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## ROLE OF LAW IN DISASTER MANAGEMENT IN INDIA



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### ABSTRACT

The disaster in Kedanath in 2013 exposed India's disaster management system. Disaster administration is the responsibility of governments. Effective policies are critical in mitigating the effects of disasters and reducing the likelihood of loss of life and property. It has been observed that such losses are increasing over the last few decades, raising concerns about the efficacy of government policies and the factors that make them effective. The law is an important factor in both creating and reducing vulnerability to hazards. Law is a tool for reflecting, reinforcing, and establishing societal norms and expectations. Its various manifestations can both reduce and increase vulnerability. Thus, reviewing the

role of laws regarding disaster management affect vulnerability and resilience should be considered an essential part of disaster risk reduction. The paper examines the legislation that governs India's disaster response plans. The purpose of this paper is to highlight the key areas that govern the legal framework of disaster management and to analyse the role of existing legal framework in India.

**KEYWORDS:** *Disaster, law, disaster management, government policies, societal norms.*



### 1. INTRODUCTION

A disaster is a severe disruption in a society's functioning that results in widespread human, material, or environmental losses that exceed the affected society's ability to cope with its own resources. Natural disasters (floods, droughts, tidal waves, earthquakes, and so on) are distinguished from man-made disasters (chemical or industrial accidents, environmental pollution, transport accidents and political unrest). India is one of the most disaster-prone countries in the world due to its geo-climatic

conditions and high socioeconomic vulnerability. Disasters cause massive losses in life, livelihood, property, and the environment in India, slowing development. Our disaster mitigation and response strategies are frequently hampered by legal complexities combined with procedural mystification. Effective legal, policy, and institutional support are thus required for effective disaster risk management implementation. The role of law in disaster management is limited to a disaster victim's right to rescue, relief, and rehabilitation. The victims are unaware of the existing laws, government schemes, and policies. Even in its enforcement, particularly in the context of natural disasters, the state maintains a charitable attitude. In many countries, disaster relief is not regarded as a fundamental right or entitlement. Legislation governing environmental quality, natural resources, and ecosystems may provide opportunities to close these gaps.

## 2. DISASTERS IN GLOBAL AND NATIONAL SCENARIO

Disasters continue to strike without warning and are thought to be growing in magnitude, complexity, frequency, and economic impact. Hazards endanger people and take on serious proportions in underdeveloped countries with dense populations. During the second half of the twentieth century, more than 200 of the world's worst natural disasters occurred in various parts of the world, killing an estimated 1.4 million people. Natural disaster losses in developing countries are 20 times higher (as a percentage of GDP) than in industrialized countries. Natural disasters claim the most lives in Asia. Figure 1 depicts the regional distribution of disasters by type, as prepared by the Centre for Research on Disaster Epidemiology.

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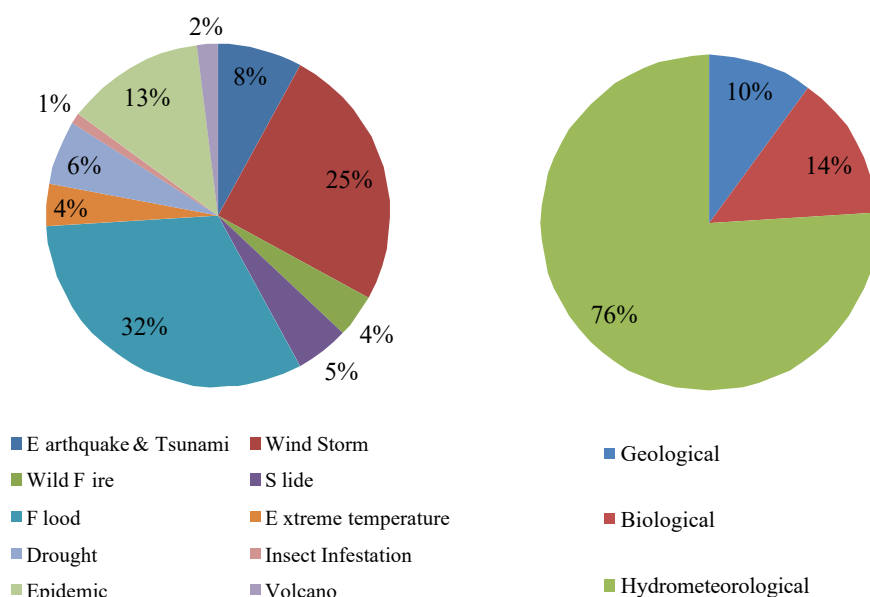


