who have died and there is sufficient evidence to substantiate this claim. In many cases there are eye witnesses to the fact that some persons died while attempting to swim back to safety along with others in the same boat.

4.2. In these circumstances, we recommend that the government of Tamil Nadu considers as dead, not only fishermen whose bodies have been recovered, but also takes into consideration cases of others who have died and their deaths were sadly witnessed, at sea, by their own co-boat owners/labourers.

4.3. If there is a need, the government may kindly consider the passing of a government order similar to the case of missing fishermen suggested above, but not involving such a lengthy process but insisting on minimum formalities as follows;

4.3.1. That in each of such cases where there is evidence of someone who has witnessed the death of a co-fishermen at sea, the wife of the deceased or his parents may be required to file an FIR to the local jurisdictional police station (not the marine police station only) stating clearly the basis on which he/she has proof of the death of their family member. The complaint on the basis of which the FIR is being registered should also be accompanied with a copy of a detailed statement from the eye witness and filed at the time of filing the complaint.

4.3.2. The local police station should formally start investigating into the cases immediately and on the basis of the same and conclude that the fishermen are presumed to have died on the basis of their investigation and issue a certificate from the police stating that he is presumed to be dead. The said process of investigation has also to be time-bound and completed within 10 days of the complaint being filed and FIR being registered so that the trauma does not continue for the members of these families.

4.3.3. With the certificate from the police, the Collector has to sanction the ex-gratia amount to the next of kin of the missing person in three account payee cheques – one to next of kin and the other two deposited in the bank jointly in the name of the Tahsildar and next of kin of the person declared dead as detailed earlier in these recommendations.

4.4. Few farmers and farm labourers have also died during the Cyclone Ockhi due to tree fall, destruction of houses and electrical shocks. In all such cases, if FIRs have not yet been filed in this regard the same should be completed without any further delay now and death certificates issued by the competent authorities. On the basis of this death certificate issued, the compensation package of the government should be disbursed to the next of kin in the family.

4.5. In cases where the bodies of the farm labourers who have died have been buried or cremated, the registration FIR should nevertheless be carried out and investigation undertaken by the police to be completed in 10 days to confirm that the body was actually buried or cremated according to witnesses examined by the police during investigation.

**5.0 Role of the District Legal Services Authority in monitoring disaster mitigation efforts on behalf of Cyclone Ockhi survivors: Victims' right to remedies** include the victim's right to the following:

- (a) Equal and effective access to justice;
- (b) Adequate, effective and prompt reparation for harm suffered;
- (c) Access to relevant information concerning violations and reparation mechanisms.

It is with this end in mind that the PI team recommends that the government requests the State Legal Services Authority (SLSA) to intervene and provide access to justice to the survivors of the Cyclone Ockhi.

5.1. The District Legal Services Authority (DLSA) of Kanyakumari district, in collaboration with the Taluk Legal Services Committee, shall use their powers under Section 12 of the National Legal Services Authority Act 1987 to undertake the task of monitoring all efforts in relation to the disaster mitigation efforts. The DLSA shall be properly notified by the Chairman of the Kanyakumari DDMA about the efforts being undertaken to enumerate the losses in each of the villages.

5.2. The DLSA and TLSC shall then be required to assign sufficiently knowledgeable teams of senior lawyers with juniors to be available in the villages to assist the families of Cyclone Ockhi survivors while the enumeration is going on and take up any complaint that the survivors may have so that they are as far as possible settled then and there with the concerned authorities.

5.3. In case there are complaints that require further careful attention we recommend that the TLSC shall constitute special Taluk-level Lok Adalats to settle the issues then and there within one month of the documentation being undertaken. If, however there are still more complaints that cannot be settled at these Lok Adalats by the TLSC, it shall be the duty of the DLSA to organise separate Lok Adalats at the district level to settle these issues.

## **6.0 Disaster management, early warning systems, search and rescue, information sharing and co-ordination and streamlining Coastal Disaster Risk Reduction Project:**

**6.1. Disaster Management :** At the outset, the People's Inquest (PI) team, strongly recommends the centre and state to revamp and rejuvenate the Tamil Nadu's State Disaster Management Authority (SDMA), District Disaster Management Authority (DDMA) up to town/panchayat level disaster management structures as per the National Disaster Management Act, 2005. A state-level disaster management Institute on the lines of NIDM and State Disaster Response Forces need to be urgently established and streamlined in this regard.

- We call for immediate review of DM Act 2005 with better disaster preparedness and mitigation perspectives and strengthen the SDMA and DDMA's;
- providing an adequate State Disaster Response Fund for tackling such emergencies relief and initial recovery phases effectively;

**6.2. Early warning system (EWS):** PI holds the Indian Meteorological Department, the State machinery and district administration accountable for omissions, failures and delay in cyclone detection and related early warning dissemination vis-à-vis Cyclone Ockhi. Suitable penal action is therefore needed on the line of the European Court of Human Rights (ECHR) judgment on early warning failures.

