

Chapter – II: Legislative and Institutional framework

2.1 Evolution of Disaster Management in India

United Nations General Assembly declared the decade of 1990s as the 'International Decade for Natural Disaster Reduction'. Following the UN Declaration, in India a permanent setup was institutionalised with the establishment of a disaster management cell under Ministry of Agriculture. This was also the decade in which the country faced a series of disasters, such as, Latur Earthquake (1993), Malpa Landslide (1994), Odisha Super Cyclone (1999), etc.

In August 1999, a High Powered Committee (HPC) was constituted to review the existing arrangements for

preparedness and mitigation of natural disasters. HPC was chaired by Secretary, Ministry of Agriculture and was mandated to recommend the measures for strengthening organisational structures at the national, state and district levels. HPC was also to formulate a model plan for natural as well as manmade disasters for drawing up a systematic, comprehensive and holistic approach towards disasters.

In 2002, the disaster management division of Ministry of Agriculture was shifted to Ministry of Home Affairs and a hierarchical structure evolved for disaster management at the national, state and district levels.

2.2 Disaster Management Act, 2005

HPC submitted the report in October 2001. Following the HPC Report on Disaster Management, on 23 December 2005, the Government of India enacted the Disaster Management Act. The Act laid down institutional, legal, financial and coordination mechanisms at the national, state and district levels. This new framework led to a paradigm shift in

disaster management. From a relief-centric approach, the Government moved to a more proactive regime laying greater emphasis on preparedness, prevention and mitigation.

Major Provisions of the DM Act, 2005

- ❖ National Disaster Management Authority to be the apex body at national level for formulating disaster management policy and its monitoring (Article 3 of Act).
- ❖ Prime Minister to be the Chairman of NDMA (Article 3(2) (a) of Act)
- ❖ National Plan to be prepared by National Executive Committee and approved by NDMA (Article 10(2) (b) of Act)

- ❖ National Policy for Disaster Management to be prepared by NDMA (Article 6(2)(a) of Act)
- ❖ State Disaster Management Authorities to be established (Article 14 of Act)
- ❖ State Governments and Central Ministries to prepare their disaster management plans (Article 23 & 37(1)(a) of Act)
- ❖ Central Government to institute a National Disaster Relief fund and National Disaster Mitigation fund (Article 46(2) & 47(1) of Act)
- ❖ To establish a dedicated force called National Disaster Response force (Article 44 of Act)

2.3 National Policy on Disaster Management

In accordance with the DM Act, National Policy on Disaster Management (NPDM) was prepared by NDMA which was approved by the Union Cabinet in October 2009. The policy envisaged a holistic approach to disaster management, encompassing the entire disaster management cycle (prevention, mitigation, preparedness, relief, response, rehabilitation and reconstruction). It also

attempted to address all aspects of disaster management covering institutional, legal and financial arrangements, capacity building, knowledge management, research and development. It focused on the areas where action was needed and the institutional mechanism through which such action could be channelised.

2.4 State Legislative Acts enacted prior to DM Act

2.4.1 Gujarat State Act, 2003

Gujarat faced a major earthquake in January 2001 which resulted in massive loss of lives and property in several districts. After this disaster, need for a state wide policy and legislation was felt and accordingly, Government of Gujarat formulated a 'Disaster Management Policy' in the month of September 2002. The main objectives of the policy were:

- ✓ to develop appropriate disaster prevention and mitigation strategies,
- ✓ to provide clarity in the roles and responsibilities of all stakeholders concerned with disaster management
- ✓ to ensure arrangements for effective management of resource mobilisation, relief, rehabilitation, reconstruction and recovery from disasters.

Gujarat State Disaster Management Act (GSDMA) came into force from May 2003. Gujarat was the first state of the country to provide legal and regulatory framework for disaster management through an Act. The Act lays emphasis on moving from relief centric approach to comprehensive disaster management framework.

2.4.2 Odisha State Disaster Management Policy

Following the super cyclone, the Odisha State Disaster Mitigation Authority (OSDMA) was created in December 1999. The Authority was mandated to take up disaster mitigation as well as preparedness, relief, restoration and reconstruction. OSDMA was also vested with the responsibility of co-ordination

with line departments, multilateral aid agencies and NGOs involved in disaster management.

