CHAPTER- IV

LEGAL PERSPECTIVE OF DISASTER MANAGEMENT- A COMPARATIVE ANALYSIS
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A COMPARATIVE ANALYSIS

INTRODUCTION

Disasters are unwelcome guests and therefore it has no boundaries. It affect developed and developing nations equally by leaving huge destruction and devastation in the life of human beings, property, environment, the nation’s economy etc. They often disrupt the normal functioning of governments and communities and adversely affect individuals and families with great severity. Most of the rights of affected communities are violated after a disaster. Therefore, during this period special measures have to be designed by the affected nations for expanding and rendering of aid, assistance and emergency services and the reconstruction and rehabilitation of devastated areas. For an orderly and continuing assistance every nation need a comprehensive legislation.

With the escalating nature of natural disasters, the Yokohama Strategy and Plan of Action, emanated in the World Conference on Natural Disaster Reduction, 1994 states the responsibility of each nation to protect its citizen from disasters. Therefore the Plan of Action was recommended to each nation to develop and strengthen its national capacities and capabilities, national legislations for natural disasters and other disaster. This could help the administrative authorities and stakeholders to know how to respond and to take prevention and mitigation measures as part of their disaster management. This led to enacting legislations across the world, for e.g. Queensland Disaster Management Act, 2005; South African Disaster Management Act, 2002, the Indonesian Disaster Management Act, 2005. the Philippines Disaster Management Act, 2010.

This study concentrated on three national legislations like Robert. T. Stafford Disaster Relief and Emergency Assistance Act, 2007 of United States of America; Indonesian Disaster Management Act, 2005 and South African Disaster Management Act, 2002.
History of Disaster Management in USA

From the early years of republic, there was a widespread belief that disaster assistance was the responsibility of the charity organizations, state and local government. In 1803, a Congressional Act was passed and this act introduced the federal government’s assistance and involvement in local disasters. Later in 1950’s Disaster Relief Act was enacted and it became the first comprehensive federal disaster relief law in USA\(^1\). This act provides federal assistance to states and localities after occurrence of disaster. In 1968 National Flood Insurance Act\(^2\) was enacted and this gave an insurance protection against future disasters. But this piece of legislation failed to protect people’s financial investments and government’s disaster expenditure. Therefore in 1974, congress passed Disaster Relief Act. This piece of legislation established a process for coordinating state and federal relief operations and tied federal assistance to a presidential disaster declaration\(^3\). More importantly this act expanded the scope of federal assistance by establishing the individual and family grant programmes by enabling the families and individual to receive money directly from the federal government following a disaster.

In 1988, Congress passed the Robert. T. Stafford Disaster Relief and Emergency Assistance Act in order to control the escalate costs of federal disaster relief efforts\(^4\). Later this act was amended in 1993 by expanding the scope of mitigate measures. In order to have a specific approach to control the cost of federal disaster assistance, including the dedication of more resources to disaster mitigation the Disaster Management Act of 2000 was passed. This act modified the Stafford Act by establishing a national programme for pre-disaster mitigation funding to states develop “Enhanced Mitigation Plan”.

The Homeland Security Act 2002, passed after 2001 9/11 attacks shifted the priorities of disaster response from natural disaster to terrorism. But with the onslaught of hurricane Katrina, 2005 it was realized that us was ill prepared to respond to and recover from a major disaster. Therefore the congress passed Post Katrina Emergency Management Reforms Act, 2006. Section 503 (c) of this act requires the head of the FEMA to be a professional disaster manager who have not less than five years of executive leadership and managing experience in the public and private sector\(^5\).
Robert. T. Stafford Disaster Relief and Emergency Assistance Act, 2007 (herein after referred as Stafford Act)

Stafford Act is the principle legislation in USA dealing with disaster management. This act defines emergency⁶ and major disaster⁷ in section 102 of its definition clause. This act gives wide power to the US president to declare disasters. The act also envisages duties and responsibilities for governor of each state for tackling the emergency situation. A regulatory authority constituted under the act known as Federal Emergency Management Act (here in after referred as FEMA), heads the disaster administrator. The responsibilities of various teams, agencies, charitable organizations are also meticulously elaborated by the Act.

President and Disaster Management

Under the Stafford Act, President has given wide range of powers to tackle the disaster situation. With the recommendation of the governor of the affected state, the President can declare a major disaster or an emergency⁸. The criteria for declaration of disaster and emergency are not specified in the Act. The president under the Act authorizes a variety of assistance for stricken states through full range of events that precede and results from catastrophes. Specific provisions and phases of emergency management to which they pertain include preparedness, emergency response and recovery, hazard mitigation etc.

Preparedness Measures

Figure:4.1

President’s Preparedness Measures

- Utilizing the services for preparedness, training programmes etc
- give technical and financial assistance
- ask appropriate agencies for giving early warning
With regard to pre disaster preparedness, the president has the power to utilize the services of other agencies for preparing disaster preparedness plans, training programmes, evaluation of post disaster period, annual review of programmes etc. As a preparedness programme president can give technical as well as financial assistance to individuals, business firms, states and local governments to recover them from disaster damages. Under this act, the president has the power to ask the appropriate agencies or civil defence communication system or private entities for giving early warning to the endangered communities.

Mitigative Measures

President’s mitigative programmes includes provisions for providing technical as well as financial assistance to state and local governments for implementing mitigative measures to reduce the destructive impacts of disasters. He has also power to constitute an Inter Agency Task Force for coordinating the pre-hazard mitigation programmes.

Figure No. 4.2

President’s Mitigative Measures

Mitigative Measures → provide technical & financial assistance for pre-hazard mitigative measures

Constitute an Inter-Agency Task Force

Response and Recovery Measures

The president has the power to direct the FEMA to utilize its authorities and resources (including personnel, equipment, technical) to the affected state and local governments in major disasters and coordinate all the disaster relief assistance towards the particular state; President utilizes the federal agencies for the essential community services and can give assistance to state and local government in the form of distribution of medicines, food and other form of essential services; provide federal support to save lives, prevent human sufferings etc; in an emergency situation he is responsible for establishing communication facilities to state and local governments and also provide transportation facilities to resume the normal pattern of life.
Role of Federal Government in Disaster Management

The FEMA coordinates the federal government’s role in preparing, preventing, mitigating the effects of, responding to and recovering from all domestic disasters, whether natural or manmade, including acts of loss of life and property and to protect the nation from all types of hazards.

Role of Administrator in Emergency Management

FEMA is headed by an administrator\(^24\), appointed by the President\(^25\). He is the principal advisor to the president. His responsibility includes preparation, protection, mitigation and response activities against the disasters\(^26\) within state and local governments\(^27\). He can integrate the agencies of emergency preparedness, protection and response mechanisms\(^28\) and can develop a federal response mechanism for saving lives or protecting and preserving property and health\(^29\).

He has also power to develop regional offices\(^30\) to identity and address regional priorities for disasters\(^31\) and provide funds, training, technical assistance and other assistance to respond to disasters\(^32\). It is the duty of the administrator to assist the Domestic Emergency support Team \(^{33}\)(here in after referred as DEST), National Disaster Medical System(here in after referred as NDMS)\(^34\), Metropolitan Medical Response System (here in after referred as MMRS)\(^35\), National Incident management System and nuclear Incident Response Team for carrying out their responsibilities during major disasters and provides funds to the department of Energy and the Environmental protection Agency for disaster management.
A regional administrator is appointed by the federal administrator, shall be the head of the regional office. The responsibility of the regional officer includes preparedness, mitigation, response and recovery activities and gives assistance for the development of regional capabilities for a national catastrophic response system; build up federal response capabilities to disaster and identify the gap in regional capabilities to respond to populations with special needs.

**FEME as a Disaster Management Agency**

FEMA can provide assistance to state and local governments to utilize its resources for response and recovery efforts including precautionary evacuations from the disaster sites and coordinate all disaster relief assistance provided by federal agencies, private organizations, state and local governments. They provide technical and advisory assistance to the affected state and local governments; utilize the equipments, personal and other resources to meet the immediate threats to life and property by disaster. They distribute medicines, medical equipments, food and other essential services to disaster victims through state and local governments, the American National Red Cross, the Salvation Army etc to overcome the situation. They take initiatives in saving lives of the people and protecting property, debris removal, search and rescue, reconstruction and destruction of endangered structure, provision for temporary schooling, give warning to future risks, disseminate the public information, and give technical advice to the affected state and provision for rescue, care, shelter and essential needs for individuals and household pets.

**Table No. 4.1**

<table>
<thead>
<tr>
<th>Role of FEMA in Disaster Management</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Utilize its recourses for response and recovery efforts</td>
<td>Sec 402(1)</td>
</tr>
<tr>
<td>2 Coordinate all disaster relief assistance</td>
<td>Sec 402(2)</td>
</tr>
<tr>
<td>3 Provide technical and advisory assistance to the affected state</td>
<td>Sec 402(3)</td>
</tr>
<tr>
<td>4 Utilize the equipments, personal and other resources</td>
<td>Sec 403(a)(1)</td>
</tr>
<tr>
<td>5 Distribute medicines, medical equipments, food and other essential services to disaster victims</td>
<td>Sec 403(a)(2)</td>
</tr>
<tr>
<td>6 Initiate for saving lives, search and rescue, reconstruction and distribution of endangered structure, give early warnings etc</td>
<td>Sec 403(a)(3)</td>
</tr>
</tbody>
</table>
Figure No. 4.4

Role of FEMA in Disaster Management

- Utilize its resources for response & recovery
- Coordinate all disaster relief assistance
- Provide the equipment, personal & other resources
- Distribute essential services to the disaster victims
- Provide early warning and conduct search & rescue

Federal Assistance to Individuals and Households

The President in consultation with the governor of the affected state gives financial as well as housing assistance to the victims of disasters, who are unable to meet the expenses of disasters. The financial assistance are given in the form of giving rent to their alternate housing accommodation and such assistance may include the payment of the cost of utilities, excluding telephone services. The financial assistance may provided by the president for repairing of residence, utilities, reconstruction of infrastructure etc.

Under the Stafford Act, the President has the power to provide unemployment benefit assistance to victims of disasters. The purpose of Disaster Unemployment Assistance (here in after referred as DUA) is to provide financial assistance to individuals whose employment or self-employment has been lost or interrupted due to major disasters. Following criteria should be satisfied for the eligibility of getting disaster unemployment assistance.