Fig.1: World distribution of disasters by Type, 1991–2005 Fig.2 World distributions of disasters by Origin, 1991–2005

Sources: Centre for Research on Epidemiology of Disaster

The number of disasters events which was 73 in 1900-09 has increased 4494 during 2000-2009. Disaster events which have occurred between 1900-2009 may be further categorized based on hydro meteorological, geological and biological reasons. The rise is between the decades of 1900-99 over the period of 2000-09 has been more than 67 %. (Table 1 and Figure 3)

Table: 1 Event of Disasters Globally between 1900 -2009

Disaster Type	1900-1909	1910-1919	1920-1929	1930-1939	1940-1949	1950-1959	1960-1969	1970-1979	1980-1989	1990-1999	2000-2009	Total
Hydro meteorological	28	72	56	72	120	232	463	776	1498	2034	3529	8880
Geological	40	28	33	37	52	60	88	124	232	325	354	1373
Biological	5	7	10	3	4	2	37	64	170	361	612	1275
Total	73	107	99	112	176	294	388	964	1900	2720	4495	11328

Source: Centre for Research on Epidemiology of Disasters (CRED)

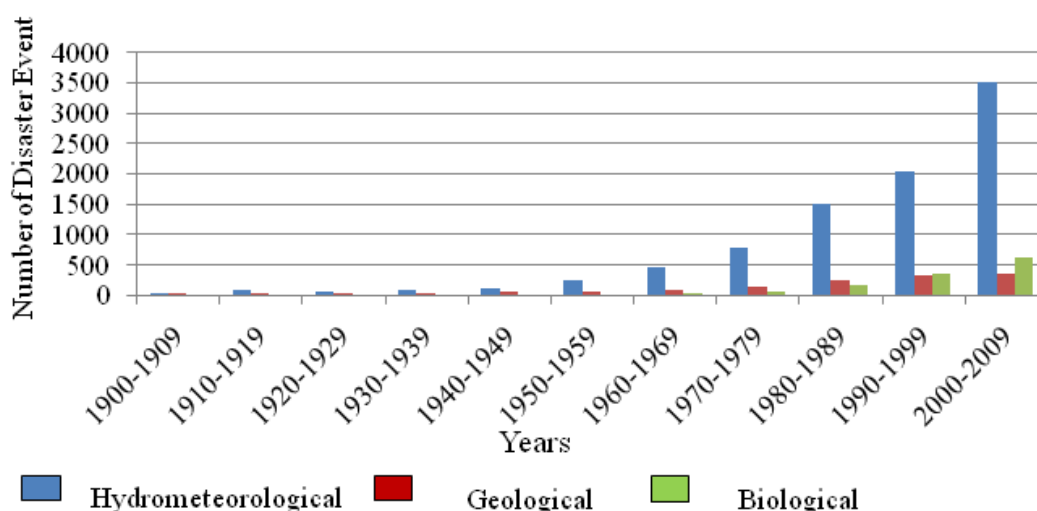


Figure: 3 Events of Disasters globally between 1900 -2009

Source: Centre for Research on Epidemiology of Disasters (CRED)

India is the largest democracy in the world with 1.2 billion populations. It is the second most populous country in the world with about 6 billion people. That means on an average, every fifth person on the earth is an Indian. Seventy-two percent of the Indian population lives in rural India. Nearly

60percentage of the workforce is engaged in agriculture, and India now ranks second in the world in farm production. (Table2). For Indian administration, the salience was evident in view of the numerous natural and manmade disasters suffered. It had endured the devastation of natural hazards such as droughts, epidemics, floods, cyclones (as wind storms were better known in India), earthquakes and the rarely occurring tsunami (as wave surges were known) as the following table revealed. Industrial mishaps, terrorist incidents, transportation accidents in urban area location, communal and caste riots had also taken heavy tolls. Thus, the experience and vulnerability profile indicates a very high degree of salience by the state / central authority.

