

A Systematic Study on Disaster Management Act in the Lieu of COVID-19

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Abstract

One of the key concerns in India has been the management of natural disasters. Regardless of the fact that India is indeed one of the world's most catastrophe-prone countries, the board was unable to locate a disaster clause in the Indian Constitution for factors listed later in the report. Truth be told, for a long period, natural and manufactured disasters were perceived as being overlooked in the conventional pioneer technique of testing, resulting in tremendous suffering for people and massive loss of human life and property. Climate change's future concerns, as well as its significant impact on the occurrence of natural disasters, have prompted the international community to reassess disaster response systems everywhere. In response to these reasons, the Indian Parliament approved the Disaster Management Act in 2005, which creates the legal framework within which disaster management institutions, authorities, and activities are organized and empirically validated in order to make India disaster-free.

Keywords: Disaster management, Disaster Management Act 2005, disaster prone areas, COVID-19, Natural calamity

INTRODUCTION

India is indeed one of the world's most catastrophe-prone countries, with no efficient emergency management structure in place. The management of progressive devastating disasters, till as of late, has overwhelmingly been founded on the optional experimentation approach of calamity supervisors without even a trace of explicit sacred specification or committed legal institution regarding the matter. As such, inferable from the absence of straight out sacred lawful specifications, the issue of calamity the executive was speculatively settled based on its functional elements. The Disaster Management Act of 2005 (DMA 2005) was established by the Indian government to ensure effective disaster management and other related issues. With the start of COVID-19 and the subsequent pan-India shutdown, it made headlines. The lockdown was implemented in accordance with the 2005 Disaster Management Act [1–6].

The new 2000's in India was marked by a series of natural disasters such as the Gujarat earthquake, 2001 and the Indian Ocean Tsunami, 2004. These calamities showed the underlying flaws and shortcomings of the concerned state governments' ability to successfully manage disasters of this size,

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leaving a terrible path of tremendous death and ruin in its wake. The focus then shifted to the national govt., with a request for active engagement in developing an appropriate nationwide legislative structure for emergency preparedness, as well as the creation of a specialized federal agency to advise and supervise state disaster management activities in times of crisis. Natural Disaster Reduction launched a massive global push to mainstream natural catastrophes into nations' overall socio-economic development plans. India, as a staunch supporter of

United Nations (UN) policies and programmes, could not avoid joining the worldwide push to prioritize catastrophe administrative frameworks for disaster-proof disaster management. Despite the fact that the causes and effects of disasters on people's lives and property are similar, many states have adopted diverse policies and taken random methods to disaster management. Furthermore, a large majority of nations considered it was appropriate to keep the relief-focused colonial approach in place, with little invention or adaptability in emergency management policy.

Significance of the Act

- Planning and implementation of disaster management plans.
The act has made major breakthroughs in the following areas by developing strategies for strategic alliances and courses of action to fight catastrophes of varying degrees.

Disaster management operations will be guided by detailed instructions:

- Capacity building in all areas
- Bringing together previous projects and best practices
- Collaboration with national and international agencies

FEATURES OF THE ACT

National Disaster Management Authority (NDMA)

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National Executive Committee

The DMA gives the government the authority to form a National Executive Committee (NEC) to assist the National Emergency Management Authority.

The National Emergency Committee is in charge of drafting the nation's National Disaster Management Team to ensure that it is "annually assessed and updated."

State Disaster Management Authority

The State Catastrophe Management Authority (SDMA) is in charge of developing the state's disaster strategy. It is chaired by the Chief Minister and consists of eight members nominated by the Chief Minister.

District Disaster Management Authority

The Chairperson of the District Disaster Management Authority (DDMA) will be the Collector or District Magistrate or Deputy Commissioner of the district.

