

CORONA VIRUS OUTBREAK AND THE DISASTER MANAGEMENT ACT

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Abstract: *The Government of India, in recognition of the importance of Disaster Management as a national priority, set up a High-Powered Committee (HPC) in August 1999 and a National Committee after the Gujarat earthquake, for making recommendations on the preparation of Disaster Management plans and suggesting efficient improvement mechanisms. The Tenth Five-Year Plan document also had, for the first time, an exhaustive chapter on Disaster Management. The Twelfth Finance Commission was also mandated to review the financial arrangements for Disaster Management.*

The Government of India on 23 December 2005 enacted the Disaster Management Act, which envisaged the creation of National Disaster Management Authority (NDMA), headed by the Prime Minister, and State Disaster Management Authorities (SDMAs) headed by respective Chief Ministers, to organize and implement a holistic and integrated approach to Disaster Management in India.

National Policy on Disaster Management 2009 was approved by Government for supportive role for handling the situations arising out of national disasters. From Chennai floods to Bhuj earthquake India has witness number of massive national disasters. Man cannot escape from the punishments of Mother Nature but he tries to overcome it by certain preventive and cooperative mechanisms. So the National policy on the problem is available in the nature of the Legal provisions. The last year nationwide lockdown announced by Prime Minister of India to control the quickly spreading novel corona virus is lawfully based on the Disaster Management Act, 2005. This enactment provides the legal framework for the restrictions on movement, action against rumour-mongering and to get access to emergency funds. Certainly, India's large population poses an administrative challenge in dealing with any disasters, especially a pandemic such as COVID-19. Present enactments are there but when implementation part of it is concern again political inactiveness, irregularity and corruption makes a pathway for it.

The Disaster Management Act, 2005:

The Disaster Management Act, 2005 has been enacted as the central Act to deal with the management of disasters. This act envisaged a three tier Disaster Management structure in India at National, States and District levels. It provides for National Disaster Management Authority, State Disaster Management Authority and District Disaster Management Authority under the act.

Objectives:

- The objectives of the national policy on disaster management are:
- Promoting a culture of prevention, preparedness and resilience at all levels through knowledge, innovation and education.

- Encouraging mitigation measures based on technology, traditional wisdom and environmental sustainability.
- Mainstreaming disaster management into the developmental planning process.
- Establishing institutional and techno-legal frame works to create an enabling regulatory environment and a compliance regime.
- Ensuring efficient mechanism for identification, assessment and monitoring of disaster risks.
- Developing contemporary forecasting and early warning systems backed by responsive and
- failsafe communication with information technology support.
- Promoting a productive partnership with the media to create awareness and contributing towards capacity development.
- Ensuring efficient response and relief with a caring approach towards the needs of the vulnerable sections of the society.
- Undertaking reconstruction as an opportunity to build disaster resilient structures and habitat for ensuring safer living.
- Promoting productive and proactive partnership with media in disaster management.

Definitions:

Section 2(d) Disaster ; means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area.

Section 2 (e) Disaster management; means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for-

- Prevention of danger or threat of any disaster;
- Mitigation or reduction of risk of any disaster or its severity or consequences;
- Capacity-building;
- Preparedness to deal with any disaster;
- Prompt response to any threatening disaster situation or disaster;
- Assessing the severity or magnitude of effects of any disaster;
- Evacuation, rescue and relief;
- Rehabilitation and reconstruction;

Penal provisions:

Sections 51 to 60 of the Act lay down penalties for specific offences. Anyone found obstructing any officer or employee from performing their duty will be imprisoned for a term which may extend to one year or fined, or both. Further, if such an act of obstruction leads to loss of lives or imminent danger, then the person can be jailed for up to two years.

The Disaster Management Act is also being used to restraint in the circulation of fake news, which has been on an overdrive since the outbreak began. **Section 52** of the Act states that people intentionally making false claims to get benefits from the government can be imprisoned for up to two years. **Section 54** provides for one year's imprisonment for anyone circulating a "false alarm."

Section 58 of the Act further holds that if an offence is committed by a "company or body corporate," the person who was in charge at the time the offence was committed will be held liable. This provision can be used to ensure that workplaces allow employees to work from home, or that they pay employees their due wages.

The Act has been used in support with the Epidemic Diseases Act, with the latter providing the basis for restraint measures such as restrictions on flights landing in India, and prohibiting public gatherings beyond a certain number of people.

National Policy on Disaster Management 2009:

The comprehensive National Policy on Disaster Management was approved by the Government in November 2009. This policy lays down policies on every aspect of holistic management of disasters in the country with the aim to minimize the losses to lives, livelihoods and property, caused by natural or manmade disasters with a vision to build a safe and Disaster resilient India by developing a holistic, proactive, integrated, Multi-disaster oriented and technology driven strategy. The themes underpinning the policy include Community based Disaster Management, Capacity development in all spheres, Consolidation of past initiatives and best practices and cooperation with agencies at National and International levels with multi-sectorial synergy. It seeks to mainstream disaster management into the developmental planning process and provides for Institutional and Financial arrangements at national, State, and District-levels for Disaster Prevention, Mitigation, Preparedness and Response as it ensures adequate budgeting for disaster mitigation activities in all Ministries and Departments.