- No longer has a job or a place to work or
- Cannot reach the place of work
- Cannot work due to damage to the place of work
- Cannot work because of an injury caused by disasters

The eligibility for granting such assistance shall began within the first day of the week following the date of major disaster began and for up to 26 weeks after the date of
disaster was declared by the President. As a result of a major disaster, the low income groups are eligible to get coupon from the secretary of agriculture, to purchase adequate amounts of nutritious food. The time period for such assistance shall be extent to a period till the earning power of the household sustained. There is also provision for getting legal aid services, who are unable to secure legal service adequate to meet their needs as a consequences of major disaster; the president is authorized to provide crises counseling to the disaster victims inorder to relieve them from mental agony aggravated by disasters. There is also provision for granting financial assistance to the medical and funeral expenses; transportation assistance were provided to the displaced persons from their primary residence due to result of disasters or persons return back to their primary residence.

**Table No. 4.2**

**Federal Assistance to Individuals and Households**

<table>
<thead>
<tr>
<th>Sl no</th>
<th>Different forms of Assistance</th>
<th>Sections</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Financial assistance are given to pay rent of their alternate homes, for repairing of residence and reconstructing infrastructure; give financial assistance to victims to reconstruct permanent or semi permanent houses</td>
<td>Sec 408(c) (2) to 408(c)(4)</td>
</tr>
<tr>
<td>2</td>
<td>Give unemployment assistance, to the victims who have lost their employment or self employment due to major disasters</td>
<td>Sec 410</td>
</tr>
<tr>
<td>3</td>
<td>Food coupons were distributed to the low income groups to purchase adequate amount of nutritious food</td>
<td>Sec 412 (a)</td>
</tr>
<tr>
<td>4</td>
<td>Legal aid services for low income individuals who are unable to secure legal services</td>
<td>Sec 415</td>
</tr>
</tbody>
</table>
Federal Assistance to Individual and Households

Federal Assistance

- housing assistance
- unemployment assistance
- food assistance
- legal aid
- crisis counseling
- financial assistance to medical & funeral expenses
- transportation assistance

Federal Support and Response Team

Emergency Support and Response Team (here in after referred as ESRT)

President constituted an ESRT headed by the federal coordinating officer and is responsible for responding disasters, apart from this team there is also Nuclear Emergency Support Team (NEST)\textsuperscript{56}, Foreign Emergency Support Team (FEST)\textsuperscript{57}, National Response Team (NRT)\textsuperscript{58} and Disaster Medical Assistance Team (DMAT)\textsuperscript{59}. The National Emergency Child Locator Centre (here in after referred as NECLC)\textsuperscript{60} and National Emergency Family Registry and Locator Centre (NEFRLC)\textsuperscript{61} for find out the man and children missing.
American Red Cross (here in after referred as ARC)

ARC plays a vital role in responding to disasters. It is a humanitarian organization led by volunteers and guided by its congressional carter. The fundamental principle of the International Red Cross movement is to provide relief to victims of disasters and helps people to prevent, prepare and responding to emergency situation. The ARC provides disaster relief aid in the form of shelter, food, clean water and medical care to the victims of disasters.

Financial Assistance

Federal Aid to State and Local Government

Section 203(f) and (g) of the Stafford Act prescribe granting of federal financial assistance to state and local government. The president has the power to grant financial assistance up to seventy five percentage and maximum of ninety percent to the small impoverished communities. Apart from this assistance there is also assistance for pre-disaster mitigation, response and recovery. Besides these assistance the president is authorized to give loans to any governments suffer from substantial loss of tax and other revenue as a result of major disasters.

There is also insurance provision for property to be replaced, restored, repaired and constructed from future losses and the flood insurance is compulsory to the person who living in the flood prone areas and they were not eligible for disaster relief assistance made available in a flood disaster area.

The Stafford Act does adequately recognize the 21st century threat. Because in the definition clause the major disasters under Sec 102(2) does not cover chemical, biological, radiological or nuclear attacks or accident. This seems to be a drawback because with this definition the further steps are taken; The Stafford Act establishes two incident levels i.e. emergency and major disasters. Emergencies tend to be smaller events where the latter is big events. There is a lacuna in the Act about the third level response for catastrophic events like the catastrophic incident in the post Katrina Act; The role of state governments or the local governments are not specifically mentioned in the Act; In this Act, each provisions are going through the president’s will and the President is
given wide range of powers. Therefore there is a chance for corruption; the authorities
under the Act are not clearly mentioned. Only FEMA was mentioned but their sub agencies
or support agencies are not mentioned; in this act all disasters may qualify as major
disasters it is the President’s will to take an emergency into a major disaster or vice
versa; the Act lacks the provision for giving compulsory awareness to the public; section
420 of Stafford Act only speaks about the mitigative measures for fire emergency and
there is a lacuna of other types of disaster management; the federal government was not
liable due to the non-performance or failure of performance to its employees this is a
great criticism to the Act. Section 305 of the Stafford act gives the liability free and non
obligation of the FEMA and its officers.

**Disaster Management in Indonesia**

Indonesia is one of the most disaster prone countries in the world. It is considered
as a ‘virtual supermarket’ of disasters; ranks 12th among countries at relatively high
mortality. Geological, geographical, hydrological conditions make her prone to multi
hazards. The 2004 tsunami reveals that the existing laws are inconsistent to tackle a
situation like this. Therefore the legislatures have invoked Article 20 and 21 of the
Constitution of Indonesia and they want a disaster resilient nation and safer community
across Indonesia, therefore the government has taken a number of significant endeavors
to enhance disaster reduction mechanisms and procedure. In this connection, the
government has made a sensible beginning by adopting National disaster Management
Act, 2007. This law has three important aspects. First, instead of focusing just on
emergency response, it focus on disaster preparation and on preventive measures;
second the government must provide protection against disaster threats as a basic human
rights; third, responsibility of disaster management no longer lies just with government
but shared by all elements of society. Moreover the new law has overhauled disaster
management structure by restructuring the creation of provincial disaster management
agencies but out of 33 provinces only 6 have begun establishing such agencies. The
sluggishness of the government is dangerous and this leads country high susceptible to
disasters.

Subsequently this law has further clarified with Government Regulations Concerning
Disaster Management at national and sub-national level, Disaster Aid Financing and
Management and the Presidential Regulation Concerning National Disaster Management Agency.

This law is a voluminous Act with many provisions dealing with mitigation, preparedness, response and recovery measures. This Act has classified disasters as natural, non natural and social disasters and the disaster management should be implemented on the basis of humanity justice, and equality. The objectives of this Act is to protect the community against disaster threat; to harmonize excising legislation; to guarantee well planned comprehensive disaster management; to respect local culture; to encourage the participation of public and private sector and the spirit of mutual cooperation; and to create peace in social and national lives.

**Features of Disaster Management Act as follows:**

The central and state government shall have the equal responsibility for disaster risk reduction. They protect and recover the victim’s refugees and community against the evil impacts of disasters through their developmental programmes. A sufficient fund in the form of ready funds is allocated by the central government in national budget for disaster management. The central government shall have the duty to safeguard the authentic files or documents from disaster threat and its impacts. The role of the state government is the replica of the central government.

Apart from all these responsibilities the central and state governments take initiatives for disaster management. The act specifies three stages of disaster management i.e. (a) pre-disaster (b) emergency response and (c) post-disaster management.

**Pre-Disaster Programmes**

During the pre-disaster period the central government and state government take initiatives for disaster management planning, risk reduction, preventive measures, integration of disaster management developmental planning, disaster risk analysis, education and training, research programmes etc. They also make review on disaster planning on a potential manner.
Emergency Response Programmes

Both the governments shall give alertness, early warning and disaster mitigation programmes in a situation with potential disasters. During this period the governments shall coordinate with the NDMA and SDMA for the activities that have to be taken for this period.

Post-Disaster Management

Disaster management in the post-disaster stage shall comprise of emergency response, rehabilitation and reconstruction.

Institutional Arrangements

Central Level

At the central level there is a National Disaster Management Agency consists of a head, steering committee and an executive body. The President has the power to appoint and dismiss the head of the NDMA and the performance of the steering committee and an executive body are controlled by the head of the NDMA.

Tasks and Functions of National Disaster Management Agency

The NDMA provides and prepare guidelines for regional disaster management Agencies, which includes handling of refugees through quick, effective and efficient action; carry out disaster management standardization by virtue of legislation and carry out other obligations in accordance with the legislation; communicate information to the community; submit report to the president once in a month on disaster management; keep an account for international and national contributions and give account for use of budget received from state budget.
### Table No. 4.3

**Functions of National Disaster Management Agency**

<table>
<thead>
<tr>
<th>Sl No:</th>
<th>Functions</th>
<th>Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Provide guidelines and legislation on disaster management and policy for handling refugees</td>
<td>Art 12(a),(b)&amp;(h) of the Act and Art 2(a),(b)&amp;Art3 of the Presidential Regulation</td>
</tr>
<tr>
<td>2</td>
<td>Communicate information to the community</td>
<td>Art 12(d) of the Act &amp; Art 2(c) of the Presidential Regulation</td>
</tr>
<tr>
<td>3</td>
<td>Give report to the President on disaster management</td>
<td>Art 12(d) of the Act &amp; Art 2(d) of the Presidential Regulation</td>
</tr>
<tr>
<td>4</td>
<td>Give account for the use of state budget and for international and national aids</td>
<td>Art 12(e)&amp;(f) of the Act and 2(e) &amp; (f) of the Presidential Regulation</td>
</tr>
<tr>
<td>5</td>
<td>Coordinate disaster management activities in a well planned and in comprehensive manner</td>
<td>Art13(b) of the Act and Art 3(2) Presidential Regulation</td>
</tr>
</tbody>
</table>

### Figure No. 4.6

**Functions of National Disaster Management Agency**

- Prepare guidelines and legislation for disaster management and policy for refugees
- NDMA → communicate information to the community
- Give report to the President
- Make account on budget received from state budget
- Coordinate all disaster management activities
**Disaster Management Steering Committee (DMSC)**

DMSC shall be comprised of a chairperson, and nineteen members. The chairperson shall be the head of the NDMA and out of nineteen members ten shall be from government officials and remaining nine are experts or professionals from the field. These members are elected through a proper test and their term is for five years. The functions of this committee are to formulate policy on national disaster management and monitor and evaluate the implementation of disaster management in Indonesia. The president has the power to appoint and dismiss these members.

