

IS DISASTER REALLY MANAGEABLE IN INDIA?

Soumya Pratik Dutta¹

I. Introduction

Mother Nature is prone to disasters. History unfolds plenty of instances of disasters that caused extensive loss of life and property, extreme human sufferings, irreparable devastation, permanent changes in the environment and so on. Its effects are not only immediate affecting the present generation but also ongoing, mutilating the future generations as well. Various researches on disaster said that the Asia-pacific region experiences nearly 60% of the world's natural disasters and within Asia 24% of total disaster deaths occur in India. Owing to her peculiar climatic conditions, geographical position and geological setting India is the most disaster prone countries in the world and vulnerable to almost all natural and man-made disasters. Gujarat earthquake of 2001, Tsunami in 2004 at Andaman & Nicobar Islands and very recently in 2014 the “Harpa Baan” in Uttarakhand snatched away millions of life of innocent people in India. It is worth here to mention that, there are quantitative and qualitative differences between accidents and disasters. All accidents are not disasters. The number of affected people and the magnitude differentiate an accident from a disaster. In accidents the immediate victims are individual, while in disasters, the community. It is only the victims and their family who would be directly affected by the reminiscences of accident. An accident may become a disaster if the number of victims is relatively great or if it directly affects the nearby localities. So to start with it is very much essential to know what the Disaster actually is.

¹ LL.M., Haldia Law College, Vidyasagar University

II. Disaster : Meaning and Origin

The term 'Disaster' has its genesis in the Greek word "*Astron*" means 'bad star'. The word's root denotes that when the stars are in a bad position, a disaster is about to happen. Thus astrologically it was believed that great misfortune were caused by an unfavourable position of the planets. The word descended to English language in the 16th century through French word 'desastre' and Italian word 'disastro' from Latin 'dis astrum' where 'dis' denotes 'against' and 'astrum' denotes 'star' which together also means the same thing, "stars against". Later As per Oxford Concise Dictionary disaster means "*a sudden or great misfortune*". However various thinkers have explained this term on their own way, no doubt each of them has a distinct perspectives and significance of its own. In this short span it is not possible to mention those but obviously among them Smith tried to touch the major aspects of the term Disaster Management. Smith K. in his book "*Environmental Hazards: Assessing Risk and Reducing Disaster*" defines 'Disaster' as "*a disaster generally results from the interaction, in time and space, between the physical exposure to a hazardous process and a vulnerable human population.*"

Some effort recently has been made by India as well by drafting a Act on Disaster Management called "The Indian Disaster Management Act, 2005"²passed by Rajya Sabha on 28th November 2005 and by Lok Sabha on 12th December 2005. **Section 2(d)** of that said Act defines Disaster as, "*a catastrophe, mishap, calamity or grave occurrence affecting 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*

²Sarkar Subhradipta, Sarma Archana(2006), "Disaster Management Act 2005", Economic and Political Weekly, Mumbai, 2nd September 2006 & Sharma Vinod, "Disaster Management", Indian Institute of Public Administration, New Delhi, 6

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 copying capacity of the community of the affected area”

Thus, a disaster is an abrupt and devastating event that seriously disrupts the functioning of a society and causes human, material, economic or environmental loss that exceeds the society’s capacity to cope up with using its own resources. To qualify as a disaster, the event must occur in a habituated area. Hence the common aspect, “*Disasters occur when hazards meet vulnerability*”. Vulnerability to the natural phenomenon must be present for an event to constitute a disaster. To explain an earth quake is a mere natural phenomenon if it does not strike a populated area but occurs on a desert island. It is not a disaster because there is no existing population of property affected. It can be called a disaster only when it negatively affects a habituated area.³

Further, personal sufferings or small range afflictions are seldom treated as disasters. For example hunger is an increasing global incident, which is being addressed with different approaches in different parts of the world. But the situation qualifies as a disaster only when it becomes wide spread and acute, for example a famine. It is often experienced that the reasons for natural disasters could also be traced to the man’s indiscriminate criminal tampering with the environment. Man’s unfriendly behavior with nature often results in disastrous events. As a result a unique type of continuing natural disaster called “Environmental Degradation” has begun to crop up. It happens from poor farming, grazing, improper use or maintenance of lands, deforestation, desertification, erosion and augmented demands for fuel, wood begetting other disasters such as

³ Konoorayar, Vishnu, “Disaster Management and law”, The Indian Law Institute, Delhi, 4

increased flood and famine. These types of disasters are growing concern because of environmental impact and the large number of people being displaced. The term 'Disaster', now a days is used very widely to cover various calamities as well, such as space, ecological, nuclear and chemical disaster, public relation crisis, solar flare emissions, impact event, telecommunication outage, global warming, over population, terrorism, economic crisis etc.⁴

