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C-HELP is an initiative of the Indian Law Society, Pune committed to advancing and improving health delivery, access and outcomes in India, through the effective use of law.

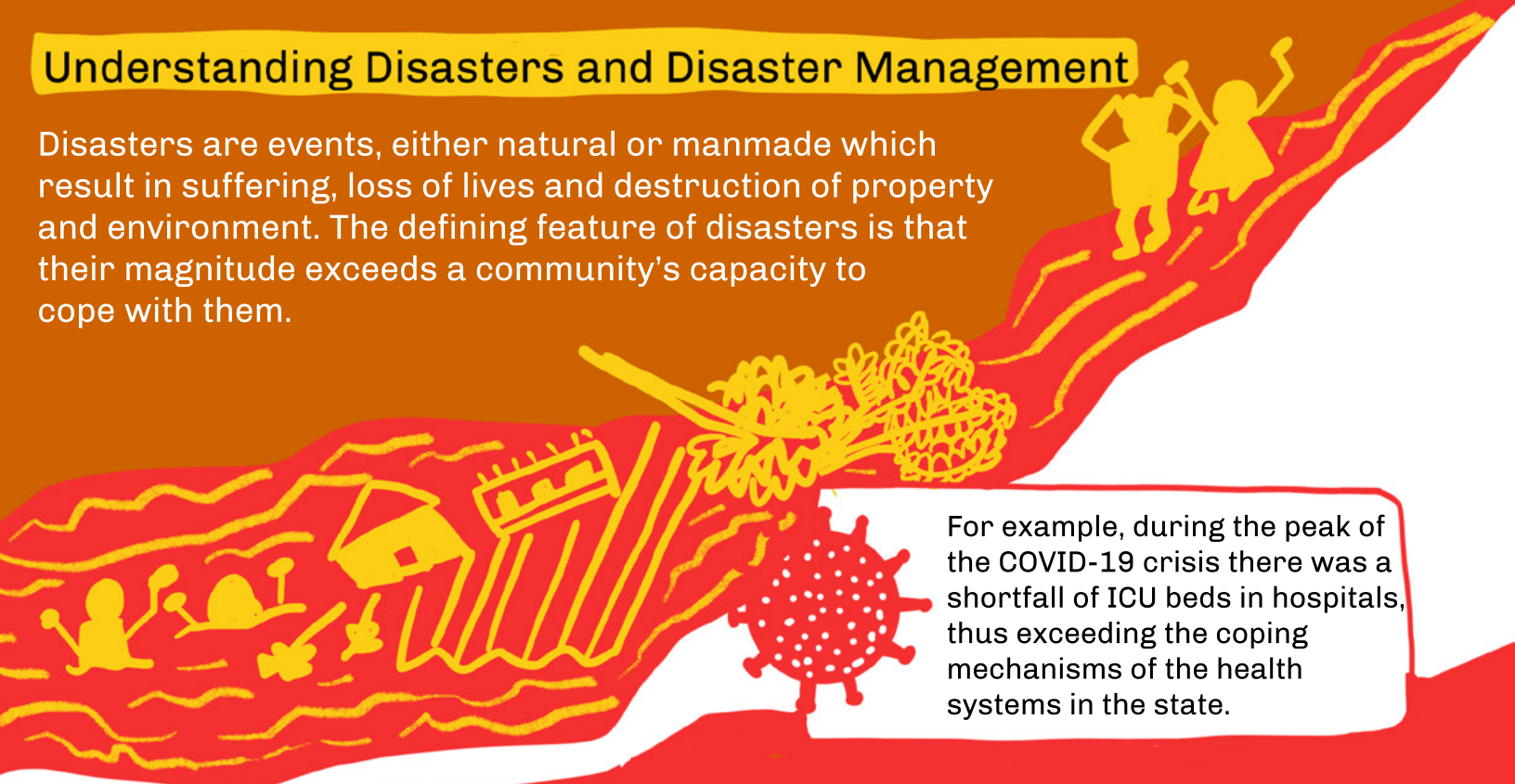
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Understanding Disasters and Disaster Management



Disasters are events, either natural or manmade which result in suffering, loss of lives and destruction of property and environment. The defining feature of disasters is that their magnitude exceeds a community's capacity to cope with them.