The state formulated its Disaster Management Policy in March 2005.

2.5 The Legal Institutional Framework for disaster management

The institutional structure for disaster management in India is in a state of transition.

2.5.1 Institutional arrangements prior to DM Act:

In the wake of a natural calamity, for effective implementation of relief measures, the Cabinet was empowered to set up a committee. On constitution of such a committee, the Agriculture Secretary was to provide all necessary information and seek directions in all matters concerning relief and take steps for effective implementation.

In the absence of this committee, all matters relating to relief were to be reported to the Cabinet Secretary.

2.5.1.1 Department of Agriculture and Cooperation (DAC)

DAC, Ministry of Agriculture was the nodal department for all matters related to natural calamities relief at the Centre up to 2002. Relief Commissioner, DAC was the nodal officer to coordinate relief operations. In 2002, DM division was shifted to MHA.

Chart 2.1 shows how relief work was monitored at the central level prior to enactment of the DM Act:



Chart 2.1: How relief work was monitored at Central Level (Prior to DM Act)

2.5.2 Present institutional arrangements

The DM Act, 2005 provided for setting up of a National Disaster Management Authority under the Prime Minister, State Disaster Management Authorities (SDMAs) under the Chief Ministers and District

Disaster Management Authorities (DDMAs) under the Collectors/District Magistrates/Deputy Commissioners.

The Act also provided for the constitution of different Executive Committees at national and state levels. Under its aegis, the National Institute of Disaster

Management for capacity building and National Disaster Response Force for response purpose were set up.

Chart 2.2 depicts the legal institutional framework based on the provisions of the Act.

We noted that at present, the earlier structure and the new set up, which is still evolving, co-exist.

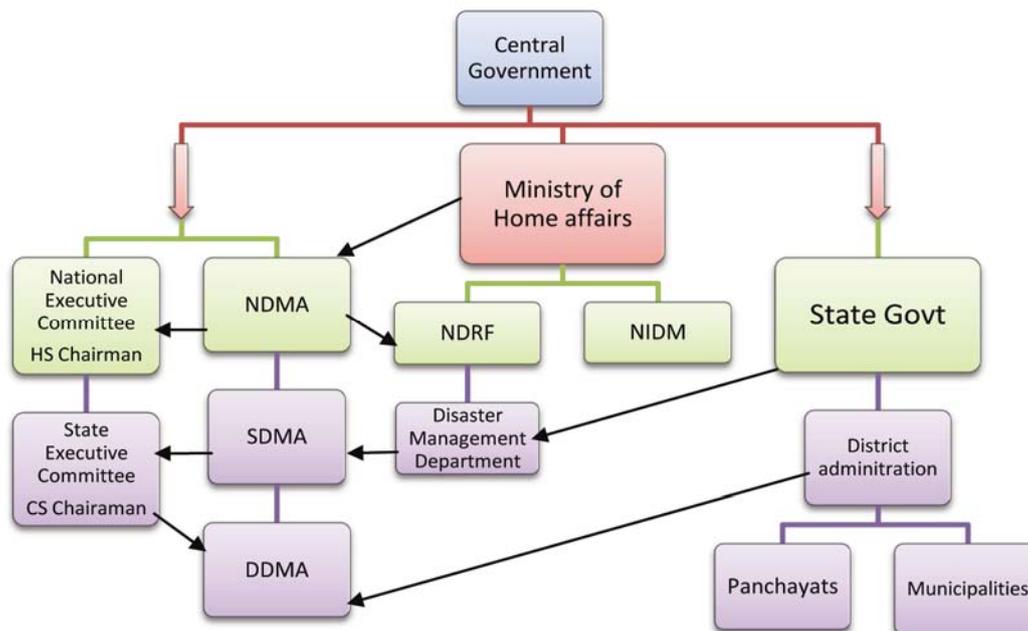


Chart 2.2: Details of legal institutional framework as per DM Act

2.5.3 Institutional arrangements at the National level:

In addition to the three tier institutional structure, the National Crisis Management Committee (NCMC) and High Level Committee (HLC), which were part of the earlier set up, continue to function at the Centre.

