DISASTER MANAGEMENT IN INDIA: A CRITICAL LEGAL STUDY

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Abstract

Disaster management can be defined as the management of the resources and various responsibilities of the people in dealing with the various aspects of the emergencies and various recoveries which can be done in order to reduce the impact of the disaster. This research article attempts to show various stages of disaster management i.e. the attempts taken before the disaster, during disaster, after disaster. This article also shows various laws which have been enacted by the parliament regarding protections of pollutions and prevention of disaster and also shows the punishment against the person who violate the various provision of the laws.

Keywords : Disaster Management, Disaster, Man-made, Natural, Stages.

Introduction

India has been customarily powerless against disastrous events by virtue of its extraordinary geo-climatic conditions. The history of mankind records for the continuous disasters and calamities, some of which are beyond the control of man; and; are known as the natural disasters and some are under the control of humans; and; are known as man-made disasters. Floods, droughts, cyclones, earthquakes and landslides have been a repetitive marvel. The sub-continent of India is the most disaster-prone areas in the world and is a land witnessing diverse geographical and climatological extreme. India is the Earthquake prone area. Every year Indian sub-continent witnesses the most earthquakes in the world. Earthquakes are among the deadliest and the most destructive of all the natural disasters. They release the energy equivalent to that of the nuclear explosion. Earthquakes are not confined to any particular place and kill thousands of people in that area and destroy all the civilization which have been built with the efforts of many years. Around 60% of the landmass is inclined to

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2 An earthquake of magnitude 6.0 on the Richter Scale, releases energy almost equal to that of the Hiroshima atomic bomb.

quakes of different forces; more than 40 million hectares is inclined to floods; around 8% or 7516 Kilometres coastline of the aggregate territory is inclined to cyclones with very high velocity winds and heavy rainfalls causing a huge damage to the life and property of such areas which cannot be calculated by killing many people and destroying the entire fishing fleet and community each year.

Each disaster adds some new dimensions to the human losses and that the confronted disaster affected communities often use to challenge the traditional definitions and classifications of the disasters.

The super violent wind in Orissa in October, 1999 and the Bhuj seismic tremor in Gujarat in January, 2001 underscored the need to receive a multi-dimensional undertaking including assorted logical, designing, money related and social procedures; the need to embrace multidisciplinary and multi sectoral approach and joining of hazard lessening in the formative designs and methodologies. Over the recent years, the Administration of India have realized a change in outlook in the way to deal with disaster administration.

The normal information sources, zones of mediation and organizations to be required at the National, State and region levels have been recognized and recorded in the guide. This guide has been imparted to all the State Governments and Association Region Organizations. Services and Branches of Legislature of India, and the State Governments/UT Organizations have been encouraged to build up their particular guides taking the national guide as a wide rule. There is, in this way, now a typical methodology supporting the move being made by all the taking an interest associations/partner.

**Types Of Disaster Management:**

There are many different types of disasters, both natural and manmade, which occur in various countries throughout the world. When these disasters occur, an array of management teams are mobilized to properly clean up and manage these disasters. FEMA (Federal Emergency Management Agency) has specific ways of dealing with different disasters.

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1. **The National Hurricane Program**

The National Hurricane Program has been set up by a number of different federal management agencies, including FEMA, the National Oceanic and Atmospheric Association (NOAA), the National Weather Service and the United States Transportation Administration and the Army Corps of Engineers. These organizations work closely with one another during hurricane season, pinpointing where a hurricane will make land fall and what areas need to be evacuated. They also determine which roads should remain opened and be closed and where shelters need to be set up. This helps to mitigate the negative affects of a hurricane, because people are prepared for it.

2. **Nuclear Power Plant Emergency**

As nuclear power plants become more prevalent, so too, does the possibility of a nuclear power plant disaster. FEMA, as well as the Nuclear Regulatory Commission (NRC), have designed plans on how to deal with such a disaster. They have worked closely with local and state governments to develop emergency response plans. Each plan has two specific emergency planning zones, zone one covers the ten-mile radius around the location of the nuclear meltdown, whereas zone two covers a 50-mile radius around the location of the meltdown. This will help all the local, state and federal disaster management organizations safely screen people for radiation poisoning and treat those who have been exposed to radiation because of the disaster.

3. **Earthquakes**

much of FEMA's protection and disaster management during earthquakes is monitored and regulated by the National Earthquake Hazards Reduction Program (NEHRP). Some other organizations in this multi-agency earthquake management program are the National Institute of Standards and Technology, the National Science Foundation and the U.S. Geological Survey. Because earthquakes are unpredictable, disaster management entails preparing for earthquakes to strike, knowing what fault lines are active, and locating specific buildings and neighbourhoods that are more likely to suffer severe damage should an earthquake strike.
4. Terrorism

The RAND (Research and Development) Corporation has created the Canter for Terrorism Risk Management Policy, which works closely with the office of Homeland Security to protect the country from disasters caused by a terrorist attack. This organization assesses insurance, financial and liability risk in response to a variety of terrorist attacks. At the same time, the federal government has created an entire task force, through Homeland Security, to protect the nation's airports, borders and major cities from terrorist threats, attempts and attacks. If and when an attack occurs, these organizations, along with FEMA, will respond to control the disaster and tend to the injured, assess and investigate how the disaster occurred and determine what needs to be done to keep it from ever happening again.