Functioning of disaster management mechanism in India:

As the apex Body for Disaster Management in India, mandated by the Disaster Management Act, 2005, is the National Disaster Management Authority (NDMA). Prime Minister of India is the chairman of NDMA, the Vice Chairman and eight members. The NDMA which was initially established on 30 May 2005 by an executive order, was constituted under Section-3(1) of the Disaster Management Act, on 27 September 2005. The NDMA is responsible for "laying down the policies, plans and guidelines for disaster management and to ensure very timely and effective response to disaster". Under section 6 of the Act it is responsible for laying "down guidelines to be followed by the State Authorities in drawing up the country Plans". Also there is a National Disaster Response Force (NDRF) of 12 battalions, under the NDMA. It is organized on paramilitary lines, and is manned by persons on deputation from the para- military forces of India.

The responsibility for Disaster Management is that of the State Government with the supporting role of the national government. The 'nodal Ministry' in the central government for management of natural disasters, is the Ministry of Home Affairs. In the MHA this function is discharged by the Disaster Management Division (DMD). When 'calamities of severe nature' such as the natural disaster occur, the Central Government is responsible for

providing aid and assistance to the affected state, as may be needed, including the deploying, at the State's request, of Armed Forces, Central Paramilitary Forces, National Disaster Response Force (NDRF), and such communication, air and other assets, as are available and needed. The response of the central government is based on 'gravity of a natural calamity' and the 'scale of the relief operation'

Disaster management and corona virus:

Disaster management refers to the protection of lives and property during natural or man-made disasters. Disaster management plans are multi-layered and are planned to tackle issues such as floods, hurricanes, fires, mass failure of utilities, rapid spread of disease and droughts. India is especially vulnerable to natural disasters because of its unique geo-climatic condition, having recurrent floods, droughts, cyclones, earthquakes, and landslides. As India is a very large country, different regions are vulnerable to different natural disasters. For example, during rainy season the regions of South India are mostly affected by cyclones and states of West India incident severe drought during summer season.

The new corona virus disease (COVID-19) crisis has significantly redefined the humanitarian emergency idea and changed our understanding of disaster management in several ways. The crisis is not limited by a geographic area or a cluster or physically defined areas in which the disaster occurred, as in an earthquake, flood or cyclone.

The effects of the disaster are so microscopic and unseen that one can easily underestimate its virulence or potency, as it happened in the early days of the pandemic. Earlier epidemics like SARS (Severe Acute Respiratory Syndrome) and those due to bird flu and Ebola had a relatively lower geographical influence, but the speed of spread and virulence of COVID-19 has posed an entirely new challenge.

On the other hand, while human society worldwide is under severe stress due to lockdowns, we are witnessing an altogether cleaner and more lively environment both in urban and rural habitats. However, what began as a health crisis has now quickly snowballed into an economic crisis, caused, ironically, by some of the very steps that were taken by public authorities to prevent further spread. In countries like India, we are seeing how high population densities, coupled with the impossibility of physical distancing in small housing units, lack of running water and toilets, shortage of hygiene materials and personal protecting equipment can intensify infection rates in several clusters that then become hot spots or red zones for the pandemic.

This would ordinarily be understood to include incidents such as an earthquake, flood or fire, rather than a disease. However, in March 2020, the home ministry declared the corona virus outbreak as a **notified disaster**, thus bringing into play the provisions of the Disaster Management Act.

Sumup:

The implementation of the National Disaster Act, 2005 has been omitted in State government policies in some states. Good governance, responsive administration and active coordination should be non-negotiable quality of an active process that is motivated by transparency and accountability on the part of public officials. Further the casted duties on government officials have not been performed in toto. Incidentally, the Report of the Task Force to review Disaster Management Act 2013 suggested that the present structure of various authorities under the Disaster Management Act are not conducive for carrying out the

tasks it has been mandated to perform. The success of effective implementation of the national and state decisions under the Disaster Management Act is dependent on its ground level functioning, the district administration and local self-government institutions remains the best supporters. As per mandate of Disaster Management Act (Section 30 and Section 41), a concerted effort is required to ensure that these bodies are administratively, politically and financially empowered.

There are complaints of discrimination, police excesses, starvation, lack of medical aid etc. from various corners of the country. Suitably, there is bar on jurisdiction of courts (Section 71) and there is no grievance redressal mechanism under Disaster Management Act. Hence it is needed that all the constitutional courts in the country should *suo motu* register PILs and closely monitors the implementation of Disaster Management Act, to ensure rule of law and protection of human rights as guaranteed under the Constitution of India.

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