2.5.3.1 National Crisis Management Committee

NCMC was constituted in the Cabinet Secretariat comprising Cabinet Secretary as Chairman and Secretaries of concerned Ministries and Departments as members. As an apex body for dealing with major crisis, it provided directions to the Crisis

Management Group (CMG) as and when deemed necessary. Secretary (Security), Cabinet Secretariat was its convener.

2.5.3.2 Crisis Management Group

CMG headed by the Union Home Secretary and comprising senior officers from various Ministries and concerned Departments was constituted by MHA. Its function was to review contingency plans formulated by the Central Ministries and Departments and the measures required for dealing with a natural disaster. Joint Secretary (DM) in MHA was the convener of CMG for natural disasters.

2.5.3.3 High Level Committee (HLC)

HLC was chaired by the Union Finance Minister, and Home Minister, Agriculture Minister and Deputy Chairman, Planning Commission were its members. Vice Chairman, NDMA was also a special invitee to HLC.

2.5.3.4 Ministry of Home Affairs (MHA)

Ministry of Home Affairs was the nodal agency at the national level for coordination of response and relief in the wake of natural disasters⁶ from 2002 onwards. MHA provided financial and logistic support to the State Governments, keeping in view, their resources, the severity of the natural disaster and the capacity of the State Governments to respond in a particular situation.

2.5.3.5 National Disaster Management Authority (NDMA)

NDMA was initially constituted in May 2005 through an executive order. Following enactment of the DM Act, NDMA was reconstituted formally in accordance with Section 3(1) of the Act on 27 September 2006.

NDMA was responsible for laying down policies on disaster management and guidelines to be followed by different Ministries, Departments of the Government of India and State Government for disaster risk reduction. It was also to lay down guidelines to be

followed by the State Authorities in drawing up the state plans.

NDMA was a central agency to deal with all types of disasters, natural or man-made. However, certain specific emergencies viz. those requiring close involvement of the security forces or intelligence agencies such as terrorism (counter-insurgency), law and order situation, serial bomb blasts, hijacking, air accidents, chemical, biological, radiological and nuclear (CBRN) weapon systems, mine disasters, ports and harbour emergencies, forest fires, oil field fires, and oil spills continued to be handled by NCMC of the earlier set up.

2.5.3.6 National Executive Committee (NEC)

NEC was the executive committee of NDMA and was mandated to assist NDMA in the discharge of its functions. NEC was constituted in September 2006. It was chaired by the Union Home Secretary and 14 Secretaries to the Government of India and Chief of the Integrated Defence Staff were its members.

NEC was to coordinate the response in the event of any threatening disaster situation or disaster. NEC was also responsible for preparing the National Plan for Disaster Management based on the National Policy of 2009. NEC was also expected to monitor the implementation of guidelines issued by NDMA.

As per NEC Rules 2006⁷, NEC was to meet as often as necessary but at least once in three months. However, we noted that

⁶ except drought, pest attack & hailstorm, for which Ministry of Agriculture and Cooperation is the nodal Ministry

⁷ Rule 3(6) of NEC Rules 2006

NEC met only on three occasions⁸ since its inception (September 2006).

NEC did not meet after May 2008, although the country faced many disasters subsequently. This affected the progress of implementation of the national policy, national plan, guidelines and evaluation of the preparedness at all government levels.

MHA informed (December 2012) that fourth meeting of NEC was held on 10 December 2012. It further added that it was not a fact that NEC was not coordinating the response to various disasters since its last meeting held in May 2008. MHA under the Union Home Secretary remained the coordinating Ministry for all the disasters occurring in the country.

However, we noted that NEC was a committee of 14 secretaries and not the Union Home Secretary alone. The coordination work assigned to NEC was being done by MHA.

2.5.3.7 National Institute of Disaster Management

For the purpose of capacity building, the DM Act provided for establishment of a statutory organization with responsibilities to develop training modules, undertake research and documentation in disaster management and organise training programmes to promote and institutionalise disaster management.