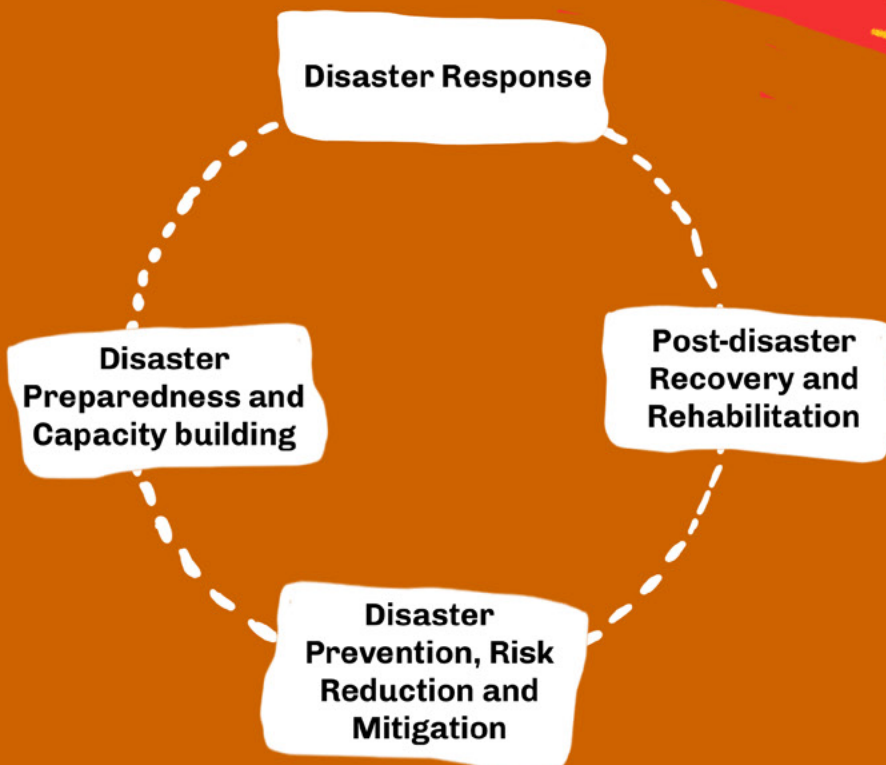
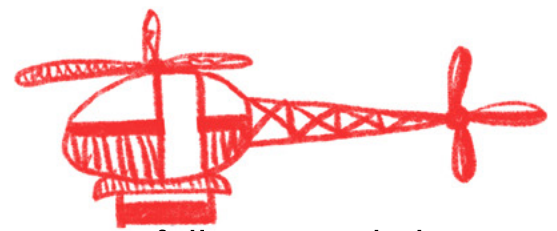
For example, during the peak of the COVID-19 crisis there was a shortfall of ICU beds in hospitals, thus exceeding the coping mechanisms of the health systems in the state.



Another important feature of disasters is that they feed off existing economic, physical, and social vulnerabilities and thus further decrease a community's ability to withstand the effects of the crisis. For instance, lesser economic resources might force people to reside in unsafe buildings and areas in earthquake prone zones. Geographical location can also contribute to vulnerability to disasters. For instance, India's east coast is vulnerable to cyclonic storms as evidenced in Cyclone Fani in Odisha in May 2019 followed by Cyclone Amphan in West Bengal in May 2020. Further, disasters can be both sudden events, like earthquakes, or slow onset events such as epidemics. A few common examples of disasters are floods, droughts, and landslides.




Due to the often overwhelming and complex nature of disasters, their management requires coordination, organisation and planning in a holistic manner. The implementing measures through this holistic process of preventing, preparing, responding and recovering from disasters is defined as disaster management.




A flood occurred in Bihar in the monsoon of 2035. Luckily not many lives have been lost but significant damage to infrastructure and property has come about including destruction of homes, workplaces, sanitation and health infrastructure. As a result, a humanitarian crisis has occurred in Bihar and over 10000 kms of roads have been damaged. Heavy rains are normal in Bihar during the monsoons but this year the actual rainfall has exceeded the usual average by a substantial amount. The Water Commission does not have a forecasting agency or flood forecasting system in the state.

- Is this a disaster? When did the event become a disaster?
- What would managing such a disaster involve?
- Do you think certain preparatory steps could have reduced the disaster's impact? If so, how?
- Further, if preparatory steps had been taken, would the destruction of property have been reduced? Would it still qualify as a disaster?