The act specifies that the members of this committee shall hold member session periodically and the members shall be from centre or regional government institutions, business institutions, international institutions etc. But the number of such session is not specified in the act and the numbers of such members are not specifically mentioned.

**Disaster Management Executive Committee (DMEC)**

The DMEC is accountable to NDMA head for disaster management and this committee shall comprised of a Chief Secretariat; Deputy for prevention and alertness; emergency Management; Rehabilitation and Reconstruction; Logistics and Equipment; Chief inspector; Centre and Technical Executing Unit.

The DMEC carryout integrated pre-disaster, emergency response and post-disaster management. The Executive Committee shall organize the function of coordinating, commanding and implementing disaster management. The functions and membership of the Executive Committee is not specifically mentioned in the Act.

The head of the Executive Committee is responsible for coordinating with their respective subordinate and give guidelines to them for implementing their tasks. This article is vague because here the respective subordinate is not clearly mentioned. The head of the Executive Committee have the power to command for mobilizing human resources, equipments, and logistics from related agencies and for implementing such functions with governmental institutions at central and state level, armed forces and police of Indonesia.
**Regional Disaster Management Agency (RDMA)**

The State governments establish a RDMA at state level. It shall be presided over by the governor of the State and consists of a steering Committee and an Executive Body. They have the function of formulating and stipulating disaster management policy and guidelines; handling refugees in a quick manner; prepare disaster prone area maps and carry out disaster management the areas prone to disasters; submit monthly report to the head of the local government; give account to the use of budget from RDMA.

**Table No. 4.4**

**Functions of RDMA**

<table>
<thead>
<tr>
<th>Sl No:</th>
<th>Functions</th>
<th>Provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Carry disaster management in its territory</td>
<td>21(e) of Act</td>
</tr>
<tr>
<td>2</td>
<td>Formulate disaster management policy and guidelines &amp; handle refugees in a quick manner</td>
<td>20(a), (b) &amp; 21(a) of Act</td>
</tr>
<tr>
<td>3</td>
<td>Prepare disaster prone area maps and fixed procedures for handling disasters</td>
<td>21(c) &amp; (d) of the Act</td>
</tr>
<tr>
<td>4</td>
<td>Submit monthly report to the local government</td>
<td>21(f) of the Act</td>
</tr>
<tr>
<td>5</td>
<td>Give account to the use of budget</td>
<td>21(h) of the Act</td>
</tr>
</tbody>
</table>

**Figure No. 4.7**

**Function of RDMA**

RDMA → Formulate disaster management policy & guidelines

RDMA → Handle refugees in a quick manner

RDMA → Prepare disaster area prone maps

RDMA → Submit report to the local government

RDMA → Give account to the use of budget
Regional Disaster Management Steering Committee (RDMSC)

RDMSC prepare and implement disaster management policy and monitor and evaluate disaster management at local level. The committee consists of a regional government officials and professionals. Like the NDMSC, the members are appointed through a fit and proper test conducted by the House of Representatives\textsuperscript{136}.

Regional Disaster Management Executive Committee (RDMEC)

RDMEC is the replica of the NDMEC. Instead of national government, the procedures like establishment, functions, tasks, organizational structures etc are governed by a regional regulation.

The act does not specify the membership, quorum for the membership, number of meeting etc for the Steering Committee and Executive Committee. Moreover in this act the functions of these committees are not clearly mentioned it shows that little importance is given to the act. This is a great drawback to this act because disaster management should be started at the grass root level here the role of local self government is not mentioned.

Financial Assistance

The central and State government shall bear the responsibility for allocation of disaster management funds\textsuperscript{137}. The funds for disaster management can be provided from the central governmental budget, state government budget and from the community. These funds are available in the form of contingency fund\textsuperscript{138} for pre-disaster alertness\textsuperscript{139}, ready fund\textsuperscript{140} for during emergency response\textsuperscript{141} and grant patterned social assistance funds\textsuperscript{142} for post-disaster activities.

Apart from these funds, disaster aids are available to the disaster victims in the form of donation to the relative of a ceased person\textsuperscript{143}, compensation money for disability\textsuperscript{144}, soft loans for protective business\textsuperscript{145} and aid for basic necessities\textsuperscript{146} to the vulnerable groups of the society. But under this Act the vulnerable groups are not specifically mentioned. These aids are coordinated and controlled by the National Disaster Management Agency at national level and SDMA at the state level.\textsuperscript{147}
The international institutions or foreign non-governmental organizations can directly provide aid to Indonesia in the form of personal, logistics, equipment etc. They can even provide aids in the form of fund and it shall directly send to National Disaster Management Agency. These organizations can participate at pre-disaster and post-disaster stages under the coordination of National Disaster Management Agency.

There is a separate penal provision for corporate, persons who misuse the disaster aid management and deliberately hinder easy access to mobilization of human resources, equipment, rescue etc. This Act includes private sectors, public sectors and NGO’s in their own manner. One peculiarity of this Act is that it includes International organizations and Foreign NGO’s in disaster management stages. It is very essential, as a developing country and disaster prone country; at international level Indonesia gets foreign aids in the form of funds, projects and programmes to improve their situation. But Indonesia will have to come up with the Disaster Management Act even now.

**Disaster Management in South Africa**

South Africa (here in after referred as SA) faces increasing level of disaster risk and is exposed to a wide range of weather hazards including drought, cyclone, severe storms, fires, tornadoes earthquakes etc. Until 1994 there was no holistic approach dealing with disasters. But the flood in Cape Town in 1994 realize the need for clear policy on risk reduction and disaster management and the constitution of the Republic of SA, 1996 speaks about disaster management. But the disaster risk reduction needs co-operation and co-ordination mechanisms and as a result an institutional arrangement was established for these through the promulgation of Disaster Management Act, 2002 (here in after SAA). The Act aims for prevention or reduction the risk of disasters, mitigating the severity or consequences of disasters, emergency preparedness, rapid response to disasters and post disaster recovery and rehabilitation.

The SAA provides for an integrated, coordinated and uniform approach to disaster management by all spheres of government. In order to achieve this, the act focused on disaster management as a continuous and intergraded multi-sectoral and multi-disciplinary
process of planning. The implementation of the Act aims for preventing and reducing disasters, mitigating the severity of disasters; emergency preparedness and rapid response to disasters for restoring normality in condition caused by disasters\textsuperscript{158}.

The SAA contains eight chapters with 65 Sections. In order to achieve the objectives, the act says about the institutional and technical arrangements. The act defines disaster itself in three stages i.e. national, provincial and local disasters. A general definition for disaster is specified in Section 1 of the Act. But Section 2 does not apply to an occurrence falling within the definition of disaster. This seems to be a drawback to this act. The administration of this act is done by a cabinet member and he is designated by the President. The cabinet member and his qualification is not mentioned in the act and it is the President’s discretion to appoint a person as an administrator.

**Role of the National Government in Disaster Management**

The primary responsibility for disaster management is vested with the President\textsuperscript{159} and he is responsible for coordinating and managing national disasters\textsuperscript{160}. After the declaration of disaster the national government may release available resources to disaster affected areas by applying the National Disaster management Plan. The governments evacuates disaster victims to temporary shelters and take steps for post disaster recovery and rehabilitation, regulate the traffics, persons and goods for efficient disaster risk reduction. They control the premises of disaster striken areas and disseminate information to the affected communities. They take steps to prevent escalation of disasters and facilitate international assistance for proper disaster management\textsuperscript{161}. The national government has the power to extent the disaster situation for three months after its occurrence.

The national government should prepare a disaster management plan\textsuperscript{162} and this should include the role and responsibilities of the government during disasters and post disaster period, its capacity to fulfill these role and responsibilities, particulars of disaster management strategies, coordination of plan with other organs of state and institutional role players to review of this plan\textsuperscript{163}. The government should submit a copy of this plan to the National Centre\textsuperscript{164}. Like national plan each province and municipality has their own plans for disaster management\textsuperscript{165}. 

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Institutional Arrangements

National Disaster Management Centre

The NDMC is the principal functional unit for disaster risk management in the national sphere. It promotes an integral and coordinated system of disaster management with emphasizing on prevention and mitigation. The head of the National Disaster Management Centre is appointed by the minister and he is responsible to take all decisions of National Disaster Management Centre as described in section 15 of the Act. The other members shall be technical staffs including disaster risk reduction specialists, scientists, planners etc. The prescribed number of the staffs to the centre is not clearly mentioned in the Act.

Power’s and Duties of Disaster Management Centre

The National Disaster Management Centre exercise its powers and perform its duties within the national disaster management framework, subject to the direction of minister and in accordance with the instruction of director – General of the department. The centre has the power to classify the disasters in accordance with its magnitude. But criteria for classification of disaster is not mentioned in the Act. The Centre monitors the functions of state organs and act as a repository for giving and exchanging information concerning disasters. The centre request to organ of the state for giving information regarding disaster management and if they fail to comply with this request, then the centre can report the failure to the minister. They also make recommendations to the relevant organ of the state for drafting legislation and facilitate efforts for fund raising. The centre may conduct training and education programmes to volunteers and school children’s for disaster management and also promote capacity building and research activities. In order to avoid the risk, National Disaster Management Centre focus on prevention and mitigation rather than disaster relief and rehabilitation. For effective exercise of its power, National Disaster Management Centre make communication even the international expertise to give assistance in respect of disaster management. The centre acts as an advisory body and keeps up a directory of role players who are involved in disaster management. An electronic data base is developed by the National Disaster Management Centre for giving extensive information concerning...
disasters\textsuperscript{183} and finally they submit an annual report to the minister concerning all the activities that have done during the year\textsuperscript{184}.