Table 2: India's Deadliest Disasters

	Name of the Event	Year	State and Area	Fatalities
1	Earthquake	1618	Mumbai, Maharashtra	2,000 deaths
2	Bengal Earthquake	1737	Bengal	300, 000 deaths
3	Cyclone	1864	Kolkata, West Bengal	60,000 deaths
4	The Great Famine	1876-1878	Southern India	58.5 million people affected 5.5 million deaths due to starvation
5	Cyclone	1882	Bombay, Maharashtra	100,000 deaths
6	The Indian famine	1896-1897	Whole India	1.25 million to 10 million deaths
7	Earthquake	1934	Bihar	6,000 deaths
8	Bhola Cyclone	1970	West Bengal	500,000 deaths (including Hindu Kush Himalayas and surrounding areas)
9	Drought	1972	Large part of the country	200 million people affected
10	Drought	1987	Haryana	300 million people affected
11	Earthquake	1905	Kangra, Himachal Pradesh	20,000 deaths
12	Cyclone	1977	Andhra Pradesh	10,000 deaths hundreds of thousands homeless 40,000 cattle deaths. Destroyed 40% Of India's food grains.
13	Latur Earthquake	1993	Latur, Marthawada, region of the Maharashtra	7,928 people died and another 30,000 were injured
14	Orissa Super Cyclone	1999	Orissa	10,000 deaths

15	Gujarat Earthquake	2001	Bhuj, Bachau, Anjar, Ahmedabad, and Surat in Gujarat State	25,000 deaths 6.3 million people affected
16	Tsunami	2004	coastline of Tamil Nadu, Kerala, Andhra Pradesh and Pondicherry, as well as the Andaman and Nicobar Islands of India	10,749 deaths 5,640 persons missing 2.79 million people affected 11,827 hectares of crops damaged 300,000 fisher folk lost their livelihoods
17	Maharashtra floods	July 2005	Maharashtra State	1094 deaths 167 Injured 54 Missing
18	Kashmir Earthquake	2005	Kashmir State	86000 deaths (includes Kashmir & surrounding Himalayan region)
19	Kosi Floods North	2008	Bihar	527 deaths 19323 Livestock perished 222754 Houses damaged 3329423 persons affected
20	Cyclone Nisha	2008	Tamil Nadu	204 deaths \$800 million worth damages
21	Drought	2009	252 Districts in 10 State	-----
22	Flood	2009	Andhra Pradesh Maharashtra, Orissa, Karnataka, Kerala, Delhi	300 People Died
23	Cloudburst	2010	Leh, Ladakh in J&K	-----
24	Sikkim Earthquake	2011	North Eastern India with Epicenter near Nepal Border and Sikkim	97 death and wide spread landslide

Sources: Disaster Management of India (2011) Ministry of Home Affairs Government of India

### 3. DISASTER MANAGEMENT IN INDIA

Given the country's vulnerability and the devastating impact of disasters, the government and academics in India began to prioritize this area of public policy. External influences also contributed to a strong focus on the subject. Exposure to and dissemination of experiences and practices from other countries resulted in increased international influence. One of the most significant influences was the United Nations' designation of the 1990s as the International Decade for Natural Disaster Reduction (IDNDR). The IDNDR's 1994 Yokohama Strategy played a significant role in shifting its relief-oriented approach to one based on mitigation and prevention. This resulted in the establishment of a joint disaster risk mitigation programme in 2002 by the Government of India and the United Nations Development Program (GOV-UNDP), with assistance from the United States Agency for International Development (USAID) and the European Union (EU). With this assistance, India aimed to build capacity in seventeen disaster-prone states. More comprehensive reforms were implemented by central government



when the Ministry of Home Affairs (MHA) was designated as the nodal ministry for disaster management in 2002 and the Administrative Commission (ARC) was established, with the terms of reference including crisis management and the suggestion of ways to speed up the administration's Emergency Response and (ii) increase the effectiveness of the machinery to meet the crisis situation and enhance crisis preparedness. The Tenth Five-Year Plan also included a detailed chapter on Disaster Management, and the Twelfth Finance Commission emphasized the importance of reviewing the financial arrangements for Disaster Management.