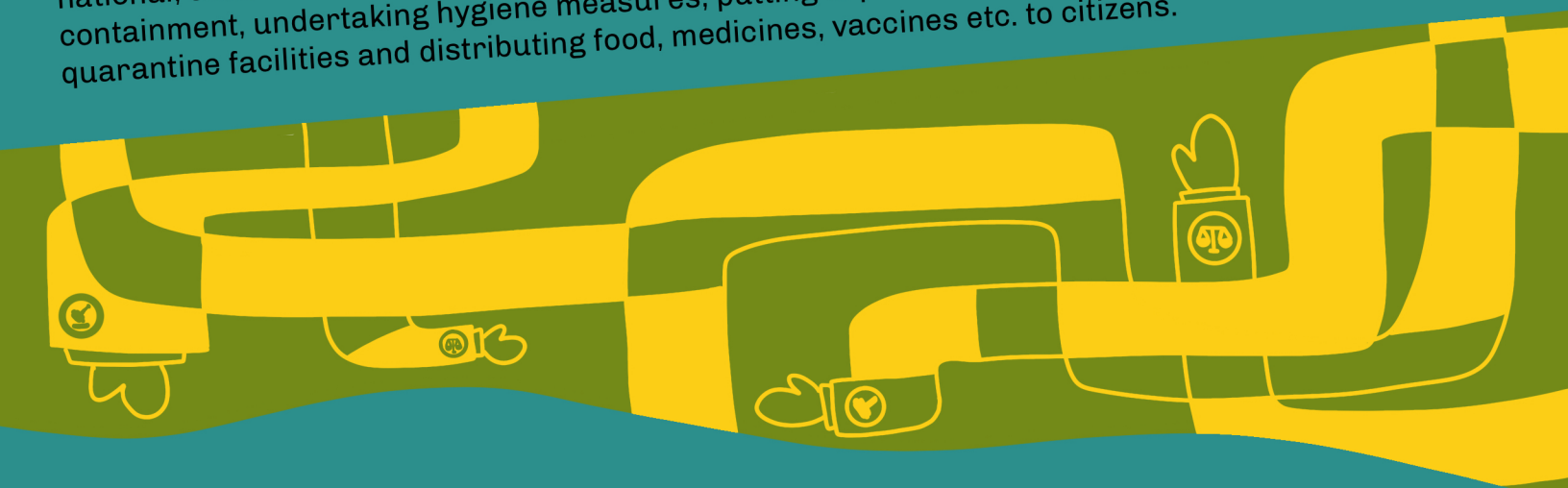
Need for a Law on Disaster Management



Disasters are difficult to manage because of their scale and effect on large populations and hence a legal framework is essential for their effective management. Further, due to their complex nature, they require to be tackled at all levels of government and need inter-agency coordination.



An instance of this is the COVID-19 pandemic wherein different departments of the national, state and district government had to ensure a coordinated effort of containment, undertaking hygiene measures, putting in place hospital and quarantine facilities and distributing food, medicines, vaccines etc. to citizens.



Having a law on disaster management aids in ensuring accountability since specific arms of the government are given responsibility for different actions. Further, it ensures that action is actually taken and done so in a coordinated manner by planning and management according to pre-established rules.

Lead Up to the Enactment of the Disaster Management Act 2005 (DM Act)

India did not have a central law for disaster management till 2005. Up until then, state centric and subject specific laws were utilized such as famine codes, relief manuals, and provisions of the Environment Protection Act, depending on the type of disaster.

TILL 2005



The DM Act was put in place following large scale disasters in India prior to 2005 such as the Odisha super cyclone 1999, Gujarat earthquake in 2001 and the tsunami in 2004. Another factor that gave impetus to the formulation of a national law was growing international consensus that disaster management was a holistic and integrated process encompassing prevention, mitigation, relief and rehabilitation measures, and that laws, policies and institutions were crucial for achieving this vision.

1999

2001

2004

Some of the major international milestones in this regard have been observance of the

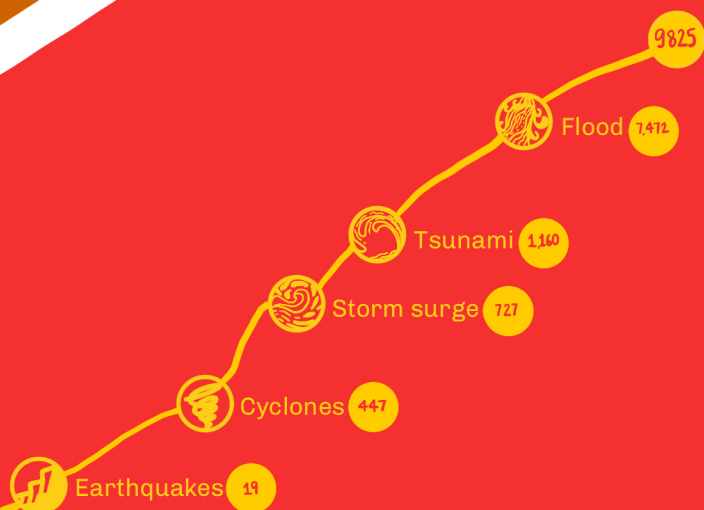
- The 1990s by the UN as the International Decade for Natural Disaster Reduction
- The UN Yokohama Strategy
- Plan of Action for a Safer World, 1994
- The Hyogo Framework for Action 2005-2015

Objectives of the DM Act

The DM Act attempts to make India disaster resilient by reducing the risk of disasters as well as minimizing the effect of disasters through efficient response and relief measures.



The Act makes it the responsibility of all levels of the Government to plan for disaster prevention, mitigation, capacity building and response, in disaster-specific plans, as well as integration of such measures in all development plans and projects.



Cognizant that disasters cause large losses in life and assets, thus setting back a country's development, the Act tries to ensure that development plans take place with disaster resilient systems in place. The Act also aims to reduce the likelihood of poorly planned development projects resulting in disasters.

