

**MINOR RESEARCH PROJECT**

**“MASS DISASTER AND ENVIRONMENTAL  
DEGRADATION IN INDIA: LEGAL LIABILITY  
AND LEGAL REMEDIES”**

**Executive Summary Report by**

**Principal Investigator**

**Dr. Jyoti Shrirang Dharm**

Assistant Professor

New Law College, Pune

Bharati Vidyapeeth Deemed University

**SUBMITTED TO**

UNIVERSITY GRANTS COMMISSION

WESTERN REGIONAL OFFICE,

GANESHKHIND, PUNE-411007

**July, 2017**

## **Introduction**

Disaster is either man made or natural. They can be small or at large level. When a disaster affects a larger population, it transforms itself into a mass disaster causing unbearable and irreparable loss to the entire mankind. Such disaster, if not properly managed, may prove catastrophic. This is evident from the recent tragedy in Kedarnath. Also the incident of Bhopal Gas tragedy warrants us to think more and cautions us all to be prepared for any such tragedies of Mass disaster in the near future.

Natural disasters are caused by “acts of God”. Natural disasters, such as earthquakes, floods, tsunami and cyclones, being beyond the control of human beings, the aspects relating to mitigation of damage, rescue, relief and rehabilitation assume importance. Manmade disasters are attributable to Conditions resulting from human conduct such as grossly negligent acts gross inaction or serious errors. Fire outbreaks especially in places to which the public has access including high rise buildings, Stampedes in public places and industrial disasters viz. Explosions, escape of noxious fumes and gases, mishaps in underground mines etc.

## **Interdisciplinary relevance**

As for the interdisciplinary relevance of the project, it involves legislative investigations and the utilization of the prospective outcome to develop new laws and legislation that will balance the situation and deal with problems and perspectives relating to Mass Disasters and their adverse effect on the mankind as well as environment. The major reason behind all this exercise would be to meticulously scrutinize the Indian laws relating to Mass Disaster and environmental degradation.

### **Significance of the study**

A wide and extensive research in the area of laws relating to Mass Disaster and environment degradation seems to be important in today's era. The curse of Manmade Disaster which has haunted the humanity warrants us all to deal with the problem scrupulously. Due to the adventures made in the field of industrialization and environmental pollution, there seems to be change in the modus operandi. In the wake of such developments, the Mass Disaster management law and environmental laws need to be altered and studied. A research in this area is indeed inevitable as the concerns are demanding and nuanced in many countries.

### **The Scope of research**

Environmental law being a very wide subject, the researcher has confined her research to certain general and specific legislations pertaining to mass disaster and environmental degradation in India. The researcher has further analysed International conferences aimed at reducing disaster risk. Case laws have also been attempted.

### **Objectives of the research**

#### **Broad Objective**

To make a detailed study of the problems relating to and in the aftermath of mass disasters and environmental degradation.

#### **Specific Objectives**

1. To make a detailed study of the problems relating to the disaster and to study the aftermath of mass disaster and environmental degradation.
2. To scrutinize the government policies and laws incidental to issues.
3. To determine and analyse the action of the government officials in the wake of any disasters.
4. To explore the social engineering by the Indian judiciary and its role in the development of environmental laws especially in the light of disasters.

### **The problem statement of the research**

1. The legislative and administrative responses have been lacking with the result that such mass disaster are increasing in magnitude and frequency. Every time adhoc arrangements are made to face the disaster but not before incalculable damages is done and avoidable hardship suffered.
2. There is no uniformity regarding the system of investigating authority, procedures to be followed and obligatory force of recommendation made by the investigating agency.

### **Hypothesis of the present work**

There are plenty of laws dealing with the situation for example the Disaster Management Act 2005 to take care of the tragedies of the mankind, and there are other various Environmental laws. However in reality these laws are there only on the papers and are not implemented appropriately. A policy oriented approach would need examination of duties and obligation of various persons connected with disaster management. The researcher proposes to conduct an in depth study of the issues in questions also proposes to suggest some remedies.

### **Research Methodology**

This research is a doctrinal research as the library work is employed while conducting this research. So also primary sources of data collection are not used, hence this research can be classified as a purely doctrinal research. The researcher has followed the analytical and critical method in this research.

### **Sources of data collection**

As this research is doctrinal research the sources of data involved in this research are secondary sources of data which are as enumerated below

- Text books
- Reference books
- Journals

- Articles
- Supreme court reports
- News papers
- Internet
- Legislative enactment

### **Scheme of Chapterization**

This research is divided into five chapters, and the scheme of chapterization is as follows:

#### **Chapter I Introduction**

#### **Chapter II Mass Disaster and Environment degradation**

#### **Chapter III International Conferences related with Disaster Risk Reduction**

#### **Chapter IV Legislations controlling Mass Disaster in India**

#### **Chapter V Role of judiciary to protect environment from Mass Disaster**

### **Conclusion**

Disaster is a catastrophic situation in which the usual pattern of life or ecosystem has been disrupted and extraordinary emergency interventions are required to save and preserve lives and the environment. It involves an event comprising trauma for a population, environment, vulnerable position or area that will stand the load of the traumatizing incident and the breakdown of local and neighboring resources to cope with the problems created by the phenomenon.