The Government of India passed the Disaster Management Act in December 2005, which called for the establishment of a National Disaster Management Authority (NDMA) led by the Prime Minister and State Disaster Management Authorities (SDMAs) led by respective Chief Ministers to spearhead and implement a holistic and integrated approach to disaster management in India. Thus, disaster management is the responsibility of local administration, which is overseen by the State Government and assisted by the Government of India. Each of the 35 states and union territories is divided into 604 districts. A Collector and a District Magistrate oversee the administration of each district. Each cell is expected to provide disaster management training and to prepare plans and documents. Each district is required by the Disaster Management Act of 2005 to have a disaster management plan, a district disaster management committee, a district EOC, training and drills, and to engage in disaster prevention, preparedness, and mitigation activities.

Every state has a Disaster Management Cell, which is usually located in the State Administrative Training Institutes. The Central Government provides significant funding for the Disaster Management Cell's faculties. Each cell is expected to provide disaster management training and to prepare plans and documents. The Building Materials Promotion and Technology Council has created an India Vulnerability Atlas, which details the various types of vulnerabilities in each state and district. Based on the Vulnerability Atlas, the Ministry of Home Affairs of the Government of India and UNDP identified 199 multi-hazard prone districts in various states across the country. For disaster risk management, UNDP and the Government of India launched a comprehensive disaster management programme focusing on all multi-hazard prone districts in select States such as Gujarat, Orissa, Bihar, Tamil Nadu, West Bengal, Maharashtra, Delhi, Uttar Pradesh, Uttaranchal, Assam, Meghalaya, and Sikkim. A multi-pronged strategy is used in this programme to ensure administrative, institutional, financial, and legal mechanisms for disaster risk management. The program's first phase lasted from 2002 to 2007. A lot of good work has been done under this programme, and it is now in its final stages.

Droughts and famine were common, and the administration gained valuable experience in disaster relief operations. In fact, the chief disaster management government official is still known as the Relief Commissioner in many states today, despite the fact that the Government of India has suggested that state governments rename them Secretary, Disaster Management.

As previously stated, India has the world's oldest famine relief code, dating back to 1880. Famines were common at the time, so the British government created the Relief Code, which outlined how much calamity relief should be provided to each family following a famine. The Indian calamity relief system has gained a lot of experience over time, and it is well developed and documented in government records. After India gained independence from the British in 1947, the Relief Commissioner system was maintained. There was and still is a Central Relief Commissioner at the level of the Government of India or the federal government.

The Central Relief Commissioner is a second official in the Ministry's hierarchy, following the Secretary, who is either an Additional Secretary or a Joint Secretary. The Relief Commissioner's main responsibility was to organise relief after a drought or famine and to assist state governments.

A Relief Commissioner is appointed at the state level, who is usually a Secretary or Principal Secretary of the relevant department. The official would recommend to the state government a drought declaration based on reports from lower level local land administration. Even before the Disaster Management Act of 2005 was passed, the National Disaster Management Authority was established by an executive order in July 2005, with the Prime Minister of India serving as its Chairperson. Gen N. C. Vij, former Chief of Army Staff, is the NDMA's Vice Chairperson and ex-officio CEO, with Cabinet Minister status. The NDMA has seven other members with the rank of State Minister (in India, there are three levels of ministers in descending rank as Minister, State Minister, and Deputy Minister). The NDMA is in charge of and has the authority to establish disaster management policies, plans, and guidelines for Central Government Ministries and Departments. The NDMA is responsible for coordinating the enforcement and implementation of disaster management policies and plans, as well as arranging for and overseeing the provision of funds for mitigation measures, preparedness, and response. The purpose of the NDMA is to establish guidelines for the minimum standards of relief to be provided to disaster victims, as well as to provide guidance on loan repayment relief or to grant new loans on such concessional terms as may be deemed appropriate. The NDMA may take such measures for disaster prevention, disaster mitigation, or disaster preparedness and capacity building in the event of a threatening disaster situation or disaster.

A multi-disciplinary, multi-skilled, high-tech National Disaster Response Force (NDRF) of eight battalions has been established to deal with all types of disasters that can be inserted by air, sea, or land. This is a military-related emergency response force. All battalions must be equipped and trained to deal with all natural disasters, including four battalions trained to deal with nuclear, biological, and chemical disasters. Each battalion will have 18 self-contained specialist search and rescue teams of 45 people each, which will include engineers, technicians, electricians, dog squads, and medical/paramedics. Each battalion will have a total strength of approximately 1,158 soldiers. These NDRF battalions are stationed in nine different locations across the country based on vulnerability profile to reduce deployment response time. The NDMA will deploy these forces pro-actively during the preparedness period/in a disaster situation in consultation with state authorities.

