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ARTICLE

Disaster Management in India: Conceptual and Legal Frame Work

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Research Guide

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Abstract

Disaster Management deals with management of assets and information for a disastrous occurrence is concerned and also how effectively and impeccably one coordinates and mitigates these calamities. Disaster management, at the institutional arrangements level, deals with issues of planning, coordinating, communication and hazard management. This research paper teaches that disaster management would achieve very little unless a broad continuum of knowledge is imparted towards concerning effects of various types of disasters, their dimensions and distinctiveness, the role of National, state and District and local level institutions in such complex emergency and the role of Indian central government in prevention and mitigation of disasters. It is also significant the knowledge about the various, national, state level agencies are involved in the disaster relief and humanitarian assistance. This research paper covers all these subjects in order to find out the present status of disaster management institutions.

1.1 Introduction

Disasters occur rapidly, instantaneously and indiscriminately. These extreme events either natural or man-Induced exceeds the tolerable magnitude within or beyond certain time limits, make adjustment difficult, result in catastrophic losses of property ,income and life is paralyzed. These events which occur aggravate natural environmental process to cause disasters to human society such as sudden tectonic movements leading to earthquake and volcanic eruptions, continued dry conditions leading to prolonged draughts, floods, atmospheric disturbances, collision of celestial bodies etc. It may be mentioned that environmental disasters are always viewed in terms of human beings. The intensity of

environmental disasters is weighed in terms of the quantum of damage done to the human society.

1.2 Meaning of Disaster

A disaster is the impact of a natural or human - made hazard that negatively affect society or environment. The root of the word -Disaster- comes from 'astrology': this implies that when the stars are in a bad position, a bad event will happen.

- Disaster - the word derives from Middle French' desastre from Old Italian

- Disastro- from the Greek (dis.) "bad" + (aster), "Star".

A disaster is defined as a "Sudden calamitous event bringing great damage, loss or destruction.

As per the disaster Management Act (2005) -

A disaster is a sudden calamitous event that seriously disrupts the functioning of a community or society and causes human materials and economic or environmental losses that exceed the community's or society's ability to cope using its own resources". Though often caused by nature, disasters can have human origins.

$(\text{Vulnerability} + \text{Hazard}) / \text{Capacity} = \text{DISASTER}$

A disaster occur when a hazard impacts on vulnerable people, the combination of hazards, vulnerability and inability to reduce the potential negative consequences of risk results in disaster.

1.3 Objectives of the Study

1. To examine and study the concept and legal framework related to disaster Management in religious place of India.
2. To assess the problems regarding the administration of the disaster management.
3. To find out the role of new management policies and advanced technology in this regard to make a healthy society.
4. To suggest the reforms in the present status of disaster management in religious place of India, if needed.

1.4 Types of Disasters

Environmental disaster is normally divided into two broad categories on the basis of main causative factors viz.

A. Natural disasters and

B. Man- induced disasters

A- Natural hazards are naturally occurring physical phenomena caused either by rapid or slow onset events which can be of following:-

- (1) Geophysical Hazard- earthquakes, landslides, volcanic activity, sinkholes.
- (2) Hydrological Hazards-Tsunamis, floods, maelstrom, limbic eruption
- (3) Climatologically Hazards-extreme temperatures, drought and wildfires
- (4) Meteorological Hazards-Cyclones storms/ wave surges or
- (5) Biological Hazards-disease epidemics and insects / animal plagues.

B- Technological or man-made hazards- complex emergencies conflicts, famine, displaced populations, industrial accidents and transport accident

1.5 Effects of Disasters

Natural disasters have become so common place that they hardly receive passing notice on the news unless these have been a large number of casualties. Volcanoes, mudslides, tsunamis and floods are just a few of the ways nature strikes. on a daily basis, Leaving behind destruction and heartache. Humans have learned to prepare of the possibility of tornadoes, earthquakes, hurricanes and wildfires but no amount of preparation can lessen the impact that natural disasters have on every aspect of society. For example Physical destruction, Emotional toll, Economic concerns, Indirect effects, Geographical effects, Environment effects etc

1.6 Disaster Management

To treat an emergency a holistic and integrated approach needs to be evolved towards disaster management with emphasis on building strategic partnerships at different levels.

The themes under disaster policy are:

1. Community based Disaster management
2. Policy and plans
3. Capacity development in all areas

4. Consolidation of past initiatives and best practice
5. Cooperation with agencies at state, national and international levels
6. Multi-sector synergy.