NATIONAL

National Disaster Management Authority (NDMA)

Chairperson (Prime Minister of India) + other Members (appointed by PM, not more than 9 members) - See S.3, DM Act

National Institute of Disaster Management (NIDM)

President (Union Home Minister) + Vice-President (Vice-Chairman of NDMA) + 42 other members (Secretaries of nodal Ministries/ Departments of GOI and State

National Executive Committee (NEC)

Chairperson (Secretary, Ministry of Home Affairs) + 15 other Members (Secretaries of different Ministries like Defence, Health & Family Welfare etc) - See S.8, DM Act

National Disaster Response Force (NDRF)

Director General (appointed by Central Government, usually an officer of the Indian Police Service) in charge of Battalions - See S.44 & 45, DM Act

STATE

State Disaster Management Authority (SDMA)

Chairperson (Chief Minister of state/Lieutenant Governor or Administrator of Union Territory) + other Members (nominated by Chairperson, not exceeding 9 members) - See S.14, DM Act

State Executive Committee (SEC)

Chairperson (Chief Secretary to State Government) + other Members (4 Secretaries of Departments of State Govt.) - See S.20, DM Act

DISTRICT

District Disaster Management Authority (DDMA)

Chairperson (Collector/District Magistrate/Deputy Commissioner) + co- Chairperson (elected representative of local authority or Chief Executive Member of the district council of autonomous Tribal district) + Supt. of Police + Chief Medical Officer + max. 3 other district level officers - See S. 25, DM Act

Institutional Apparatus

The institutional apparatus under the Disaster Management Act, 2005 envisages coordination between various stakeholders in order to ensure responsibility and involvement at all levels of the government, i.e. national, state, district and local. In order to ensure smooth functioning, specific roles have been attributed at each level.

The institutional apparatus under the Act can be understood to fall under four broad heads:

