

## **Problems and Dilemmas: ASEAN Commitments in Disaster Management**

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### **Abstract**

This research aims to elaborate the problems and dilemmas of disaster management and emergency response of ASEAN. This paper has adopted normative qualitative legal research with statutory approaches. The data will be analysed by using descriptive-analytical analysis. The research found that there are some major problems that faced by ASEAN members in working collectively on the disaster management and emergency response, such as non-intervention principles and sovereignty principles. The Southeast Asian region is remarkably vulnerable to natural and man-made disasters which repeatedly cause devastations to both human lives and properties. The experience has shown that local government and holders with their capacity have proved their ability to handle small and medium scale emergency response, but for some circumstance the host state sometimes cannot deal with this issue. Due to that issue Association of Southeast Asian Nations (ASEAN) as the regional organization in Southeast Asia playing an importance role to building a well-prepared disaster management through join collaboration among ASEAN member by reason of humanity.

**Keywords:** ASEAN; disaster management policy; emergency response; non-intervention principles; sovereignty principles

### **1. Introduction**

On August 8, 1967 the Bangkok Declaration was signed by the Ministers of Foreign Affairs Narciso Ramos (Philippines), Adam Malik (Indonesia), Thanat Khoman (Thailand), Tun Abdul Razak (Malaysia), and S. the day the Association of Southeast Asian Nations (ASEAN) was formed, which is a geo-political and economic organization of countries in the Southeast Asian region. So far, ASEAN, which has 10 members, has agreed to promote economic growth, social progress and cultural development of its member countries, promote peace and stability at the regional level, and increase opportunities to peacefully discuss differences among its members. (Alemanno, 2011)

With its geographical location at the equator, the weather in the Southeast Asia region is very vulnerable to extreme weather changes and this region is also surrounded by many world plates such as the Indo-Australian plate, the Pacific plate, the Eurasian plate, and the Philippine plate. In addition, the Southeast Asian region is also passed by a cluster of the world's active mountains, this is what makes the Southeast Asia region has many active volcanoes as well as making it one of the areas that have the most natural disaster potential in

the world. In recent years, disasters have had a huge impact on losses. Loss of trillions of rupiah, victims died, suffered and damaged infrastructure. (Arumbinang, 2016)

This has also become one of the non-traditional security issues that has become an important topic of discussion in ASEAN, namely the issue of disaster management response. This disaster issue has become the focus of issues discussed from high-level official meetings, ministerial level to the Asean Summit. Disaster issues became a topic that was raised related to its handling efforts, starting from preparedness, emergency response to disaster recovery. ASEAN high-ranking officials and their meeting forums are trying to find solutions to the disaster problems faced by their member countries. (Besson, 1987) The data shows that in the agenda of the main governance organizations in the ASEAN region and the dialogue mechanism from 2000, it appears that transnational cooperation in this region extends to non-traditional fields, and one of them focuses on cooperation in natural disaster management.

The problem of natural disasters is a global challenge that gets special attention from ASEAN Leaders. Responding to the phenomenon of natural disasters, ASEAN leaders agreed to further intensify their cooperation in tackling various problems in the field of disasters, both those that occur at the national, regional and global levels. These large-scale disasters have had a significant impact on both damage and loss of life to ASEAN countries such as the Aceh Tsunami (2004), Nargis Cyclone (2008), Padang Earthquake (2009), Mentawai Tsunami (2010), Merapi Eruption (2010), Bangkok Flood (2011), Bohol Earthquake (2013), Cyclone Haiyan (2014) and Palu Earthquake (2018). (Reinecke, 2010)

The potential danger that is very risky leading to disaster encourages ASEAN as a geopolitical organization with the spirit of 'One ASEAN One Response' not only to act at the level of disaster response but also in various contexts at the level of disaster management as a whole. On the other hand, the big goal to be achieved in this region is an ASEAN community that is resilient to disasters. Regarding the development of ASEAN which has transformed from an association into a community in the form of an ASEAN Community, the problem of natural disasters that occur in several ASEAN countries is a challenge in the realization of the ASEAN Community, for now and in the future. This challenge certainly requires an appropriate and quick response from ASEAN leaders. (Guttry, 2012)

It has been proven that in recent years, ASEAN has agreed on several international instruments on disaster management, even as ASEAN is also one of the international organizations that is very focused and supports every agenda for strengthening disaster management at the international level. However, this is certainly a challenge for ASEAN member countries to be able to maximize several disaster management policies in their region, especially if the potential or impact of damage caused by a disaster is very large involving many other countries. The principle of non-interference or the ASEAN way is a challenge for ASEAN because on the one hand it indirectly becomes an identity that has been agreed upon and respected by the countries that are members of ASEAN, besides that the principle of non-intervention is also a dilemma. which continues to be a topic of discussion when faced with dilemma situations such as disaster management which requires flexible space for humanitarian missions but is hampered on the basis of the sovereignty of a country. (Erica, 2009)

This paper will provide a perspective on why an ASEAN commitment to disaster management has its own challenges and is faced with a dilemma situation. Moreover, this paper will also discuss the importance of a strong joint commitment in developing various disaster management instruments in ASEAN.