III. Types of Disasters

Disasters generally are of two kinds **1) Natural Disaster** and **2) Man-made Disaster**. A natural disaster is a natural event with catastrophic consequences for living things in the vicinity. It is defined as a violent, sudden and destructive change in the environment not caused by human activities, but due to natural phenomena such as floods, earthquakes, fire, hurricane etc.⁵ Natural Disasters can be divided into three specific groups:- *a) Hydro-meteorological disasters, b) Geophysical disasters c) Biological disasters*

On the other hand Man-made disasters refer to all disasters resulting from man-made hazards. It is also defined as actions committed by a government against its own people; actions committed by an outside force for civil unrest or terrorism. Nuclear or radiological accidents, building fires, hazardous materials accidents, terrorism, riots, bridge collapses etc. are the instances of man-made disasters.. Man-made disasters can be also divided into three categories *a) armed conflict b) technological disasters c) Disasters that are not caused by hazards but occur in human settlements.*

⁴ Ibid para 9

⁵[http://encyclopedia.Laborlawtalk.com/Natural_disaster; \"Natural Disaster\";visited on 08/06/15](http://encyclopedia.Laborlawtalk.com/Natural_disaster; \)

Beside these disasters may also be classified on the basis of its occurrence and duration, i.e. how rapidly they begin and how long they last. In this classification disasters can be classified into two: **1) Rapid onset or Cataclysmic disasters** and **2) Slow onset or Long term or continuing disasters**. Rapid onset or Cataclysmic disasters include earthquake, cyclones, floods and tsunamis. Slow onset, long term or continuing disasters include civil wars or armed conflict, droughts and famine and epidemics. In Rapid onset or Cataclysmic disasters the damaged area is relatively small, while the area affected in continuing disasters is large. In a long term disaster the situation remains constant or may even deteriorate as time passes.

IV. Disaster Management: United Nations Enforcement Mechanisms

The consequences of disasters remind us about the inevitable need to have an effective and strong strategy for management of disaster. At the global level, there has been considerable concern over natural disaster management. Most of the earlier attempts in standardisation of International Disaster Management came from the International Committee of Red Cross (ICRC) in the year 1869. Even after that as substantial scientific and material progress is made, the loss of lives and property due to disasters has not decreased. In fact, the human toll and economic losses have mounted. It was in this background that the United Nations General Assembly, in 1989, declared the decade 1990-2000 as the **International Decade for Natural Disaster Reduction** with the objective to reduce loss of lives and property and restrict socio-economic damage through concerted international action, especially in developing countries. **The International Strategy for Disaster Reduction (ISDR)** was launched by the United Nations General Assembly which eventually becomes the main body within the United Nations system for coordination

of strategies and programmes for disaster reduction and to ensure synergy between disaster reduction activities and those in the socio-economic and humanitarian fields. Its important role is to encourage both policy and awareness activities by promoting national committees dedicated to disaster reduction and working in close associations with regional initiatives.⁶United Nations Development Program on Disaster Management defines disaster management as a body of policy, administrative decisions and operational activities required to prepare for mitigate, respond to and repair the effects of natural or man made disasters. In order to improve the overall effectiveness of the disaster management during conflict as well as during natural or manmade disasters The United Nations General Assembly appointed *an Emergency Relief Coordinator* as the Secretary General of the Department of Humanitarian Affairs (DHA) whose function would be to coordinate the activities of United Nations during disasters. It also created the Inter Agency Standing Committee (IASC), The Consolidated Appeals Process (CAP) and the Central Emergency Revolving Fund (CERF) as key coordination mechanisms and tools of the Emergency Relief Coordinator. In the year 1998 the DHA was recognised into the Office for the Coordination of Humanitarian Affairs (OCHA). Its mandate was expanded to include the coordination of Humanitarian response, Policy development and Humanitarian Advocacy. The organisation carries out its coordination function primarily through IASC, which is chaired by the Emergency Relief Coordinator. The Policy Development and Studies Branch (PDSB) of OCHA developed the policy framework in close collaboration with the Security Council, other UN departments, humanitarian partner agencies and member States. The United Nations Disaster Assessment and Coordination (UNDAC) is an additional and standby mechanism of

⁶http://www.unisdr.org/eng/about_isdr/isdr-missions-objectives-eng.htm ; visited on 10-06-2015

professionals having expertise in Disaster Management. These professionals are nominated and funded by Governments, OCHA, UNDP etc. In the event of a disaster the members of the UNDAC can be deployed within hours to carry out rapid relief work because they are permanently on standby to deploy to relief missions following disasters and humanitarian emergencies anywhere in the world. The UNDAC is also responsible for providing first-hand information on the disaster situations to the international communities and others.⁷