- The PI was informed that none of the fishermen, who used DAT were rescued by the Coast Guard. It shows lack of coordination between the MRCC and the Coastal Guard and extreme culpability and gross negligence on part of both the MRCC and Coast Guard for not taking immediate response to these distress calls.

**6.3 Search and rescue:** In the context of delay and failures in search and rescue operations the PI team holds the Coast Guard and Indian Navy responsible for the loss of lives of innocent fishermen and agriculturists lives and missing persons.

6.3.1. India has advanced space technology. The PI team recommends that the government uses one satellite exclusively to map fishing vessels on a LIVE basis. The vessels can be provided with a chip and when they leave for sea details of fishermen can be entered in a computer at the harbour. A fisherman's family has a right to be able to communicate with the fishermen and should be able to locate them at any time.

6.3.2. The PI team wishes to strongly echo a recommendation that it heard from almost all the villages it visited, namely, for the urgent setting up of an helipad in Kanyakumari district close to the fishing villages and not at Kanyakumari for VIP visits alone, with an exclusive helicopter and sufficient speed boats in all fishing harbours and a permanent team of fisherman recruited into a rescue team to work with government force. The survivors reported how they were always looking up to the skies for helicopters going in search of their loved ones and all they saw were the three helicopters bringing the Hon'ble Prime Minister, His Excellency the Governor and the Hon'ble Chief Minister to Kanyakumari. In addition, the government may also consider the provision of hovercrafts and sea planes that can assist in the security of the fishing villages and also promote tourism.

**6.4 Information sharing and coordination:** Proper post disaster information sharing and coordination is needed as there were no updates on those rescued or dead. Therefore the PI team recommends that Emergency Operation Centres should be entrusted with information coordination tasks at times of disasters.

**6.5 Streamline the Coastal Disaster Risk Reduction Project (CDRRP):** The CDRRP was not properly implemented. Early warning and community resilience could be improved with this which includes Wireless communication facilities, Disaster Warning Announcement System (DWAS) the Tamil Nadu State Wide Area Network (TNSWAN) with Very High Frequency (VHF) radio, to ensure 'last

mile connectivity' and GSM/GPRS mobile network, revamping State Emergency Operation Center(DWAS-C), district-level with the control and monitoring for the district at the Collectorate unit (DWAS-D), and from there to the vulnerable habitations through the Taluk/block headquarters at the remote habitation level.

**6.5.1** The early warning and search & rescue coordination failures during Cyclone Ockhi proves that the Tamil Nadu Disaster Management Authority (TNSDMA) and its agency are not fully operational and functional. The PI team calls for the urgent drafting of the DM rules framed as per the DM Act 2005 and ensuring civil society and/or community representation in the state or district DM structures. We also call for a periodical review meeting of preparedness, along with rescue drills to check the various systems in case of a natural disaster. The state DM plan has to take into cognisance deep-sea fishing related risk and 'last mile connectivity' aspects.

**6.6 Communication equipment:** The PI team also demands that the Tamil Nadu government should request the Government of India to lift the ban on satellite phones and provide, mandatorily, licensed phones to fishermen who go for deep-sea fishing and also for provision of very high frequency (VHF) sets, radio telephone and Automatic Identification System (AIS).

**6.6.1** The PI Team strongly wishes to echo the demands from survivors regarding provision for modern communication equipment for at least one-way communication from the shore to the sea, to provide information about real-time weather forecast to the fishermen at sea. The team recommends that the fishermen be provided wireless communication so that they can be contacted at all times, especially during disasters to ensure ample time is given in order to take preventive steps to save themselves. An action plan has been proposed by the Fisheries Department, which includes providing cellular phones, VHF sets, HF sets and satellite phones depending upon the distance to which the fishing crafts venture into the sea. The PI team would like to endorse this plan and urges swift implementation of the same.

Disasters, especially natural disasters, permeate every aspect of our lives. Building community leadership and a chain of trained community cadres through participatory approaches can only help harness the resilience and resourcefulness of the community. Human resource development in this context assumes national importance. The PI team recommends that a network of training institutions led by a national-level disaster management institute with symbiotic linkages with other

national and state-level institutions like National Civil Defence College, National Fire Service College, ATIs, Disaster Management Institutes, National Institute of Rural development, State Institutes of Rural Development, Indian Institute of Technology, Indian Institutes of Management, etc., be urgently forged and developed. Strengthening of the infrastructure and capacity building of these institutions in the area of disaster mitigation will help synergise national efforts, not only in the state of Tamil Nadu or across the country but also in the international context.

**6.7 Safety of boats:** There should be standardisation of boat sizes along with engine specifications and safety regulations. Government should utilize both modern technology and traditional knowledge in the engineering and construction of fishing vessels.

**7.0. Reparation, Restitution, Compensation, Rehabilitation, Satisfaction and Guarantees of non-repetition:** The PI team would like to insist that all its recommendations stem from the following human rights principles.

