Human Security and Disaster Management in Asia: Necessity of Regional and Sub-regional Texts for Environmental Disasters and Environmentally Displaced Persons

Abstract:

This paper addresses the issue of disaster management in Asia. A number of sub-regional texts have been adopted by countries of ASEAN, SAARC and APEC in order to better prevent disasters and reduce their consequences, especially after the tragedy of the tsunami of 26 December 2004. However, those texts aim mainly to strengthen international cooperation for emergency relief after ecological disasters, neglecting the dimension of human security. Therefore, it is important to elaborate regional and/or sub-regional conventions on the management of natural and industrial disasters, and the protection of environmentally displaced persons.

Introduction:

The XXth century was witness to major migrations of people seeking a better lifestyle and livelihood and political refugees. International law has developed various legal responses to this, especially through the Geneva Convention on Refugees and many Conventions elaborated by the International Labour Organization. However, during the second half of the XXth century, many people were also displaced by industrial and environmental disasters (Chernobyl accident, floods, earthquakes, tsunami, typhoons, desertification, etc.). These phenomena will pose increasing issues for many countries in the XXI century. Internal and international migrations cause social, political, economic, cultural, and security problems. International law will have to respond, developing suitable mechanisms to cope with major climate-induced and environmental migrations.

Asia is a continent which has known many natural and industrial disasters\(^1\). While a few sub-regional and pan-regional organizations have established scientific institutions and adopted legal texts in order to mitigate and manage disasters, those instruments are quite weak as they don't aim to handle human security and migrations (I). It is time to strengthen them and to create new legal mechanisms in Asia (II).

I. Institutional and legal mechanisms for disaster managements in Asia

   A. Soft-law instruments for disaster management adopted by economic organizations

- ASEAN (Association of Southeast Asia): in the Declaration on action to strengthen emergency relief, rehabilitation, reconstruction and prevention on the aftermath of the earthquake and tsunami disaster of 26 December 2004, States engage to strengthen cooperation and coordination of the national, regional and international relief efforts, to support rehabilitation actions, and to establish a regional warning early system.

Therefore, the ASEAN countries adopted in 26 July 2005 the Agreement on Disaster Management and Emergency Response, which aims to prevent both natural and industrial disasters and to mitigate its effects on the environment and the populations. Each State has the obligation to elaborate national and multilateral strategies of identification, prevention, and mitigation of risks arising from hazards. The Agreement invites member countries not only to promote public awareness and education on disaster prevention and management, but also to promote appropriated knowledge and practices of indigenous peoples. In case of disaster, in respect of the sovereignty of State, assistance can be deployed only by request and with the consent of victim country. If a neighbor country offers its assistance for emergency response, assistance will take place only with the consent of victim country.

Even though the 2005 Agreement is the only one text of hard law, by March 2008 it has been ratified by only five members and still waits for five other ratifications to enter in force.

A few scientific institutions for disaster management exist in ASEAN. In 2006, ten States members adopted the Standby Arrangements for Disaster Relief and Emergency Response and established scientific institutions such as the ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management, ASEAN Disaster Information Sharing and Communication Network, ASEAN Committee on Disaster Management, and ASEAN Humanitarian Task Force.

- SAARC (South Asian Association for Regional Cooperation): Its seven members adopted in 2005 the Comprehensive Framework on Disaster Management and Disaster Prevention, from which a number of disaster management institutions originated (SAARC Coastal Zone Management Centre, SAARC Meteorological Research Centre, and SAARC Centre for Disaster Management and Preparedness).


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4 According to the article 1.4 of the Agreement, disaster means “a serious disruption of the functioning of a community or a society causing widespread human, material, economic or environmental losses”. It concerns therefore natural and industrial disasters.

5 Article 6.1.

6 Article 6.2.

7 Article 11.


2008, they elaborated the Strategy for Disaster Risk Reduction and Emergency Preparedness and Response in the Asia-Pacific Region: 2009 to 2015; which aims to develop not only bilateral and multilateral agreements on cooperation and training for disaster reduction but also joint disaster preparedness actions for twenty-one members.