The impacts of disasters comprises loss of life ,injury and disability ,spread of epidemics, water borne ,food borne and air borne diseases, psychological trauma ,disruption to essential services , shortage of food, medicines national economic loss, loss of livelihood and damage to national infrastructure and governmental system and environment.

Disaster management in India has evolved from an activity –based reactive setup to a proactive, practical institutionalized organization, from single faculty domain to a multi- stakeholder arrangement. The Disaster Management Act, 2005 provides for the effective disaster management and for matters connected herewith or incidental thereto.<sup>1</sup>

Effective legal remedies for addressing the consequences of mass disaster are needed PILA aims at providing an immediate temporary relief only. It is pertinent to note that even after several years of the Bhopal gas leak disaster, the continuing damage to groundwater in Bhopal is appalling. The rehabilitation of survivors is still clouded in disillusion and despair. The cleanup of the site is a dilemma, as it requires dismantling the plant and the buildings, and decontaminating the soil and ground water.<sup>2</sup> It has been observed that the aftermath of the disaster like Bhopal gas leak demonstrates ‘the need for international human rights frame work that can be applied to companies directly ,that could also act as catalyst for national legal reform, and serve as a bench mark for national law and regulations.’<sup>3</sup>

Since the Bhopal disaster, India has knowledgeable about fast industrialization. Whereas some positive changes in government policy and behavior of a few industries have taken place, major threats to the environment from rapid and poorly regulated industrial stay. Widespread environmental degradation with significant adverse human health consequences continues to occur throughout India.<sup>4</sup>

Disaster Management has to be a multi-disciplinary and pro-active approach. Besides various measures for putting in place institutional and policy framework, disaster prevention, mitigation and preparedness. Initiatives being taken by the Central and State Governments, the community, civil society organizations and media also have a key role to play in achieving the goal of

---

<sup>1</sup> Mahua Basu, S Xavier , Fundamentals of environmental studies , Cambridge University press 2016.

<sup>2</sup> Vibha Varshney ,’Flawed plans India has little idea how to clean up Bhopal.’ Down to earth, 15 Dec. 2004.

<sup>3</sup> Amnesty International, summary of ‘clouds of injustice Bhopal Disaster 20 years on ‘,ASA 20/104/2004 dated 29 November 2004.

<sup>4</sup> The Bhopal Disaster and its Aftermath. A Review. December 21, 2004. Edward Broughton, [www.ehjournal.net/imedia/2091419625766637\\_manuscript.pdf](http://www.ehjournal.net/imedia/2091419625766637_manuscript.pdf)

moving together, towards a safer India. In order to move towards safer and sustainable national development, development projects should be receptive towards disaster mitigation.

With a massive awareness generation campaign and building up of capabilities as well as institutionalization of the entire mechanism through a techno legal and techno financial framework, we are gradually moving in the direction of sustainable development.

Disaster and their management typically get mentioned in their aftermath but practically it should result in planning and preparing the strategy to tackle and mitigate disaster in a responsible and effective manner. Disaster both natural and unnatural is large-scale level events or process, which induce disturbances and confusion for a prolonged life threatening environment for community.

**Suggestions:-**

- Institutionalize a holistic and integrated approach within the management of environmental and natural resources in line with the National environmental policies.
- Develop awareness and preparedness of all the shareholders which include sensitization and educating all the stakeholders, formulation of emergency plans for family and community.
- Conduction of mock drill , training for administrating first aids,
- Preparation of handbook and manuals in many languages for general mass.
- State governments should incorporate disaster related curriculum at higher secondary and undergraduate studies in all institute.

- Investors in industrial projects involving forest land are required to undertake detailed Environmental Impact Assessment Studies of their projects with respect to physical resources, hydrology, and water quality, socio-economic aspects, human use values, etc
- The roles of various groups like police force, civil defense, fire services, NGOs, women groups, youth organization and corporate houses should be institutionalized apart from NDRF and SDRF.
- Mapping of landslide vulnerability, geo-technical investigations, scientific research, abiding of land use regulation should be done. The vulnerability can be reduced by early warning, proper land use planning, proper engineering techniques etc.
- The Corporate sector as a part of Corporate Social Responsibility can also provide services to hospitals, communication, power, relief transport, equipments and logistics supply.
- Establish an expert and earmarked response team for dealing with nuclear/biological/chemical disasters.
- There is a clear need to reinforce the importance of environmental concerns in the entire disaster management cycle of prevention, preparedness, assessment, mitigation and response and to integrate environmental concerns into planning for relief, rehabilitation, reconstruction and development.
- Encourage community involvement and empowerment of women and other socially disadvantaged groups at all stages of disaster management programmes in order to facilitate capacity building, which is a vital precondition for reducing vulnerability of communities to natural disasters.



- Promote sustainable consumption and production patterns which can facilitate within the protection of environmental degradation and mass disaster.
- The local newspaper can publish special section with emergency information including locations where landslides are most possible. Phone number of the local police and hospitals should also publish in the newspaper.
- Maintain rational interrelationships among people, poverty, affluences and environmental degradation.

The above mentioned suggestions along with the other suggestion incorporated in every chapter if implemented will definitely help in controlling environmental degradation more efficiently. The researcher would like to end this research on concluding note that the duty of environmental protection should not be thrust upon any one institution like the Legislation or the government or the people ;but each one that is the legislation ,the government and public should in consonance and in conformity with one other should protect environment sincerely and apparently.

\*\*\*\*\*