A National Centre for Disaster Management was functional at the Indian Institute for Public Administration since

⁸ on 8.01.2007, 18.05.2007 and 13.05.2008

1995. This Centre was upgraded as the National Institute of Disaster Management in October 2003. It was given the status of the statutory organisation under the DM Act.

2.5.3.8 National Disaster Response Force (NDRF)

The DM Act mandated constitution of a Specialist Response Force to a threatening disaster situation or a disaster.

NDRF was accordingly formed in 2006. NDMA was vested with its control, direction and general superintendence. It was a multi-disciplinary, multi-skilled, high-tech force to deal with all types of disasters and capable of insertion by air, sea and land.

The headquarters of the Force was in New Delhi and it was composed of 10 battalions spread all over the country. Each battalion provided specialist search and rescue teams. The battalions were equipped and trained for all natural disasters including four battalions in combating nuclear, biological and chemical disasters. During the preparedness period or in a threatening disaster situation, proactive deployment of these forces was to be carried out by NDMA in consultation with the State Authorities.

2.5.3.9 Central Ministries and Departments

Central Ministries and Departments were to have key roles in disaster management. The Ministries and Departments of Government of India were designated as nodal Ministries or Departments to address the specific disasters assigned to them.

The concerned Central Ministries, Departments and organisations rendered emergency support functions wherever

Central intervention and support were needed by the State Governments.

Table 2.1: Nodal agencies at Central level

Nodal ministries at central level for dealing with different types of disasters:			
Disaster	Disaster managed by	Nodal Ministry	Member Ministries of Mitigation Plan Committee
Earthquake	MHA	Ministry of Earth Sciences	Ministries of Science & Technology, Urban Development, Rural Development, Health & Family Welfare, Panchayati Raj, Youth Affairs and sports, Women and Child Development, Human Resource Development, Information & Broadcasting and Departments of Space and IT & Telecommunication
Flood	MHA	Ministry of Water Resources	Departments of Space and Telecommunication
Drought, Hailstorm & Pest Attack	Department of Agriculture & Cooperation, Ministry of Agriculture		-
Landslide	MHA	Ministry of Mines	Ministry of Road Transport and Highways & Shipping
Avalanche	MHA	Ministry of Defence	Ministry of Road Transport and Highways & Shipping
Forest Fire	Ministry of Environment & Forest		-
Nuclear	MHA/ DAE	Department of Atomic Energy (DAE)	Ministries of Defence and Health & Family Welfare
Industrial and Chemical	Ministry of Environment & Forest		-
Biological	Ministry of Health & Family Welfare		Ministries of Defence, Environment & Forests, Agriculture & Co-operation, Animal Husbandry, Dairying & Fisheries; and Chemicals & Fertilizers
Cyclone	MHA	India Meteorological Department	-
Tsunami	MHA	Ministry of Earth Sciences	-
Urban flooding ⁹	MHA	Ministry of Urban Development	-

⁹ Urban flooding was added in July 2012

2.5.4 Institutional arrangements at the state and district Level:

In compliance with the DM act, the same structure as at the Centre was replicated at the state and district levels. There are state and district level disaster management authorities and executive committees.

The Commissioner¹⁰ of Revenue Administration, Disaster Management and Mitigation (earlier State Relief Commissioner) continued to be responsible for preventive, relief and rehabilitation activities in the state. The following departments were instrumental at state level to prevent and mitigate the impact of various types of disasters:

Table 2.2: Nodal departments at the state level

Department	Disaster being handled
Revenue Administration & Disaster Management Department	Nodal department in disaster management—responsible for preventive, relief and rehabilitation activities in the state, co-ordination with other departments
Agriculture Department	Drought, pest attack
Department of Environment and Forest	Industrial and chemical disasters, forest fire and nuclear explosion
Department of Health	Epidemic outbreak of diseases
Police Department	Terrorism, road accidents
Fire Service Department	Major fire accidents

¹⁰ In different states it was named differently viz. Commissioner for DM & Ex-officio Principal Secretary or State Commissioner of Relief or Principal Secretary or Special Relief Commissioner cum Special Secretary

2.5.4.1 State Disaster Management Authority (SDMA)

SDMA was headed by the Chief Minister of the state, and laid down policies and plans for disaster management in the state. It approved the state plan in accordance with the guidelines laid down by NDMA, coordinated implementation of the state plan, and recommended provision of funds for mitigation and preparedness measures. SDMA also reviewed the developmental plans of the different departments of the state to ensure integration of prevention, preparedness and mitigation measures.