Apart from these International Search and Rescue Advisory Group (ISRAG) is an inter-governmental network under the United Nations established in the year 1991 for doing urban search and rescue and related disaster response issues. The main function of it is to provide a platform for information exchange, to define standards for international search and rescue assistance and to develop methodology for international cooperation and coordination during earthquakes.⁸

Definitions of yesteryears concentrated only on post disaster actions of calamity relief and rehabilitation. But the term covers still broader scope. Modern disaster management emphasis more on pre- disaster activities including mitigation and prevention than on post-disaster response. It also includes structural and non-structural measures to prevent or to limit the negative effects of disasters. It is true that in the process of setting standard for managing disasters, the main challenges centre around five key areas⁹ :-

⁷<http://www.odihpn.org/report.asp?ID=2510> visited on 8-7-16

⁸ ibid

⁹ Konoorayar, Vishnu, "Disaster Management and law", The Indian Law Institute. Delhi, 58-59

- i) Limitations of the international community in accessing disaster affected areas due to unclear or inconsistent practices of the Government.
- ii) The bureaucratic hurdles in the victim nation which prevent the facilitation of humanitarian assistance, including delays in the granting of visas, the import of relief goods and equipments and the use of telecommunications.
- iii) Lack of coordination among the Government, local actors and international organizations.
- iv) Lack of implementation of appropriate standards, quality control and accountability mechanisms for humanitarian assistance.
- v) Lack of knowledge about the culture and social life of the victim population.

The main problems with various treaties and conventions that relating to disaster management they are not very specific to disaster relief. The United Nations resolutions and customary laws are all without much effectiveness. Although some provisions in treaties governing air traffic, custom duties, rail and maritime transport address the subject, they are only in the periphery of the issue. There are very few ongoing direct attempts to standardise international law of disasters.

V. India's approach towards Disaster Management

The Constitution of India, the Magna Carta of fundamental rights for Indians guarantees protection of life and security with the purpose of ensuring a welfare state. Not only the laws and regulations framed by the Central and State Governments have to be in conformity not only with the constitutional provisions, but also the authorities have a duty under the Constitution to safeguard and protect the Fundamental Rights. Further they also have the duty to formulate proper disaster management policies and programmes as a part of their efforts to attain sustainable development. The scope and applicability of the Fundamental Rights and the validity of the laws passed by the legislatures and executive actions of the Government are often the subject matter of various decisions by the Supreme Court of India.

Speaking on this point, the Supreme Court of India in the famous case of **N.D. Jayal v. Union of India**¹⁰ observed:

“Disaster Management means all aspects of planning, coordinating and implementing all measures which are necessary or desirable to prevent, minimize, overcome or to stop the spread of a disaster upon the people or any property and includes all stages of rescue and immediate relief... ” The present relief-centred reactive approach after the striking of Over the past couple of years, the Government of India have brought about a paradigm shift in the approach to disaster management. The new approach proceeds from the conviction that 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. The new policy also emanates from the belief that investments in mitigation are much more cost effective than expenditure on relief and rehabilitation.

¹⁰ 2004(9) SCC 362

At the national level, the Ministry of Home Affairs is the nodal Ministry for all matters concerning disaster management. The Central Relief Commissioner (CRC) in the Ministry of Home Affairs is the nodal officer to coordinate relief operations for natural disasters. The CRC receives information relating to forecasting/warning of a natural calamity from India Meteorological Department (IMD) or from Central Water Commission of Ministry of Water Resources on a continuing basis. The Ministries/Departments/Organizations concerned with the primary and secondary functions relating to the management of disasters include :India Meteorological Department, Central Water Commission, Ministry of Home Affairs, Ministry of Defence, Ministry of Finance, Ministry of Rural Development, Ministry of Urban Development, Department of Communications, Ministry of Health, Ministry of Water Resources, Ministry of Petroleum, and Department of Agriculture & Cooperation. Ministry of Power, Department of Civil Supplies, Ministry of Railways, Ministry of Information and Broadcasting, Planning Commission, Cabinet Secretariat, Department of Surface Transport, Ministry of Social Justice, Department of Women and Child Development, Ministry of Environment and Forest, Department of Food. Each Ministry/Department/Organization nominates their nodal officer to the Crisis Management Group chaired by Central Relief Commissioner. The nodal officer is responsible for preparing Sectoral Action Plan/Emergency Support Function Plan for managing disasters.¹¹

Modern disaster managers emphasis more on pre-disaster activities including mitigation and prevention than on post disaster response. The contemporary definition on disaster management encompasses the complete sphere of disaster related activities covering situations that occur prior to during and after the disaster. By realizing the disaster