CONSTITUTIONAL PERSPECTIVES

The Indian Constitution contains no specific provisions for disaster management. Despite having one of the world's longest constitutions, the omission to incorporate disaster management in it might be attributed to three interconnected issues. First, as the highest law of the country, the Constitution is usually a collection of basic laws outlining detailed provisions on basic rights and the basic outline of a regime that is an indicator of the legislation, administration and financial capacity of various layers of government. As a result, operative matters such as disaster management really aren't supposed to figure in the constitutional requirement, since they are left to the prudence and judgment of the

administration of the day to develop suitable policies and organized efforts to deal with the issue at hand. Second, and more crucially, disaster management was not regarded as a serious enough topic at the time of the constitution's drafting to warrant the attention of the framers and a position in the document's provisions. Finally, the presence of a number of colonial disaster management instruments, such as the Famine Code, as well as steel-framed administrative machinery to execute rescue and relief operations during catastrophes, looked to be adequate for national leaders to handle disasters in the future. For a long time, in the lack of any constitutional specification, disaster management was traditionally seen as lying under the jurisdiction of the states, as was the colonial norm. Given the area of catastrophe inclined regions in the topographical purviews of the states, most likely, make the express the specialists on call for the emergency circumstances made by the fancies of nature. Simultaneously, the majority of the exercises associated with the course of the board of a calamity are of nearby nature to be done by the locale and sub-area level authorities working under the regulatory control of the state government. Be that as it may, over the span of time with the subject acquiring importance in the administration worldview of the nation, questions started to be raised on the fitting regulative region of the subject to not just give the obligation regarding developing appropriate strategy and making a powerful authoritative device for doing the catastrophe the executives exercises yet in addition to guarantee responsibility for legitimate administration of calamities. It was in this setting that the pilgrim practice of vesting the obligation regarding the executives of catastrophes in the states started to be addressed. The Disaster Management Act depends on the guideline conviction that alleviation of calamity related misfortunes is proficient that use on help and restoration. The drawing up plans for key associations and course of activities to counter calamities of different degrees the demonstration has made critical advances in definite ways to direct catastrophe the board endeavors, Capacity improvement in all circles, Consolidation of past drives and best practices, Co-activity with offices at public and global levels.

After some deliberation and in accordance with the recommendations of such High Power Committee on Disaster Management, the legislature approved the Disaster Management Act in 2005, which serves as the country's primary legislation. The Act not just specifies the public organizations and functionaries alongside their powers and capacities, it likewise spreads out an extensive structure inside which the state, region and neighborhood level bodies are comprised and authorities assigned to release their allotted undertakings and obligations in the administration of calamities. In the definitional part of the Act, two critical oversights are obvious given the requirement for giving the most extensive conceivable meaning to the terms utilized in the Act. To start with, as the Second Administrative Reforms Commission brings up, the meaning of calamity took on by the Act "doesn't cover an assortment of other emergency circumstances that might possibly come full circle in a debacle."

Overall, the act aims at creation of a top-down model of disaster management in India by imposition of the most important authority of the central authority on in both the planning and implementation of national disaster management policies and plans. At the top level, the National Disaster Management Authority (NDMA) was established to develop guidelines and approve the National Disaster Management Plan, in addition to coordinating the Implementation of Policy and Disaster Management Plan will be done.

CRITICISM OF THE ACT

One of its drawbacks is that there are no provisions for declaring any area as "disaster-prone areas". This classification helps mitigate the damage caused, so states can play a more active role in taking such precautions. For example, despite the traditional definition, an epidemic can be considered a disaster because it kills thousands of people. Dengue and tuberculosis epidemics have caused a lot of confusion, but there is no effective mechanism to control them.

New guidelines on disaster management are being developed, including provisions to overcome the dysfunction of current authorities, valuable to civil society, private sector and NGOs in building a safer India. You can expect not to overlook this role again.

Dr Gorhe in a letter to Modi said the system of Disaster Management is intended for town, taluka, locale, state and local level however tragically during fiascos; it isn't utilized yet rather remains on paper as it were. "There is no required and important data on the names and quantities of the swimmers, perilous homes and property holders, hazardous methodology turns in the towns and furthermore land disintegration/slides in inclined regions during the stormy season. The structure of the debacle plan is as a rule for fiascos in the blustery season. Be that as it may, there is no notice or figured given to how to manage one more sort of catastrophe and moves/answers for be taken in some other fiasco," she noted [1].

No one in any community is trained to cope with such calamities, and state administrations receive very little assistance from the federal government National Disaster Relief fund.