- Adequate, effective and prompt reparation is intended to promote justice by redressing gross violations of human rights and it needs to be proportional to the gravity of the violations and the harm suffered. In cases where a person, a legal person, or other entity is found liable for reparation to a victim, such party should provide reparation to the victim or compensate the state if the state has already provided reparation to the victim.
- Restitution should, whenever possible, restore the victim to the original situation before the gross violations and includes, as appropriate: restoration of liberty, enjoyment of human rights, identity, family life and citizenship, return to one's place of residence, restoration of employment and return of property.
- Compensation should be provided for any economically assessable damage, as appropriate and proportional to the gravity of the violation and the circumstances of each case, resulting from gross violations human rights law such as: physical or mental harm; lost opportunities, including employment, education and social benefits; material damages and loss of earnings, including loss of earning potential; moral damage; costs required for legal or expert assistance, medicine and medical services, and psychological and social services.

- Rehabilitation should include medical and psychological care as well as legal and social services.
- Satisfaction should include, where applicable, any or all of the following: (a) Effective measures aimed at the cessation of continuing violations; (b) Verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of the victim, the victim's relatives, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations; (c) The search for the whereabouts of the disappeared, for the identities of the children abducted, and for the bodies of those killed, and assistance in the recovery, identification and reburial of the bodies in accordance with the expressed or presumed wish of the victims, or the cultural practices of the families and communities; (d) An official declaration or a judicial decision restoring the dignity, the reputation and the rights of the victim and of persons closely connected with the victim; (e) Public apology, including acknowledgement of the facts and acceptance of responsibility; (f) Judicial and administrative sanctions against persons liable for the violations; (g) Commemorations and tributes to the victims;
- Guarantees of non-repetition.

### **7.1. Compensation to all affected people - fishermen or farmers, for their lives and livelihoods:**

In the case of death of persons due to Cyclone Ockhi , the PI team strongly feels there cannot be any discrimination between agriculturists or fisherfolk. Life is life and hence the compensation paid to the lost lives (dead/missing/presumed dead) has to be a minimum of 25 lakh rupees and ranging higher on the basis of the productive age left for the person being compensated and specifically taking into account the earnings he would have made as calculated by the Insurance Agencies ranging even as high as it requires to be and not forgetting that when an inspector died recently in Tamil Nadu, government announced a compensation of 1 crore rupees.

- a. The PI team observed that most of the fishermen, whose boats and other fishing equipment were affected by the cyclone, have procured these on loans. This has caused severe financial distress among the fishermen and their families. All of them who were at sea during the



cyclone, have also lost their catch. They have also lost their investment made on their fishing expedition, which involves the cost of diesel, ice, food and other costs. Apart from this they will also have to pay their loan amount back with interest, often to private money lenders. Hence, there needs to be a micro-assessment of the damages made, so that adequate compensation is given to all the affected fisher folks.

The PI team was also informed about the high rates of interest for loans from the usurers got by the fishermen for purchase of boats, nets, engines and other fishing equipment. The fishermen are arbitrarily charged with a high rate for which they had to pay an interest ranging between Rs. 4,000 to Rs. 10,000 for every Rs. 1,00,000 they have borrowed per month. Charging of such high rates of interest is illegal under the Tamil Nadu Prohibition of Charging Exorbitant Interest Act, 2003. Hence police authorities need to be approached by the survivors in all such cases and asked to register cases and ensure that the families are not harassed further by the usurers.

- b. The fishermen who are involved in deep-sea fishing are also observed by the PI team to have taken loans to procure boats, fishing vessels, nets, engines and other equipment. They generally do not get loans in banks to buy these essential equipments and do not have insurance for the boats as most of them are not-registered due the restrictions of length as given in the Tamil Nadu Marine Regulation Act, 1983. This Marine Regulation Act needs to be urgently and without any delay whatsoever, be suitably amended with due reform process.

The PI team observes that many of the fishermen have lost their boats. This is a huge cost for an individual or even a group of fishermen. The PI team recommends that the government should provide newly built quality boats, fiber boats (vallam), nets and other gears to those who lost them in the cyclone in order that they are able to start afresh their lives.

- c. The PI team observed by visiting the Muttom fishing harbor that there has been extensive damages to the sea walls. Though this is a fishing harbour built, owned and transferred by a private entity, the fisher folk of the area use it to dock their boats totally free of cost. We therefore recommend that the government should incur the total cost of repair to the damages to the port due to Cyclone Ockhi.

- d. The PI team has studied the Tamil Nadu Fisheries Welfare Schemes and feels that they are outdated, and are in urgent need of revision. For example, it mentions a total sum of 50 rupees to be paid to the families of those missing.
- e. In Kovalam and Manakkudi areas of Kanyakumari district there are around 600 acres of salt pan. Over 80% of the salt pan area is now submerged in water due to Cyclone Ockhi as the sea water entered the salt pans. The PI team recommends that the Government assists the salt pan owners in flushing water out of salt pans and pay suitable compensation for salt pan damages and that the nearly 200 daily wage earners who lost their livelihoods be provided adequate compensation.
- f. The PI also recommends the recruitment of fishermen in Coast Guard and Navy closer to the place of their habitation so that they can help in maintaining coastal security as well as in rescue and relief operations.