We noted that Gujarat had constituted (September 2003) its SDMA under their State Act of 2003 and Daman & Diu constituted SDMA (March 2005) prior to enactment of DM Act 2005. The remaining 33 states and UTs constituted their SDMAs between February 2006 and December 2010 as per the provisions of the National Act.

2.5.4.2 State Executive Committee

The State Executive Committee (SEC) assisted SDMA in the performance of its functions and was headed by the Chief Secretary to the State Government. SEC coordinated and monitored the implementation of national policy, national plan and state plan. It also provided information to NDMA relating to different aspects of disaster management.

We noted that under the provisions of DM Act, 32 states and UTs constituted their SECs between February 2006 and May 2011. Gujarat and UTs of Chandigarh and Daman & Diu had not formed SECs (June 2012).

2.5.4.3 State Advisory Committee

As per DM Act, SDMA was to constitute a State Advisory Committee (SAC), consisting of experts having practical experience of disaster management to make recommendations on different aspects of disaster management.

Effectiveness of the state level institutions

We noted that in three test checked states¹¹, SDMA in states never met after their constitution. In four other states/UT¹² they met only once or twice during the last five years.

State Advisory Committee was not constituted in seven¹³ out of nine test checked states/UT. In the remaining two Uttarakhand and West Bengal, it was constituted but in the case of Uttarakhand it met only once and in the case of West Bengal it did not meet at all, in the last five years.

State Executive Committee in Andhra Pradesh, Odisha, Tamil Nadu and UT of Andaman and Nicobar met on one to three occasions during the last five years and it did not meet at all in Uttarakhand. In the case of Gujarat, it was not constituted.

Thus, it was evident that, by and large, State Authorities were non functional and ineffective. In the absence of assigned roles being played by State Authorities, disaster preparedness was handled by the State Departments without due guidance and monitoring. Details are in **Annex 2.1**.

2.5.4.4 District Management (DDMA)

Disaster Authority

DDMAs were headed by the District Collectors with the elected representative of local authority as the Co-Chairperson. DDMAs act as planning, coordinating and implementing bodies for disaster management at the district level. It was to prepare the District Disaster Management Plan and monitor implementation of the policy and disaster management plans.

Under the provisions of the DM Act, 33 States and UTs established their DDMAs between February 2006 and January 2012 and UT of Daman & Diu had established DDMA prior to DM Act. Gujarat had not formed DDMAs.

2.5.4.5 District Advisory Committee

In each district, the apex body for disaster management was called District Advisory Committee. The Committee was headed by the District Collector and the District Revenue Officer was Vice-Chairman. The main function of the District Advisory Committee was to co-ordinate the activities of various departments during the times of emergency in the district.

Similarly, the Revenue Divisional Officer and the Sub-Collector were responsible for relief operation at the division level. Local bodies too played an important role in disaster relief measures at local levels.

