

Enhancing Disaster Reduction Capacity Through Legal Frameworks and Clarity of Roles and Responsibilities of Stakeholders

Mr. R.K. Singh

Joint Secretary, Ministry of Home Affairs, India

I think we will be dealing with what we perceive to be the core issue of disaster management, which has been to involve all the stakeholders into mitigation, preparedness, and response. The problem in my country at least, and I believe this would be the problem in many other countries as well, has been that all the other sectors/ministries perceive disaster management to be the function of the relevant ministry or department alone. In other words if you have a Department of Disaster Management, every other ministry feels that it is the function of that Department alone to pursue mitigation, preparedness and response activities. Now, to us, the fact that mitigation, preparedness or response are multi-disciplinary and that they necessarily involve a number of ministries, is very obvious.

What happens in case of an emergency? Different ministries need to take steps in their sphere. For example, you request the Health Ministry that they need to send five or six teams to the disaster site. The Health Ministry starts constituting teams after the request is received, causing delays. This is because the Ministry of Health does not see disaster preparedness as their charter. Let us take mitigation. The Ministry of Rural Development, for example, does not feel that it is their responsibility to look at mitigation whereas mitigation concerns need to be considered while creating community assets in the rural areas. The Ministry of Urban Development needs to view that it is one of their primary responsibility to ensure safe construction in areas vulnerable to seismic activity. So basically, this lack of clarity of perception, we feel, is one of the major problems that we have to contend with. One of our major key result areas would be to get this corrected. That is what we are at in India.

Now, how do we correct this lack of perception? Or how do we get across the message that mitigation and response entail the involvement of the entire government or all departments. There are three or four aspects. In my presentation, I will look at each aspect and tell you as to how we are addressing the problem.

One aspect is institutional, i.e. institutional system/mechanisms. The other is the legal framework. The legal framework does mean the formal law alone. It is also the set of codes, manuals and regulations. The legal framework also includes policy. Formal and clearly enunciated policy guides the functionaries of all departments of the government. It also includes the mechanism for financing disaster management, which may include financing disaster mitigation aside from response, ensuring a holistic approach disaster management. It also covers the planning mechanism, which considers mitigation as an important development concern. These are the aspects that I will be addressing, primarily focused on my own country and how we are addressing each of them.

India has a whole range of possible hazards. A large portion of our country is vulnerable to earthquake. This portion includes the entire northeast, part of Maharashtra, the entire Gujarat as well as Jammu and Kashmir and Himachal Pradesh, which fall in zones IV and V. A large part of eastern India is prone to flood as well. We have floods in some States almost every year. We are a huge country so we have different climatic zones. You will be surprised in fact that in one year, there would be floods in some regions and drought in other regions. Regarding cyclones, we have a long coastline, especially, on the eastern sea board. The sea board on the Bay of Bengal is vulnerable to cyclones. We have two cyclone seasons, i.e. pre-monsoon from May to

early June, and post-monsoon cyclone season from September to October. More vulnerable is the post monsoon season. We currently face drought in 17 States. This is a serious concern for us now. We have major settlements in the hilly region. They are prone to landslides, avalanches, etc.

Now, I will give you a background on our institutional structure. We have a federal structure. The Central (Union) Government is responsible for some subjects. State Governments are responsible for most of the subjects. Response and relief are basically the responsibility of the state governments. We assist them when the disaster is of such magnitude as to be beyond their capacity, by way of man-power, teams, Armed Forces, financial assistance, etc. Earlier, disaster management was handled in the Ministry of Agriculture. We had a change of guard, shall we say, and now the subject is handled by the Ministry of Home Affairs. In fact, it has been a change of perception.