\textbf{Table No. 4.5}

\textbf{Power’s and Function of National Disaster Management Centre}

<table>
<thead>
<tr>
<th>Sl no:</th>
<th>Powers and Duties of NDMC</th>
<th>Sections</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Classify the mode and intensity of disasters</td>
<td>23(3)</td>
</tr>
<tr>
<td>2</td>
<td>Monitor functions of state organs and act as a repository of giving information concerning disasters</td>
<td>15(1)(c),17(1), 15(1)(b),16(3),17(2)</td>
</tr>
<tr>
<td>3</td>
<td>Give recommendations for drafting legislations</td>
<td>15(1)(f)</td>
</tr>
<tr>
<td>4</td>
<td>Conduct training and educational programmes to volunteers and school children’s</td>
<td>15(1)(g)to(k)</td>
</tr>
<tr>
<td>5</td>
<td>Focus on prevention and mitigation</td>
<td>20</td>
</tr>
</tbody>
</table>

\textbf{Figure No. 4.8}

\textbf{Power’s and Function of National Disaster Management Centre}

\textbf{Provincial Disaster Management Centre (here in after referred as PDMC)}

In each province, there must be a PDMC and it is the primary functional unit for disaster risk management in each province\textsuperscript{185}. The key responsibility of the PDMC is to provide support to the NDMC\textsuperscript{186} and the Metropolitan and District Disaster Management Centres in the province\textsuperscript{187} and maintain a strategic overview of disaster risk management projects and programmes in the province.
Powers and Duties of PDMC

PDMC is responsible for all disasters and disaster management in the province. They promote disaster management approach in the state with special emphasis on prevention and mitigation. As part of preventive and mitigative measures they promote disaster management capacity building, training and education, research and recruitment participation of volunteers in disaster risk reduction etc. It acts as a repository, advisory and consultative body and makes recommendations for fund raising and for drafting legislations. Finally they submit an annual report by coordinating all the activities of disaster management that have done during the year. The head of the PDMC is not mentioned in the Act and their term of office is not clear.

Table No. 4.6

<table>
<thead>
<tr>
<th>Sl.no</th>
<th>Power’s and Duties of PDMC</th>
<th>Sections</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Declaration of disasters</td>
<td>35</td>
</tr>
<tr>
<td>2</td>
<td>Emphasis on prevention and mitigation</td>
<td>30(b),33&amp;34</td>
</tr>
<tr>
<td>3</td>
<td>Act as a repository, advisory and consultative body</td>
<td>30(c)&amp;(d),32(1)</td>
</tr>
<tr>
<td>4</td>
<td>Make recommendation to the relevant organ of the state for fund raising and for drafting legislation</td>
<td>30(e)&amp;(f)</td>
</tr>
</tbody>
</table>

Figure No. 4.9

Power’s and Duties of PDMC

Power’s and Duties of PDMC ➔ Declaration of disasters ➔ Emphasis on prevention and mitigation ➔ Act as a repository, advisory and consultative body ➔ Recommend the state for fund raising and for draft legislation
Municipal Disaster Management Centre (here in after referred as MDMC)

The MDMC is the primary functional unit for disaster risk management in metropolitan and district municipalities\(^{198}\). It must provide direction for the implementation of disaster risk management policy and legislation and the integration and coordination of municipal disaster risk activities and priorities in order to ensure that national and provincial objectives are achieved\(^{199}\). In addition, a key function of the MDMC is to provide support to the NDMC and the relevant PDMC\(^{200}\). The powers and duties of MDMC are the like provisions of NDMC and the PDMC.

**Table No. 4.7**

**Powers and Duties of MDMC**

<table>
<thead>
<tr>
<th>Sl no</th>
<th>Powers and Duties of MDMC</th>
<th>Sections</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Give direction for the implementation of disaster management policy and legislation</td>
<td>42(1)(a) to (d)</td>
</tr>
<tr>
<td>2</td>
<td>Provide support to NDMC and PDMC</td>
<td>43</td>
</tr>
</tbody>
</table>

**Figure No. 4.10**

**Powers and Duties of MDMC**

- implement disaster management policy and legislation
- give support to NDMC and PDMC

**Inter Governmental Committee on Disaster Management (here in after referred as ICDM)**

NDMC is responsible for establishing an institutional arrangements for the development and approval of integrated disaster risk management policy. In this regard, the act calls for the establishment of an ICDM\(^{201}\). ICDM must be established by the President to give advice and recommendation to cabinet on the issues relating to disaster management\(^{202}\). The committee consists of a chairperson, he shall be the minister\(^{203}\).
Other members are Cabinet members, Members of executive council and Members of municipal council.

**Technical Arrangements**

**Disaster Management Advisory Forum (here in after referred as DMAF)**

**National Disaster Management Advisory Forum (here in after referred as NDMAF)**

NDMAF, a technical forum established by the ministers for national, provincial and local governments and other disaster management role players to consult and coordinate their actions on matters relating to disaster management. The chairperson of this forum shall be the head of the National Disaster Management Centre and other members are senior representatives from each national and provincial departments, municipal officials, representatives designated by the ministers, experts and persons co-opted by the forum. Actual number and clear cut number for the representatives are not mentioned in the Act. The minister has given wide range of powers to establish such forums.

The functions if the Forum consisting of recommendations concerning the national disaster management framework to the Intergovernmental Committee on Disaster Management and may advise any organ of state, statutory functionary, non-governmental organisation or community or the private sector on any matter relating to disaster management.

Section 37 of the Act specified the establishment of Provincial Disaster Management Advisory Forum (here in after referred as PDMAF) and Municipal Disaster Management Advisory Forum (here in after referred as MDMAF). The responsibilities and duties of the forums are same as of NDMAF.

Chapter 7 of the Act provides a metropolitan or district municipality with the option of establishing a unit for volunteers to participate in disaster management in the municipality. The minimum requirements of the volunteers are not mentioned in the Act. The minister is responsible for such unit and all activities are taken by him. The category provides for the participation and registration of individuals who wish to become more actively involved in an organized structure for disaster risk management volunteers in the municipality. It includes individuals, groups or organizations that already have
specialized skills, as well as those who undertake to be trained in specific skills in order to participate in the category\textsuperscript{217}. The disaster management centres can recruit and give training to volunteers in disaster risk reduction\textsuperscript{218}.

**Financial Arrangements**

**Financial Assistance**

When a disaster situation occurs, the financial assistance is contributed by the National, Provincial and Municipal organ of the state\textsuperscript{219}. The minister should mentioned the percentage of funds that may allocated for disaster management in the NDMAF\textsuperscript{220} and if the provincial or municipality request financial assistance to national government then the national government should take certain conditions for granting such assistance\textsuperscript{221}.

If a person fails to comply with the request of national, provincial or municipal centre, then he shall be guilty and liable for fine or to imprisonment with six months or both\textsuperscript{222}. Here the amount of fine is not mentioned. At the same time, the minister, National, Provincial or Municipality Centres and its employees are not liable for their negligence under this act\textsuperscript{223}. The burden of proof is not mentioned in the Act. This shows any act can be done by the official’s even though they are not liable for the huge losses that may be caused due to their sluggishness or negligence.

The Philippines is vulnerable to many types of natural disasters like floods, landslides, earthquakes, tsunami etc\textsuperscript{224}. In 2010 the Philippines has enacted Disaster Risk Reduction and Management Act\textsuperscript{225}. Apart from the 2010 Act they have also passed Climate Change Act of 2009. This is because disaster risk reduction and climate change are closely linked and the two laws would enable the country to better respond to disasters spawned by climate change\textsuperscript{226}.

Like the above said acts like USA, South Africa and Indonesia the Philippines Act, 2010 also aims to disaster risk reduction and management including good governance, risk assessment and early warning, knowledge building and awareness raising, reducing underlying risk factors and preparedness for effective response and early recovery. It shifted the focus from disaster response and recovery towards disaster risk reduction, preparedness and mitigation\textsuperscript{227}. One of the important features of this Act is the wide
provision for decentralization to local government units of responsibility and authority for implementing disaster risk reduction measures\textsuperscript{228}. The law has empowered local governments to enforce disaster risk reduction measures to effectively address their respective risks and mandated them to create Local Disaster Risk Reduction Office (here in after referred as LDRRO)\textsuperscript{229}. The Act adhere and adopt universal norms, principles and standards of humanitarian assistance such as UDHR, Conventions on Rights of the Child, CEDAW etc\textsuperscript{230}. They also ensure the disaster risk reduction and climate change measures are gender responsive, sensitive to indigenous knowledge systems and cultures and respectful of human rights. The Act enhances and implements a programme to equip how the humanitarian aid workers, communities, health professionals etc can actively support before and during a disaster\textsuperscript{231}.

The above said acts like US, Indonesia and South Africa mentioned the composition of members of national council or centres with President as head. But in this Act the National Disaster Risk Reduction and Management Council is headed by the secretary of the Department of National Defence as chairperson with the secretary of the Department of the Interior and Local government as Vice chairperson for disaster preparedness\textsuperscript{232}. The meeting shall be conducted on every quarterly\textsuperscript{233}. The Act gives compensatory benefits and individual personnel accident insurance to the volunteers who incur death or injury while engaged in any of the activities and ensure an efficient mechanism for immediate delivery of food, shelter, health care. There is a special provision for breastfeeding and internally displaced mothers to take care of their babies\textsuperscript{234}. The Act strictly prevents hording or overpricing of commodities and goods after the emergency period\textsuperscript{235}. The Act mention penal provision for buying for consumption or sale of disaster relief goods or other aid commodities from disaster relief agencies, recipient of disaster affected persons, diverting or non delivery of relief goods etc\textsuperscript{236}.

**Conclusion**

The chaos like September 11 attack and the hurricane Katrina, 2005 had killed unamount of human lives. A technologically developed country like US, it should not happen. The intensity of disasters can be tackled to some extent by the preparedness measures. But the institutional arrangements for taking such preparedness measures are
not sufficient in USA. Moreover all activities are taken through a single man ‘The President’. Therefore there is a chance for corruption and delay.237

One of the peculiarities of Indonesian Act is that it speaks about the rights and obligation of the community of disaster under Art 26 and 27238. The role of business institutions239 and international institutions240 in disaster management are specified in the Act. Institutional arrangements are very essential to tackle a situation like disasters but even now most of all provinces have not formulated their own agencies. There is no regulatory mechanism constituted to over control the activities of National Disaster Management Agency. In Act, there is silence about the grass root level disaster management agencies. This is very essential because they are the first responders. The penal provision under this Act is not quite satisfactory because the nature of fine is too high and is not reasonable. The criminals indulge in the crime could not afford the fine prescribed in the act241.

South Africa’s Disaster Management Act promulgated in 2003 has been applauded internationally as a path breaking example of national legislation that promotes disaster risk reduction because it was enacted before the international initiatives that had been taken globally. Everthough this Act does not specifically mention the membership of its institutional arrangements. All the institutional arrangements, qualification and number of members are vague and their meetings are not clearly mentioned. The penalties for the wrongdoers are insufficient, the centre and its employees are exempted from punishment. The other demerit to this Act is that South Africa is frequently attacked by epidemics and pandemics but these types of disaster’s are not enlisted in the Act. The act gives wide power to minister but the ‘minister’ is not clearly mentioned in the act. There is a need for amendments by considering these points and thus can level the shortcomings of this Act.

