

12 RMLNLUJ (2020) 227

Book Review : Disaster Management and Protection of Human Rights in India :
With Special Reference to International Law and Practice By Subhradipta
Sarkar

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*Thomson Reuters Legal, New Delhi, 2019 [pp. iii+vii+446], Price 900. ISBN
978-93-89407-34-1*

by

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In technical sense of the term, disaster appears apocalyptic enough to provoke tormentor if not terminator to peril if not perish humane establishment on the spur of a moment; followed by perilous syndrome to get the humanity devastated in spiral course of events. The Biblical reference of Doomsday similar analogy is available within literary rhetoric of other religious texts as well, e.g. *Qayamat* in Islam, *Kalki* in Hinduism, and the like — is, at bottom, the day of last and final disaster to leave nothing behind in the morbid and the mortal lifeworld. No wonder that, despite getting held as mightiest state in the world, USA prefers emergency management; since disaster reflects act of God (as it is so called) and, therefore, disaster management stands beyond control of the human agency anyway. In India, “disaster” and “disaster management” are but adhered to statutory definitions under Section 2(d)(e) of the Disaster Management Act, 2005 (the DM Act) respectively; something the author followed for his treatise; albeit, with mention of the jurisprudence of emergency management available in USA. Accordingly, in his legal and policy analyses, the author engages his readership with diversified disasters during two relevant decades (1993-2013) : ranging from earthquake in Marathwada (1993), super cyclone in Odisha (1999), to earthquake in Gujarat (2001), to tsunami-hit pandemonium in Tamil Nadu (2004), to shift of river watercourse in Bihar (2008), to flash flood in Uttarakhand (2013), to cite incidents of natural disaster. Manmade incidents, like gas tragedy in Bhopal



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(1984), or, riots in Ayodhya (1992) and Ahmedabad (2002), or, incidents of systemic disaster with no less potential to leave the establishment lost ranging from stock market fraud (1992) to bank fraud (2018), or, even those of cyber disaster, like user data breach (2019), remain left out. Incidents of natural disaster thereby comprise research foci of this effort; something sufficient to trigger participatory research interests in legal and policy analyses vis-à-vis myriad other virgin domains of disaster management.

What ought to attract attention of his readership is lived experience behind this treatise. To quote from title of the Gandhian autobiography, what the author scribbles is the story of his experiments with truth derived by none else than himself from the ground reality. In the given narrative, therefore, we find repeated expression of his account in first person : to signify a first-hand experience upon the tsunami-hit

population in coastal Tamil Nadu during his employment in People's Watch; a regional NGO. Once again, we find the use of first person during his account on flood-hit population in Uttarakhand. The endurance of his pain to connect the location adds value to his study while armchair research appears on its rise, more so with the default static inertia for legal and policy analysts worldwide; albeit, with otherwise sustainable reasoning available in defence of normative studies. A practitioner turned researcher, through his protracted engagement with major incidents of natural disaster from seaside to hillside, followed by research on disaster management, the author has had locus to his credit while he pleads in favour of human rights advocacy as appurtenant to disaster management (read mitigation). Taking cue from international human rights jurisprudence and the juridical instruments relevant to disaster management, he has constructed his argumentative castle to extend original proposition for entitlement rather than benefit and thereby safeguard the vulnerable population that survived the wrath of natural disaster, yet got left to "tryst with destiny"; and, therefore, subject to reparation through good governance in the Republic. In final count, they are some of us, the people of India; somehow put to disadvantage by adversity of destiny. With similar reasoning, all others subjected to manmade disaster may be held entitled to reparation, more so since the state has had default "responsibility to protect" its subjects; from one another as well. Here lies fundamental contribution of his treatise. At bottom, what the author underscores is the commitment expressed in our midnight pledge: "to wipe every tear from every eye". His treatise reminds about solemn resolution declared by ourselves in the voice of Nehru; since he emerged as icon of independence. In the given context, while incidents of disaster get mushroomed, the wisdom has had reasoning to sustain with its own merit.

In his introductory chapter, the author initiated with articulation of historical background vis-à-vis traditional reactive approach toward disaster; followed by the paradigm shift through subsequent proactive approach in recent times. Also, four elements in the cycle of typical disaster management, viz.



mitigation, preparedness, response, recovery, etc., have had cursory reference. Since the treatise is based on doctoral research of the author, treatment of hypertechnical points went driven by presupposition of learned readership. Consequently, readership at large novice in emerging subjects like disaster management in particular is likely to get lost for no fault of its own. For instance, in second chapter, import of two international organizations— FAO, WHO, and the like — followed by details of mandates and mechanism under these UN regimes with minute executive nitty-gritty (refer to Chapters 2.1 and 2.2 respectively) ought to add value for the purpose of veterans; who are but handful in number. At the same time, however, minute details pose deterrence for the purpose of commoners; who are plenty in number. Let there be functional balance in the next edition for its reach out to diversified readers.

