



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

Disaster Management In India And Legal Reforms

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Abstract

India is among the most disaster-prone countries in the world due to its diverse topography, climate, and socio-economic conditions. From devastating floods and earthquakes to cyclones and industrial accidents, the country faces a spectrum of natural and human-induced disasters. Effective disaster management requires not only institutional frameworks and technological readiness but also robust legal mechanisms. This article explores the evolution of disaster management in India, critically examines the existing legal frameworks such as the Disaster Management Act, 2005, highlights gaps in implementation and coordination, and proposes legal reforms to enhance the country's disaster resilience. It includes case studies of key disaster events and draws from comparative international best practices to strengthen India's approach to disaster governance.

Keywords

Disaster Management, India, Legal Frameworks, Reforms, Disaster Management Act 2005, Climate Change, Governance, Resilience

1. Introduction

India's geographical diversity and demographic scale make it uniquely vulnerable to a wide array of disasters. According to the National Disaster Management Authority (NDMA), nearly 58.6% of the Indian landmass is prone to earthquakes, 12% to floods, 8% to cyclones, and 68% of the cultivable area to drought. These disasters not only cause immense loss of life and property but also reverse years of development gains. The Bhopal Gas Tragedy (1984), Odisha Super Cyclone (1999), Gujarat Earthquake (2001), Tsunami (2004), Kerala floods (2018), and COVID-19 pandemic (2020–21) highlight the urgent need for comprehensive disaster preparedness.

Despite some progress, India's disaster management strategies remain reactive rather than proactive. This article aims to assess the legal structures governing disaster response, preparedness, and recovery, and proposes reforms to make them more effective, inclusive, and adaptive.

2. Conceptual Framework: What is Disaster Management?

Disaster management refers to the systematic process of using administrative decisions, organization, operational skills, and capacities to implement policies, strategies, and coping capacities to lessen the impacts of natural hazards and related environmental and technological disasters. The United Nations Office for Disaster Risk Reduction (UNDRR) emphasizes a shift from response to risk reduction as the cornerstone of modern disaster governance.

In India, disaster management has traditionally been seen as a relief-oriented activity under the domain of the Ministry of Home Affairs. However, contemporary discourse recognizes the need to integrate risk reduction, climate change adaptation, and sustainable development into legal and institutional frameworks.

3. Evolution of Disaster Management in India

3.1 Pre-2005 Era

Prior to 2005, disaster management in India lacked a unified legal structure. Relief operations were largely ad hoc, led by district collectors under various state revenue departments. The Environment (Protection) Act, 1986 and Factories Act, 1948 provided some guidance for industrial hazards, but natural disasters remained governed by executive guidelines.

The 1999 Odisha cyclone and 2001 Gujarat earthquake were pivotal in triggering institutional introspection. This led to the establishment of a High-Powered Committee (1999–2001), which recommended a holistic, legal approach to disaster governance.

3.2 Post-2005: The Disaster Management Act

The **Disaster Management Act, 2005** marked a watershed moment by institutionalizing disaster risk governance in India. The Act established a three-tiered structure—**NDMA** at the national level, **State Disaster Management Authorities (SDMAs)** at the state level, and **District Disaster Management Authorities (DDMAs)** at the district level.

Key features of the Act include:

- Defining disaster and disaster management legally
- Establishment of funds at national, state, and district levels
- Empowering authorities to lay down policies and guidelines
- Coordination with various line ministries

However, critics argue that the Act centralizes power excessively and lacks operational clarity in federal coordination.

4. Institutional Mechanisms

- **National Disaster Management Authority (NDMA):** Headed by the Prime Minister, responsible for laying down national policies, approving plans, and coordinating central and state responses.
- **National Institute of Disaster Management (NIDM):** Provides capacity building, training, and research support.
- **State and District Authorities:** Responsible for preparing state and district disaster management plans and overseeing implementation.
- **Ministry of Home Affairs (MHA):** Nodal ministry for most disasters, except for drought (Ministry of Agriculture) and health emergencies (Ministry of Health and Family Welfare).