Institutions established

Roles and functions of each institution

Penal provisions for certain acts and omissions

Financial arrangements

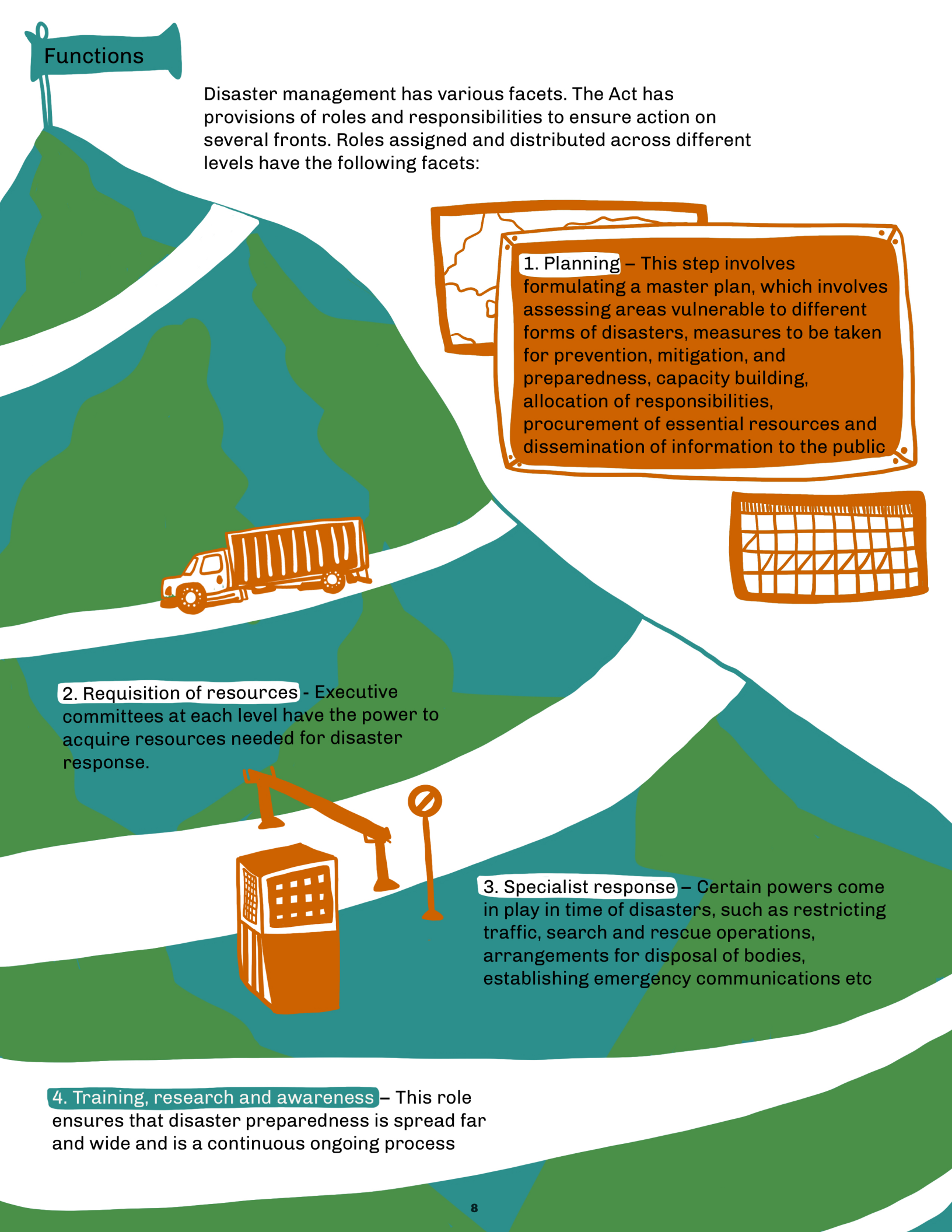
Institutions Established

While the three umbrella bodies at the national, state and district levels are the National Disaster Management Authority ("NDMA"), State Disaster Management Authority ("SDMA") and District Disaster Management Authority ("DDMA") each headed by the Prime Minister, Chief Minister (of the concerned state) and Collector/District Magistrate respectively, there are several other institutions set up at each level in order to ensure all government ministries and departments play a role in disaster management.



Functions

Disaster management has various facets. The Act has provisions of roles and responsibilities to ensure action on several fronts. Roles assigned and distributed across different levels have the following facets:



1. Planning – This step involves formulating a master plan, which involves assessing areas vulnerable to different forms of disasters, measures to be taken for prevention, mitigation, and preparedness, capacity building, allocation of responsibilities, procurement of essential resources and dissemination of information to the public

2. Requisition of resources - Executive committees at each level have the power to acquire resources needed for disaster response.

3. Specialist response – Certain powers come in play in time of disasters, such as restricting traffic, search and rescue operations, arrangements for disposal of bodies, establishing emergency communications etc

4. Training, research and awareness – This role ensures that disaster preparedness is spread far and wide and is a continuous ongoing process

Roles of Institutional Authorities under the Act

Specific roles of different authorities and relevant sections of the DM Act are as follows:

National Disaster Management Authority (NDMA)

- Lay down policies, plans and guidelines on disaster management
- Coordinate their enforcement and implementation in the country
- Recommend guidelines for minimum standards of relief to be provided to persons affected by disaster, including ex gratia assistance on account of loss of life
- Approve the National Plan, and plans prepared by the Ministries/Departments
- Recommend provision of funds for mitigation
- Provide support to other disaster affected countries
- Take measures for prevention, mitigation, preparedness and capacity building to deal with threatening disaster situation or disaster

See S.6 and S.12 of the Act

National Executive Committee (NEC)

- Assist NDMA, implement and monitor its policies and plans
- Preparation of National Plan (to include measures to be taken for prevention of disasters or mitigation of their effects; measures to integrate mitigation measures in development plans; measures for preparedness and capacity building to effectively respond to any disaster or threatening disaster situation; and roles and responsibilities of Departments/Ministries for carrying out such measures)
- Ensure compliance of Central Govt. (MHA) directions
- Provide necessary technical assistance or give advice to the State Authorities and District Authorities
- Requisition of resources, provisions, vehicles, etc., for rescue operations, etc.
- Disaster response
 - Lay down guidelines or directions for Central or State Ministries or Departments, the State Governments and the SDMAs regarding measures to be taken
 - Direct any Govt. Agency/dept. to provide manpower and material resources to NDMA/SDMAs for emergency response, rescue, relief
- Evaluate the preparedness at all governmental levels for the purpose of responding to any threatening disaster situation or disaster and give direction for enhancing preparedness

See S. 10, S. 11 and S. 65 of the Act

National Disaster Response Force (NDRF)

- Specialist response to disaster or threatening disaster situation, assist the State and district government

See S. 44 of the Act

National Institute of Disaster Management (NIDM)

- Plan and promote training and research in disaster management
- Document and develop national level information database on disaster management policies, prevention and mitigation measures
- Assist in national level policy formulation
- Develop educational materials and courses on disaster management
- Promote awareness among school and college students and teachers, technical personnel etc

See S. 42 of the Act

Ministry of Home Affairs

- Power to take all measures necessary for disaster management
- Ensure appropriate allocation of funds for prevention, mitigation, preparedness, capacity building by Ministries/Departments
- Ensure Ministries/Departments integrate measures for disaster prevention and mitigation in their development plans
- Ensuring disaster preparedness of Ministries/Departments
- Deploy naval, military and air forces, other armed forces or civilian personnel
- Establish research and training institutions

See S. 35 of the Act

All Ministries and Departments of Central Government

- Prepare a disaster management plan (to include measures to be taken for prevention and mitigation of disasters in accordance with National Plan; specifications regarding integration of mitigation measures in its development plans in accordance with the guidelines of the NDMA and NEC; roles and responsibilities in relation to preparedness and capacity-building to deal with any threatening disaster situation or disaster; roles and responsibilities in regard to promptly and effectively responding to any threatening disaster situation or disaster; present status of preparedness and measures to be taken to effectively perform responsibilities relating to threatening disaster situation or disaster)
- Take measures for disaster prevention, mitigation, preparedness and capacity-building
- Integrate measures for disaster prevention and mitigation in all development plans and programs
- Certain ministries are notified as nodal ministries for managing specific disasters. For example- Ministry of Health and Family Welfare for biological emergencies, Ministry of Railways for rail accidents, Ministry of Agriculture and Farmers Welfare for drought, Ministry of Jal Shakti for flood etc*
- Respond effectively and promptly to any disaster or threatening disaster situation
- Fund allocation for disaster management