The National Disaster Mitigation Resource Center (NDMRC) will be housed in the same building as the NDRF battalions. In addition, each of the nine locations will serve as a repository for NDMRC bricks of relief stores for 25,000 affected people. These will meet the most pressing needs, particularly in the first 72 to 96 hours. Additional store bricks for 50,000 people will be kept in Kolkata and Chandigarh for high altitude areas. These reserves will be added to the reserves held by the respective states/UTs. Furthermore, these centers will help with mock drills and capacity development programmes. During disasters, they will facilitate the deployment of central resources and provide a much-needed additional link to the center.

#### 4. ROLE OF LAW IN DISASTER MANAGEMENT

The role of law in disaster management is concerned with a disaster victim's enforceable right to rescue, relief, and rehabilitation. Nobody, especially victims, is aware of the existing government schemes/policies until disaster strikes. Even in its enforcement the attitude is one

of charity by the state and not entitlement for the victim.

#### 4.1 Disaster Policy for Management

Indian disaster policy aims to shift the focus from disaster response and relief to disaster prevention, preparation, and mitigation. Another significant shift is the shift from government-led disaster management to public-private partnerships and community disaster management. Significant progress has been made in this regard, but the authoritarian attitude of government officials remains the main impediment. The Great Famine of 1876-1878 prompted the formation of the Famine Commission in 1880 and, eventually, the adoption of the Famine Relief Code. India most likely has the world's oldest disaster relief code, which dates back to 1880. This relief code specifies the type of assistance that the government will provide to those affected.

The India Disaster Report (Parsuraman and Unikrishnan 2000) describes the nature of the Indian government's disaster response. It identifies key issues such as the availability and accessibility of disaster-related information, as well as the quality of that information, the lack of a coherent disaster preparedness and response policy, and the need for immediate actions and interventions. It demonstrates how disasters have repeatedly interrupted and reversed significant advances in health, social, and economic development. Although not on a rolling basis, India has been following five-year national plans. The previous five-year plans made no mention of disaster management. For the first time, a detailed chapter titled Disaster Management: The Development Perspective was included in the Tenth Five-Year Plan 2002-2007. The plan emphasized that development cannot be sustainable unless mitigation is built into the process. Disaster mitigation and prevention were incorporated into the development strategy as an essential component.

According to the Planning Commission's Eleventh Five Year Plan 2007-2012, "the development process must be sensitive to disaster prevention, preparedness, and mitigation." As a result, disaster management has emerged as a top priority for the country. Beyond the historical focus on post-event relief and rehabilitation, there is a need to plan for disaster preparedness and mitigation to ensure that periodic shocks to our development efforts are minimized."

The country has made disaster management a top priority. The Eleventh Five Year Plan aims to consolidate the process by providing impetus to projects and programmes that foster a safety culture and integrate disaster prevention and mitigation into the development process. The National Disaster Management Authority (NDMA) will need to provide guidance and direction to all stakeholders, including State Governments and Union Territories, right up to Panchyat Raj (local administration by five locally elected citizens), in order to achieve this paradigm shift. Because they are the first responders, communities must be mobilised to achieve this common goal (and not the usually thought fire, ambulance, and police). Even the best isolated efforts will fail unless they are part of a larger, well-thought-out strategy in which the roles and responsibilities of all stakeholders are clearly defined and accountability and sustainability are considered.

The 2001 Gujarat Earthquake was massive and had far-reaching consequences for the government and policymakers, as well as for victims, their families, and the general public. The Gujarat Disaster Management Act, 2003 was enacted by the Gujarat government for the first time in India. Prior to that, neither the federal nor state governments had enacted legislation to address disaster management in a comprehensive manner. The state and federal governments were largely following

the relief code, rules and regulations, and government orders issued over time that were not consolidated

According to Section 31 of the Gujarat Disaster Management Act, 2003, "it shall be the duty of every citizen to assist the Commissioner, the Collector, or such other person entrusted with or engaged in disaster management whenever his aid is demanded generally for the purpose of disaster management and especially for the following purposes, namely:-