## 2. Method

This research paper is based on normative qualitative legal research with statutory approach, using an international law perspective in relation to the problems and dilemmas of disaster management and emergency response of ASEAN. Data collection method in this research will be through a library search by accessing some relevant literature sources. The data will be collected by reading summarising and analysing related documents, such as treaties, legal journal, law books and many other sources in which related with the main topic of this research. The data will be analysed by using descriptive-analytical analysis.

## 3. Discussion and Analysis

### 3.1. A Commitment: ASEAN

Cooperation in handling natural disasters within the ASEAN framework has actually been built for more than thirty years. The 1967 Bangkok Declaration which marked the founding of ASEAN was the basis for its member countries to mutually strengthen regional cooperation in order to promote regional peace, stability, progress and to foster brotherhood and solidarity, especially when one of its members was struck by a disaster. The commitment of ASEAN member countries to help each other in times of disasters is contained in the Declaration of ASEAN Concord signed on February 24, 1976. The declaration states that: "natural disasters and other major calamities can retard the pace of development of member status, therefore they shall extend, within their capabilities, assistance for relief of member states in distress." (Santiago, 2009)

The ASEAN leaders at that time agreed to make the issue of disaster management an important part of the goals of ASEAN cooperation. A new chapter in cooperation in the field of disaster management began when the cooperation management mechanism was upgraded from the expert group level to a full ASEAN committee at the senior official level. The Declaration of ASEAN Concord II, which was signed in Bali on October 7, 2003, reaffirmed the importance of intensifying cooperation in disaster management in the region. In order to optimize this cooperation, ASEAN countries agreed to form a Disaster Management Committee (ASEAN Committee on Disaster Management-ACDM). This committee is given the mandate to manage disaster management cooperation, including preparing work programs and priority activities. This cooperation is considered important, related to the trend of increasing the number of disasters in the ASEAN region. (Arumbinang, 2016)

This is triggered because ASEAN member countries are located in disaster-prone areas, such as floods, droughts, landslides, earthquakes, tsunamis, fires and smoke. As an example of the importance of cooperation, the tsunami disaster in 2004 showed that ASEAN members still have weaknesses in dealing with large-scale natural disasters. The experience that can be drawn from the disaster is that the regional joint emergency response cannot be immediately deployed to the field because there is no agency in ASEAN that specifically coordinates disaster management. (Kranser, 1999)

The tsunami incident in Indonesia has prompted ASEAN member countries to reorganize and strengthen their cooperation in the field of disaster management. Disaster management issues can no longer only be done at the sectoral level but must involve all

relevant sectors, not only at the national but also regional levels, even through international cooperation if necessary. (Kranser, 1999)

In this regard, the Government of Indonesia has taken the initiative to hold a Special Meeting of ASEAN Leaders Post-Earthquake and Tsunami (Tsunami Summit) in Jakarta on January 6, 2005. This Tsunami Summit, among others, resulted in a joint statement known as the Jakarta Declaration, namely Declaration on Action to Strengthen Emergency Assistance, Rehabilitation, Reconstruction and Prevention of the Impacts of the Earthquake and Tsunami Disasters". In addition to the above, there are several other important points of the Jakarta Declaration related to the ASEAN program, namely:

- 1 Utilization of civilian and military assets in disaster relief operations;
- 2 Establishment of the ASEAN Humanitarian Assistance Center (AHA Centre); and
- 3 Establishment of the ASEAN Information and Communication Sharing Network for Disasters. (Santiago, 2009)

As a follow-up to the agreement reached at the Tsunami Summit in Jakarta, in June 2005, ASEAN succeeded in finalizing the ASEAN Agreement on Disaster Management and Emergency Response (AADMER). The agreement was then signed by the ASEAN Foreign Ministers at the occasion of the 38th ASEAN Foreign Ministers Meeting in Vientiane, Laos, on 26 July 2005. This agreement (AADMER) reflects ASEAN's strong commitment to lowering disaster losses in the area and responding to disasters collaboratively. The massive experience of individual ASEAN Member States and ASEAN as a region in response to the mega-disaster was reflected in AADMER. This agreement reaffirms ASEAN's commitment to the Hyogo Framework for Action (HFA) and is the world's first legally enforceable HFA related agreement. It forms the cornerstone for disaster management measures in the region, including the AHA Centre's development. (Arumbinang, 2016)

AADMER is integrated, comprehensive and comprehensive because it covers all aspects and cycles of disaster management as follows:

1. Identification, assessment and monitoring of disaster risk;
2. Prevention and mitigation;
3. Early Warning;
4. Preparedness;
5. Emergency Response; and
6. Rehabilitation.