1.7 Constitutional Framework

Institutional arrangements for disaster management and legal frameworks are interlinked. Laws and regulations provide an enabling framework to the organizational structure and its participants. It is for this reason that laws provide for organizational structures at different levels as well as the roles, mandates and responsibilities of various institutions and individuals. Further, an Organizational structure without a legal foundation would be less effective. In the larger context, however, the overall system of governance, which includes policies, institutions, laws and values, influences the relative strengths and achievements of the agencies and individuals undertaking the activities of disaster management. Consequently, a review of law relating to disaster management would invariably involve an analysis of the organizational structures at different levels, their roles, functions and appropriateness for the tasks assigned or to be assigned. This is what the Task Force has kept in view while reviewing the DM Act, 2005. Laws and institutions evolve over time and are influenced by the thoughts, ideas and events of the time. The DM Act, 2005, exemplifies this to a great extent, it is both interesting and useful to delve into some of the important developments and trends at the international and national level, which prepared the ground for and accelerated the process of the enactment of the Act.

1.8 Legal Framework

Globally, a paradigm shift in the approach to disaster management, from relief and rehabilitation to prevention and mitigation within a holistic and comprehensive framework, occurred in the decade of the 1990s, observed by the UN as the International Decade for Natural Disaster Reduction (IDNDR). In 1994, the Yokohama Strategy and Plan of Action for a Safer World were adopted at the World Conference on Natural Disasters. In 1999, a United Nations General Assembly Resolution adopted the International Strategy for Disaster Reduction (ISDR) and created the Secretariat of the ISDR (UNISDR) with the objective of ensuring its implementation. In 2003 and 2004, the UNISDR carried out a review of the Yokohama Declaration. This review formed the basis for the Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters (HFA) which was adopted by the World Conference on Disaster Reduction held in 2005 and subsequently endorsed by the UN General Assembly.

1.9 Role of Disaster Management Legislations

It asserts that “without a comprehensive and binding legal directive that obliges actors and agencies to take action, the natural inertia of bureaucracies means that non-specified essential tasks are unlikely to be undertaken”. Law can be used to provide penalties and incentives by enforcing standards, to empower existing agencies or establish new bodies with new responsibilities, and to assign budget lines. The role of a legal framework in disaster management has been well recognized in the last two decades by policy makers, practitioners and analysts at the national and international level. The following statement from the Global Assessment Report on Disaster Risk Reduction, 2011, citing from various sources: The role, relevance and value of legislation, is brought out succinctly in a how cites the following aspects from the literature on the subject:

- It provides a formal basis for disaster countermeasures generally, formally supporting plans, organizational arrangements, preparedness measures, response actions, and recovery and reconstruction programs.
- It allocates major responsibilities in legal form, which helps to secure their proper implementation.
- Legislation can be made to have a uniform national effect, thus ensuring that all levels of the national counter-disaster structure receive the full benefit of its support.
- It does not need to be complicated to be effective. It can provide common sense backing for common sense requirements.
- Legislation can provide a wide measure of protection for governments, organizations, and individuals who may be affected by a disaster.
- Disaster legislation can augment and supplement other legislations related to environment protection, economic development, etc. Other key attributes of effective arrangements for disaster management listed by
 - Clear mandate and roles, including line of command and coordination, within political units
 - Integrated and comprehensive and hazard specific
 - incorporated in the law of the land/constitution
 - Sensitivity to indigenous customary law

- implementing rules and regulations
- Appropriate sanctions and enforcement mechanisms
- Recognition of collateral law, which may include mitigation and other aspects of DM components
- Explicit provision for financial support
- Sub-national legal instruments sensitive to local content
- Integration into national development framework and plan
- Community participation in the planning, implementing, monitoring and evaluation.

1.10 Disaster Management in India

Legal framework constitutes the foundational pivot around which different aspects of an activity are interwoven. It is probably for this reason that in instituting modern democratic political systems, it has been found essential to ordain that on the basis of a written Constitution. This enclosed the issues and activities that could not find place in the scheme of a written Constitution, For obvious reasons, have been provided a sound legal basis by enacting a framework law on the subject. In India, one such issue has been the management of disasters. Despite being one of the most disaster prone countries in the world, the subject of disaster management could not find a place in the Constitution of India for reasons explained later in the paper. In fact, for a fairly long period of time, disasters, both natural and manmade, had been found to be managed in the classical colonial mode of trial and error resulting into untold miseries for the people and massive loss of lives and Property. The lurking dangers of climate change and its colossal impact on the occurrence of natural disasters prompted the international community to go for a recasting of the disaster management system in all parts of the world. In such an overhaul of the disaster management systems, central place was afforded to the provision of a sound legal framework. In the wake of these persuasions, Indian Parliament enacted the Disaster Management Act in 2005 to provide for the legal framework in which the structures, functionaries and activities related to management of disasters should organize and operational zed in order to make the country disaster free.

