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By

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The Disaster Management Act 2005 was enacted by the Parliament on the December 23, 2005. According to the Act, disaster is defined as “a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or manmade causes, or by accident or negligence which results in substantial loss of life or human suffering or damage 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 coping capacity of the community of the affected area”. There are two important points made in this definition.

The first is that disasters can be natural or man-made with the criterion for their definition as such being loss of life or human suffering coupled with destruction of property and the surrounding environment. The COVID-19 pandemic can be categorised as being a bit of both. While the virus originated in a wild animal (most probably bats), it was let loose because of the destruction of the natural habitats and the sale of wild animals as bush meat in a wet market in Wuhun, China. Till date, more than three million people have been infected by it and a great many have died.

The other important point is a disaster in an event which is beyond the coping capacity of the affected area. The COVID-19 pandemic also fits this criterion. The entire world is affected by it and the effort to contain and mitigate has also been a global effort led by the national governments in their respective areas. In India, it is the Central Government which is issuing the guidelines for containing the virus and the states make their own arrangements in accordance with the guidelines. In 2005, the Act envisaged such an arrangement and came up with this Act where the primacy of the Central Government was reiterated. This Act provides for an institutional arrangement for dealing with disasters in the country.

Disaster Management is defined to cover both before the event and after the event scenarios. Under the first, disaster management constitutes of measures taken for prevention, mitigation, capacity building and preparedness. The measures under these are meant to either prevent a particular disaster or lessen its impact when it occurs. The various measures taken for protection and preservation of the natural environment comes under it as well as capacity building of the community through awareness and building of resources to come with any adverse event. Suffice it is to say that this has not happened in the case of COVID-19. Environmental degradation continued unabated while poverty and inadequate health infrastructure compromised people’s ability to deal with the crisis. The long march of migrant

workers hungry and desperate is the biggest indictment of the failure of the preparedness of the country in dealing with the pandemic.

The other - after the incident measures, include prompt response, assessing the severity, evacuation and rehabilitation and reconstruction. Even in this as well there have been large scale failures. The lockdown that was called was sudden when there was enough time to response to the crisis early when measures could have been put into place as the scale of the crisis was unfolding in other nations (e.g., Italy, China, Iran). Testing is still very low so the true extent of the infection is difficult to gauge. Evacuation measures have completely failed (especially for migrant workers) and rehabilitation and reconstruction of the economy (because of the shutdown) has been dismal. All these would suggest the institutional setup created to deal with the crisis was highly flawed. Indeed this is the case.

The biggest problem with the Act is the ad-hoc nature of how it looks to deal with disasters in the country. There are three levels of institutions which have been recognized to deal with any disaster in the country, Central Government, State Government and District authorities. These are in the form of the National Disaster Management Authority (NDMA), State Disaster Management Authority (SDMA) and District Disaster Management Authority (DDMA). Structure of all these are all very similar. The NDMA is headed by the Prime Minister who is the chairperson who can designate one of the members to be Vice Chairperson. The other members, not exceeding nine, are to be nominated by the Chairperson. Regarding meetings of NDMA Authority, the Act stipulates that the meeting will happen as the Chairperson sees fit. The delegation of the frequency and requirement of the meetings on the prerogative of the Chairperson is meant to give flexibility in light of the many pressing matters that the Chairperson (i.e., Prime Minister) has to attend to. However, disaster management is not only about responding to an adverse event. It means preparation and taking steps to mitigate the impacts. This requires regular monitoring which necessitates regular meeting with a threshold number of sittings very crucial. The lack of regularity of gatherings gives the impression that the focus is more on after the event scenarios which makes the entire exercise incomplete. This is carried over the State and district level that have similar provisions.

