

## **CHOICE BASED CREDIT SYSTEM**

### **ENVIRONMENTAL LAW & LEGAL ORDER**

#### **Disaster Management and Legal Order (Optional)**

##### **Objectives of the Course:**

The hazards of complex industrial society of our times are numerous. Apart from natural disasters like earthquakes, tsunami, cyclones and storms which cause death, destruction and suffering on a vast scale, our civilization is increasingly getting exposed to hazards arising out of technological progress. The factories of industrial establishments involved in the manufacture, distribution and transportation of hazardous products are under legal obligation to comply with numerous provisions of law to prevent disaster, and to provide information to persons likely to be exposed to the hazards regarding safety measures to be taken.

The legislative and administrative responses have been lacking with the result that such disasters are increasing in magnitude and frequency. Every time adhoc arrangements are made to fact the disaster but not before incalculable damage is done and avoidable hardships suffered. What is needed is an integral approach for prevention and mitigation of sufferings arising out of disasters. A policy oriented approach would need examination of duties and obligations of various persons connected with disaster management.

Victims of disaster, being amorphous body of individuals, look at the bounty of state rather than the court process to vindicate their rights under the law. Inquiries and investigations are conducted only on public demand. There is no uniformity regarding the system of investigating authority, procedures to be followed and the obligatory force of recommendations made by investigating agency. The existing court process is dilatory and cumbersome. Due to obvious reasons the victims do not wish to undergo another ordeal or initiating proceedings for legal redress. The mismanagement and corruption in administering relief has also reached alarming proportions.

The course, is therefore, designed to have an insight into the problem arising out of disasters and inadequacies of the court process. The public law perspectives of this kind litigation will open new vistas of remedial process including risk coverage through public liability insurance.

The following syllabus prepared with this perspective will comprise of about 43 units of one hour duration each to be spread over a period of one semester:

##### **Syllabus:**

## **I. Introductory**

- 1.1 Meaning of Disaster
- 1.2 Distinction between natural and man-made disaster
- 1.3 High potential and Low Potential Disaster
- 1.4 Escape of dangerous substances
- 1.5 Explosions
- 1.6 Nuclear radiation, Poisoning
- 1.7 Dam Bursts, Fires, Collapse of Structures, Earth Quakes
- 1.8 Accidental Disasters (Rails, Air, Sea, Motor Vehicle)
- 1.9 Victims of Disaster

## **II. Ad-hoc Character and inadequacy of legislative Responses**

- 2.1 Laws relating to atomic energy, explosives
- 2.2 Laws relating to air crafts, insecticides, factories, motor vehicles, railway ships and petroleum products
- 2.3 Public Liability Insurance - National and International
- 2.4 Disaster Management Act, 2005 – Features, Task Force – Relief and Rehabilitations

## **III. Disaster Management**

- 3.1 First aid
- 3.2 State responsibility to provide short term relief
- 3.3 Legal responsibility of officials of the State
- 3.4 Role of Voluntary Organizations
- 3.5 Disbursement of relief grants and public accountability of official and other voluntary disbursement agencies
- 3.5 Participatory management by trade unions
- 3.6 Right of certain classes of victim; children, women

## **IV. Inquiries and Investigations for disasters**

- 4.1 The duty to institute investigations and inquiries to determine causes of mass disaster
- 4.2 The investigation process
- 4.3 Right to hearing to affected individual
- 4.4 Right to hearing to voluntarily organization and public spirited individuals

## **V. Liability and Judicial Process**

- 5.1 Statutory liability
- 5.2 Contractual liability
- 5.3 Tortious Liability
- 5.4 Criminal Liability
- 5.5 Civil Nuclear Liability
- 5.6 Measure of Damages

- 5.7 Initiation of proceedings
- 5.8 Representative Suits
- 5.9 Costs of Litigation - Court Fee, Counsel Fee
- 5.10 Rules of Evidence
- 5.11 Bhopal Gas Leakage Case, Chernobyl Nuclear Disaster Case, Fukushima Earth Quake and Nuclear Disaster Case, Tsunami, Lathur and Gujarat Earthquakes
- 5.12 Problems of Execution
- 5.13 Need for reform – dilatory and expensive character of court processes

### **Suggested Readings**

Government of India, Department of Environment, Management of Hazardous Substances Control Act and Structure and Functions of Authority Created thereunder.

Indian Chemical Manufacturer's Association and Loss Prevention society of India, Proceedings of the National Seminar on Safety in Road Transportation of Hazardous Materials: (1986)

Industries Commissionerate Ahemadabad, Task Force Report: 9.J.MEHTA). To oversee safety measures in various industries dealing with Hazardous and Toxic Materials (1986).

Organization for Economic Co-operation & Development, (Paries), Safety of Consumer Product, Policy & Legislation if OEOE Countries.

Indian Law Institute (Upendra Baxi and Thomas Paul (ed.) Environment Protection Act: An Agenda for implementation (1987).

Asian Regional Exchange for Prof.Baxi., Nothing to lose but our lives: Empowerment to oppose londustrail Hazards in a transnational world (1989)

Gurudip Singh Environmental Law: International and National Perspectives (1995), Lawman (India) Pvt. Ltd

Leelakrishnan, P, The Environmental Law in India, Chapters VIII, IX and X (1999), Butterworths, New Delhi

Chaturvedi and Chaturvedi, The Law on Protection of Environment and Prevention of Pollution (1996)

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