

An Overview of Disaster Management Laws in India: An Assessment and a Blue-print for the Future

Dr. Anitha. M

Principal, Government Law College, Kolar, Karnataka

Abstract

Disasters are not new to mankind. However, in recent times, owing to their increased frequency as well as the intensity, disaster management has attracted immense public interest at the national and international level. Almost half of the disasters in the world occur in Asia, making this region of the world's most vulnerable area. Some of the reasons for increase in the frequency of natural disasters are population explosion, uncontrolled urbanisation, unplanned land use and effects of global warming. India has been traditionally vulnerable to natural disasters on account of its unique geo-climatic conditions. Floods, drought, cyclone, earthquakes and landslides have been a recurrent phenomenon. The vulnerability in India is more compared to developed countries. This is resulting in huge loss in terms of human, financial, environmental and livelihood. At global level, there has been considerable concern over natural disasters. Rapid industrialisation and the menace of terrorism have also added new dimensions to man-made disasters. There are numerous such issues, one of which viz, 'disaster management' and 'use of remote sensing and mathematical modelling in disaster management' is discussed here basically in view of its legal perspective. Attempts at predicting when natural disaster will occur have met with some success in recent years¹. Natural disasters impart lessons at a very high cost of life and property. But if those lessons do not lead to learning and knowledge generation then it is a very heavy cost to bear. This lack of learning from the past hurts most at the recurrence of disasters. The new approach of Government of India proceeds from the conviction that development cannot be sustainable unless disaster mitigation is built in to the development process. Disaster Management occupies an important place in this country's policy framework. Hence, this paper is to highlight disaster profile of India and Disaster Management in India and as overview of Disaster Management Laws in India and a blue print for the future.

Keywords: disaster, management, vulnerability, mitigation, sustainable;

1. Introduction

India's geo-climatic conditions as well as its high degree of socio-economic vulnerability, make it one of the most disaster prone country in the world. A disaster is an extreme disruption of the functioning of a society that causes widespread human, material, or environmental losses that exceed the ability of the

¹ Dr. Amod S. Tilak, 'Environmental Law' Snow White Publications, 2009

affected society to cope with its own resources. Natural disasters are huge economic burdens on developing economies such as India, aggressive developing concepts are also inducing natural disasters within the environment for which mitigation phases are not taken seriously. Disaster means an unexpected event such as a very bad accident, a flood, a fire etc. that kills a lot of people or causes considerable damage to the persons and property. It is basically of two types, first Natural disaster in the form of natural calamity like flood, tsunami, earth-quake etc. and secondly, man-made disaster such as Bhopal Gas Tragedy, Hiroshima Incidence etc. However, later type being man-made in nature, can be avoided by strictly following laws and rules in that respect and by taking due care for the purpose. On the contrary in the case of natural disaster, many a times without advance predictions or knowledge, man becomes almost helpless and left at mercy of the nature to save his life and property. Also, at few occasions, it is found that, man himself becomes the root cause of happening of such natural disaster, which sometimes may increase the magnitude and/or probability of occurrence of the mishap, thereby causing considerable loss of environmental resources.

Necessity of Disaster Control Planning

The vulnerability in India is more compared to developing countries. This is resulting in huge loss in terms of human, financial, environmental and livelihood. At global level, there has been considerable concern over natural disasters. Attempts at predicting when and where natural disaster will occur have met with some success in recent years. At present, China, Japan, Russia and the United States are the country's most actively supporting such research. Natural disasters impart lessons at a very high cost of life and property. But if those lessons lead to learning and knowledge generation then it is a very heavy cost to bear. This lack of learning from the past hurts most at the recurrence of disasters. The major physical methods used to mitigate water disasters in India are to build river and sea dykes. Dykes protect crops and other property against floods. In Delta area a system of drainage channels and pumping stations should be used to make agriculture possible. However, drainage and construction work in areas of the Delta with pyrite-rich marine sediments have produced acid-sulphate soils containing high concentrations of sulphuric acid. This has limited the development of agriculture in Delta. Strategies for flood disaster mitigation, which do not rely on structural measures, are gaining greater emphasis in India. For example, there has been a problem of population pressure causing unauthorised settlement in annually inundated floodway and in hazardous coastal areas. e.g Mithi River flood in 2005. Flood-warning system could do much to mitigate water disasters in India. What facilities do exist are often unreliable, and the procedures for issuing warnings suffer from a lack of modern communication technology. E.g, Tsunami Incidence.

Water disaster mitigation is further complicated by a lack of expertise to assess damage, of ability to assess requirements for emergency relief, and by the need for improved awareness of the threat of water disasters at all levels. Apart from those communities living near or having to care for the dykes, public awareness of the threat of water disasters is low even though the risk of flooding is very high.

Committees to handle the problem of disaster

The various Committees are constituted by the Government of India to deal with the problems of natural disasters from time to time.

1. Standing National Crisis Management Committee (SNCMC)/NCMC

This Committee was constituted for effective co-ordination and implementation of response and relief measures in the wake of disasters. The Committee consists of Secretaries and Chairman of different departments under the Government of India. The chairman of the committee is Cabinet Secretary and the members are the Secretaries of Ministry of Home Affairs, Ministry of Defence, Ministry of Health, Ministry of Power, Chairman Railway Board, Department of Urban Employment and Poverty Alleviation, Ministry of Petroleum & Natural Gas, Department of Shipping, Department of Roads Transport and Highways, Department of Telecom Services, Department of Rural Development, Department of Agriculture & Cooperation, Department of Drinking Water Supply, Department of Food & Public Distribution, Ministry of Water Resources and Joint Secretary, Cabinet Secretariat. The Ministry of Home Affairs, Government of India provides necessary secretariat assistance.