Till 2005 India did not had a comprehensive legislation to tackle Disaster Management. With the backup of Yokohama strategy and the experience from the past disasters especially the natural disasters like Orissa cyclone, 1999 Gujarat earthquake, 2001 and the giant tsunami, 2004 and the prospect of more disasters (both natural and manmade) clearly illustrated the need for multi hazard prevention, response, and recovery
plans for these hazards inorder to minimize the threat of human life and property. Therefore the parliament enacted Disaster Management Act, 2005. Efficacy of this Tackling of Disasters depend on the efficacy of this legislature.

End Notes

1 Before the enactment of this comprehensive act, President Roosevelt in 1930 authorizes Reconstruction Finance Cooperation and Bureau of Public Roads to give disaster loans available for repair and reconstruction of certain public facilities after disaster. In 1934 the Flood Control Act gave authority to the US army corps of engineers to design and build flood control projects.

2 This piece of legislation was enacted as a result of hurricane Betsey. Wide destruction was occurred in USA.


4 Under the Disaster Relief Act of 1974 refugees were eligible for disaster relief. President Carter gave assistance accessed on 17th Feb 2010 at 4pm to the Cuban refugees and this created burden to the US government. As a result in 1988 congress passed the Stafford Act. Under this Act Cuban crisis would not qualified as major disaster and thus the refuges were not eligible for the federal disaster assistance. for more details see [www.fema.gov/library/stafact.shtm](http://www.fema.gov/library/stafact.shtm) accessed on 11th Oct 2010.

5 The hurricane like Katrina revels that it is insufficient to tackle the situation effectively and looks to build up professional management and staff with in FEMA. Previously there had been no such requirements and often the head of the FEMA was a political appointee who had little or no previous experience. But now after the enactment of this Stafford Act the position was changed and the qualification for the administrator is prescribed in the Act. ‘Hurricane Katrina: A Nation Still Unprepared’ see [http://hsgac senate.gov/index.cfm?Fusearction=Links.Katrina](http://hsgac senate.gov/index.cfm?Fusearction=Links.Katrina) accessed on 24th Jan 2010 at 3pm.

6 Sec 102(1) of the Act reads: “emergency as any occasion or instance for which in the determination of the President, Federal assistance is needed to supplement state and local
efforts and capabilities to save lives and to protect property and public health safety, or to lessen or avert the threat of a catastrophe in any part of the United States”.

Sec 102(2) of the Act reads: “major disaster as any natural catastrophe (including any hurricane, earthquake, storm, high water, wind driven water, tidal wave, tsunami, tornado, volcanic eruption, landslide, mudslide, snowstorm or drought) or regardless of cause, any fire, flood, or explosion, in any part of the US, which in the determination of the President cause damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts of available resources of states, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused there by”.

The difference between them is that “any occurrence” can be termed as an emergency but at the same time the term ‘disaster’ limited only in the definition clause. But both these situations are declared by the President.

See Sec 201(a) of Stafford Act.

See Sec 201(b) of Stafford Act.

See Sec 201(c) and (d) of Stafford Act.

See Sec 202(a) and (b) of Stafford Act.

See Sec 202(c) of Stafford Act.

See Sec 202(d) of Stafford Act.

See Sec 203 of Stafford Act.

The president shall establish a federal Inter Agency task Force for the purpose of coordinating the implementation of pre-disaster hazard mitigation programme. It shall consist of a chairperson (director of FEMA) and three other members. The members shall be from relevant federal agencies, state and local government organization and the American Red Cross. For more details see Sec 204 of Stafford Act.

See Sec 402(1) of Stafford Act.

See Sec 402(2) of Stafford Act.
See Sec 402(3) of Stafford Act.

See Sec 402(4) of Stafford Act.

See Sec 402(5) of Stafford Act.

See Sec 418 of Stafford Act.

See Sec 419 of Stafford Act.

See Section 501 (1) of Homeland Security Act, 2002 reads: “ the administrator means the Administrator of the FEMA”.

See Sec 503 (c) (1) of Homeland Security Act.

See Sec 503 2 (A) of Homeland Security Act.

See Sec 503 2 (B) of Homeland Security Act.

See Sec 503 2 (H) of Homeland Security Act.

See Sec 503 2 (C) of Homeland Security Act.


See Sec 503 2 (E) of Homeland Security Act.

See Sec 503 2 (G) of Homeland Security Act.

DEST was created in the Department of Homeland Security under US policy on counter terrorism in 1995. But its function is not only to respond to terrorism incidents but also response to natural disasters.

NDMS is a federally coordinated system that augments the nation’s medical response capability. The vision of NDMS is to serve the federal response by providing disaster medical care to the nation and includes medical response to a disaster area, patients movement from a disaster site to unaffected areas; definitive medical care at participating hospitals in unaffected areas.

MMRS is an operational system at the local level to respond to a terrorism incident and other public health emergencies that create mass causalities. The MMRS programme was created in 1996 in response to a gas attack and a terrorist bombing in 1995. This system
enables a metropolitan area to manage the event until state or federal response recourses and mobilized. This programme helps to develop plans, conduct training and exercises of all activities for life saving and protection of people.

36 See Sec 507(b)(1) of Homeland Security Act.
37 See Sec 507(2) of Homeland Security Act.
38 See Sec 402 (1) of Stafford Act.
39 See Sec 402 (2) of Stafford Act.
40 See Sec 402 (3) of Stafford Act.
41 See Sec 402 (a) (1) of Stafford Act.
42 See Sec 402 (a) (2) of Stafford Act.
43 See Sec 402(a)(3) of Stafford Act.
44 See Sec 405 of Stafford Act.
45 See Sec 408 (c) (1) (A) and Sec 408 (c) (4) of Stafford Act.
46 See Sec 408 of Stafford Act.
47 See Sec 408 (c) (2) of Stafford Act.
48 The US department of labour coordinates with FEMA to oversee the DUA to the victims of major disasters.
49 Disaster unemployment assistance, US Department of Labour, see http://workforcesecurity.doleta.gov accessed on 25th March 2010 at 4pm.
50 See Sec 410 of Stafford Act.
51 See Sec 412 (a) of Stafford Act.
52 See Sec 415 of Stafford Act.
53 See Sec 416 of Stafford Act.
54 See Sec 408 (e) of Stafford Act.
See Sec 425 of Stafford Act.

NEST, part of the Department of Energy and Environmental Protection Agency constituted for protecting nuclear disasters. It consists of team of scientists, technicians and engineers operating under the US department of Energy’s National Nuclear Security Administration. The task of the NEST is to respond immediately to any radiological accident. It was established in 1975 and its capabilities include search and identification of nuclear materials, diagnostics and assessment of suspected nuclear devices. see Oppenheimer and Andy, Nuclear Incident response in US and http://www.janes.com and www.dhs.gov accessed on 11th April 2010 at 10pm.

FEST is poised to respond to terrorist incidents and it respond quickly and effectively to terrorist attack. it has been deployed over twenty countries since its inception in 1986. This team is comprised of experts from the Department of Homeland Security, Department of Defence, and Department of Energy and Intelligence Community. see www.state.gov/s/ct/about/c1664htm and www.state.gov/s/ct/rls/fs/2002/13045 accessed on 21st march 2010 at 4pm.

NRT is an organization responsible for coordinating emergency preparedness and response to oil and hazardous substance pollution incidents. US’s Environmental pollution Agency and US coast guard are representatives of NRT. It consists of three standing committees (a) preparedness committee (b) response and (c) science and technology committee. The first committee promotes enhanced preparedness capabilities for oil and hazardous materials skill; response committee assesses the effectiveness of oil spill and hazardous substances and the third committee is responsible for research and development. see http://www.answer.com/topic/national-response-team accessed on 23rd Feb 2010 at 5pm.

DMAT is a group of professional and paramedical persons organized to provide rapid response medical care or causality during terrorist attack, natural disasters, technological disasters or other emergencies in US. It operates under the Department of Health and Human Services created in 1983. It assists state in dealing with the medical and health effects in major disasters.

NECLC work after the occurrence of disaster to identify the missing children and to save them from exploitation. These centres helps to identify and reunify the missing children’s within their families. see, Sec 689(b) of Stafford Act.
NEFRLC was established to unify the families of missed displaced persons due to disasters. This helps to identify the missed person in a family. *see* Sec 689(c) of Stafford Act.

*See* Red Cross Mission Statement [http://www.redcross.org](http://www.redcross.org) and Disaster Relief Services of the American Red Cross [http://www.nims.sonline.com](http://www.nims.sonline.com) accessed on 11th Jan 2010 at 3 pm.

The financial assistance to the state shall not be less than $500,000 or equal to the 1% of the fund to carry out this section for the fiscal year. The President takes certain criteria into consideration while awarding the amount to the state and local governments. They are the extent and nature of hazard; degree of commitment of states and local governments for mitigating hazards; fund activities that maximize net benefits to society especially small impoverished communities. *see*, Sec 203(f) and (g) of Stafford Act.

The President may contribute up to seventy five percent of the cost of hazard mitigation measures for reducing the risk of future damage. *see* Sec 402 of Stafford Act.

The response measures of the federal share shall not be less than seventy five percent of the eligible cost of repair, reconstruction, restoration or replacement of disaster victim. *see* Sec 406 of Stafford Act

Under this act there is a special provision for federal assistance to the state and local government for debris removal. The federal share of assistance shall not be less than seventy five percent of the eligible cost of debris and wreckage removal *see* Sec 407 of Stafford Act.

The President give financial assistance to the state government in the form of loans, when they suffer from less tax and revenue payment due to major disasters but such amount shall not be greater than the annual budget of the local government. *see* Sec 417 of Stafford Act

*See* Sec 311(a) (1) of Stafford Act.

*See* Code 42 of US Code.

The very best example is the Hurricane Katrina that hit the Southern coast of US in 2005. It was a great disaster that US have ever seen. One of the reasons for worsening the situation is due to the non responding attitude of the head of the FEMA, Michael D Brown. He urged all fire and emergency services departments not to respond to countries and states affected by the cyclone without being requested and lawfully dispatched by state and local authorities.
This resulted for losing of 9,836 people’s lives in US. Then no action was taken against FEMA or the head of the FEMA for not responding to such situation. See, Learning from Mismanagement During a Crisis. see http://www.nimsonline.com/criticisms-of-the-response-to-hurricane-katrina.html accessed on 18th March 2010 at 8am.

