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Man Made Disasters and Environmental Laws vis-à-vis

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Abstract

The world is facing an increasing frequency and intensity of disasters – natural and manmade – that has had devastating impacts. As reported by the secretariat of the International Strategy for Disaster Reduction (ISDR), the last ten years have seen 478,100 people killed, more than 2.5 billion people affected and about US\$ 690 billion in economic losses. Disasters triggered by hydro-meteorological hazards amounted for 97 percent of the total people affected by disasters, and 60 percent of the total economic losses. The greater tragedy is that many of the losses due to disasters could have been prevented.¹ The researcher aimed to Analyse the situation of the development taking place and requirements necessary to be maintained for healthy livelihood are maintained or not! The researcher has taken help of the Environmental Laws and Disaster Management Act governing the laws relating to manmade disasters in India.

Key words – disasters, ecological balance, environment safety, laws, sustainability.

¹ Disasters and Conflicts available at www.unep.org (Visited on February 4, 2024).



Introduction

Man-made disasters are the consequence of technological or human hazards. Fires, transport accidents, industrial accidents, oil spills and nuclear explosions/radiation are some examples resulting in the human hazards. Man has cut forests recklessly to clear the land for cultivation and along with this environmental degradation has taken place, which also affects human life. Over population also affects our social environment.

The world is facing an increasing frequency and intensity of disasters – natural and manmade – that has had devastating impacts. As reported by the secretariat of the International Strategy for Disaster Reduction (ISDR), the last ten years have seen 478,100 people killed, more than 2.5 billion people affected and about US\$ 690 billion in economic losses. Disasters triggered by hydro-meteorological hazards amounted for 97 percent of the total people affected by disasters, and 60 percent of the total economic losses.

The greater tragedy is that many of the losses due to disasters could have been averted. There are, however, opportunities to reduce disaster risk, and enhance community resilience.²

Many ecosystems have been frayed to the point where they are no longer able to withstand natural disturbances. India is one of the ten worst disaster-prone countries of the world. The country is prone to disasters due to number of factors; both natural and human induced, including adverse geo climatic conditions, topographic features, environmental degradation, population growth, urbanization, industrialization, non-scientific development practices etc.

The basic reason for the high vulnerability of the country to natural disasters is its unique geographical and geological situations. As far as the vulnerability to disaster is concerned, the five distinctive regions of the country i.e. Himalayan region, the alluvial plains, the hilly part of the peninsula, and the coastal zone have their own specific problems. While on one hand the Himalayan region is prone to disasters like earthquakes and landslides, the plain is affected by floods almost every year. The desert part of the country is affected by droughts

² Disasters and Conflicts available at www.unep.org (Visited on March 4, 2014)



and famine while the coastal zone is susceptible to cyclones and storms. The natural geological setting of the country is the primary basic reason for its increased vulnerability.

The concept of environmental justice has been closely linked with the new tide in global environmentalism. The concept of environmental justice has emerged as a new version of justice.

According to Professor O.P. Dwivedi, the relationship between human beings and nature paying attention to the seers of the Vedic period in a manner incomparable to any other religious and cultural traditions.

The Vedic seers acknowledged that the material causes of this creation happened to be the *Panch Mahabhutas* (Five Great Elements); traditionally they are enumerated in the following order as earth, air, space, water and light-fire. These five Mahabhutas are cosmic elements which create, nurture, and sustain all forms of life thus they play an important role in preserving and sustaining the environment³.

A Glance of Bhopal Gas Disaster -

The Bhopal Disaster has raised complex legal questions about the liability of a parent company for the act of its subsidiary, responsibility of multinational corporations engaged in hazardous activities and the transfer of hazardous technology. On the night of 2 – 3 December 1984, the most tragic industrial disaster in history occurred in the city of Bhopal. It was estimated that 2660 persons lost their lives and more than 2 lac persons suffered injuries- some serious and permanent- some mild and temporary. Livestock were killed and crops damaged. Business was interrupted. On 14 February 1989, the Supreme Court of India came out with an overall settlement of the claims and awarded US\$ 470 million (Rs 715 crores) to the Government of India on behalf of all the Bhopal victims in full and final settlement of all the past, present and future claims arising from the Bhopal gas leakage. The Supreme Court

³Singh, Sukh Pal, "Environmental Law and Policy on Air Pollution in India", (New Delhi: Satyam Book, 2005, First Edn.) pp. 01-08.