See S. 36 and S.37 of the Act

*Ministry of Home Affairs (2019). National Disaster Management Plan. Pg 18 9

State Disaster Management Authority (SDMA)

- Lay down state disaster management policy
- Approve plans prepared by departments of State Government
- Coordinate implementation of state plan
- Lay down guidelines, provide technical assistance and review plans of departments of the State government to ensure integration of disaster prevention and mitigation measures in their development plans
- Recommend provision of funds for mitigation and preparedness measures
- Lay down guidelines for providing standards of relief to disaster affected persons in the state

See S. 18 and 19 of the Act

State Executive Committee (SEC)

- Prepare State Plan (to include vulnerability of different parts of the state to different types of disasters; measures to be taken for prevention of disasters or mitigation of their effects; measures to integrate mitigation measures in development plans; measures for preparedness and capacity building; and roles and responsibilities of each Department for carrying out such measures; roles and responsibilities of different Departments of the Government of the State in responding to any threatening disaster situation or disaster)
 - Implement National Plan and State Plan
 - Coordinate and monitor disaster management in the state
 - Assist the SDMA
 - Vulnerability assessment of state to different disasters and provide measures for their prevention and mitigation
 - Monitor implementation of disaster management plans of departments of State government
 - Coordinate response to any disaster or imminent disaster situation
 - Evaluate and suggest ways to improve preparedness at all governmental and non-governmental levels in the state to respond to imminent disaster or disaster
 - Requisition of resources, provisions, vehicles, etc., for rescue operations, etc
 - At the time of disaster or threatening disaster situation o Restrict vehicular traffic to and from affected area
 - o Control movement in, into and out of a vulnerable/affected area
 - o Search and rescue operations
 - o Provide food, shelter, healthcare, essential provisions and services
 - o Information dissemination to public
 - o Ensuring NGOs carry out their activities in an equitable manner
- See S. 22, S. 23, S. 24 and S. 65 of the Act*

All Departments of State Government

- Prepare a disaster management plan (to include types of disasters to which different parts of the State are vulnerable; integration of strategies for prevention of disasters and mitigation of its effects or both with the development plans and programmes by the department; roles and responsibilities in relation to any threatening disaster situation or disaster and emergency support function it is required to perform; present status of preparedness and measures to be taken to effectively perform responsibilities relating to threatening disaster situation or disaster; capacity building and preparedness measures)
 - Take measures for disaster prevention, mitigation, preparedness and capacity-building
 - Integrate measures for disaster prevention and mitigation in all development plans and programs
 - Respond effectively and promptly to any disaster or threatening disaster situation
 - Fund allocation for disaster management
- See S. 39 and S.40 of the Act*

District Disaster Management Authority (DDMA)

- Prepare District Plan (to include areas in the district vulnerable to different forms of disasters; measures to be taken, for prevention and mitigation of disaster, by the Departments of the Government at the district level and local authorities in the district; capacity- building and preparedness measures required to be taken by the Departments of the Government and local authorities at the district level to respond to any threatening disaster situation or disaster; response plans and procedures in the event of a disaster, providing for allocation of responsibilities, procurement of essential resources, dissemination of information to public etc)
 - District-level planning, coordinating and implementing body for disaster management
 - Prepare district disaster management and response plan
 - Identification of disaster-vulnerable areas in the district
 - Coordinate and monitor implementation of National, State and District Plan, and National and State Policy on disaster management
 - Direct district and local authorities to take measures for disaster prevention and mitigation
 - Monitor district level implementation of disaster management plans of departments of State government
 - Organise training of district level personnel
 - Carry out disaster management drills
 - Establish stockpiles of relief and rescue materials
 - Direct for compliance with construction safety standards
 - At the time of disaster or threatening disaster situation
 - o Restrict vehicular traffic to and from affected area
 - o Control movement in, into and out of a vulnerable/affected area
 - o Search and rescue operations
 - o Provide food, shelter, healthcare, essential provisions and services
 - o Information dissemination to public
 - o Establish emergency communication systems in affected area
 - o Make arrangements for disposal of unclaimed dead bodies
 - o Ensuring NGOs carry out their activities in an equitable manner
- See S. 30, S.31 and S. 34 of the Act*

Local Authority

(incl. panchayati raj institutions, municipalities, district board, cantonment board, town planning authority or Zila Parishad)

- Ensure training of its employees
 - Maintenance of resources needed for responding to any disaster situation
 - Compliance of construction projects with standards and requirements relating to disaster mitigation and prevention
 - Carry out relief, rehabilitation and reconstruction activities
- See S. 41 of the Act*



Penalties for Non-Compliance

Penal provisions under the DM Act are contained in Chapter X, Sections 51 to 60. Penalties are envisioned for both individuals and officers charged with responsibilities.