Stages Of Disaster Management

Disaster Management Cycle

Disaster Management incorporates entirety of all exercises, projects and measures which can be taken up previously with the reason to stay away from a disaster, reduce the effects and protect from its misfortunes. The 3 key phases of exercises that are gone out on a limb administration are:

Pre-disaster (Before a Disaster):

To decrease human and property misfortunes which have been caused by a potential risk, some measures have to be taken. For instance, doing mindfulness battles, reinforcing the current frail structures, readiness of the disaster administration designs at family and group level and so on. Such hazard decrease measurestaken under this stage are named as relief and readiness exercises.

Disaster Occurrence (During a Disaster):

To assure the requirements and arrangements of the casualities are met by taking some activities. Crisis reaction exercises are the exercises taken during this stage.
Post-Disaster (After a Disaster):
Activities taken because of a disaster with a reason to accomplish early recuperation and recovery of influenced groups, instantly after a disaster strike. These are called as reaction and recuperation exercises.

Legal Framework For Disaster Management In India
India has been generally powerless against catastrophic events because of its remarkable geo climatic conditions. Surges, dry seasons, twisters, quakes and avalanches have been repetitive marvels. Around 60% of the landmass is inclined to seismic tremor of different powers; more than 40 million hectares is inclined to surges; around 8% of the aggregate zone is inclined to violent winds and 68% of the region is helpless to dry season. In the decade 1990 – 2000, a normal of around 4344 individuals lost their lives and around 30 million individuals were influenced by disaster each year. The misfortune as far as private, group and individuals’ resources has been galactic.

At the worldwide level, there has been significant worry over cataclysmic events. Despite the fact that considerable logical and material advance is made, the loss of lives and property because of disasters has not diminished. Actually, the human toll and financial misfortunes have mounted. It was in this foundation that the United Nations General Assembly, in 1989, proclaimed the decade 1990 – 2000 as the International Decade for Nature Disaster Reduction with the goal to lessen loss of lives and property and confine socio – monetary harm through concerned global activity, particularly in creating nations.

The super violent wind in Orissa in October, 1999 and the Bhuj seismic tremor in Gujarat in January, 2001 underscore the need to receive a multi-dimensional undertaking including different logical, building, money related and social procedures; the need to embrace multi-disciplinary and multi sectoral approach and fuse of hazard decrease in the advancement designs and techniques. Disaster management involves a critical place in this country’s approach structure as it is poor people and the under – favoured who are most exceedingly

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5Available at http://www.nidm.nic.in (last visited on Mar 29, 2018).

awful influenced by virtue of cataclysms/calamities. Disasters impede socio–monetary advancement, additionally ruin the devastated and prompt preoccupation of rare assets from improvement to restoration and remaking.8

The means being taken by the Governments radiate from the approach laid out above. The approach has been converted into a National Disaster Framework [a roadmap] covering institutional components, disaster counteractive action technique, early cautioning framework, disaster alleviation, readiness and reaction and human asset advancement. The normal data sources, zones of intercession and offices to be required at the National, State and District levels have been recognized and recorded in the guide. This guide has been imparted to all the State Governments and Union Territory Administrations.

**Criminal Laws:**

There are various statutory provisions in the Law of Crimes in relation to the protection of the environment and the ecology which helps to prevent and control all kinds of pollutions. Sections 268-291 of the Indian Penal Code makes various acts punishable which adversely affects the health and safety of the public at large by polluting the environment. All types of pollutions are covered under it. Section 268.

**The Environment Protection Act, 1986:**

After the Bhopal Gas Leak Tragedy, the Indian Parliament established the Environment (Protection) Act (EPA), 1986 to safeguard and shielding nature from unregulated mechanical or other activities.9 Under the EPA, the focal Government is depended with duty to take every one of the measures for ensuring and enhancing the nature of the earth and anticipating controlling and subsiding ecological pollution.10 It precludes people carrying on any industry, task or process from releasing or emanating any natural toxins in abundance of endorsed standards.11 The EPA forces commitments on people taking care of any risky substance to take after recommended technique and conform to recommended safeguards.12

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10 Section 3 & 6 of The Environment Protection Act, 1986.

11 Section 7 of The Environment Protection Act, 1986.

12 Section 8 of The Environment Protection Act, 1986.
The National Environment Appellate Authority Act, 1997:
This Act is enacted by the Parliament so as to establish a National Environment Appellate Authority. This authority shall hear the appeals in respect of the restriction of the areas in which any industries, operations or process or class of industries shall not be carried out as provided by the safeguards under the Environment Protection Act, 1986. This Appellate Authority which shall be consisting of retired judicial officers shall have the power to hear appeals on orders granting environmental clearance in the areas where any industries or hazardous process shall not be carried out. Keeping in view the guidelines in the Master Plan made for the purpose of relocating the hazardous industries or process or operations from these areas which are environmentally restricted, the Appellate Authority can make any order in the interest of environment as well as in the interest of justice.