More than 10,000 people died from the super cyclone in Orissa. The devastating earthquake in Bhuj claimed more than 20,000 lives. These disasters brought about the change in thinking, in policy. The subject was transferred from the Ministry of Agriculture to the Ministry of Home Affairs, and the Government has adopted a pro-active approach to ensure that our vulnerability to disasters are reduced progressively. Through a concerted effort, sharing the whole range of Government, this responsibility was given to us, the Ministry of Home Affairs. We carried out a review of what we were doing so far. In so far as institutional structure is concerned, we found that one major difficulty with the present assignment of responsibilities and the present framework was that this was looked as a subject which was the responsibility of one ministry or one department alone. We felt that this was a very inefficient way of organizing things because it leads to lack of clarity in perception. Therefore, we propose to set up a National Disaster Management Authority, which we will have representation at the senior levels, i.e. Special Secretary or Additional Secretary from relevant departments: the Ministry of Agriculture, Water Resources, Health, Urban Development, Public Works Department, etc., whichever Department had a responsibility for either mitigation or preparedness or assisting in the response. They all will be represented in that Authority, including the Department of Space, for space technology, Ministry of Science and Technology. They will be all members. This Authority with membership spanning across the ministries and departments, will be jointly and severally liable for mitigation and preparedness and response. Therefore, the Ministry of Agriculture or Ministry of Health or Ministry of Railways or the Ministry of Civil Aviation cannot say that it is not their responsibility to be prepared to respond to disaster or to take mitigation measures. They will not have to wait for any request from the Department of Disaster Management. So this is one framework which we are in the process of changing.

At the state level again, we advised the states that they should carry out a similar change in the definition or responsibility so as to clarify any misperception or misconception as to the responsibilities of different ministries and departments. We advised the states that they may set up State Disaster Management Authorities under the Chief Minister with the Ministers of Agriculture, Water Resources, Home, Health etc., as members to ensure coordinated response, as well as measures for mitigation across the whole gamut of government. We have also advised the states to re-designate their Departments of Relief into Departments of Disaster Management, and to redefine their responsibilities to include mitigation and preparedness. Below the ministry level, at the officer level, we have the state chief secretary, the overall head of the State. Then below that we have a district (something like the prefecture in Japan), with the district magistrate is the head. The Chief Secretary, Secretaries to Departments belong to a common Civil Service. At the district level, all officers belonging to various departments report to him. Therefore, at the district level,

the key level, there has been no ambiguity in response.

Institutional structure is one of the ways of clarifying perception as to the responsibility. There are other methods which I have mentioned in my opening remarks. One other method which we are in the process of adopting is by way of drafting Standard Operating Procedures (SOP). Now we are in the process of drawing SOP on how to deal with the terrorist attack after 9/11, as among man made disasters. In SOPs the responsibilities of different ministries and departments are brought out clearly.

Another method is to have a National Policy. Different elements of the Policy were listed here and there. It was not formally spelled out. So we said that we will have an explicit statement of policy. We have drafted the Policy. The draft is under going inter-ministerial consultations, that is one process which we have to undergo before we go to the Cabinet with the Policy. That Policy seeks to lay down the responsibility and expectations from various ministries, departments, and attached offices, and the corporate sector. Different ministries are expected to draw up their own sectoral policies that will answer to this National Policy. This National Policy will inform the activities of all ministries.

So the methods of clarifying roles and responsibilities which we have addressed thus far are (1) institutional mechanism, and (2) policy and standard operating procedures. There is another method which we are looking at, and which I am quite sure you will be looking at in your country as well: (3) the funding mechanism. We have a formal funding mechanism. We set up Finance Commissions after every five years. Because we are a federal system, the Finance Commission, which is a neutral body headed by an eminent person for every five year, decide the sharing of revenues between the Union Government and the State Governments. Finance Commissions also decide the mode of financing the different major activities. The earlier Terms of Reference of the Finance Commission insofar as disaster management was concerned was only for the financing of response, relief and rehabilitation. We changed that. The Terms of Reference of the Finance Commission which is in session right now, is that they have to look at financing of disaster management to include mitigation, prevention, preparedness aside from response and relief.