The AADMER Agreement entered into force on December 24, 2009 after being ratified by ten ASEAN member countries and made AADMER a response area to the need to establish a regional disaster management framework. (Imamura, 2011)

Due to the reason for accelerate the implementation of the ASEAN Agreement on Mitigation of Disaster and Rapid Response, the ASEAN Foreign Ministers Meeting agreed to establish a Standby Force for disaster management. In this case, each ASEAN member is expected to form a Standby Force, so that in the event of a major disaster in a member country, these standby force units will be immediately deployed and deployed to the disaster area. On 7 December 2010 in Vietnam, the ASEAN Defense Ministers discussed cooperation to overcome ASEAN natural disasters. This meeting pioneered the establishment of Joint

Operations other than war to assist the handling of natural disasters in one of the ASEAN member countries. This rapid response unit for natural disaster management consists of several elements of the Indonesian Army, Navy and Air Force. These troops are formed to cope with or take initial action when a natural disaster occurs. (Konoorayar, 2006)

A series of ASEAN Defense Ministers' Meetings held in 2011 in Indonesia, one of which focused on humanitarian operations and disaster relief (HADR). In this case, the importance of joint operations other than war in disaster management is a joint commitment among ASEAN countries. In connection with the Tsunami Summit in Jakarta, ASEAN succeeded in establishing the ASEAN Coordinating Center for Humanitarian Assistance on Disaster (AHA Center). The AHA Center based in Indonesia was formed on the basis of the objectives and principles of the ASEAN Declaration which states that: "within the limits of their capabilities, member countries are obliged to provide assistance to ease the burden on member countries affected by disasters". The international assistance provided will be coordinated by the AHA Center in the context of disaster management in the ASEAN region. In this case, any disasters related to earthquakes, tsunamis and landslides as well as forest fires can be immediately known and notified to other countries so that they can jointly help each other. (Konoorayar, 2006)

The existence of the AHA Center can provide benefits for ASEAN countries. The AHA center is expected to become a coordination and information center in disaster management in the ASEAN region. The AHA center is also expected to be able to provide accurate, fast and accurate information for ASEAN countries hit by disasters and to strengthen disaster management institutions.

### **3.2. Identity Dilemma for ASEAN in Disaster Management**

The tsunami tragedy in Aceh in 2004 noted that ASEAN as a regional community was not yet fully prepared to deal with natural disasters on a large scale. At the same time, the tsunami disaster also made people aware of the strong sense of belonging to the people of ASEAN countries. There is also adequate asset ownership to help neighbouring countries affected by the disaster. The disaster phenomenon in ASEAN has encouraged increased cooperation between members. After the disaster, ASEAN countries also met at the ASEAN meeting to increase cooperation in disaster management. They are committed to act appropriately and quickly when ASEAN countries experience natural disasters. (Arumbinang, 2016)

The ASEAN community already has the tools to strengthen its cooperation and togetherness in dealing with natural disasters, it just needs to be effective in its implementation in the field. ASEAN already has The ASEAN Agreement on Disaster Management and Emergency Response and The ASEAN Coordination Center for Humanitarian Assistance, the implementation of which can also include ASEAN+3, East Asia Forum and ASEAN Regional Forum. This unit is expected to be able to streamline the implementation of its duties in coordination and coherence among ASEAN countries to assist a country or a region that is experiencing a natural disaster. (Cipto, 2007)

Facing the phenomenon of natural disasters that occurred, ASEAN countries have also poured attention, solidarity and assistance to disaster victims. Not only ASEAN, but even the world's citizens are also mobilizing solidarity to show concern for disaster victims in Asean, especially the earthquake and tsunami in ASEAN. The Secretary General of the United Nations said that "it is an unprecedented disaster which requires an unprecedented response". Because

of that, what was seen in the aftermath of the disaster in Aceh was the extraordinary response of the world. This is a manifestation of the implementation of humanitarian diplomacy carried out by countries in the world. Of course, the commitments made jointly by the members of ASEAN countries must be faced with a challenge that has also become an identity for geopolitical organizations in the Southeast Asia Region, namely the principle of non-intervention (The ASEAN Way). (Cipto, 2007)