¹¹Govt of India(2004), Disaster Management Status Report 2004, Ministry of Home Affairs, Govt of India, New Delhi., 10

susceptibility of India and the immediate need to have an effective disaster management system, the Government of India has come up with the **Disaster Management Act 2005** which provides for the establishment of National Disaster Management Authority¹², State Disaster Management Authority¹³, District Disaster Management Authority¹⁴, National Institute for Disaster Management¹⁵ and National Disaster Response Force¹⁶ to swiftly deal with disasters. **Clause 2(e)** of the **Disaster Management Act 2005**, defines Disaster Management as, "Disaster management" means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for-

- (i) Prevention of danger or threat of any disaster;
- (ii) Mitigation or reduction of risk of any disaster or its severity or consequences;
- (iii) Capacity-building;
- (iv) Preparedness to deal with any disaster;
- (v) Prompt response to any threatening disaster situation or disaster;
- (vi) Assessing the severity or magnitude of effects of any disaster;
- (vii) Evacuation, rescue and relief;
- (viii) Rehabilitation and reconstruction.

There is no doubt that this Act of 2005 is a comprehensive piece of legislation which is suitably measured for Indian environment to cope up with any kind of disaster situation arise within the country. As we can see all kind of possible aspects of disaster management has been successfully covered up under this act. This act is also very much in consonance with

¹²Chapter II of The Disaster Management Act 2005

¹³Ibid, Chapter III

¹⁴Ibid, Chapter IV

¹⁵Ibid, Chapter VII

¹⁶Ibid, Chapter VIII

the disaster management mechanism of United Nations as well. We cannot ignore the fact that law always lagging behind the time, we take measures or precautions according to what we have witnessed in past years, Apart from natural disaster the concept of man-made disaster is very much changing because as society progresses day by day, the nature of disasters also may form and may appear before us in new shapes and obviously come up with new challenges for us. Therefore, it will be too early to make any comment regarding the utility or effectiveness or any disadvantage of this act.

VI. Conclusion

Finally, every disaster has sociological, psychological, ecological, economical and political ramifications nationally and internationally. Loss, damages and unending miseries spawned by disasters make it difficult to identify and answer a series of important issues pertaining to disaster management. It is worth here to mention that Disaster Response System consists of various stages in the disaster management activities such as i) Preparatory stage, ii) Warning stage, iii) Emergency stage, iv) Rehabilitation stage and v) Reconstruction stage still a proper understandings of the consequences of disasters and their devastating impact is necessary to learn from our faults, minimize our weaknesses and to build on our strengths in order to develop an effective and time-bound system for disaster management. An effective system which set out the legal, institutional and financial arrangements for disaster management, which plans and build up strategies for disaster response system to reduce loss of life, injuries, human sufferings and to alleviate the other adverse effects of future disasters.

Disaster Management is a part of the Fundamental Right of Right to Life under Article 21 of the Constitution of India. It imposes a duty on the

part of the State to adopt proper disaster management policies as a part of its duty to ensure sustainable development of the nation. In the view of the frequency of disaster striking India, there is a need for continued vigilance, preparedness and conscious efforts to reduce the occurrence and mitigation of impact of natural disaster. What is required is a planned approach to disaster management; its management is a fundamental component of sustainable development because the reduction of disaster equivalent to increased development. The following suggestions can be offered for effective disaster management system in India:¹⁷

- (I) There should be a proper multi-tier organizational structure in a focussed and co-ordinated manner responsible for the overall management at national, state, districts and village levels.
- (II) The basic design of disaster management should consist of planned co-ordinated efforts in following important areas:
 - a) Identification and prediction;
 - b) Early warning system;
 - c) Evacuation;
 - d) Relief;
 - e) Rescue;
 - f) Rehabilitation;
 - g) Compensation;
 - h) Reconstruction;
 - i) Preparedness
- (III) There is a need to share the expertise and experiences so that states can learn from each other. There is also a need for training personnel likely to face natural disaster and those who deal with the relief operations.

It is true that we are late in deciphering the causes of disasters. Once we master the exercise of identifying the forces which lead to disasters, it may be possible for us to take precautionary measures to avoid them. Quite often we are faced by disasters all of a sudden and it making us

¹⁷<http://proxied.changemakers.net/journal/300510/dis8.jpg> ; Visited on 11/08/15

dumb-founded, inactive and non-responsive. Scientists and technologists have to identify properly the causes of disasters and devise new instruments and machineries to predict and prevent them. The Administration has to organise and consolidate activities of all including the commoners to combat them. This can be possible only if we have a plan of action. India in the recent years has made significant development in the area of disaster management. A new culture of preparedness, quick response, strategic thinking and prevention is being ushered. The administrative framework is being streamlined to deal with the various disasters. Effort are also being made to make disaster management a community movement wherein there is greater participation of the people. However, a lot more need to be done to make disaster management a mass movement in near future.