Disaster Management Act 2005

There are number of provisions in the Disaster Management Act which are applicable for crowd management.

Sr. No.	Section	Role
1.	Sections 24 and 34	To provide powers to control and restrict vehicular and human traffic to/from vulnerable and affected area.
2.	Section 33	To allows district authority to require any officer or any department at district or local level, if necessary, for disaster management tasks.
3.	Section 41	To mentions that it is a function of local authority to ensure that all construction projects under its jurisdiction conform to extant standards and specifications.
4.	Sections 51, 52, 53	To make obstruction in discharge of duties, false claims for obtaining benefits consequent to the disaster, and false warning on disasters punishable offence.
5.	Section 58	To deems company/individual in charge of the conduct of the business at the time of disaster to be guilty of contravention.
6.	Section 65	To gives power of requisition of resources, provisions, vehicles etc. for rescue operations.

The Police Act 1861

The crowd management related provisions in this act are as follows:

Sr. No.	Section	Role
1.	Section 15	Allows quartering of additional police in disturbed or dangerous districts
2.	Section 17	Allows appointment of residents of neighborhood as special police officer during the period of disturbances
3.	Section 30, 30A	Allows the regulation of public assemblies and processions and licensing of the same
4.	Section 31	Makes police duty bound to keep order on public roads. ¹

1.11 Techno Legal Framework

Revision of Municipal Regulations In view of the construction boom and rapid urbanization, municipal regulations such as development control regulations, building bye – laws and structural safety features need to be revisited. These regulations will be reviewed periodically to identify safety gaps from seismic, flood, landslide and other disasters and suitable modification will be made to align them to the revised building codes of the Bureau of Indian Standards (BIS). Undesirable practices compromising safety during disasters, that tend to crop up from time to time, will need to be addressed in the regulations. The utilization of unsuitable areas for construction, without necessary safeguards further enhances vulnerability and needs to be guarded against through appropriate compliance mechanisms. Similarly, the introduction of suitable regulations for rural areas will also be emphasized. As per required, local bodies will be provided with suitable financial incentives for the reparation of appropriate regulations. This process will involve an all-inclusive exercise involving due sensitization of governmental organizations at all levels, local authorities and the community at large to accrue maximum results thereof.

For the various types of disasters, the nodal Ministry concerned will chart out detailed. Response Plans which will be integrated into the national response plan. The NEC may coordinate response in the event of any threatening disaster situation or disaster. The NEC will coordinate response in the event of any threatening disaster situation or disaster. While disaster specific guidelines will be formulated by NDMA, NEC may give directions to the concerned ministries/departments of the Government of India the State governments and the state authorities regarding measures to be taken

1.12 Role of State, District and Local Authorities

Section 23 of the DM Act 2005, provides that there shall be a DM plan for every State. It outlines the broad coverage of the plan as well as the requirements of consultation in the preparation of the State plans. It also provides for annual review and updating of the State plan, and to enjoin upon the State governments to make provisions for financing the activities to be carried out under the State plans. It provides for the departments of the State governments to draw up their own plans in accordance with the State plan. The state plans shall be prepared by the SEC in conformity with the guidelines to be issued on related matters by the SDMA having regard to the guidelines laid down in this regard by the

NDMA, and after such consultation with local and district authorities and the people's representatives as the SEC may deem fit. The State plan prepared by SEC shall be approved by the SDMA. It is the primary responsibility of the State governments/SDMAs to monitor and assess any developing situation and keep the NDMA and NEC apprised of the same. They will also be responsible to constantly evaluate their own capabilities to handle that situation and project the anticipated requirements for the central resources well in time. Inter district authority is entrusted with the task of coordinating and monitoring the implementation of all the plans and policies mentioned in the Act. It is difficult to comprehend the practical implication of such a provision as there is always a high probability of contradiction in the provisions laid down in the plans and policies.

