

Disaster Law

Emerging Thresholds

Edited by
Amita Singh



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Disaster Law

This book looks at how legal frameworks can and do reduce risks arising out of disasters. The volume:

- analyses existing disaster laws and the challenges on the ground;
- brings together case studies from some of the most vulnerable regions; and
- proposes solutions to avert existing and possible future crises.

The book offers appropriate legal frameworks for disaster management which could not only offer sustainable institutional reforms towards community resilience and preparedness but also reduce risk within the frameworks of justice, equity and accountability. It examines the intricacies of governance within which governments function and discusses how recent trends in infrastructure development and engineering technology could be balanced within the legal principles of ethics, transparency and integrity. The chapters in the volume suggest that legal frameworks ought to resonate with new challenges of resource management and climate change. Further, these frameworks could help secure citizens' trust, institutional accountability and effective implementation through an unceasing partnership which keeps the community better prepared and more resilient.

This volume will be indispensable to scholars and researchers of disaster management, law, public policy, environment and development studies as well as policymakers and those in administrative, governmental, judicial and development sectors.

Amita Singh is Professor and Chairperson at the Centre for the Study of Law and Governance, Jawaharlal Nehru University (JNU), New Delhi, India.

‘This book is a significant step toward a better understanding of how legal frameworks promote incentives for undertaking risk reduction activities, and how disaster risk reduction (DRR), in turn, helps advance legal reform, which includes migrating away from old ways and aligning laws so that they can deliver fresh results. It offers a timely antidote to the existing top-down pattern of DRR.’

– Eduardo T. Gonzalez, *Professor, Center for Integrative Development Studies, University of the Philippines*

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Preface

This dialogue on disaster law was ignited as the negligent, unreliable and inexplicable institutional behaviour and brazen governance got exposed during the 2013 Uttarakhand cloudburst. As bodies of humans and animals were flowing down the sacred Ganges, people unleashed violence and hatred against administrative and political decision makers in Rishikesh and Dehradun. The Asia Pacific Governance Network (NAPSIPAG) held night-long discussions at MC Mehta's 'Eco Ashram' in Dehradun valley on 20 June 2013 immediately after the devastating Uttarakhand cloudburst and floods. When the academia critiqued the framework of development, much responsibility was found to be that of government and non-government local institutions and insulated scientific discoveries. Every city created a disaster by ignoring the norms of nature and the limits of human greed. These scholars found great similarity in the manner that disasters were dealt with across different regions of the world. From Louisiana in USA to Uttarakhand in India, preparedness was missing in the disaster management vocabulary of administrative institutions, highlighting more than ever before that disasters were an outcome of bad governance against which 'law' is the only messiah.

Social scientists realized that the new challenge was to collaborate and strengthen partnerships between scientists and administrators. In an activist-driven seminar at the Centre for the Study of Law and Governance, many sociologists, including Susan Vishvanathan from JNU, indicated that the blocking of Neela Hauz water body in Delhi was a disaster in the making as much as the *tongas* (horse carts) being driven out of the old city areas. The government and the scientists had no clue to link such unrelated factors as emerging causes of disasters. If trawlers improved fish business in coastal areas and mechanized boats improved livelihood in backwater lakes, why would it become a cause for disasters? If farmers decide to grow rice instead of wheat,

on what rationale would the government regulate their freedom of choice? Poverty, unemployment, labour welfare and low per capita income had become the sacred shrines of governance, and anything in their favour was justified. Such anthropological, sociological and critical governance perspectives challenged the ongoing disaster management strategies.

More research was needed from communities and isolated administrative initiatives on these new emerging but overlapping domains of societies. Faculty from seven centres in JNU came together: Prof. Mondira Dutta, Dr Sunita Reddy, Prof. Bupinder Zutshi, Prof. GVC Naidu, Prof. Milap Punia, Mr Sanjeev Kumar and Prof. Vaishna Narang constituted the initial team. Realizing the phenomenal dependence of disaster management research on geo-spatial, GIS, plate tectonic, remote sensing and satellite imagery, the DRP team broadened to include some teachers from the sciences. The need for developing a cognitive domain of administration and communities in the context of compliance and acceptability of disaster law led to DRP's research linkages with the youth in Delhi university colleges through 'Neighbourhood Mapping Programme' of looking into their local disaster management institutions and community vulnerability to earthquakes and urban floods. As young boys and girls moved through the clustered hotspots of disasters within the city, it became more and more evident that disasters were being created and nurtured between the information deficit of people and the absence of administrative accountability in sustaining that. As young students from Miranda House, Lady Shri Ram College and Kamala Nehru College (they are partners in the DRP) started visiting these city hotspots of disasters in the Lal Dora (community land out of municipal boundaries) land areas, they discovered the 'total regime of irresponsibility' despite the warnings of science and law. In nurturing this regime, the administrator was not alone to be blamed as the role played by the community institutions such as the Resident Welfare Institutions, Market Associations, local caste panchayats, community realtors, religious community groups, Waqf Board and cultural and festivity forums were all at par in weakening the city master plans which itself winked on enforcement.

The emergence of DRP fulfils a long-awaited requirement of international specialized agencies of the United Nations (Economic and Social Council Resolution 1999/63 and in General Assembly Resolutions 56/195, 58/214, and 58/215) to create 'National Platforms' for coordinating and providing policy guidance on disaster risk reduction in a multi-sectoral and inter-disciplinary manner which could involve public, private and civil society participation, including all country-specific