5. Case Studies: Lessons from the Ground

5.1 Odisha Cyclone (Fani, 2019)

Odisha demonstrated remarkable preparedness in handling Cyclone Fani. More than 1.2 million people were evacuated in less than 48 hours, and deaths were limited to 64, compared to over 10,000 in 1999. The state's early warning systems, pre-positioning of response teams, and community participation are often cited as best practices in disaster risk reduction.

5.2 Kerala Floods (2018)

The floods revealed gaps in dam management, inter-agency coordination, and land-use planning. Despite a well-prepared SDMA, the absence of real-time data-sharing among agencies hindered timely flood mitigation. A lack of integration of ecological concerns with planning laws became apparent.

5.3 COVID-19 Pandemic (2020–21)

The use of the Disaster Management Act to impose lockdowns during COVID-19 exposed its limitations in dealing with public health emergencies. Human rights concerns, migrant distress, and jurisdictional conflicts between the Centre and states came to the forefront. Critics questioned the legality of invoking the Act beyond its original scope.

6. Gaps in the Current Legal Framework

- **Lack of Health-Specific Provisions:** The DM Act lacks provisions to address large-scale health emergencies, which became evident during COVID-19.
- **Over-centralization:** The Act vests substantial powers in the Centre, often sidelining local authorities and weakening decentralized planning.
- **No Legal Backing for Community Participation:** While community involvement is emphasized in theory, there is little statutory support for local self-governments and civil society organizations.
- **Overlap and Conflicts with Environmental Laws:** Disaster risks are closely linked with environmental degradation, yet the DM Act operates in isolation from laws like the Environmental Protection Act, 1986 or the Forest Rights Act, 2006.
- **Insufficient Role of Climate Change:** The Act does not adequately incorporate climate change adaptation, which is critical given the increasing frequency and severity of climate-related disasters.

7. Need for Legal Reforms

7.1 Enactment of a Comprehensive National Disaster Risk Reduction Law

India needs a consolidated law integrating climate change, environmental degradation, and disaster risk reduction. This should subsume provisions from existing statutes, harmonize with global frameworks like the Sendai Framework, and recognize ecological vulnerabilities.

7.2 Amendments to the Disaster Management Act, 2005

- Expand the definition of “disaster” to include pandemics, biohazards, and slow-onset disasters
- Provide statutory backing for community-based disaster risk management (CBDRM)
- Include clear coordination mechanisms between different ministries and federal units
- Establish accountability mechanisms for fund usage and project implementation

7.3 Integration with Urban and Rural Planning Laws

Land-use planning laws must be aligned with disaster risk assessments. The Model Town and Country Planning Act and Smart Cities Mission should include disaster resilience criteria.

7.4 Strengthening Judicial and Quasi-Judicial Oversight

Courts have played a proactive role in disaster matters (e.g., Ganga Flood Management case, 2017). Establishing dedicated disaster benches or including disaster management under the purview of the National Green Tribunal could enhance legal accountability.

8. International Best Practices

- **Japan:** Focus on school education and community drills has reduced disaster fatalities.
- **USA:** The Federal Emergency Management Agency (FEMA) offers a model of decentralized but well-coordinated federal response.
- **Bangladesh:** Strong emphasis on local governance and gender-responsive disaster planning has improved cyclone preparedness.

India can draw lessons from these frameworks while adapting them to its unique federal structure and socio-economic conditions.

9. Recommendations

1. Amend the DM Act to reflect contemporary disaster realities
2. Strengthen local governance through legal empowerment of Panchayats and Urban Local Bodies
3. Mandate periodic disaster impact assessments for all major infrastructure projects
4. Ensure transparent and accountable disaster funding mechanisms
5. Institutionalize citizen-led audits and public hearings post-disaster
6. Integrate disaster resilience into school curricula, urban planning, and development projects

10. Conclusion

India stands at a critical juncture in its disaster management journey. While the enactment of the Disaster Management Act, 2005 was a progressive step, the evolving nature of disasters calls for legal and institutional recalibration. A forward-looking, inclusive, and climate-conscious legal framework is imperative. Legal reforms should aim not only at better response and relief but also at building long-term resilience rooted in equity, sustainability, and constitutional values.

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