1.13 Role of Central Ministries and Departments

As disaster management is a multidisciplinary process, all Central Ministries and Departments will have a key role in the field of disaster management. The nodal Ministries and Departments of the Government of India (i.e., the Ministries of Agriculture, Atomic Energy, Civil Aviation, Earth Sciences, Environment & Forests, Home Affairs, Health, Mines, Railways, Space, water Resources etc.) will continue to address specific disasters as assigned to them. National Crisis Management Committee (NCMC) The NCMC, comprising high level officials of the Government of India headed by the Cabinet Secretary, will continue to deal with major crises which have serious or National ramifications. It will be 13 Institutional and Legal Arrangements supported by the Crisis Management Groups (CMG) of the Central nodal Ministries and assisted by NEC as may be necessary. The Secretary, NDMA may be a member of this Committee of state Governments. The primary responsibility for disaster management rests with the States. The institutional mechanism put in place at the Centre, State and District levels will help the States manage disasters in an effective manner. The Act mandates the State Governments inter alia to take measures for preparation of Disaster Management Plans, integration of measures for prevention of disasters or mitigation into development plans, allocation of funds, establishment of early warning systems, and to assist the Central Government and other agencies in various aspects of Disaster Management. District Administration At the District level, DDMA will act as the District planning, coordinating and implementing body for disaster management and will take all measures for the purposes of disaster management in the District in accordance with the guidelines laid down by NDMA and SDMA. Management of Disasters

Impacting more than one State. At times, the impact of disasters occurring in one State may spread over to the areas of other States. Similarly, preventive measures in respect of certain disasters, such as floods, etc., may be required to be taken in one State, though the impact of their occurrence may affect another. The administrative hierarchy of the country is organized into National, State and District level administrations. This presents some difficulties in respect of disasters impacting more than one State. Management of such situations calls for a coordinated approach, which can respond to a range of issues quite different from those that normally present themselves, before, during and after the event. NDMA will encourage identification of such situations and promote the establishment of mechanisms on the lines of Mutual Aid Agreement for coordinated strategies for dealing with them by the States, Central Ministries and Departments and other agencies concerned. Other constitutional arrangements.

1.14 Armed Forces

Conceptually, the Armed Forces are called upon to assist the civil administration only when the situation is beyond their coping capability. In practice, however, the Armed Forces form an important part of the Government's response capacity and are immediate responders in all serious disaster situations. On account of their vast potential to meet any adverse challenge, speed of operational response and the resources and capabilities at their disposal, the Armed Forces have historically played a major role in emergency support functions. These include communication, search and rescue operations, health and medical facilities, and transportation, especially in the immediate aftermath of a disaster. Airlift, heli-lift and movement of assistance to neighboring countries primarily fall within the expertise and domain of the Armed Forces. The Armed Forces will participate in imparting training to trainers and DM managers, especially in CBRN aspects, heli-insertion, high-altitude rescue, waterman ship and training of paramedics. At the National level, the Chief of the Integrated Defense Staff to the Chairman Chiefs of Staff Committee has already been included in the NEC. Similarly, at the State and District levels, the local xiirepresentatives of the Armed Forces may be included in their executive committees to ensure closer coordination and cohesion.

1.15 Central Paramilitary Forces

The Central Paramilitary Forces (CPMFs), which are also the Armed Forces of the Union, play a key role at the time of immediate response to disasters. Besides contributing to the NDRF, they will develop adequate disaster management capabilities within their own forces

and respond to disasters which may occur in the areas where they are posted. The local representatives of the CPMFs may be co-opted/invited in the executive committee at the State level.

1.16. State Police Forces and Fire Services

The State Police Forces and the Fire Services are crucial immediate responders to disasters. The Police Forces will be trained and the Fire Services upgraded to acquire multi-hazard rescue capability.

1.17. Civil Defense and Home Guards

The mandate of the Civil Defense and the Home Guards will be redefined to assign an effective role in the field of disaster management. They will be deployed for community preparedness and public awareness. A culture of voluntary reporting to duty stations in the event of any disaster will be promoted.

1.18 State Disaster Response Force (SDRF)

States will be encouraged to create response capabilities from within their existing resources. To start with, each State may aim at equipping and training one battalion equivalent force. They will also include women members for looking after the needs of women and children. NDRF battalions and their training institutions will work in coordination to quick response to mitigate the intensity of disaster.