71 The country is subject to high level of seismic activities due to its location at the intersection of three crustal plates namely Eurasia plate, ancient Australia – Indian continent, Pacific ocean floor in the Northeast. Therefore the country is prone to tsunamis, earthquakes, tidal waves, landslides, etc and moreover it is blessed with 500 volcanoes. Many part of the country is susceptible to drought and uncontrolled bush fires, exacerbating the forest fires from the extensive forest logging. Moreover 5000 small and big rivers, of, which 30% crossed the high density population area posing flood hazards. The communal conflicts are also common phenomena in Indonesia. see International Disaster Data www.em-dat.net accessed on 12th May 2010.

72 In 2004 tsunami in Indonesia about 132,000 people died and 37,000 people were missing.


74 See Article 20 and 21 of the Constitution of Republic of Indonesia.

75 Number 24 of 2007.

76 See part 2 of the DM Act.

77 See Chapter VIII of the DMA.

78 See Chapter IV of the DMA.

79 Provinces like west Java, Bengkulu, West Sumatra, Southeast Sulawesi and North Sulawesi have established their own State Disaster Management Agencies. The Jakarta Post, Officials Admit Poor Disaster Management in Regions www.thejakartapost.com. Article 82 of the DM Act says the time duration for the creation of NDMA and SDMA. The time for the creation of NDMA shall be within 6 months and SDMA shall be not later than 1 year. Here the Act has enacted in 2007 and now itself many provinces have not established their own SDMA. This is a great drawback to this Act.
80 See Government Regulation of Republic of Indonesia Number 21 of 2008.
81 See Government Regulation of Republic of Indonesia Number 22 of 2008.
82 See Government Regulation of Republic of Indonesia Number 23 of 2008.
83 See Presidential Regulation of Republic of Indonesia Number 8 of 2008.
84 Article 1(9) of the DM Act reads: “Mitigation means a series of efforts to reduce disaster risk, through physical development as well as awareness and improved capability to face disaster threat”.
85 Article 1(16) of the DM Act reads: “Activities of disaster prevention means a series of activities carried out to eliminate and/or reduce disaster threat”.
86 See Articles 1 (10) and (15) of the DM Act.
87 Article 1(1) of the DM Act reads: “Disaster shall mean an event or a series of events threatening and disturbing the community life and livelihood, caused by natural and/or non natural as well as human factors resulting in human fatalities, environmental damage, loss of material possessions, and psychological impact”.
88 Article 1(2) of the DM Act reads: “Natural disaster shall mean an event or a series of events caused by nature such as earthquake, tsunami, volcanic eruption, flood, drought, typhoon, and landslide”.
89 Article 1(3) of the DM Act reads: “Non natural disaster means a non natural event or a series of non natural events such as technological failure, modernization failure, and epidemic”.
90 Article 1(4) of the DM Act reads: “Social disaster means an event or a series of events caused by humans, which include social conflicts between community groups, and terrorism”.
91 Article 1(23) of the Act reads: “Central Government, hereinafter referred to as Government, means the President of the Republic of Indonesia, who shall hold executive powers of the Unitary State of The Republic of Indonesia as referred to in the 1945 Constitution of the Republic of Indonesia”.
92 Article 1 (24) of the Act reads: “Regional governments means governor, regent/mayor or regional government or regional personnel as the organizing element of the regional government administration”.

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Article 5 of the Act reads: “Government and regional governments shall bear responsibility
for disaster management”.

See Article 6 of the Disaster Management Act.

Article 34 of the Act reads: “Disaster management at pre-disaster stage referred shall include:
Situation without disaster; and situation with potential disaster. see also Article 4 of
Government Regulation Concerning Disaster Management”.

The disaster management planning should include recognition and study of disaster threat;
understanding on communities vulnerability; analysis of potential disaster impact; reducing
disaster risk measures; allocation of tasks, availability of resources etc. see Article 36(4)
and Article 6 of the DM Act and the Government Regulation Concerning Disaster Management.

Disaster risk reduction aims to reduce potential negative impacts and increase community’s
capability to face the impacts of disasters. This should include recognition and monitoring of
disaster risks; participatory disaster management planning; promoting disaster awareness
practices; improving the commitment of disaster management team and application of physical
and non physical efforts. see Article 37 of DM Act and Article 7 of Government Regulation
Concerning Disaster Management.

Preventive measures aim for reducing or eliminating disaster risk. This should include
identification and recognition of sources of disaster danger or threat; monitoring the control
and management of natural resources and the use of advanced technology; supervising of
spatial structuring and environmental management; strengthening of social resilience of the
community etc. see Article 38 of DM Act and Article 9 of Government Regulation Concerning
Disaster Management.

The Central and state governments through coordination and integration make disaster
management into development planning. Therefore it requires the inclusion of disaster
management elements into national and regional development plans. see Article 39 of DM
Act and Article 10 of Government Regulation Concerning Disaster Management.

The NDMA shall prepare and stipulate disaster risk analysis. This analysis should govern
preparation of environmental impact assessment, spatial structuring as well as actions of
disaster prevention and mitigation. The NDMA and SDMA with their respective authority
shall monitor and evaluate the disaster risk analysis. *see* Article 41 of DM Act and Article 11 and 12 of Government Regulation Concerning Disaster Management.

101 Education and training enhance community’s awareness, concerns, capability and alertness in facing disasters. Therefore the central and state government shall organize education and training programmes in the form of basic, secondary, technical basis. The agencies related to disaster management can organize education and training in disaster management in accordance with the respective mandate and authority based guidelines set by the head of the NDMA. *see* Article 43 of DM Act and Article 14 of Government Regulation Concerning Disaster Management.

102 Alertness aims to ensure quick and appropriate efforts in facing disasters. This includes preparation for disaster emergency plans; installation of early warning system; supply the basic necessities; preparation of location for evacuation; organization; counseling, training and rehearsal for emergency response mechanisms. *see* Article 45 of DM Act and Article 16 of Government Regulation Concerning Disaster Management.

103 Early warning takes appropriate action to reduce disaster risk and prepare action for emergency response. This includes observation of disaster signs; analysis of data from observation; take decision making based of analysis; dissemination of the result of decision and community actions. *see* Article 46 of DM Act and Article 19 of Government Regulation Concerning Disaster Management.

104 Mitigation measures aims at reducing disaster risk and impact on the community living in disaster prone areas. This includes implementation of spatial structures, regulation of development, infrastructure development and construction layout; and also includes education, training and counseling. *see* Article 47 of DM Act and Article 20 of Government Regulation Concerning Disaster Management.

105 Emergency response in the disaster management includes quick and appropriate study on location, damage losses; decision on emergency status; rescue and evacuation of disaster affected community; fulfillment of basic necessities; protection of vulnerable group and immediate recovery of essential facilities and infrastructure.

106 Rehabilitation means the recovery of community life at post disaster area. State government is responsible for such activities and they should prepare a plan for such activities, which
should comply with the guidelines set by the head of the NDMA. This plan consists of regulation of building construction standards, social condition, customs, culture, economy etc. If the state fund is insufficient to carry out the rehabilitation situation, then the state government makes request assistance to the central government in the form of expert, equipment etc. see Article 58 of DM Act and Article 56 to 74 of the Government Regulation Concerning Disaster Management.

107 Like the rehabilitation, reconstruction activities should be taken over by the State government. They keep up a rehabilitation plan and it shall comply with the guidelines set by the NDMA. This includes rebuilding the facilities and infrastructure and communities social facilities; public services and essential services in community; participation of social institutions and organization etc. see Article 59 of DM Act and Articles 80 to 89 of the Government Regulation Concerning Disaster Management.

108 National Disaster Management Agency is also referred as BNPB.

109 Article 11 of the Act reads: “NDMA shall comprise the elements of steering committee and managing executive body”.

110 Article 51 of the presidential declaration reads: “The President shall appoint and dismiss NDMA Head”.

111 Article 40 of the Presidential Regulation reads: “NDMA head shall control the performance of Disaster Management Steering Committee and Executive Committee tasks and functions”.

112 See Article 12 & 13 of the Disaster Management Act and Article 2 & 3 of the Presidential Regulation.

113 Article 10 of the Presidential Regulation read: “Disaster Management Steering Committee shall Comprise a Chairperson, whose position is to be held by BNPB Head, and 19 (nineteen) members. See also Article 14(2) of the DM Act”.

114 Article 11 of the Presidential Regulation reads: “Member of Disaster Management Steering shall comprise of 10 (ten) of Government Officials or equivalent, nominated by Head of Governmental Institutions; and 9 (nine) professional community Members. Government Officials as referred as Coordinating Ministry for People’s Welfare; Department of Home Affairs; Social Affairs; Public Works; Health; Finance; Transportation; Energy and Mineral Resources; National Police and National Army of the Republic of Indonesia”.

161
Article 14(3) of the DMA reads: “the steering committee members shall receive appointment through a fit and proper test conducted by the House of Representatives of the Republic of Indonesia”.

Article 57 of the Presidential Regulation reads Members of Disaster Management Steering Committee shall be appointed for a five years term of service.

Article 14 of the DMA reads: “Disaster Management Steering Committee shall organize the functions of formulating the concept of policy on national disaster management; monitoring; and evaluating the implementation of disaster management. see also Article 9 of Presidential Regulation.”

See Article 53 to 58 of Presidential Regulation.

See Article 41 of the Presidential Regulation.

Article 16 of the Presidential Regulation reads: “as the Chief secretariat shall be headed by chief secretary. The function of this secretariat includes coordination of disaster management activities within the agency; provide services of administration, legislation, management, finance, coding etc and implement the protocols within the NDMA; facilitating the steering committee for its performance and coordinate with NDMA for its report preparation” see Article 17 of the Presidential Regulation.

This department is headed by a deputy. This department is empowered to implement the general policy for disaster management during the pre disaster period. see article 19 to21 of Presidential Regulation.

Deputy for Emergency Management is headed by a Deputy. They formulate and implement policies for disaster management during emergency response and on refugee management. see Article 22 to 24 of Presidential Regulation.

Deputy for rehabilitation and reconstruction is headed by a Deputy and shall have the task of coordinating and implementing general policy on disaster management during the post disaster period. They formulate and coordinate policy for disaster management during the post disaster period. see Article 25 to 27 of Presidential Regulation.

Deputy for Logistics and Equipment is headed by a Deputy and they have the task of carrying out logistics and equipment coordination and support in disaster management. They have the
function of formulating, implementing and monitoring the policies for disaster management. 
*see* Article 28 to 30 of Presidential Regulation.