The law has been criticized for downplaying non-governmental organizations (NGOs), local elected civil servants, communities and civil society. And promote a top-down, bureaucratic, top-down, bureaucratic approach to command and control that empowers central, state, and district authorities. It is also said that "the law has become almost the law at the will of the bureaucrats who drafted it.

1. It is important to highlight that the NDMA has only operated under Section 6(2)(i) of the Act and has not established particular disaster management rules under Section 6(2)(a).
2. Gujarat, for example, has its own particular legislation called the Gujarat State Disaster Management Act, 2003, which predates the Act and is, in many ways, more extensive and full than the Act, which is at the national level.
3. It's worth noting that the NDMA has only worked under Section 6(2)(i) of the Act, with no specific disaster management guidelines developed under Section 6(2). (a).
4. Gujarat, for example, has its own disaster management law, the Gujarat State Disaster Management Act, 2003, which predates the Act and is, in many respects, more comprehensive and comprehensive than the national Act.
5. Again, the Act, despite being enacted later than the state act mentioned above, makes no provisions for any specific area to be designated as disaster prone or containment areas, so proactive measures for these areas are on a need-to-know basis, and there are no clear guidelines to determine which areas require additional assistance. The Gujarat state statute, on the other hand, provides specific instructions.
6. The concept of catastrophe also excludes everything connected to a progressive disaster, such as the present epidemic, in which COVID-19 has spread over the country gradually. Laws in South Africa, where disasters strike suddenly and gradually, can serve as a model. As a result, the Act is more of a general statute than a pandemic-specific one.
7. Despite the fact that the Act allows for the formation of multiple entities at all levels, there is overlap in responsibilities and no efficient system for coordination between the governing authorities. This can cause misunderstanding and has already caused problems in the current situation. For example, the state governments of Kerala and Karnataka are locked in a court battle over border opening, demonstrating a glaring lack of collaboration and coordination.
8. The constitution of the NDMA, which stipulates that one of the ten members is the Prime Minister and the rest must be selected by the Prime Minister alone, is one of the primary challenges the Act confronts. Given the political power-play in our nation, giving disproportionate authority to a single individual might result in undue influence. This is because the Prime Minister is the only person who can carry out all of the necessary activities for disaster management. If any Prime Minister refuses to respond proactively in the future, this Act will be rendered ineffective. As a result, a more expert-oriented strategy is necessary.
9. There is no prescribed eligibility or qualification for these members. On the contrary, the Gujarat state act provides for who can be a part of the disaster Response Team.
10. The obligation of the community, private sector Company, and other agencies is one of the innovative, progressive, and enabling sections of the Gujarat state statute. This statute acknowledges that all stakeholders, not only the government, are equally accountable for the

society and should participate in disaster response. A disaster makes no distinction between public and private entities, and both are required to engage in capacity-building and relief efforts. Currently, the government has used unique rights to call on the private sector, and many of these calls are voluntary. As a result, the state statute is more progressive, and the Act should be revised to reflect this. Many nations' laws, such as Japan's and New Zealand's, mention community participation.

11. In light of COVID-19's unprecedented impacts and the widespread harassment of healthcare workers as physicians, nurses, and support personnel, it is critical that health care practitioners be classified as officers under the Act to allow for swift response. The authorities do not need to wait for a FIR to be filed before taking action against the violators.

CONCLUSION

In the mid-1980s, it was difficult for the government to find a suitable constitutional place and legislation to cope up with the idea of rapid disaster management; because no particular reference to this problem was discovered in the constitutional division of powers between both the center and the state, it has typically been inadequately administered. It was derived from the colonial practice of being done. As far as it is concerned with the specifications of its constitutional territory, it is the subject of the state.

The Indian subcontinent, with its vast territory and population, is one of the world's most disaster-prone areas. The diversity and uniqueness of India add to the sociopolitical and economic concerns that authorities face when dealing with disasters of all kinds. The country faced the same problem when dealing with the COVID-19 pandemic. Both the center's government and the federal state work around the clock to keep COVID-19 from spreading throughout the community. However, due to religious rallies and other sociopolitical situations, these measures are insufficient. Laws must take a more organic approach to dealing with disaster populations as well as disasters. Unlike ordinary natural disasters, such pan-Indian disasters necessitate more planning and implementation of national policies.

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