- (a) Prevention
- (b) Response
- (c) Warning
- (d) Emergency response
- (e) Evacuation
- (f) Recovery

The State Commissioner of Relief is referred to as the Commissioner in the act. The Commissioner of Relief is the government official in charge of providing disaster relief to disaster victims. The Collector is the district's administrative head. It is worth noting that every citizen has a legal obligation to assist in disaster management. The recurrence of various types of disasters compelled the Government of India to form numerous committees and commissions to propose solutions to the problem. The most recent and significant was the establishment of the High-Power Committee on Disaster Management (HPC) in 1999 to make recommendations on disaster management plans and effective mitigation mechanisms. In October 2001, the High Power Committee issued recommendations that included a draught disaster management act, a National Response Plan, a shift from disaster response to disaster preparedness, and the establishment of a National Disaster Management Authority. The disaster management function was transferred from the Ministry of Agriculture to the Ministry of Home Affairs in response to one of the HPC recommendations.

The Indian government has long considered establishing a National Disaster Management Authority. The Gujarat earthquake provided additional impetus for the establishment of a national disaster management authority. However, the bureaucracy bases its claims on the time it takes from decision to action. The 2004 Indian Ocean Tsunami jolted this decision-making process. Finally, on December 23, 2005, the Government of India passed the Disaster Management Act, 2005. The Disaster Management Act of 2005 mandated the establishment of a National Disaster Management Authority, chaired by the Prime Minister, and State Disaster Management Authorities, chaired by the respective Chief Ministers, to spearhead and implement a holistic and integrated approach to disaster management in India. The act also established the National Institution of Disaster Management.

### 4.2 International Disaster Response Laws

The laws, rules, and principles that govern the access, facilitation, coordination, quality, and accountability of international disaster response in times of no conflict-related disaster, including disaster preparedness and rescue and humanitarian assistance activities. The definition includes not only international law, but all relevant domestic and international laws, rules, and principles.

Effective domestic, rather than international, laws were required for the effective management of an international disaster response. The term 'International' in the acronym IDRL refers to the international nature of disaster response, not the law. The Australian government may fund them or contract with them to deliver aid from the Australian government, or they may be completely independent, providing aid.

## 5. CONCLUSION

India has a history of national disasters. Cyclones, floods, earthquakes, droughts, and floods are all major threats. Around 60% of the landmass is vulnerable to earthquakes of varying magnitudes, over 40 million hectares is vulnerable to flooding, and 68 percent is vulnerable to drought. This not only results in the loss of thousands of lives, but also in the loss of private, community, and public assets. While significant scientific and material progress has been made, the loss of life and property due to disasters has not decreased. The Government of India has now shifted its approach to disaster management from one centred on relief to one centred on preparedness, prevention, and mitigation. This approach is based on the belief that development cannot be sustained unless disaster mitigation is incorporated into the development process. Another tenet of the approach is that mitigation must be multidisciplinary, encompassing all sectors of development. Disaster management is an important policy component because the poor and underprivileged are disproportionately affected by natural disasters.

Disaster management is a multi-disciplinary field that encompasses a wide range of issues such as forecasting, warning, search and rescue, relief, reconstruction, and rehabilitation. Administrators, scientists, planners, volunteers, and communities are all involved. Their responsibilities and activities span the pre-disaster, disaster, and recovery phases. All of these activities are complementary and supplementary to one another, and coordination of these activities is critical. Natural disasters have a direct impact on the economy, agriculture, food security, water, sanitation, the environment, and public health. As a result, it is one of the most pressing concerns for the majority of developing countries. Aside from the economic aspects, such disasters have social and psychological dimensions that must be studied and appropriate mitigation strategies developed. We now have a variety of early warning systems for a variety of natural hazards. However, ensuring that communities are safe from disasters is insufficient. This is where disaster mitigation can come in handy.

In India, there is a paradigm shift from a reactive approach of disaster response and relief to a proactive approach of disaster prevention, preparedness, and mitigation. The Disaster Management Act of 2005, the establishment of a National Disaster Management Authority chaired by the Prime Minister, and disaster management training provided by the National Institute of Disaster Management and the Disaster Management Cells of the state Administrative Training Institutes will assist India in becoming disaster resilient.

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