Offences punishable under the Act include:



1. Obstructing any employee of the Central/State/authorized person from discharging functions under the Act.



2. Refusing to comply with directions given by the Authorities under the Act.



3. False claims for obtaining relief



4. Misappropriation of money/material meant for providing relief



5. Making/circulating false alarm leading to panic



6. Refusing to perform duties under the Act



7. Violating an order of requisition



Section 60 provides that a Court can only take cognizance of an offence under this Act if:

It is on a complaint made by NDMA/SDMA/DDMA or Central/State Government or any officer authorized to do so, or

by a person who has given notice of at least thirty days of the alleged offence and his intention to make a complaint to NDMA/SDMA/DDMA or Central/State Government or any authorized officer

Financing the Disaster Management Processes

Financial Arrangements under the DM Act are divided into two broad approaches:

1. For emergency, relief, response and rehabilitation

- a. National Disaster Response Fund
- b. State Disaster Response Fund
- c. District Disaster Response Fund

2. For mitigation projects

- a. National Disaster Mitigation Fund
- b. State Disaster Mitigation Fund
- c. District Disaster Mitigation Fund

Allocation of resources to these funds are determined by the Finance Commission from time to time. The Commission takes into consideration the degree of disaster proneness of an area, the existing financial capacity of the State and liaisons with different ministries of the Central Government to arrive at fund allotment.



Requisition of Private Resources in Disaster Response

Private resources like land and vehicles can be used by the Government during disaster response and rescue. The Act requires that such requisition be made by a written order specifying a time limit for the same (Section 65). Refusal to comply with such an order can result in a punishment of imprisonment or fine or both (Section 57).

When a private resource is requisitioned, one may be entitled to compensation based on the following criteria (Section 66).

Compensation Criteria (Premises and Vehicle)



Am I entitled to compensation?

Yes, if you are in actual possession of the premises, or if you are the owner of the premises and no one was in actual possession of the place at the time of taking over of the premises. Similarly, for vehicles, you're entitled to compensation if you're the owner of the vehicle. However, if it is under another person's lawful possession through a hire-purchase agreement then the compensation will be divided between the two parties as per the agreement.



How much compensation will I receive?

For premises, the calculation of compensation will be based on actual rent and in its absence will be determined through rent payable for similar premises on the locality. If you are forced to relocate your business or residence then "reasonable expenses" for the same will be added to the compensation amount. Similarly, for vehicles, the compensation amount will be calculated on the basis of fares for hiring such a vehicle in a given locality.



What should I do if I am not satisfied with the compensation amount?

You can ask for appointment of an arbitrator by making an application within 30 days to the State or Central Government who will then appoint the arbitrator to decide the matter.



What if there is a dispute as to the rightful recipient of the compensation?

In this case too, the arbitrator appointed by the Government will decide the matter.

Community Participation

Disasters ultimately impact communities at large. While institutional apparatus and state management is crucial, communities, being the **first responders** when a disaster is about to happen or in the aftermath of the disaster, play an **equally important role**.

Community participation needs to be **inclusive** and **representative** of everyone's needs, especially those of the disadvantaged such as women, children, elderly, and the disabled.

Community-based disaster management, with financial, material, technical and logistical backing and support of the government, leads to disaster **resistance and resilience** and ultimately helps in the protection of lives and property. Indigenous knowledge of communities is of great value when planning for a disaster. The National Disaster Management Plan 2019 specifically notes the role played by **indigenous and local knowledge** in identifying areas which are landslide prone and vulnerable to glacial lake outburst floods.

An example comes from Kerala, where a study found that during the 2004 tsunami, regions in the Alappad village (one of the worst hit areas) which had locally planted Mangrove trees saw noticeable less harm to life and property.

Frequently Asked Questions



When is a disaster declared?

The DM Act contains no provision or guidance for notifying or declaring a disaster. There is **no definition** of what constitutes a national level or state level disaster.

Does the Act provide any guidance on what to do or how to prepare for and mitigate specific disaster situations?

No, the Act does not contain any disaster-specific provisions or duties. It instead lays down the general institutional framework of responsibility and functions which are **applicable across all disaster situations**.

Are there any specific guidelines on how to prepare and mitigate for disasters?