The Disaster Management Act, 2005:
After delayed dialogs and in accordance with the suggestions of the High Power Committee on Disaster Management, The Government chose to sanction a law on disaster administration to accommodate essential institutional instrument for drawing up and observing the execution of the disaster management designs, guaranteeing measures by different wings of Government for avoidance and moderating impacts of disasters and for undertaking an all-encompassing, facilitated and provoke reaction to any disaster circumstance. The Disaster Management Act, 2005 was sanctioned and told on December 26, 2005 to go about as the foundational enactment in the nation. The Act not just stipulates the national organizations and functionaries alongside their forces and capacities, it likewise lays out an exhaustive system inside which the state, region and nearby level bodies are constituted and authorities assigned to release their allocated errands and duties in the administration of disasters.

The National Disaster Management Authority

Section 5(1) of The National Environment Appellate Authority Act, 1997 which reads, “A Person shall not be qualified for appointment as a chairperson unless he has been”
  a) A Judge of the Supreme Court; or,
  b) The Chief Justice of the High Court

M.C. Mehta v. Union of India decided on 7.05.2004 by Y.k. Sabharwal and B.N. Aggarwal, JJ.

The Disaster Management Act, 2005 is an exhaustive legislation containing eleven chapters and seventy-six sections covering various aspects of disaster management and related issues.
Establishment of National Disaster Management Authority:

- With effect from such date as the Central government may, by warning in the Official Gazette delegate for this sake, there should be built up for the reasons for this Act, a specialist to be known as the National Disaster Management Authority\(^\text{16}\).
- The National Authority might comprise of the Chairperson and such number of different individuals, not surpassing nine, as might be endorsed by the Central Government\(^\text{17}\).
- The term of office and states of administration of individuals from the National Authority shall be as prescribed\(^\text{18}\).

**Conclusion**

There is requirement for professionalization of disaster administration to adapt to the quickly evolving condition. This could be accomplished just gradually over some undefined time frame by enlisting professionally-prepared disaster directors at all levels in the chain of importance of improvement organization. Reorientation of the existing staff through here and now preparing programs in a disaster administration in NIDM, ATIs, and other presumed foundations is additionally fundamental. Shockingly, at show, supply of expert disaster administrators and offices for in-benefit preparing are both to a great degree restricted in our nation\(^\text{19}\).

Over the recent years, the Government of India has achieved a change in perspective in the way to deal with disaster administration. The new approach continues from the conviction that improvement can't be feasible unless disaster moderation is incorporated with the advancement procedure. Another foundation of the approach is that relief must be multidisciplinary crossing over all divisions of improvement. The new strategy additionally emanates from the conviction that interests in moderation are significantly savvier than use on help and recovery. This task will work intimately with the significant Government divisions and foundations at the national and State levels. Gaining from this program will

\(^{16}\) Sec. 3(i) of The Disaster Management Act, 2005.

\(^{17}\) Clause 2 of sec. 3 of the Disaster Management Act, 2005.

\(^{18}\)Sec.3, clause 4 of the Disaster Management Act, 2005

\(^{19}\)Available at http://www.thehindu.com (last visited on Apr 03, 2018).
nourish into the national limit building projects of the Government of India, and the worldwide learning base on disaster hazard administration.

The approach has been converted into a National Disaster Framework [a roadmap] covering institutional instruments, disaster counteractive action procedure, early cautioning framework, disaster alleviation, readiness and reaction and human asset improvement. The normal data sources, territories of mediation and offices to be required at the National, State and area levels have been recognized and recorded in the guide. This guide has been imparted to all the State Governments and Union Territory Administrations. Services and Departments of Government of India, and the State Governments/UT Administrations have been encouraged to build up their particular guides taking the national guide as a wide rule. There is, in this manner, now a common procedure supporting the move being made by all the partaking associations/partners. In any case, commentators of India's disaster administration design contend that lessons are learnt at incredible cost in India, as the information accomplished from past disasters is only occasionally reflected in the general arrangement structure or in arranging.

The lessons learnt from the Orissa Super tornado of 1999, the Latur and Gujarat seismic tremors of 1993 and 2001, individually, and other comparative disasters have neglected to instigate a change in outlook in our way to deal with disaster relief. Nor have we learnt lessons in the matter of how to adapt well to the disaster requests of controlling groups for security, ensuring the helpless individuals particularly in the territories presented to disaster, enabling individuals' associations for straightforwardness and basic leadership, and the privilege of the influenced groups to essential data.

There is a squeezing requirement for an engaged, proficient approach at all levels of government. Yet, in the meantime government must understand that disaster administration to be compelling must be a group-based reaction framework with disaster driven key arranging. As supported by the HPC a Trigger Mechanism is important to limit reaction time when disaster strikes.

Foundation of CivilDéfense Warden System including Panchayat individuals as superintendents and giving correspondence organize through remote stations and HAM (Help All Mankind) radio frameworks is by all accounts a promising advancement in this specific circumstance.