125 Chief Inspectorate shall be headed by Chief Inspector. They supervise the functions within NDMA and implement the supervision of performance, finance and other purposes under the direction of NDMA head. *see* Article 31, 32 and 33 of Presidential Regulation.

126 Centre shall be headed by the Centre Head and the executive committee consists of two centers. They are supporting committee for disaster management and Executive committee’s task and functions. The detail of this centre is not stipulated in the Act. *see* Article 34 and 35 of the Presidential Regulation.

127 This unit is headed by a Technical Executing Unit Head for carrying out operating technical tasks and supporting technical tasks. Information about this unit is vague in the act. *see* Article 36 and 37 of the Presidential Regulation.

128 Article 16 of the Act reads: “to carry out the functions the disaster management managing executive shall receive integrated tasks during pre-disaster period; emergency response; and post-disaster period”. *see* also Article 13 of Prudential Regulation.

129 Article 14 of the Act reads: “Disaster Management Executive Committee shall organize the functions of coordinating disaster management; commanding disaster management; and implementing disaster management”.

130 *See* Article 44 of the Presidential Regulation.

131 Article 48 of the Presidential Regulation reads: “Disaster Management Executive Committee’s command function shall be exercised through mobilization of human resources, equipment and logistics from related agencies, Indonesian Armed Forces and National Police of the Republic of Indonesia and other measures required for disaster emergency management”.

132 Article 49 of the Presidential Regulation reads: “Disaster Management Executive Committee’s implementation function shall be exercised in a coordinated and integrated manner with government institutions at Central and regional levels, Indonesian Armed Forces and National Police of the Republic of Indonesia, considering the policy on disaster management and the provisions of legislation”.
Article 18(2)(a) of the DMA reads “… provincial level agency presided over by an official who rank second to governor…”.

Article 19 of the DMA reads: “Regional Disaster Management Agency shall comprise the elements of steering committee and an executive body”.

See Article 20 & 21 of the DMA.

See Article 22 of the DMA.

See Article 61 of the DM Act and Article 4 of the Government Regulation Concerning Disaster Aid, Financing and Management.

Disaster contingency fund means a fund reserved for potential disasters and this fund shall provided by government for pre-disaster alertness measures. Contingency fund is provided for facilitation for disaster management planning; disaster risk reduction and preventive measures; disaster risk analysis; education and training in disaster management; alertness and early warning programmes etc. see Article 1(4) and 6 (1) of the Government Regulation Concerning Disaster Aid, Financing and Management.

See Article 13 and 14 of the Government Regulation Concerning Disaster Aid, Financing and Management.

Ready funds means fund available and reserved by the government for use during disaster emergency response until the emergency response has come to an end. This fund is allocated by the state government for quick and appropriate study of location; rescue and evacuation; aid for basic necessities and recovery of infrastructure; protection of vulnerable group etc. see Article 1 (5), 6 (2), 16 and 17 of the Government Regulation Concerning Disaster Aid, Financing and Management.

See Article 16 of the Government Regulation Concerning Disaster Aid, Financing and Management.

Grant pattern social assistance fund means a fund provided by the central government to state government as aid for post disaster management especially for rehabilitation and reconstruction. This fund comes from the central and state government budget for rehabilitation and preconstruction activities. Which include, improvement of disaster area environment; repair to public infrastructure; aid for community housing repairing; socio-economic and
cultural recovery etc. see Articles 1 (6), 6 (5), 21 and 22 of the Government Regulation Concerning Disaster Aid, Financing and Management.

143 Compensation for the ceased persons shall be given to the victim’s heir as a burial cost or donation to relative of a ceased person. see Article 26 of the Government Regulation Concerning Disaster Aid, Financing and Management.

144 Disaster victim suffering from mental or physical disability can claim for compensation. This compensation shall be provided after the data collection, identification and verification by the authorized agency. see Article 26 of the Government Regulation Concerning Disaster Aid, Financing and Management.

145 Soft loans for productive business shall be provided to disaster victims who have lost their livelihood. These loans should be provided as a credit for productive business and ownership of capital goods. see Article 26 of the Government Regulation Concerning Disaster Aid, Financing and Management.

146 Aid for basic necessities shall be provided to disaster victims especially to the vulnerable group of the society for temporary accommodation, food, clothing, water supply and healthcare. see Article 26 of the Government Regulation Concerning Disaster Aid, Financing and Management.

147 See Article 29 of the Government Regulation Concerning Disaster Aid, Financing and Management.

148 See Articles 8 (1) and (2) of the Government Regulation Concerning Participation of International Institutions and Foreign Non-Governmental Organizations in Disaster Management.

149 See Articles 8 (6) of the Government Regulation Concerning Participation of International Institutions and Foreign Non-Governmental Organizations in Disaster Management.

150 See 10 of the Government Regulation Concerning Participation of International Institutions and Foreign Non-Governmental Organizations in Disaster Management.

151 Anybodies development activities running a high risk of disasters then he shall be punishable with imprisonment and fine. If it results for any material losses or cause fatalities then the
punishment or fine may increase. If the same crime is done by a corporate then the management shall be punishable with imprisonment and fine that is three times greater than others. Besides there business license or entity status can be revoked. *see* Articles 75 to 79 of the DM Act.

152 Any person who deliberately misuse disaster aid then he shall be punished with life imprisonment or the least of 4 years or most 20 years imprisonment and fine of least 6 billion or most 12 billion rupiahs. *see* Art 78 of the Act.

153 Any people who deliberately hinder easy access shall be punished with imprisonment of least 3 years or most 6 years and fine of least 2 billion or 4 billion rupiahs. *see* Art 77 of the Act.

154 Some of the projects and programmes are UNICEF give forging support to OCHA and NDMA to conduct disaster coordination training in 2008. and coordinate emergency responders at the onset of This training helps to enhance the capacity of national response Team to carry out needs assessments emergency; Since 2005 OCHA and UNDP have co-chairing the UN’s technical Working Group for disaster risk reduction with the objective of enhancing coordination among UN agencies on disaster risk reduction.

155 From 1980 to 2008 SA is stricken by 23 times of flood, 17 times of storms, 8 times of drought, 6 times of high epidemics and earthquakes. Due to these disasters South Africa losses $101,692 per year. *see* [www.emdat.be](http://www.emdat.be) accessed on 25th January 2009 at 4pm.

156 The Cape flood in 1994 revealed that there is a need for regulation and this profiled the urgency for legislative reforms in the field of disaster risk management. In 1995 the cabinet recommended for a formal structure for disaster management and thus a National Disaster Management Committee was constituted in 1997 under the department of constitutional development, which administered the Civil Protection Act of 1977. Later in 1977, an Inter-ministerial committee was constituted as a result of non- functioning of NDMC.

157 The Parliament has the right to declare an emergency and this type of declaration of emergency is necessary to restore peace and order. This will effect only for more than 21 days from the date of declaration. Section 37 of the Constitution of South Africa, 1996 reads: “a state of emergency may be declared only in terms of an Act of Parliament and only when the life of the nation is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency…”.
Jaco Vermaak and Dewald Van

Disaster Risk Reduction Initiatives in South Africa in Development 121 South Africa 12, 2004 www.informaworld.com accessed on 12th Nov 2010 at 11pm.

See Sec 26(1) of the Act.

Sec 1(c) of the Act reads: “National disaster means a disaster classified as a national disaster in terms of Section 23”.

See Sec 27 (2) (a) to (o) of the Act.

See Sec 25 (1) of the Act.

See Sec 25 (1) (a) (i) to (vi) of the Act.

See Sec 25(3) (a) of the Act reads: “A national organ of state must submit a copy of its disaster management plan and of any amendment to the plan to the National Centre”.

See Sec 38,39,52 and 53 of the Act.

See Sec 9 of the Act.

See Sec 10(1) of the Act.

See Sec 12(1) of the Act.

See Sec 15 of the Act.

See Sec 13 of the Act.

Sec 15(3) of the Act reads: “the national Centre must exercise its powers and perform its duties within the national disaster management framework; subject to the directions of the minister and in accordance with the administrative instructions of the Director-general of the department”.

When disastrous events occur, the National centre assesses the magnitude and severity of disasters and classifies the disasters as national, provincial or local disasters. If the magnitude of disaster is greater or lesser than the initial assessment, then the centre has the power to reclassify the disaster after consultation with the provincial or municipal disaster management centre. For more details see Sec23(3) of the Act.
See Sec 15(1)(b) of the Act.

See Sec 15(2) of the Act.

As a repository the National Centre may collect and analyze information and maintain an electronic database for disseminating such information to the vulnerable communities. For more details see Sec 15(1)(c) and 17(1) of the Act.

Sec 18(2) of the Act reads: “if an organ of state fails to comply with a request, the National Centre must report the failure to the minister who must take steps as may be necessary to secure compliance with the request, including reporting the failure to parliament”.

See Sec 15(1)(f) of the Act.

See Sec 15(1)(e) of the Act.

See Sec 15(1)(g) to (k) of the Act.

As a part of prevention and mitigation the NDMC give guidance to the organ of the state, communities and individuals for the assessment and prevention of disaster risk by determining level of risks, vulnerability assessment, increasing the capacity of the vulnerable community, monitor the alertness to disasters, developing and implementing appropriate prevention and mitigation methodologies with development plans etc. For more details see Sec 20 of the Act.

See Sec 16(3) of the Act.

Sec 15(1)(d) of the Act reads: “NDMC act as an advisory and consultative body on issues concerning disasters and disaster management to organs of state, statutory functionaries, private sectors and nongovernmental organizations; communities and individuals, and other governments and institutions in South Africa”.

The national centre must maintain a directory of the pole players who are involved in disaster management. This includes name, telephone number and fax, particulars of their involvement capacity and location of emergency, statutory functions of the organs of the state, NGO’s involvement in disaster management, details of private sector organizations having specialized equipments and knowledge for disaster risk reduction and management, voluntary agencies, foreign NGO’s and international organizations that are involved in disaster management. For more details see Sec 16 of the Act.
The electronic database contains information concerning disasters and its occurrence, disaster management issues including information’s like risk factors underling disasters and its ways and means to reduce the risks; recurring occurrences; prevention and mitigation; early warning systems; areas vulnerable to disasters; indigenous knowledge; resources like police station, hospitals, emergency medical services, schools, public buildings etc. For more details see Sec 17(2) of the Act.