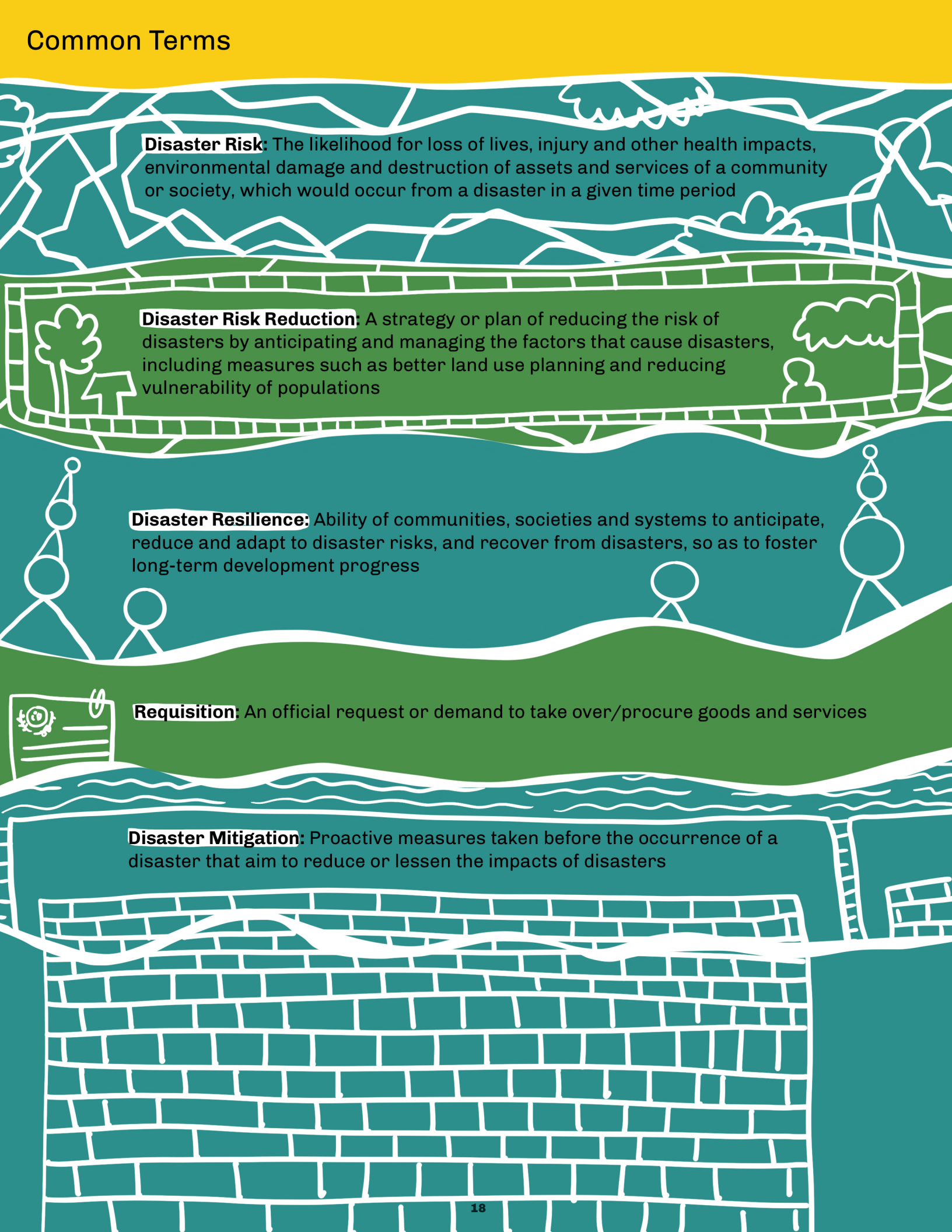
Yes. The NDMA has issued several Guidelines which contain specific guidance on how to prevent, prepare for and respond to disaster situations. Some of these Guidelines are: Landslide Risk Management Strategy (2019), Guidelines on Temporary Shelters for Disaster Affected Families (2019), Guidelines on Boat Safety (2017), Guidelines on Management of Drought (2010), Guidelines on Management of Urban Flooding (2010), Guidelines on Management of Dead in the Aftermath of a Disaster (2010), Guidelines on Psycho-social Support and Mental Health Services in Disasters (2009), Guidelines on Management of Biological Disasters (2008), and Guidelines on Management of Earthquakes (2007)



What are protections available to individuals and communities during disaster relief and response?

The DM Act (Section 61) prohibits discrimination against victims of disasters, while providing compensation and relief, on the ground of sex, caste, community, descent or religion.

Common Terms

The background of the page is a stylized illustration. At the top, there are jagged white lines representing mountains on a teal background. Below the mountains is a green horizontal band. Underneath that is a teal band representing a river, with several white stick figures standing on the banks. At the bottom, there is a large teal area with a white brick pattern. The text boxes are placed within these different background sections.

Disaster Risk: The likelihood for loss of lives, injury and other health impacts, environmental damage and destruction of assets and services of a community or society, which would occur from a disaster in a given time period

Disaster Risk Reduction: A strategy or plan of reducing the risk of disasters by anticipating and managing the factors that cause disasters, including measures such as better land use planning and reducing vulnerability of populations

Disaster Resilience: Ability of communities, societies and systems to anticipate, reduce and adapt to disaster risks, and recover from disasters, so as to foster long-term development progress

A small illustration of a document with a circular seal containing a gear and a person, and some horizontal lines representing text.

Requisition: An official request or demand to take over/procure goods and services

Disaster Mitigation: Proactive measures taken before the occurrence of a disaster that aim to reduce or lessen the impacts of disasters