The current pattern which was mandated by the last Finance Commission was that they set up two funds, i.e. Calamity Relief Fund (CRF) at the state level to which the Central Government contributes 75%, and the National Calamity Contingency Fund (NCCF) at the central level, which is entirely contributed to by the Government of India. The CRF at the state level is supposed to be used by the states to fund the relief and rehabilitation for all disasters except for those which are beyond their capacity or where the CRF is insufficient. The, they apply to the Union Government for assistance out of the NCCF. Now, funding from all this could be used only for relief that is only for giving assistance for shelters, etc. We are seeking to change this by changing the terms of reference. Apart from these funds, we have proposed that there should be a separate fund at the national level for calamity mitigation and money from that fund could be used in a proportion of lets say 75% coming from that fund and 25% coming from the states for projects addressing mitigation. In this regard, the funding mechanism addresses mitigation.

We have another funding mechanism. The Finance Commission looks at activities which are Non-Plan or activities which do not generate returns, e.g. maintenance or regulatory activities. The activities which generate returns, or development activities or all activities of the social sector are looked after by the Planning Commission. So we have the planning mechanism. Now, we said, that if the mitigation is to be institutionalized into the system, then the planning mechanism also needs to take mitigation into account. This will also make mitigation sustainable. This is now

happening. The Planning Commission for the first time in their approach to the Plan has a chapter on disaster management which emphasizes mitigation and preparedness. I am quite sure that this will be the case in your countries as well. One proposal which we have and which has not as yet been accepted by the Planning Commission but which we are quite sure will be accepted, is that we set apart a minimum of 10% of all Plan funds at the state level, at the national levels in all ministries, addressing mitigation.

These are the structures – the institutional, financing, as well as policies – for clarifying the roles of stakeholders. Now we come to the legal framework. The legal framework includes many things: Acts, Regulations, etc. I will tell you the legal framework as it exists in our country, and I will also tell you what we are proposing to do in the different fields. Right now every state has a Relief Manual or a Relief Code which lays down the functions to be performed before the flood, for example, and the preparedness steps and measures to be taken, and the roles of each ministry, department or officer. The difficulties with this is that it only looks at response, it does not look at mitigation. We have advised the States to change the Codes to Disaster Management Codes or Manuals, to look at mitigation, preparedness, response and relief. Most states at present do not have a formal law for disaster management although we have a system where we have integrated hierarchy. A law is not very necessary; therefore, a Manual or Code suffices. Nevertheless, we have advised the states that they should legislate a Disaster Management Act laying down the responsibilities of different stakeholders and reinforcing the coordinating mechanism, not that there is a need for reinforcing this, because as I say, at the district level, there is an effective command with one person (the district magistrate) who can mobilize the responses from all departments. At this level, we have a chief secretary and we have a Disaster Management Manual. Nonetheless we said that we might have a law. So we are in the process of persuading the states to go in for legislation. One state has already done that. We expect other states to follow suit.

Now another relevant legislation is the Environment Protection Act, which has a number of relevant provisions. One is the Coastal Zone Management. The rules mandate which certain activities could be or could not be carried out within the identified coastal zone. This has reference to activities which may or may not damage the coastal zone environment. It has been effective to some extent but it is being eroded especially by the prawn farming, a lucrative industry which has grown up in the coastal zone. So we are pushing to get the guidelines firmly implemented.

We come to another aspect of the Act that which relates to hazardous industries. The Act lays down or mandates certain dos and don'ts for hazardous industries. The Act mandates that the relevant industries will have on site plans/off site plans for handling disasters. They have not proved very effective in the sense that we feel that the on-site/off-site plans for Disaster Management need to be strengthened. We have advised the Ministry of Environment that the regulations may be strengthened by mandating a timetable for the offsite response plans as well as mandating awareness generation. For example, in the Bhopal Gas Tragedy, an accident in a Union Carbide factory which led to the leakage of poisonous gas, had the people been made aware that if they put wet cloth on the mouth and nose, and breath through that wet cloth, hundreds of lives could have been saved. This awareness was not there. These awareness campaign had not been done by that industry and that cost us hundreds of lives. That is something we are telling the Ministry of Environment and Forests to mandate.