B. Weakness of disaster managements instruments: lack of human security approach

The above texts aim mainly to strengthen cooperation of emergency relief after ecological disasters. However, they have three major deficiencies.

Firstly, industrial disasters are not addressed or in an ineffective way even though they can have regional effects. For example, the 2005 ASEAN addressed Agreement does not have any provision on responsibility and victim's compensation in case of industrial disasters. However, we know that according to the polluter pays principle in environmental law, it is necessary to identify the responsible for paying for the damage done to the environment and the populations.

Secondly, existing texts don’t mention the most effective way to reduce the potential humanitarian effects of disasters, reducing the vulnerability of populations at risk. This can be achieved by ensuring strict planning and environmental legislation and monitoring their implementation.

Thirdly, those texts don’t address the problem of displaced persons who have to leave their home because of natural and/or industrial disasters. Even though they pass the borders or if they circulate within the country, this increasing phenomenon causes many issues regarding their rehabilitation, their rights, their migration, etc.

Therefore, regional and sub-regional forums should elaborate two conventions along these lines to protect human security in disasters.

II. Towards Regional and Sub-regional Texts for Environmentally Displaced Persons and Environmental Disasters Management

A. Human Security approach in a regional/sub-regional convention for disaster managements

A convention for environmental and industrial disasters should highlight disaster prevention through a proactive attitude. Countries should engage to modify or adopt planning and environmental law (managing the planning of coastal zones and rivers, protecting and planting forest, developing suitable housing construction norms in lands at risk, moving the population at risk, etc.).

Concerning disaster management, such a text should encourage regional cooperation in relief and emergency situations in an effective way to reduce the negative effects of disasters. States should have obligations to inform neighbouring States. They should elaborate effective insurance legislation

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11 Texts available at the Task Force’s website: [http://www.apec.org/apec/apec_groups/som_committee_on_economic/som_special_task_groups/emergency_preparedness.html](http://www.apec.org/apec/apec_groups/som_committee_on_economic/som_special_task_groups/emergency_preparedness.html) (28/01/2009).

12 Principle 16 of the Declaration on Environment and Development (Rio de Janeiro, 1992)

in order to help victims resettle. They should engage to determine responsibility for industrial and natural disasters, and responsibility for leading the response to natural disasters.

B. **Human Security approach in a regional/sub-regional convention for environmentally displaced persons**

Disasters can provoke major displacements of populations who are victims or at risk. These people may be displaced internally or to another country.

To resolve the problem of human insecurity, the States of the victims and the States hosting them should guarantee rights to environmentally displaced persons: rights to information and participation, rights to assistance, rights to water and food aid, rights to housing, rights to health care, rights to juridical personality, rights to respect for the family, rights to education and training, and a right to work. Temporarily displaced persons should have right to return to their residence when it becomes habitable and their right to reintegration should be ensured by the State. Permanently displaced persons should have right to resettlement recognized by their State of origin and host State. In cases where they find a refuge on the territory of neighbouring States, those States should guarantee their right to nationality. 

Reality shows that in the absence of such a convention, people who are victims of a disaster move inside and outside their country but they have to fight to survive during the period of emergency relief and afterwards. Guaranteeing them rights similar to refugees would be an appropriate response to disasters of the twenty first century, especially to displacements provoked by global warming and resultant long-term climatic and environmental changes. In practice, States hesitate to host victim populations because there can be political, economic and social consequences. However, if States take action together, they will contribute to the preservation of human capital of the region.

**Conclusion:**

Human security is a major issue in disaster situations. In South-east Asia, it is important that countries ratify the 2005 Agreement for its entrance in force. Soft-law disaster management texts elaborated by other economic forums of Asia will be inadequate to address the changes and disasters facing the continent. Therefore, searching for legal solutions through the development of hard-law on disaster prevention and management and on environmentally displaced persons would be a big step forward for Asia in the management of human security issues in the region.

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