7.1.1. In the agricultural sector constituting rice crops, plantation crops, horticulture, etc. the PI team strongly recommends that the compensation is on par with damage requirements. For example for banana plantation per acre, Rs. 2 lakh is demanded instead of routine Rs. 5000 as it is an intensive crop with only 1,200 banana plants per acre of land. Annexure 42 bears a list of the proposed compensation sought for every category.

7.1.2. The PI recommends, in addition to coconut and banana, other plantations such as mango, jack-fruit, papaya, orange, cashew, teak, etc. to also be taken in to consideration for assessing damages. If these damages are not taken into account by the government while providing relief and compensation the farmers who are already suffering due to loans, will be pushed to a state of distress.

7.1.3 The removal of broken trees is cost-intensive and cannot be afforded by the farmers and also requires adequate compensation from the government. The government should conduct a complete assessment of the damages to the crops, plantations, trees, livestock incurred by the farming community and provide adequate compensated as per the demands of the farmers (indicated in detail in the Annexure 42).

7.1.4 90% of the farmers are tenants without any records whatsoever of their present tenancy. A mechanism has to be urgently created involving the Village Officer/

Panchayat Staff / NGOs, SHGs to identify them and ensure that they are not left behind in the provision of relief and fresh input for cultivation.

7.4 The government should write off all the loans including the interest of the farmers who have been affected due to Cyclone Ockhi.

**7.2 Vulnerable Kaani Tribes:** The Kaani tribes face severe agricultural loss and most of their houses have been either partially damaged or entirely destroyed. The PI team observed that despite having an Aadhaar card, the tribal group has no access to any of the welfare schemes, including the food distribution system. The Kaanis have no access to clean drinking water and toilets too. It is observed that the Prime Minister's famed Swachh Bharat Mission has not reached the Kaani settlements. It is therefore important that the district administration provides the Kaani people schools, toilets, drinking water, which are their basic needs and which need to be fulfilled.

1. The constant fear of criminalisation by forest officials has further challenged the position of the Kaani people. Cyclone Ockhi has damaged their vulnerable houses which urgently needs to be repaired with concrete RCC roofs for multi-hazard resilience.
2. They have not received any compensation so far for their damaged crops, i.e. rubber, banana, coconut, etc. and hence this needs to be done urgently through the details arising out of the micro-assessment proposed earlier.
3. The Kaani tribals face constant threat of eviction from the forest officials who misuse the FRA Act and Wildlife Acts. Allegedly wild boars and poisonous snakes are unleashed on them to promote eviction. The Kaani people strongly and rightly believe that they belong to this land and they cannot be relocated elsewhere. This has to be recognised by the district administration and specially the officials of the forest department.
4. The livelihood of the Kaani people is tough as they are having abundant natural resources but poor economic returns due to debt and other vicious cycle of poverty. The representation of the tribe in governance is very minimal and this needs to be improved.

**8. The People's Right to Protest:** The PI team observed that the protests that the survivors were engaged in, as a last resort after all other efforts undertaken to draw the attention of the officials to the plight of the people, did not bear fruit. However, the PI team infers that it was only after they had undertaken this spontaneous protest, which was not pre-mediated or pre-planned that the district and state administration began to pay them any attention. Even the Hon'ble Chief Minister of Tamil Nadu came to visit those affected by the cyclone only after these protest marches.

8.1 The PI team was told that private vehicle operators, who had helped transport people to the railway station, which was one of the venues of the protest, were fined heavily as a way to intimidate them. It was also brought to the attention of the PI team that police stopped the vehicles carrying peaceful protesters forcing them to start a spontaneous protest march which covered nearly 23 kilometres.

8.2 The inquest team emphasises that the survivors, along with other citizens, have the right to dissent and perceiving this as a law and order problem negates the principle of natural justice. The team would like to place on record that the filing of criminal cases against thousands of women and men without naming them in criminal cases negates the right to the freedom of peaceful assembly and expression that is assured to every Indian citizen by virtue of our Constitution. It is also important that our law enforcing agencies abide by international standards and procedures as expanded by the UN Special Rapporteur on Freedom of Peaceful Assembly and Association. A spontaneous peaceful protest is permissible in a democracy and in no way the peaceful protestors in Kanyakumari were breaking law and order. It would have been better if the state agencies reached out to them to understand their plight and sorrows rather than criminalising this protest by filing false cases against them.

8.3 The PI team strongly recommends that the least that can be done by the state government and the Hon'ble Chief Minister is to order the immediate withdrawal of all criminal cases registered against the peaceful protesters under sections 341, 143, 188 IPC registered in Colachel police station (Cr. No 451/2017), Manavalakurichi police station (Cr. No 275/2017), Marthandam police station (Cr. No 548/2017) and Kaliakaavilai police station (Cr. No 413/2017) in Kanyakumari district.