1.19 National Level Institutes - National Disaster Management Authority (NDMA) -

The NDMA, as the apex body for disaster management, is headed by the Prime Minister and has the responsibility for laying down policies, plans and guidelines for DM and coordinating their enforcement and implementation for ensuring timely and effective response to disasters. The guidelines will assist the Central Ministries, Departments and States to formulate their respective DM plans. It will approve the National Disaster Management Plans and DM plans of the Central Ministries/Departments. It will take such other measures, as it may consider necessary, for the prevention of disasters, or mitigation, or preparedness and capacity building, for dealing with a threatening disaster situation or disaster. Central Ministries/Departments and State Governments will extend necessary co operation and assistance to NDMA for carrying out its mandate. It will oversee the provision and application of funds for mitigation and preparedness measures. NDMA has the power to authorize the Departments or authorities concerned, to make emergency procurement of provisions or materials for rescue and relief in a threatening disaster

situation or disaster. The general superintendence, direction and control of the National Disaster Response Force (NDRF) are vested in and will be exercised by the NDMA. The National Institute of Disaster Management (NIDM) works within the framework of broad policies and guidelines laid down by the NDMA.

1. Experience in major disasters in the last decade has clearly established the need for prepositioning of some essential reserves at crucial locations, including some for the high altitude areas. These reserves are intended to augment the resources at the State level. Mitigation reserves will be placed at the disposal of the NDRF for enhancing their emergency response capabilities for assisting the State Governments during a disaster or disaster-like situation. Existing Institutional Arrangements Cabinet Committee on Management of Natural Calamities (CCMNC) and the Cabinet Committee on Security (CCS)
2. CCMNC had been constituted to oversee all aspects relating to the management of natural calamities including assessment of the situation and identification of measures and programs considered necessary to reduce its impact, monitor and suggest long-term measures for prevention of such calamities formulate and recommend programs for public awareness for building up society's resilience to them. The CCS deals with issues related to defense of the country, law and order and internal security, policy matters concerning foreign affairs that have internal or external security implications, and economic and political issues impinging on National security, High Level Committee (HLC)
3. In the case of calamities of severe nature, Inter-Ministerial Central Teams are deputed to the affected States for assessment of damage caused by the calamity and the amount of relief assistance required. The Inter-Ministerial Group (IMG), headed by the Union Home Secretary, scrutinizes the assessment made by the Central Teams and recommends the quantum of assistance to be provided to the States from the National Calamity Contingency Fund (NCCF). However, assessment of damages by IMG in respect of drought, hailstorm and pest attack will continue to be headed by the Secretary, Ministry of Agriculture and Cooperation. The HLC comprising the Finance Minister as Chairman and the Home Minister, Agriculture Minister, and Deputy Chairman of the Planning Commission as members approves the Central assistance to be provided to the affected States based on the recommendations of the IMG. The constitution and composition of HLC may vary from time to time. The Vice Chairman, NDMA will be a special invitee to the HLC. Central Government.

4. In accordance with the provisions of the Act, the Central Government will take all such measures, as it deems necessary or expedient, for the purpose of DM and will coordinate actions of all agencies. The Central Ministries and Departments will take into consideration the recommendations of the State Government Departments while deciding upon the various pre-disaster requirements and for deciding upon the measures for prevention and mitigation of disaster. It will ensure that the Central Ministries and Departments integrate measures for the prevention and mitigation of disasters into their developmental plans and projects, make appropriate allocation of funds for pre-disaster requirements and take necessary measures for preparedness and to effectively respond to any disaster situation or disaster. It will have the power to issue directions to NEC, State Governments/SDMAs, SECs or any of their officers or employees, to facilitate or assist in DM, and these bodies and officials shall be bound to comply with such directions. The Central Government will extend cooperation and assistance to the State Governments as required by them or otherwise deemed appropriate by it. It will take measures for the deployment of the Armed Forces for disaster management. The Central Government will also facilitate coordination with the UN Agencies, International Organization and Governments of Foreign Countries in the field of disaster management. The Ministry of External Affairs in coordination with the Ministry of Home Affairs (MHA) will facilitate external coordination/cooperation.

Conclusion-

This chapter discusses the disaster meanings, types, vulnerability to hazards, and their impacts. Chapter also includes the study of disaster management and their different phases. There is a detail study of the constitutional framework and various aspects of the disaster. Chapter also encloses the recent global trends about law related to disaster and environment. Chapter also light on the legal and techno legal framework of the disaster management. Here is also discussion about the Role of the Nodal and Other Central Ministries and Departments, role of State, district and local level authorities. Finally, discussion about the others groups which directly or indirectly affects the disaster management activities.

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