also terminated all the civil, criminal and contempt of court proceedings against the corporate officials pending in the Indian Courts.⁴

- **Global Warming, Third Planet from the Sun**

Global warming is one of the most overlooked and ongoing man-made disasters — one that will have the greatest long-term impact on humanity. Excessive amounts of greenhouse gases, particularly CO₂, introduced into the atmosphere have increased average global temperatures forecasting a number of dire consequences. Impacts from rising sea levels, desertification, and damage from intense super storms like Hurricane Katrina have already created some of the first groups of climate-change refugees and some estimate that number to rise to 150 million by 2050. But even if you're skeptical of the science, the excessive amount of carbon made has released into the atmosphere has started a dangerous problem with ocean acidification. As the oceans absorb more carbon, it's turning into carbonic acid and decreasing dissolved oxygen concentration making some oceanic environments uninhabitable. With our own reliance on seafood, this in turn has threatened humanity's own ability to feed itself.⁵

- **Terrorism in India**

Terrorism is one of the manmade disasters in India; people of our country do not feel safe in their city. The term terrorism has arrived from the French word terrorism. The term was introduced during the reign of Terror from French government. “Terrorism” can be defined as the use of violence and threats to achieve some type of goal.⁶

⁴ Environment Protection Role of Space law and Air law by S. Bhatt, P.No.100

⁵ Gurdip Singh, “Environmental law in India”, Edition of 2005, Page No.07

⁶ Terrorism in India available at: Sanathanu.bogspost.in (Visited on 4th March,2014)



- **Flash floods in Uttarakhand**

There are various reports which say that the Uttarakhand floods were manmade. The period between June 14 and 17, 2013 was very tough for the people living in Uttarakhand, multi day rainstorm, connected with an early monsoon in north India, lead to heavy floods⁷

Disaster risks in India are further compounded by growing vulnerabilities. These include the ever-growing population, the vast disparities in income, rapid urbanization, increasing industrialization, development within high-risk zones, environmental degradation, climate change, etc.

Clearly, all these point to a future where disasters seriously threaten India's population, national security, economy and its sustainable development; therefore, the urgency to issue the guidelines for the preparation of the State Plan for Disaster Management (DM) as mandated by the Disaster Management Act, 2005 (DM ACT, 2005).

On 23 December 2005, the Government of India (GoI) took a significant step towards holistic DM by enacting the DM ACT, 2005. The DM plans will build in region and hazard specific management tools in the context of regional and multi-hazard vulnerabilities⁸.

More common **manmade disasters** are major fires, land, air or water accidents caused by collisions, breakdown, etc., and collapse of bridges and buildings. Manmade disasters are preventable. For instance, by adhering to rules that govern the way a building must be constructed (these are called Building Bye Laws), we could ensure that it is strong and durable.

Nuclear Non – Proliferation Treaties are agreements made internationally by countries, mutually agreeing not to develop nuclear weapons for mass destruction. Further, by adhering

⁷ Flood Situation Report 2013, Disaster Management Division, Ministry of Home Affairs, July 27, 2013

⁸ National Disaster Management Guidelines Published by National Disaster Management Authority, Govt. of India, Edition of July 2007, P.g. No.- 01



conscientiously to safety measures in industries, accidents that cause suffering could be prevented⁹.

Conclusion

Negligence is a distinct head of tort. The general principle behind the tort of negligence is that "you must take reasonable care to avoid acts or omissions which you could reasonably foresee would likely endanger your neighbour."

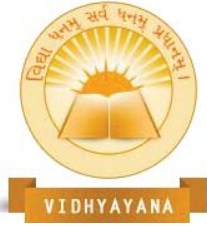
According to researchers, the crucial defects and potential sources of danger noticed remain unaddressed and the authorities concerned fail to take punitive actions against the responsible persons. The law should be updated to provide speedy and adequate redress to the victims.

It has been also felt that the preventive aspect is being neglected, the regulatory mechanism is clearly absent and the law is too lenient towards those violating the safety regulations or otherwise contributing to the disasters. The persons who are aggrieved do not get help of food or safety from the Government.