**9. Psychological counselling:** The PI team after visiting the various fishing, agricultural and Kaani villages has observed that people in all these communities have been subjected to trauma, at various levels, be it in their own families or in their villages due to the loss of loved ones, assets and property, crops and houses. The

PI team recommends that professional psychological care be given to all communities affected by Cyclone Ockhi. The team urges the government to setup special centres and appoint trained counsellors in every affected village

**10. Prevent communal Strife:** The PI team was informed of the efforts being made by some fringe elements to communalise the situation by dividing the victims on the basis of religion and caste. This has also been witnessed by the team through the venomous statements made by politicians in other parts of the state with reference to the disaster. The district administration, the PI recommends should monitor very meticulously the developments taking place and that stringent measures against the same.

10.1 The PI team calls upon the Tamil Nadu State Commission for Minorities to urgently undertake a visit to all the affected villages in the district and undertake confidential discussions with members of the minority communities, as well as their leaders to ensure they record, first hand, all concerns regarding the state's religious harmony post Cyclone Ockhi.

10.2 Thereafter the Tamil Nadu State Commission for Minorities is recommended to make public its status report and suggest an action plan and its recommendations to the government in order to maintain communal harmony in the Kanyakumari district.

**11. Tamil Nadu State Commission for the Protection of Child Rights (SCPCR):** The PI team observes that in the aftermath of Cyclone Ockhi, several children have lost their childhood and have been forced to grow-up almost overnight. Several children have lost their fathers to the sea. The team observes that there have been no visit by the District Child Protection Unit (DCPU) or the District Child Welfare Committee to take stock of what had happened to the children in the affected villages.

11.1 As stated earlier, there is an urgent need to ensure that all orphaned or semi-orphaned children be taken care of. The government must ensure that all preventive measures are taken to ensure that there is no trafficking of children and no dropouts from schools in the district as a direct result of Cyclone Ockhi.

11.2 It is also important that the SCPCR undertakes a direct visit to the affected villages and ensures that the Chief Education Officer as well as

the District Elementary Education Officer and the Inspector of Matriculation schools ensure that there are no drops outs.

11.3 It is also important that the SCPCR undertakes the DCPU to ensure a careful visit of every affected family in the villages and ensure that all the traumatised children are provided professional to help them deal with and overcome their traumatic experience. The team recommends that a special team of counsellors be mobilised from DCPUs from all neighbouring districts to stay and complete these counselling sessions for the children preferably at their schools and where children do not attend schools, at their respective villages.

## **12. Declare Kanyakumari district as an environmentally sensitive & ecologically protected district:**

12.1. Kanyakumari is among the smallest districts in the country with an area of only 1684 kilometres, out of which 30.2% constitutes reserved forest. The district's western coastline along the Arabian Sea expands to about 60 kilometres and has almost all 11 features outlined under CRZ 1 in Section 7 of the CRZ-2011 notification.

The most prominent among these are:

- (a) Mangroves;
- (b) Corals and coral reefs and associated biodiversity;
- (c) Sand Dunes;
- (d) Mudflats which are biologically active;
- (f) Salt Marshes;
- (g) Turtle nesting grounds;
- (i) Sea grass beds;
- (j) Nesting grounds of birds;
- (k) Areas or structures of archaeological importance and heritage sites.

12.2. Kanyakumari district just does not possess 'carrying capacity' to take the environmental and ecological load of large and mega infrastructure projects. Given the District's resource endowment the development path should be sui generis – community-centered, need-based, human-scaled and balanced. In short, for all intents and purposes, the philosophy of 'small-is-beautiful', should be maintained.

12.3. The PI team therefore considers it imperative that the district should be immediately declared as a 'Environmentally Sensitive & Ecologically Protected Region' wherein only light infrastructure works should be undertaken as a matter of policy. A simultaneous ban should be imposed on cutting of any tree for any purpose, filling/impeding of any waterbody or watercourse for any purpose and quarrying of stone in the Western Ghats for any purpose.

12.4. Simultaneously CRZ-2011 notification should be strictly complied with for any developmental project on the coast. Also, immediate steps should be taken to prepare and publish the Coastal Zone Management Plan, with clear marking of 'Hazard Zone' strictly in accordance CRZ-2011 notification and its guidelines in full consultation with all stakeholders.

12.5. The PI team taking into account disaster as an opportunity for change recommends a **holistic economic package** reiterating the resolutions of the People's Parliament for Unity & Development and Rebuild Kanniyakumari Movement and the resolutions adopted at their Symposium on "Whither Disaster Management" held at Chennai in December 19, 2017.

**12.5.1. A Minor Integrated Port at Colachel** that will improve the living conditions of fishermen and help to improve economy through fish resources, without destroying the environment.

**12.5.2. A Fish Processing and Storage Facilities** providing processing and storage facilities that will generate employment and improve the economy.

**12.5.3. A Marine Resource University** by converting the existing extension centre of Manomanian Sundaranar University at Rajakamangalam into a University with Degrees in Fishing, Processing and also processing of horticulture crops.