2. Inter-Ministerial Group (IMG)

Composition of the Reconstituted Inter-Ministerial Group (IMG) constituted vide Ministry of Home Affairs, whereas its constitution regarding status of chairman and other members is exactly same as in case of NCMC as mentioned above.

3. Task Force

The aim of this force is to manage the drought situations effectively whereas it has been constituted under the Chairmanship of Home Minister and the Members of Finance and Company Affairs, food and public Distribution, Minister of Rural Development etc. the task force will meet as frequently as necessary and initiate appropriate measures for effective drought management and if required may even interact with the State Governments.

In the case of UN organizations and agencies, the financial institution like World Bank is to fight poverty under the mission of providing assistance to prepare for and recover from natural and man-made disasters that can result in great human and economic losses and for this purpose, Disaster Management Facility (DMF) can be employed, which aims to reduce these losses and sufferings.

Disaster Management Information System (DMIS)

It is a civil society initiative supported by socially conscious institutions and individuals or NGO's. In India, this system was launched by Society for Research & Initiatives for Sustainable Technologies and Institutions (SRISTI) on 18th January, 2002 at IIM, Ahmedabad, Gujarat, India. SRISTI is trying to develop a database driven information system for Disaster Management Authorities (DMA) in various states, NGOS and other organisations to share and develop their experiences and volunteer services and resources to the online database maintained by the SRISTI on its website. It currently contains more than 1000 volunteers and about 700 organizations and institutions besides other resources and web links.

Guidelines for Disaster Management

The following guidelines can be stated for disaster management²:

- Creation of accurate and informative database regarding the collection of information of availability of various safety and other equipment's.
- Organizational supply chain or link must be established between all NGO's and such other institutions and volunteers in the field.
- Up-to-date information must be collected and recorded regarding current scientific research and technology available on the topic
- Drills will have to be organized to keep society and volunteers prepared for dealing with such emergencies.
- Communication infrastructure and its skills must be developed by using possible media.
- Wherever possible, disasters which can be anticipated over time or space need to be looked into by using the sophisticated technology as 'Remote Sensing'.

Paradigm Shift in Disaster Management

Over the past couple of years, the Government of India (GOI) have brought about a paradigm shift in the approach to disaster management. The new approach proceeds from the conviction that the development cannot be sustainable unless disaster mitigation is built into the development process. Another corner stone of the approach is that mitigation has to be multi-disciplinary spanning across all sectors of development. On 23rd December 2005, the GOI took a defining step by enacting the Disaster Management Act, 2005, (hereinafter referred to as the Act) which envisaged the creation of the national disaster management authorities (NDMA), headed by the prime minister, State Disaster Management Authorities (SDMA's) headed by the Chief Minister, and District Disaster Management Authorities (DDMA's) headed by the District Collector or District Magistrate or Deputy Commissioner as the case may be to spearhead and adopt a holistic and integrated approach to DM³. There will be a paradigm shift from the erstwhile and centric response to a proactive prevention, mitigation and preparedness- driven approach for conserving development gains and to minimize loss of life, livelihood and property.

Holistic Approach and a Blue-print for the future

A holistic and integrated approach will be evolved towards disaster management with emphasis on building strategic partnerships at various levels. The themes underpinning the policy are:

- Community based DM , including last mile integration of the policy, plans and execution
- Capacity development in all spheres.
- Consolidation of past initiatives and best practices.
- Cooperation with agencies at National and International levels.

² National Disaster Management Guidelines, Preparation of State Disaster Management Plans, July 2007NDMA, GOI

³ Report of the Committee was submitted in 2001, See, Government of India, The Report of High Powered Committee on Disaster Management, (Chairman; J.C Pant), New Delhi: National Centre for Disaster Management, Indian Public Administration, 2001.

- Multi-sectoral synergy.

Disaster Management includes an integrated and interdisciplinary approach to mitigate the effects of disasters affecting the masses. In India, we had no such plans as part of our existing legal regime till recent Tsunami struck the Indian continent. The GOI has come up with legislation with the objective to provide for requisite institutional mechanisms for drawing up and monitoring the implementation of Disaster Management plans to ensure measures by various wings of Government for undertaking a holistic, co-ordinate and prompt response to any disaster situation. The Supreme Court of India has given a wider interpretation to the scope of Article 21 to include the Right to have a clean and healthy environment. The Constitution of India imposes a constitutional duty on the part of Central and State Governments to formulate proper disaster policies and programs as part of their efforts to attain sustainable development. This position emerged from the Judiciary's tryst with several tragedies including the man-made disaster in Bhopal.

Conclusion

There is a paradigm shift in India from reactive approach of responding to calamity relief after disaster to proactive approach of disaster prevention, preparedness and mitigation. The Enactment of Disaster Management Act, 2005 having establishment of National Disaster Management Authority with the Prime Minister as its Chairperson, and disaster management training National Institute of Disaster Management along with the Disaster Management Cells of the State Administrative Training Institute will help in India becoming disaster resilient. However, development of regulatory framework and institutionalization alone is not sufficient for dealing with disasters. It is necessary for the government to allot with adequate funds and give attention to the issue of disaster management from a broader perspective of protecting human and promoting human rights, all within the framework of good governance and state responsibility.