Representations have been made to the government that there should be an effective law to deal with man-made disasters and provide adequate and speedy remedies to the victims and their relatives. In this background, the problems associated with man-made disasters should be approached from different angles and practicable solutions are to be found. The areas in which the law needs to be amended or refined are to be identified. Attention should be paid to three aspects: (i) preventive measures, (ii) punitive aspects, and (iii) remedial measures i.e., relief including compensation and rehabilitation. These should come under a strict legal framework to make all concerned, including the regulators, within the government accountability¹⁰.

⁹The book together, Towards, A Safer India, First edition (2003) by CBSE, Delhi Chapter-6, pg.no – 50

¹⁰Nagendar Sharma, "Law Commission wants stricter jail term, in man-made disaster cases", Hindustan Times New Delhi, September 10, 2012



Suggestions

According to Researcher this manmade disaster of mountain top removal mining should be banned, however the powers that be don't care about the people, the communities, or the environment they are destroying, just their profits.

There is need of appropriate legislation to tackle such man-made calamities and to put in place an appropriate investigative and judicial mechanism that compels future offenders to think twice before indulging in acts of omission or commission that can endanger human life.

- **Need for separate section under IPC**

The organisation has suggested a separate section under IPC so that in case of any man-made tragedy in future the perpetrators can be booked under the said section. "Not only should adequate punishment be prescribed for the offenders, but care must also be taken that the punishment is of such a nature and degree that it has the necessary preventive effect."

It has also suggested that these cases should be taken up by fast-track courts to provide speedy justice to victims¹¹.

Awareness Generation for safe construction in rural areas: - for the rural areas, where people go for non-engineered construction, the strategy is of awareness generation by distribution of pamphlets bringing out essential features, which need to be incorporated into the construction so that it is safe; and of training the masons. Samples of pamphlets/posters which could be circulated have been compiled and have been made available to States for adoption/translation into local languages.

It would be ideal instead of piecemeal inspections by Civil/Structural Engineers, Electrical Inspectors and Fire Service officers, the inspection teams consisting of officials from all these disciplines should be in their sufficient number to inspect the buildings, take stock of safety measures, deficiencies and safety standard violations and take necessary steps firstly to have

¹¹ New tribunal suggested to deal with man-made disasters available at: <http://www.thehindu.com/>(Last Modified August 18, 2012)



the defects rectified or hazards removed and secondly to initiate action for prosecution and/or other measures to enforce compliance with safety standards and regulations.

Disaster Awareness in School Education

It was felt that making disaster awareness a part of the school curriculum would be an important step. Disaster awareness/Dos and Don'ts have been made a part of classes – VIII and IX CBSE curricula. The State Governments should also take similar steps vis-à-vis their school boards.

Laws need to be updated to handle man-made disasters

Man-made disasters are attributable to conditions resulting from human conduct such as acts of gross negligence, gross inaction or serious errors. Unlike natural disasters, preventive and regulatory measures assume greater importance in the case of man-made disasters. Periodical inspections, even when they are provided for in the rule book, are seldom done with the requisite thoroughness, though they should be done properly with a check on the officers. The fundamental defects and possible sources of danger noticed should not remain unaddressed and the authorities concerned should not fail to take punitive action against the responsible persons. The law should be updated to provide speedy and adequate redress to the victims. It is also felt that the preventive aspect is being neglected, the regulatory mechanism is clearly absent and the law is too lenient towards those violating the safety regulations or otherwise contributing to disasters.

Gross dereliction of duties on the part of the officials and casual and careless attitude towards duties should be deemed as punishable offences. For instance, if an unauthorized construction goes on with the full knowledge of officials or such a construction does not escape the notice of the officials, if the building plans are approved or no-objection certificates (NOCs) are issued without going through mandatory inspection and without verifying material particulars, the officials should be punished for a specified offence. Palpable negligence in doing duties should not be overlooked under the appropriate law.



The persons responsible for management and supervision of buildings and the names and particulars of the lessees should be furnished in the self-assessment report which should be filed annually. Any false declaration filed should be a punishable offence.

The government panel has should raise the minimum jail term from 2 to 5 years for those found guilty of causing mass deaths and destruction through their rash or negligent acts in man-made disasters. Enhancement should be done in the minimum jail term under IPC from 2 to 5 years for those found guilty of Negligence. In case of fire due to short circuits and similar failures, a fine of at least 1 lakh Rs, be imposed jail term of 6 months. The Punishment if one fails to comply with fire safety standards should be increased.

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