There is another avoidable void and the same lies in the want of percolation of know how vis-à-vis disaster management to the grassroots. In the midst of non-negotiable necessities, *bona fide* concern appears by and large confined to food, shelter, sanitation, etc., also, basic education; albeit, as essential service. What appears absent is administrative effort toward community education about disaster management. In case of catastrophic disaster, local population well aware of functional means and methods for disaster management ought to prove less vulnerable. Self-help is the best help amidst the whirlpool of disaster. Indeed, fourth chapter went dedicated to protect the right to basic education. The concern hereby raised is

altogether different and the same is not right to education during or after disaster or disaster in educational institutions; but education as enabling institution in itself to cope with disaster; something yet to get identified by the disaster-savvy administration in India. Also, there is space for resort to traditional knowledge. With external incubation, veterans well within local population may and do play messiahs with the magic wisdom they possess out of traditional knowledge rooted to local culture since time immemorial. In its anxiety for *Gramin Bharat* without formal education, what metropolis India ignores is informal wisdom within the folk lifeworld; instrumental for its survival for millennia. Even within metropolis India, the commoners otherwise calibrated with formal education need technical know how in the wake of disaster. Thus, even for the so called learned crowd, community education proves no less critical for survival from the whirlpool of disaster. The blind spot went unnoticed in otherwise comprehensive treatise. May these sermons get handy for the author toward introspection before its next edition. Entry of this book ought to prove worthy enough in the given treasury of legal literature.

Unlike research article, reference book resembles sustainable living organism with longer life and opportunity for value addition; by either acceptance of or response to feedback, if any. There lies academic democracy : with constructive criticism of literature published; followed by courageous acceptance of or creative response to feedback. In the absence of such dialogue, research ought



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to get reduced to mundane monologue. The knowledge produced by published literature stands supplemented by the response from other fellow knowledge practitioners with review as another and no lesser genre of academic literature in the knowledge profession; provided, good faith reigns the academic ecosystem. Albeit, review ought to get elevated to parallel literature with required merit of its own.

Back to the treatise, in fifth chapter, the author extended his proposition that prevention is better than cure; something already axiomatic within the domain of medical profession. Thus, due emphasis is put upon the self-restraint vis-à-vis environmental discipline since natural disaster is often than not fomented by unholy anthropogenic input to wreak havoc on environmental sustainability. The corollary conclusion ends with valid argumentation in favour of sustainable development discourse by default.

In sixth chapter, the author has pushed his original position through idea of accountability in disaster governance for the protection of victims' rights; something already available in victimology, another domain of legal literature on its rise. The author is but innovative in the sense that he has appropriated victimology in the given context of disaster victims; thereby created a collage in creative combination of criminal law and disaster governance taken together. Perhaps the best part of the book, the chapter does not float the proposition to get the same lost, but carry forward by institutional mechanism available in the system; e.g. procedures to follow with National Human Rights Commission under the Protection of Human Rights Act, 1993, Information Commission under the Right to Information Act, 2005, and the like. The chapter ends with deliberation upon decisive role of the judiciary in India and abroad.

In seventh chapter, practice and procedure for the emergency management regime in USA comprise larger part; followed by comparative study with present state of affairs in India. There are few points of concern to flag-off here : (i) want of reasoning behind picking up USA out of nearly two hundred States is apparent since clubbing USA and India together due to similarity in range of disasters (pages 23-24) falls too

short to compare them. USA has had nearly three-times larger territory than India; (ii) there is want of synergy vis-à-vis default natural settings : North America in one hemisphere and South Asia in the other; and (iii) there lies sharp difference between USA and India; so far as their respective standards of development are concerned. Even without rational basis, however, comparative study between a developed state and a developing state in distant continents exposes the lapse of the latter with roadmap for better governance. This chapter but leaves space for caveat on relevance of otherwise functional model in poles apart setting.

In the given context of epidemic turned pandemic, however, foreign legacy conundrum underwent topsy-turvy. Nowadays, India follows practice and



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procedure to curb epidemic in the West; with no argumentative discourse on their applicability elsewhere. Necessity knows no law; similar is the case while survival of the population is put to peril. After all, public welfare constitutes supreme law; after the Latin maxim : *salus populi suprema lex*. In disaster governance, pragmatism ought to override dogmatism; as it went cited above. No wonder that emergency governance in oldest democracy is fit to set persuasive value for largest democracy of the world. Here lies potential rationale of eighth chapter to moot the foreign legacy for better emergency governance. Also, more than reason, reflex prompts India practise the Italian precedent in its struggle against pandemic virus.

Emergency management to get out of disaster deserves transdisciplinarity and the same needs stakeholders to transcend the respective disciplinary divides; thereby work together for synergy of knowledge and get the same maximized toward public welfare. Therefore, no relevant domain should get left out from the perennial ordeal toward public welfare. The author deserves credit for his contribution to calibrate such transdisciplinary approach for emergency governance through legal and policy analyses of disaster in minute details.

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