The SDMA is headed by the Chief Minister who acts as the Chairperson. In case of Delhi and Union Territory, the Lt. Governor is the Chairperson of the SDMA. The chairperson can nominate the vice Chairperson and other members not exceeding eight in

number. As for the DDMA, it is the Collector/District Magistrate/Deputy Commissioner who acts as the Chairperson of the District Authority with the CEM of the District Council being the Vice Chairperson in Sixth Schedule Areas. The other members are Chief Executive Officer of the District Authority, Superintendent of Police, Chief Medical Officer of the district and not exceeding two other district level officers, to be appointed by the State Government. Here again, it is left up to the prerogative of the Chairperson to call the meetings as and when it sees fit.

The rules made by the Government of Meghalaya try to correct this by including the provision that meetings of the SDMA has to happen at least twice a year while the district authorities have to meet once in three months. Meghalaya, as the State Plan, reveals faces disasters of various kinds, viz., earthquake, landslide, cyclone, flood, coal mining, industries, cement industries. Whether twice a year is enough for handling all of them is a subject of debate. Nevertheless this can be rectified by the creation of a dedicated institution with qualified manpower to handle issues regarding disaster management. Unfortunately, that is missing from the Act.

The other major lacunae in the Act are the ad hoc nature of the institutions which are mandated to deal with disasters management. The NDMA is assisted by the National Executive Committee. The Secretary of the Government of India is the Chairperson of the committee with Secretaries in the Ministries/Departments of Agriculture, Atomic Energy, Defence, Drinking Water Supply, Environment and Forests, Finance (Expenditure), Health, Power, Rural Development, Science and Technology, Space, Telecommunication, Urban Development, Water Resources, and Chief of the Integrated Defence Staff of the Chiefs of Staff Committee being the other members. The one thing which becomes very clear from the composition of the Committee is the absence of disaster management experts from such an important body.

In the case of the state of Meghalaya, the members of the State Executive Committee consist of the Chief Secretary as the Chairperson and Principal Secretaries of Revenue and Disaster Management, PWD, Home Department, Finance Department, and DGP and DG of Home Garden and Defence being special invitees. It was in 2006 with the adoption of the Disaster Management Act 2005 that Relief and Rehabilitation was merged with the Revenue Department and on March 2, 2006 it was renamed as Revenue and Disaster Management Department vide Notification No. RDG4/2003/55 dated 02.03.2006. However, a look at the

functions of the Department clearly it is still very much concerned with administering and maintaining the land records in the State. A visit to the home page has no mention of any disaster management related activities which the Department is involved with. The District Executive Committee follows the same scheme. It is difficult to imagine as to how a committee which has the mandate to making policy decisions regarding disaster management can function efficiently without the presence of experts on such an important forum. This gives the impression that disaster is being treated as an ordinary administrative issue rather than a special circumstance requiring specific technical measures.

There is a provision for technical experts in the Act. There is stipulation for constitution of an Advisory Committee consisting of experts in the field of disaster management and having practical experience of disaster management at the national, State or district level to make recommendations on different aspects of disaster management. This is however again on an as required basis meaning that the National, State and District can do without such a committee and expert advice. Whether that happens in practise or not is not important as it shows the intention of the ACT regarding their approach to disaster management. Instead of a dedicated institution manned by an expert workforce the provision of sub-committees as and when deemed necessary is an example of an ad hoc arrangement which is mainly done with the intention of reducing expenditure and encouraging informalisation of the state machinery. Without a dedicated cadre it becomes very difficult to monitor the measures that are to be taken for prevention and mitigation revealing again that the focus is very much on after the events scenarios. Even then the state may choose to not appoint an advisory committee consisting of technical experts on the matter.

A National Institute of Disaster Management was established as part of the Act whose function is to develop training modules, undertake research and documentation in disaster management and organise training programmes. The website, however, does not give a great deal of confidence of the quality of work which the Institute is doing. Even so, there is no mention of members from the Institute being part of any decision making forum. Also the Institute being under the Ministry of Home Affairs and not an autonomous body raising doubts whether it is more than an extension of the bureaucracy.

The ad hoc nature of the arrangement becomes further evident in the provisions that mention of appointment of officers consultants and employees, as it considers necessary for carrying out the functions of the National Authority, State Authority and District Authority.