**12.5.4. A Food Processing Technology Institute** by converting the Pechiparai Horticulture Centre into a food processing and technology institute which can also assist farmers with research & development and also provide courses on horticulture, floriculture, food processing, food export, banana research and horticultural development.

### **13.0 High Level Enquiry required to determine the 'role' of the Disaster Management in Cyclone Ockhi in Kanyakumari District:**

- The IMD, MoES, SDMA and NDMA were completely faulted in predicting the cyclone and the gravity of the same.

- The Distress Alert Transmitter [DAT] developed by ISRO was used by the fishermen stranded in the sea, however the MRCC failed to respond to these distress calls and when they responded it was only after several days. None of the fishermen who used DAT were rescued by the Coast Guard. It shows lack of coordination between MRCC and Coast Guard and extreme culpability and gross negligence on part of both the MRCC and Coast Guard for not taking immediate response to these distress calls.
- The World Bank funded 'Coastal Disaster Risk Reduction Project' of the Revenue and Disaster Management Department of Government of Tamil Nadu which ended in October 2017 and then handed over to State Institute of Rural Development at Maraimalai Nagar has also proved to be futile. There were 87 staff at various positions spread over the 12 Coastal Districts of Tamil Nadu. All of them were well trained on Disaster Preparedness Activities. However, in the month of October 2017, all the 87 were sent out of SIRD, a monumental mistake leaving the state without any trained personnel for disaster preparedness, rescue and relief work. The Government of Tamil Nadu should present a white paper on this project to be submitted in the floor of the Tamil Nadu legislative assembly
- The World Bank commissioned 'Tamil Nadu and Puducherry Coastal Disaster Risk Reduction Project' in the aftermath of 2004 Tsunami disaster with an aim to increase the resilience of coastal communities in Tamil Nadu and Puducherry has completely failed. The quantum of progress made in this project as on December 31, 2017, supposed to be completed by July 31, 2018, is extremely worrying and portrays grave lapses.
- The functioning of the Indian Meteorological Department (IMD) also has been downgraded recently resulting in the fatal error of not forecasting cyclone Ockhi in time (Article in Deccan Chronicle dated 18.12.2017 – Annexure 1)

13.1. Thus, is it clear, prima facie, that this is a case of human rights violations arising out of negligence in the prevention of such violation by public servants. We strongly recommend that the government of Tamil Nadu take suo motto efforts to hand over this investigation to the National Human Rights Commission and find out if there has been wilful negligence of different authorities at the national, state and district levels including the Marine Police, the Coastal Guard and the Indian Navy, that has led to the loss of lives and misery.



13.2. The NHRC shall be required to undertake this investigation preferably at the request/invitation of the central and state government because disaster management and mitigation is their joint responsibility. Our people's inquest team sees this as an opportunity for both the governments to concretely bridge the gaps that have widened between the administration and the fishing communities and provide them an option to nurse wounds of the recent past, including the non-visit to the affected fishermen villages of the Member of Parliament who is also a Minister in the Central Government through their action of this suo motto reference to the NHRC.

13.3. The People's Inquest team is against referring this to any statutory Commission of inquiry headed by a retired judge of the High Court or Supreme Court since the NHRCs, today, has greater jurisdiction and powers in such matters of gross human rights violations. However, if the centre or the state fails to refer the matter to the NHRC, the local organising team of this people's inquest will not hesitate in registering a complaint in this regard with the NHRC on its own after a waiting period of 4 weeks from the date of release of this report. The NHRC will also be asked to expedite the process of its inquiry and complete it in a time-bound process.