¹¹ Tamil Nadu, Uttarakhand and Odisha

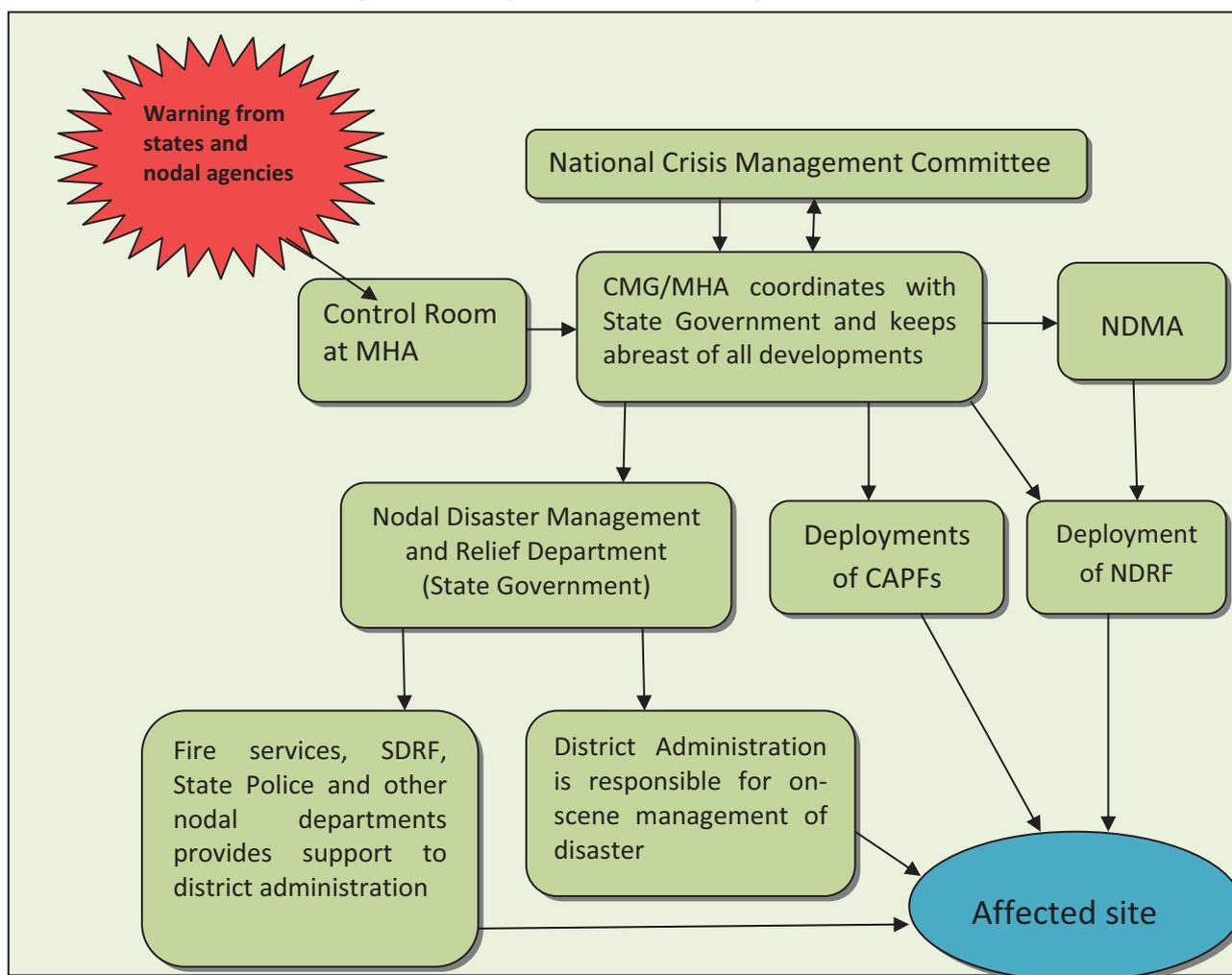
¹² Andaman and Nicobar Islands, Andhra Pradesh, Gujarat and West Bengal

¹³ Andhra Pradesh, Gujarat, Maharashtra, Odisha, Rajasthan, Tamil Nadu and UT of Andaman and Nicobar Islands

2.6 Response set up across the country

Response is the most perceptible and vital element of the disaster management cycle. The efficacy of the government's role is judged largely by the quality of response and its effectiveness. It minimises the loss of lives and property at the time of a disaster. We noted that co-ordination at the central and the state level was achieved through various committees and departments associated with disaster management. A response set-up across the country at the time of disaster is shown in Chart 2.4.

Chart 2.4: Response set up across the country at the time of disaster



(CMG: Crisis management Group, NDMA: National Disaster Management Authority, CAPFs: Central Armed Police Forces, NDRF: National Disaster Response Force, SDRF: State Disaster Response Force)