Effectively it means that the existing workforce of the State will be expected to assume more responsibilities (regarding disaster management along with other administrative duties) instead of creating a special cadre for the purpose. Meghalaya Administrative Training Institute (MATI) which has a faculty on Disaster Management will give trainings to the senior and middle level officers of the State Government on different aspect of disaster management. The SDMA can take assistance of North East Space and Application Centre (NESAC) and North Eastern Hill University (NEHU) for knowledge management and research projects. This requires the strengthening of the institutional linkages between the Department of Revenue and Disaster Management and the aforementioned institutes which could be hampered by the existing mandates of these institutions. This again makes it very clear that disaster is again treated as an administrative issue and not a specialised area of concern.

In terms of power and functions, the top down approach is very much evident with the NDMA issuing guidelines on dealing with disaster which the SDMA and DDMA are expected to follow. This includes the National Plan which lay down measures for prevention, mitigation, preparedness and capacity building along with role and responsibilities of the different ministries and departments of the Government of India. The State Plan is derived from it with the additional activity of preparing profiles of district based on hazard vulnerability based on earthquake, landslide, cyclone, flood, coal mining, industries, and cement industries. In the Act there is lack mention of a mechanism which would enable the National authority to take suggestions of the State authorities and make changes accordingly. There is an over emphasis on national level measures which States are expected to implement with few modifications. This then permeates to the District which is in practise lies at the frontline of disaster management. The lack of a feedback mechanism with the assurance that such views will be taken aboard makes exercise very much a macro exercise when in fact disasters are experienced at the micro level. In both the State and District Plans, there are complete sections on steps to be taken in event of a disaster which shows the overriding emphasis on after the event scenarios.

Some of the other problematic provisions in the Act are on violations and exemptions. For violations by the public there are specific durations of imprisonment with fines that are mentioned. However, for violations by a Government Department, officers and private companies no specific punishments are mentioned. This creates two categories of offenders: one group who knows clearly that they cannot escape punishment and the other group who

have a chance of getting away with either no punishment or only a lenient one. This privileging of certain groups of people becomes more stark when exemptions are provided under sections 71 (Bar of Jurisdiction of Court), 73 (Action taken in good Faith) and 74 (Immunity under legal process) to the officers, employees of the Central Government, National Authority, National Executive Committee, State Government, State Authority, State Executive Committee or District Authority. Such provisions are retrogressive in light of the assumed equality of all before law.

The Act, thus, fails to create a robust institution for disaster management in the country. The rules that have been made to implement the fact subsequently fail to address the gaps. This lack of intention is reflected in the Plans themselves. As per the Meghalaya State Plan (brought out in 2016), there is emphasis on Mitigation and preparedness measures in Volume I and response to a disaster in Volume II. The different kinds of disasters are described and various steps to be taken for their prevention and mitigation are described. There is a tremendous importance given to ‘Mainstreaming DM Concerns into Developmental Plans/Programmes/ Projects’ which actually means that the various departments and schemes are expected to include the disaster management related guidelines. The departments mentioned are, viz.,

- a) Infrastructure departments: Public Works, Dept, Community and Rural Development, Public Health Engineering, Irrigation, Soil Conservation Departments
- b) Housing: Urban Affairs Housing Development, Community and Rural Development Departments
- c) Health Department
- d) Finance Department
- e) Agriculture and allied Department (Fishery, sericulture and weaving)
- f) Education Department
- g) Veterinary and Animal Husbandry Department
- h) Home Guards and Civil Defence Department

Specific structural as well as non-structure measures are proposed for each departments. Strategies to be incorporated are also mentioned for the specific schemes, viz., Indira Awas Yojana, Mahatma Gandhi National Rural Employment Guarantee scheme, Pradhan Mantri Gram Sadak Yojana, Sarva Siksha Abhiyaan and National Rural Health

Mission in operation in the state. The different departments and the schemes are expected to integrate the measures into the operations.