We have laws and regulation of building construction as well as appropriate codes for seismic zones. The challenge lies in making sure that they are followed. We have a complete hazard

map of India, circulated to the states with the advise to carry out the awareness campaigns in the zones vulnerable to earthquakes, and to follow the building codes for reducing risks and ensuring the safety of their families.

The first difficulty of course is lack of training in our regulatory agencies, the municipalities. They are very weak financially. Their engineers are not very senior people. They are not very well paid. They are not trained. The second difficulty is corruption, you have big builders, big builder lobbies etc. They manage to get their plans cleared no matter what they are. These are the problems that we are grappling with. We have advised the states to set up an ombudsman who will look at the implementation of these regulations by the municipalities or regulatory agencies, and recommend their suspension where when they find a regulatory agency regularly violating these norms. That should improve things. Let us see.

This is the basic legal framework of it. Apart from that, I will just touch briefly on what we are doing, and how we seek to involve various stakeholders in this, in our endeavor to reduce vulnerability. We have drawn up the Road Map, or shall we say, the Plan, which addresses all aspects, and we have circulated that. We propose to hold orientation sessions with the other ministries and departments on that Road Map so that they are informed as to the direction in which we are moving. And we have advised the States to draw up similar road maps, to bring about a coordinated perception among at least the government sectors regarding steps to be taken.

We are in the process of drawing up an awareness campaign. We propose to hire public relation agency which will organize the campaign through television and mass media.

Now we come to the people. Because the people are major stakeholders, how do we sensitize them? How do we educate them? For that, we have adopted a two-pronged strategy. One is to catch them young-in schools. We have had discussions with the Central Board of Secondary Education, the National Board for Schools, that is not only one, but that is the major one. They lay down the course curricula for all the major schools, and they have agreed that the curriculum for class 8th, 9th and 10th, should have chapters on disaster management. The curriculum for class 8th will have a chapter from this year onwards. The curricula for class as 9th and 10th will have this chapter, from a year after. The states also have the Council of Secondary Education. We have advised the states that the syllabi should be changed to reflect this. This we feel will be a major step. Then we are looking at the engineers and doctors. We have a very strong engineering education back bone in our country. We have engineering colleges in every region, good engineering colleges. But there are only three institutes of technology which have a Department of Earthquake Engineering. Now we have started a program of earthquake engineering education, where we will educate the lecturers or professors from all engineering collages in earthquake engineering and we will incorporate this in undergraduate engineering courses. We have other steps, which we are taking for building our capacity. We are changing the post recruitment training programme of all our field staff and policy makers to include disaster management as a part of the curricula. We have a project with the UNDP assistance covering 17 states that are multi-hazard prone. We will be assisting the states and the districts in drawing up disaster management plans, formation of disaster management committees, and task forces, among others.

We have had mitigation programs for flood and drought for some time. For flood, we have a mitigation project since 1950. For drought we had started a drought mitigation program in 1970s. For earthquake and cyclones, we did not have any specific projects addressing

mitigation. We have drawn up projects an earthquake mitigation project and cyclone mitigation project. We have also drawn up a project for strengthening emergency fire services, so that we have an all-hazard response capacity at the field level.

We are following the holistic approach. Basically, we are working with every ministry to incorporate mitigation concerns into their programs and projects. So, much of my work is advocacy with other Ministries.

We have started two projects. One is what we call the 'India Disaster Resource Network'. We are in the process of setting up a nationwide web-based disaster resource network which will list the critical equipment needed for response to complex emergencies and disasters. So that the emergency response managers can find out the nearest point in which a particular resource, equipment or team is located, who is the contact person, and who can help him getting that resource.

We have number of agencies working with us. We are grateful to them. Their assistance has been very useful since it has given us access to expertise across the world. Thank you.