## 8. The detailed plan of the villages visited with dates for the Preliminary Fact Finding

Day	Date	Name of the villages visited in the Fishermen Area	Name of the villages visited in the Agricultural Area	Name of the villages visited in the Tribal Kaani Area
1.	11.12.2017	<ul style="list-style-type: none"> <li>• Kottar Bishop House</li> <li>• Chinnadurai</li> </ul>	-	-
2.	12.12.2017	<ul style="list-style-type: none"> <li>• Chinnadurai</li> <li>• Eraviputhanthurai</li> <li>• Vallavilai</li> <li>• Thooththur</li> </ul>	-	-
3.	13.12.2017	<ul style="list-style-type: none"> <li>• Poonthurai</li> <li>• Eraimanthurai</li> </ul>	-	-
4.	19.12.2017	<ul style="list-style-type: none"> <li>• Kottar Bishop House</li> <li>• Manakudi</li> <li>• Colachel</li> <li>• Melmidalam</li> <li>• Midalam</li> </ul>	<ul style="list-style-type: none"> <li>• Pambanvilai</li> <li>• Keeriparai</li> <li>• Thadikarankonam</li> <li>• Ettammadai</li> <li>• Chekkadi</li> <li>• Mukkoodal</li> <li>• Poothapandi</li> </ul>	-
5.	20.12.2017	<ul style="list-style-type: none"> <li>• Neerodi</li> <li>• Marthandadurai</li> <li>• Vallavilai</li> <li>• Eraviputhanthurai</li> <li>• Chinnadurai</li> </ul>	<ul style="list-style-type: none"> <li>• Thackkalai</li> <li>• Kalpadi</li> <li>• Vellimalai</li> <li>• Nagercoil Town</li> </ul>	<ul style="list-style-type: none"> <li>• Pechiparai</li> <li>• Ettangundru</li> <li>• Villicheri Malai</li> <li>• Saratha Nagar, Nargarcoil</li> </ul>
6.	26.12.2017	<ul style="list-style-type: none"> <li>• Neerodi</li> <li>• Marthandadurai</li> <li>• Vallavilai</li> <li>• Eraviputhanthurai</li> <li>• Chinnadurai</li> <li>• Thoothurai</li> <li>• Eraimanthurai</li> </ul>	<ul style="list-style-type: none"> <li>• Thackkalai</li> <li>• Iraniyampali</li> </ul>	<ul style="list-style-type: none"> <li>• Puravilai Settlement I</li> </ul>
7.	27.12.2017	<ul style="list-style-type: none"> <li>• Neerodi</li> <li>• Marthandadurai</li> <li>• Vallavilai</li> <li>• Eraviputhanthurai</li> <li>• Chinnadurai</li> <li>• Thoothoor</li> <li>• Poonthurai</li> <li>• Eraimanthurai</li> <li>• Marthandam</li> <li>• Thenkaipattinam Harbor</li> <li>• Colachel Harbor</li> <li>• Colachel</li> <li>• Muttam Harbor</li> </ul>	<ul style="list-style-type: none"> <li>• Kalpadi</li> <li>• Alanvilai</li> <li>• Unnangulam</li> </ul>	<ul style="list-style-type: none"> <li>• Puravilai Settlement I</li> <li>• Puravilai Settlement II</li> <li>• Pudukadai</li> </ul>

**The detailed plan of villages visited by the People's Inquest team  
headed by Justice Kholse Patil**

S.No	Date	Time	People's Inquest Team	Name of the Villages Visited
1.	28.12.2017	9.20am	Full Team	Neerodi
2.		11.00am	Full Team	Marthandathurai
3.		11.45am	Full Team	Vallavilai
4.		12.45pm	Sub Team B & C	Eraviputhanthurai
5.		1.15pm	Sub Team B & C	Chinnadurai
6.		7.30pm	Full Team	Met with the Inter Ministerial Central Committee (for the spot assessment of damage and admissibility of claims of the States hit by Cyclone Ockhi) and District Collector at Kanyakumari District Collectorate

**Sub Team A:** Dr.Parivelan, Dr.Ramathal, Prof. Ramu Manivannan, Dr.Suresh, assisted by Mr.Britto, Mr.Mohan, Mr.G.Ganesan, Mr.K.P.Senthilraja and Ms.Senthamil Selvi

S.No	Date	Time	Name of the Villages Visited
1.	28.12.2017	3.30pm	Puravillai Settlement I
2.		04.30pm	Puravillai Settlement II (Manalodai)

**Sub Team B:** Prof. L.S. Ghandi Doss, Prof. Paul Newman and Mr. D.J. Ravindran assisted by Mr.Chokku and Mr.S.P.Madasamy

S.No	Date	Time	Name of the Villages Visited
1.	28.12.2017	4.30pm	Kalpadi
2.		5.30pm	Unnangulam
3.		6.00pm	Pambanvilai

**Sub Team C:** Justice Kholse Patil, Mr.Shiv Visvanathan, Ms.Saba Naqvi & Prof.Fatima Babu along with Mr.Henri Tiphagne, Mr.Prithiviraj and Mr.C.J.Rajan and assisted by Mr.Aseervatham, Mr.Jisty Mohammed

S.No	Date	Time	Name of the Villages Visited
1.	28.12.2017	3.15pm	Thoothur
2.		3.45pm	Thengai Pattinam Harbor
3.		5.00pm	Colachel Harbor
4.		6.30pm	Muttom Harbor

## 10. Program Details and List of persons who deposed before the People's Inquest team on 29<sup>th</sup> December 2017

S.No	Time	Scheduled Events	Details
1.	08.30am	Breakfast meeting with members of Team C with the Social activists for a sharing of their own opinions on the cyclone Ockhi and the role of the state.	Mr. S.P. Udayakumar Social Activist
2.	9am	Discussion on primary findings of the People's Inquest Team by the Jury members.	-
3.	10.30 am	Welcome Address by	Freedom Fighter Kodikal Sheikh Abdulla, Convenor, Organizing Committee of the People's Inquest
		Closed door sharing of views to the People's Inquest team by a team of local activists at Booth Tucker Hall, Salvation Army campus, Veturnimadam, Nagercoil.	1. Professor Dr. R.S. Lal Mohan- Response of District Administration during disaster
			2. Professor Dr. Constantine Vareethaiah - Damage assessment and impact on Fishers
			3. Mr. Kurumpanai Berlin - Issues related to fishers' struggle for compensation
			4. Mr. Senbagasekaran Pillai- Damages to paddy cultivation
			5. Mr. Thangappan- Damages to coconut
			6. Mr. Anto Lenin- Damages and problems of deep sea fishing and fisheries in disaster situation
			7. Mr. Devadass- Damages to banana cultivation
			8. Mr. Visagam- Damages to inter crops
			9. Mr. Ranjith, Poothurai- Sharing on search operation for fishers through aeroplanes