The nodal departments for the different type disasters are also given. The nodal departments are expected to carry out Hazard Risk Vulnerability Analysis in respect of the hazards and prepare short, medium and long term mitigation measures both structural and non-structural. Although the Revenue and Disaster Management department is supposed to be the main nodal department for the purpose, this scheme reveals that it is one among the many. This raises questions as to the effectiveness of the organisational structure designed for coordination of various activities undertaken under disaster management.

SL. No	Hazards Specific	Nodal Departments	Supporting Agencies
1	Earthquake	Revenue & DM Dept	IMD, Ministry of Earth Sciences/ Geological Survey of India, NDRF, SDRF and Armed Forces
2	Landslides	PWD	IMD, Ministry of Earth Sciences, NESAC, Forest
3	Floods/ Flash Floods/ Cloud Burst	Revenue and DM	IMD, CWC, NESAC, NDRF, SDRF
4	Fire	Home (Fire Department)	Revenue and Disaster Management
5	Forest Fire	Forest Department	Revenue and Disaster Management, Fire dept
6	Drought	Agriculture	IMD, Revenue and Disaster Management
7	Cyclonic Storms	Revenue and Disaster Management	IMD, Agriculture and Horticulture, Home, NESAC
8	Hailstorms	Revenue and Disaster Management	IMD, Home and Insurance , Agriculture
9	Road Accidents	Concerned District Administration	Transport, PWD, BRO, Home and Health
10	Civil Aviation Accidents	Transport	Civil Aviation, Home , Health
11	Boat Capsizing	District Administration	Home and Health
12	Stampede	District Administration	Admin, Health and Home
13	Terrorism	Home (P)	Admin, Health, Rev & DM
14	Industrial accident	Commerce & Industries Department	Labour & Employment, Home, Pollution Control Board
15	Chemical	Commerce & Industries Department	Industry and Department Labour, Home, NDRF
16	Biological	Health and Family Welfare	Home, Admin, NDRF
17	Mines Collapse/ Mishaps	Department of Mining and Geology	Pollution Control Board , Department of Health, Forest and Home
18	Dam/ Reservoir Burst	Power, MeECL	Forest

Working with community-based organisations and non-governmental organisations engaged in disaster management is also mentioned in the Act. These as given in the Meghalaya Rules are in four areas, viz., mobilising communities; creating greater public awareness on disaster risk and vulnerability; initiating appropriate strategies for strengthening the capacity of stakeholder groups; and working with local communities and introducing

innovative approaches based on the good practices. Except the first the last three are before the event scenarios. The first one can be both before event as well as after the event scenario interventions that the SDMA can utilize the specific NGO for the purpose. SDMA is supposed to develop a database of NGOs, CBOs and Faith Based Organizations at all levels working in the field of disaster management and emergency response and others focusing on geographic outreach and thematic capacities of the organizations. It is also supposed to constitute an Inter Agency Group for district for a unified and effective response to a disaster situation. Since the North East Slow Food and Agrobiodiversity Society (NESFAS) is not a disaster related group it is not sure how it can assist especially since this is now an after the event scenario. The fact that social distancing is in place, makes it more difficult to undertake any initiative. In any case, inquiries will have to be made with the SDMA if there is an intention for taking part in assisting in disaster management.

There is a section on indigenous knowledge in disaster management but except a few case studies no specific information is given in how to integrate this with the plans except the mention that indigenous knowledge “must be assessed logically and scientifically on the basis of their effectiveness”.

All these give an impression that disaster management is treated just like any other administrative issue and not a special situation wherein a great deal of loss of life and property takes place. The ad hoc nature of the institutional make up without a dedicated workforce already makes it very difficult to handle regular disasters. The COVID-19 pandemic is a special case and one wonders how much the gaps in the Act have a role to play in the mismanagement that is being exhibited daily in the handling of the disaster.

Note: This document was prepared in the early stages of the COVID-19 lockdown in the country, i.e., May 2020.

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