The annual report consists of the activities that have done during the year, which includes occurrence of disasters in the province in the year, classification of disasters, magnitude and its severity, its effects etc. For more details see Sec 24(1) of the Act.

Sec 29(1) of the Act reads: “Each province must establish a Disaster Management Centre”.

The PDMC assist the NDMC to identify the role players and other provincial organs of the state; to develop an electronic database; to prepare and review of disaster management plans; PDMC give information to the NDMC , if such information is reasonable required by the centre. For more details see Sec 32 of the Act.

Sec 30 (4) of the Act reads: “A PDMC must liaise and co-ordinate its activities with the NDMC and Municipal Disaster Management Centre in the province”.

See Sec 30 (1) of the Act.

When the PDMC concerned that a disaster or disaster situation will occur in the province, then they take initiatives to assess the magnitude and severity of disasters and inform that the NDMC and the role players to make assistance according to the contingency plan and emergency procedure that are applicable to the circumstances. For more details see Sec 35 of the Act.

The PDMC take steps for prevention and mitigation programmes by giving guidance to state organs, NGO’s and private sectors for determining level of risk, assessing vulnerability of communities, implementing disaster management plans etc. they also monitor disaster management plans and strategies for preventing disasters in provincial and municipal organ of the state. see Sec 30(b), 33 and 34 of the Act.

See Sec 30(g) to (k)of the Act.
Sec 30(c) of the Act reads: “… must act as a repository of and conduit for information concerning disasters impending disasters and disaster management in the province”. Also see Sec 32(1) of the Act.

Sec 30(d) of the Act reads: “may act as an advisory and consultative body on issues concerning disasters an advisory and consultative body on issues concerning disasters and disaster management in the province to (i) organs of state and statutory functionaries (ii) the private sector and non-governmental organizations and (iii) communities and individuals”.

Sec 30(e) of the Act reads: “… must make recommendations regarding the funding of disaster management in the province, and initiate and facilitate efforts to make such funding available”.

Sec 30(f) of the Act reads: “… may make recommendations to any relevant organ of state or statutory functionary for (i) on draft legislation affecting this Act, the national disaster management framework or any other disaster management issues (ii) on the alignment of provincial or municipal legislation with this Act and the national disaster management framework; or (iii) in the event of a provincial disaster, on whether a provincial state of disaster should be declared”.

An annual report should be submitted to MEC by the PDMC including the activities done during the year, results of monitoring the activities for prevention and mitigation, disasters that occurred during the year.

See Sec 31 of the Act.

See Sec 42(1) of the Act.

See Sec 42(1)(a) to (d) of the Act.

See Sec 43 of the Act.

Sec 4(1) of the Act reads: “The President must establish an ICDM…”.

See Sec 4(3) of the Act.

Sec 4(2) of the Act reads: “The minister is the chairperson of the committee”.

Sec 4(1) to(c) of the Act reads: “Cabinet members involved in disaster management or the administration of legislation; members of executive councils of each province involved in disaster management; members of municipal councils…”.
See Sec 5(1) of the Act: “The Minister must establish a National Disaster Management Advisory Forum consisting of-

(a) the Head of the National Centre;

(b) a senior representative of each national department whose Minister is a member of the Intergovernmental Committee on Disaster Management designated by that Minister;

(c) a senior representative of each provincial department whose MEC is a member of that Committee, designated by that MEC;

(d) municipal officials selected by the South African Local Government Association:

(e) representatives of other disaster management role-players designated by the Minister…”.

See Sec 5 (3) (a) of the Act.

See Sec 5 (2) of the Act.

See Sec 5 (1) (b) and (c) of the Act.

See Sec 5 (1) (d) of the Act.

The representatives of other disaster management role players includes organized business, chamber of mines, organized labour, the insurance industry, organized agriculture, traditional leaders, religious and welfare organizations, medical, paramedical and hospital organizations, organizations representing disaster management profession in SA, other relevant non-governmental and intergovernmental organizations and relief agencies, statutory bodies regulating safety standards in particular industries, institutions of higher education, institutions that can provide scientific and technological advice or support to disaster management. See Sec 5 (1) (e) of the Act.

See Sec 5(1) (f) and (g) of the Act.

Sec 5(3) (b) reads: “In performing the functions referred to in paragraph the Forum must make recommendations concerning the national disaster management framework to the Intergovernmental Committee on Disaster Management and may advise any organ of state, statutory functionary, non-governmental organisation or community or the private sector on any matter relating to disaster management”.

See Sec 5 (1) (e) of the Act.
PDMAF is established by the member of executive council in the state and the members of the forum consisting of a head, a senior representative of each provincial department, head of the MDMC, representatives of organized local government and representatives of other disaster management role players see Sec 37 of the Act.

The MDMAF was established by the metropolitan or district municipality consisting of a head, senior representatives of the local municipalities, representatives of disaster management role players, experts in disaster management. see Sec 51 of the Act.

The disaster management volunteers unit can be established by a metropolitan or a district municipality. Any person who meets the prescribed minimum requirements can apply as a volunteer. But the minimum requirement I not mentioned in the Act. The municipality should keep up a register of all volunteers and shall report to the National Centre within 21 days after the enrolment of such volunteers. see Sec 58(1) to (4) of the Act.

The minister has the authority to command structure of the unit, components within a unit, recruitment and requirements of volunteers, their deployment, training, use of equipment, uniform of volunteers etc. see Sec 58(5) of the Act.

See Sec 58 (6) to (4) of the Act.

See Sec 15(1)(g), 30(1)(g) and 44(1)(g) of the Act.

The national, provincial and local organ of the state may financially contribute to response efforts and post disaster management like recovery and rehabilitation. They also contribute for the cost of repairing or replacing the public sector infrastructure. see Sec 56(2) of the Act.

See Sec 56(3) of the Act.

While granting financial assistance to province and municipality, the national government should take considerations if the province or municipality took prevention and mitigation measures for preventing such disasters. see Sec 57 of the Act.

See Sec 60 of the Act.

The Philippines, because of its geographical location, is vulnerable to many types of natural disasters. It is located at the western part of the Pacific Ring of Fire, a most active part of the earth characterized by an ocean encircling belt of active
volcanoes and earthquake generators. The country has 220 volcanoes, of which more than 20 are known to be currently active. It is also in the path of turbulent typhoons, with about an average of 20 crossing annually the Philippine area of responsibility. The archipelagic nature of the Philippine coastal areas increases susceptibility to storm surges, tsunamis and sea level changes. Floods are also common due to rains brought by typhoons and the monsoon.

As one of the most disaster-prone countries in the world, the Philippines had long before established an institutional structure for responding to disasters. As early as 1941, during the Philippine Commonwealth days, the late President Manuel L. Quezon issued Executive Order No. 335 creating the Civilian Emergency Administration (CEA), tasked to formulate and execute policies and plans for the protection and welfare of the civilian population under extraordinary and emergency conditions. The numerous other laws and executive issuances issued thereafter found codification in PD 1566. Presidential Decree No. 1566 was issued on June 11, 1978 to strengthen the Philippine disaster control capability and to establish a national program for community disaster preparedness. Presidential Decree No.1566 provided for the National Disaster Coordinating Council (NDCC) as the highest policy-making body on matters of disasters in the country. Disaster coordination was established from the lowest governmental units to the national level. Through the years, the country has recognized the need to improve Presidential Decree No. 1566 as new developments arise and inherent weaknesses of the national disaster coping mechanism were becoming apparent. In January 2005, the Philippines concurred to the adoption of the Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters. The framework served as the guideline of member countries to reduce disaster risk and vulnerability to natural hazards. Philippine Congress has been particularly guided by the “Framework’s” Priorities for Action when it enacted Republic Act No. 10121. Republic Act No. 10121 or the “Philippine Disaster Risk Reduction and Management Act of 2010” was signed into law last May 27, 2010. The law acknowledges the need to adopt a disaster risk reduction and management approach that is holistic, comprehensive, integrated, and proactive in lessening
the socio-economic and environmental impacts of disasters including climate change, and to promote the involvement and participation of all sectors and all stakeholders concerned, at all levels, especially the local community. see http://www.aipasecretariat.org accessed on 9th July 2012 at 11pm.


227. See Sec 2(f) of Disaster Risk Reduction and Management Act, 2010.

228. See Sec 2 (k) of Disaster Risk Reduction and Management Act, 2010.

229. See Sec 5 of Disaster Risk Reduction and Management Act, 2010.

230. See 2 (c) of Disaster Risk Reduction and Management Act, 2010.

231. See Sec 2 (0) and 12 (c)(15) of Disaster Risk Reduction and Management Act, 2010.

232. See Supra at 6.


234. See Sec 12(c)(16) of Disaster Risk Reduction and Management Act, 2010.

235. See Sec 17 of Disaster Risk Reduction and Management Act, 2010.

236. See Sec 19(a) to (m) and Sec 20 of Disaster Risk Reduction and Management Act, 2010.

237 See Sec 61 of the Act.


239 The rights and obligation includes the community have the right to enjoy social security and have educational or training rights in disaster management; participation in decision making on disaster management; right to get aid for the victims; duty to carry out disaster management activities; provide correct information to the public on disaster management. see Art 26 and 27 of the Act.
The business institutions with both jointly and severally with other parties can take part in disaster management; they shall adjust their activities to disaster management policy; they shall submit report to government in charge of disaster management and consider the principles of humanity while performing disaster management function. see Art 28 and 29 of the Act.

International institutions receive government protection for their workers in disaster management; they shall prepare proposal, memorandum of understanding and work plan; they can provide aid directly to the NDMA. see Art 30 the Act.

A person can be punish or fine if his acts cause disaster by undertaking high risk development without disaster risk analysis. (imprisonment of least 3 years to most 6 years and fine of least 300 million to 2 billion rupiahs) if the same acts cause deliberately then punishment and fine may increase (imprisonment of least 5 years or most 8 years and fine of least 2 billion to four billion rupiahs): if there is a loss of material possession or goods then the criminal shall be punished with 6 years to most of 8 years and fine of least 600 million to 3 billion rupiahs,. If the same act done deliberately then the imprisonment may high up from 8 years to 12 years and fine of 3 billion or 6 billion rupiahs: if the crime leads to fatalities, then he shall be punished with least of 8 years or 10 years and fine of least 3 billion or 6 billion rupiahs. If the same crime shall be done deliberately the he shall be punished with least of 12 years or 15 years and fine of least 6 billion or 12 billion rupiahs. see Art 75 and 76 of the Act.

Reference


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