			10. Mr. Indus, Poothurai- Need to continue search operation in the Maldives and Lakshadweep Islands
			11. Mr. M. G. Devasahayam IAS (Retd.), Overview on disaster ockhi and failures in the rescue operation
4.	12.30pm	Press meeting with Interim findings and recommendations held at Booth Tucker Hall, Salvation Army campus, Vetturimadam, Nagercoil	Justice Khorse Patil Mr. Shiv Visvanathan Dr. Parivelan Ms. Saba Naqvi Dr. Ramathal Prof. Ramu Manivannan Mr. John Samuel Prof. Paul Newman Prof. Fatima Babu Prof. L. S. Ghandi Doss Mr. D. J. Ravindran
5.	1.30pm - 3.00pm	Continuing the Closed door sharing of views to the People's Inquest team by a team of local activists at Booth Tucker Hall, Salvation Army campus, Vetturimadam, Nagercoil.	12. Mr. Ravi, Kaani Tribal development activist- Damages of Kaani tribal people 13. Advocate Thirutamil Devanar - Role of communal forces in ockhi cyclone disaster 14. Advocate Maria James- Demands of the affected peoples 15. Mr. Ramsaran- Absence of Relief for Saltpan workers and owners
6.	4.00pm	Meeting on the future process for drafting the report: <ul style="list-style-type: none"> <li>• Ms. Saba Naqvi</li> <li>• Prof. Shiv Visvanathan</li> <li>• Mr. D. J. Ravindran</li> <li>• Mr. John Samuel</li> <li>• Dr. Ramathal</li> <li>• Dr. Parivelan</li> <li>• Prof. Fatima Babu</li> </ul>	-
7.	4.30pm	Follow up Planning Meeting with Organizing and Preliminary fact finding team members.	-



(above) Women point anxiously to identify their loved ones, whose photographs have been printed on a life-sized banner in front of a church at the Valavillai fishing village in Kanyakumari. Nearly 30 fishermen from this village have been lost at sea due to Cyclone Ockhi.

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(front cover) Two boats stand docked at the Colachel fishing harbour, as fishermen remain reluctant to return to sea in the aftermath of Cyclone Ockhi which claimed several lives.

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Hundreds of fishermen from the Kanyakumari district in Tamil Nadu are still missing since Cyclone Ockhi ravaged the Arabian Sea coast on November 30, 2017. Even as the cyclone remains etched in the minds of several local fishing families affected by it, it has been instrumental in exposing India's failed disaster management.

A group of civil society organisations united by this opportunity to study this failed disaster management machinery, brought together a team of experts, formed a people's inquest team, led by the Retd. Judge of the Mumbai High Court, Mr. Kholse Patil, and set out to visit all the affected coastal, interior villages and a tribal settlement in the district and gather information. What happened next was far from what the people's inquest team imagined their fact-finding mission would encompass; village after village, fisherfolk and agricultural labourers alike, gathered to meet the team and placed on record their grievances, their anger, their stories of struggle, courage, endurance and discrimination. All testimonials pointed to the gross negligence of the state and district administration, that failed to issue an early warning which could have saved the lives of hundreds of fishermen and protected the livelihood of thousands of fisherfolk dependant on them.

Widowed women, orphaned children, abandoned elderly persons, survivors, who watched as their fellow fishermen were defeated one-after-the other by the perilous vastness of the sea, farmers who watched as their banana plants and coconut trees bent over to let winds traveling at nearly 200 km per hour pass by, took turns to question the inaction of the government and shared their tragic stories of loss of life and livelihood with the people's inquest team.

'The Cyclonic Apartheid' is a joint effort by a few civil society organisations and socially-conscious individuals, to place before the Government of India, all state and district functionaries and the National Human Rights Commission, the extent of loss, damage and destruction caused when crucial emergency systems fail in a State and put forth recommendations, urging swift implementation of the same on the basis of factual evidence, to ensure non-repetition of a natural disaster being turned into a man-made one.

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Ockhi Cyclone People's  
Inquest Organizing  
Committee (OPIOC)



SAMAM  
Kudimakkal Iyakkam  
Madurai



VAAN MUHIL  
empowering communities  
Vaanmuhil  
Tirunelveli



Citizens for Human Rights  
Movement  
TN & Pudhucherry



STRUGGLE FOR SOCIAL JUSTICE

SOCO Trust  
Madurai



South Asian Fishermen  
Fraternity (SAFF)  
Kanyakumari



People's Watch  
Madurai

Vizhimbunilai Makkal  
Kural - Tamil Nadu