Furthermore, all ASEAN's legal frameworks that related to the disaster management more specifically on the management of international assistance during emergency response situation must be consistent with The Treaty of Amity and Cooperation (TAC). The treaty was adopted by all ASEAN member at the first Association of Southeast Asian Nations (ASEAN) Summit in Bali, Indonesia on 24 February 1976. This treaty is a foundational treaty by the ASEAN to establish a code of conduct to govern inter-State relations in Southeast Asia. (Arumbinang, 2016)

One of the most significant principle in TAC is non-intervention principle and became the identity of ASEAN. Article 2 explains that in establishing relations between members, it is based on fundamental principles, namely: (a) respecting freedom, sovereignty, equality, territorial integrity and national identity of each nation; (b) every country has the right to regulate the administration of its country free from external intervention; (c) the existence of the principle of non-intervention in the internal relations of fellow members. The existence of this article strengthens the existence of the principle of non-intervention within the framework of ASEAN cooperation.

This principle is also one of the five principles of peaceful coexistence contained in the United Nations Charter which was later adopted by the founders of ASEAN with certain adjustments to regional norms. Furthermore, each ASEAN member country has also agreed to oppose any form of interference by a country, both fellow and non-ASEAN members, in the domestic problems of other members. However, the principle of non-intervention actually contains values of respect for the sovereignty and territorial integrity of each country, the resolution of every political problem through negotiations and increased cooperation in the aspects of regional security and defense in accordance with the goal of establishing ASEAN, namely "to promote peace in the region". (Imamura, 2011)

Unfortunately, from a functional point of view, there are four obligations or obligations that each ASEAN member country must comply with as a consequence of the existence of the non-intervention principle, namely: (1). Abstinance from criticizing any action by a member state against its citizens, including violations of human rights, as well as making decisions regarding the membership of a country based on its system or form of government. (2). Criticizing the actions of a country that violates the principle of non-intervention. (3). Refuse recognition, application for asylum (sanctuary), or other forms of support for rebel groups (rebel groups) that disrupt the national stability of neighbouring countries. (4). Provide political support and material assistance to countries that are campaigning against subversive activities that destabilize the country. ASEAN's non-intervention policy is a reflection of the purpose of establishing the organization and also one of the historical impacts experienced by ASEAN member countries. (Alemanno, 2011)

In addition, ASEAN member countries, most of which are former colonies, are still traumatized and worried about intervention from outsiders. So, it is only natural that ASEAN members at that time agreed to include the principle of non-intervention in ASEAN. (Toman, 2006)

In resolving internal regional disputes, one of the main roles of Regional Organizations is to become a forum for consultation, organizing and providing a negotiation forum for member countries both in conflict situations and in conditions that have the potential to cause conflict. One of them is when faced with the reality of humanitarian issues that require a very flexible policy and joint work by ASEAN members, especially if a disaster causes and has an impact in the Southeast Asia Region so that it requires assistance from fellow ASEAN members and outside ASEAN. (Lai, 2009) The crisis is one of the biggest tests for ASEAN, related to the ability to protect lives in the region, the trust of the global community will also be an aspect that must be considered by ASEAN when it comes to humanitarian issues.

This case also risks ASEAN's legitimacy as a regional organization that should be able to protect its people and create all forms of peace in the region. Furthermore, the principle of non-intervention also causes delays in dealing with humanitarian crises in a country that will continue and individuals and groups who need assistance as soon as possible, but because of policies from the government of that country, the main aspects of human security proclaimed by the United Nations cannot be implemented. namely personal security, economic security, food security, health security, environmental security, community security and political security. (Santiago, 2009)

Where all that will be very slow to be obtained by disaster victims on a very large scale and require disaster management assistance by other countries. The ASEAN Charter provides a legal basis for the principle of non-intervention which makes ASEAN not have sufficient legitimacy and authority to intervene in several internal problems of its member countries, including in this case the issue of humanitarian assistance during disaster response. The principle of non-intervention is contained in article 2 of the ASEAN charter (1): (e) non-interference in the internal affairs of ASEAN member states, (f) respect the right of every member state to lead its national existence free from external interference, subversion and coercion. The principle of non-intervention has been firmly adhered to by ASEAN members in their regional policies, in addition to other principles such as mutual respect, consensus, dialogue and consultation. (Triyana, 2013)

The exception in question is that under certain conditions ASEAN may help its members' domestic problems. For example, the exception is that if a member country is having problems asking ASEAN for help, ASEAN may intervene in that country only in matters requested by the country concerned. ASEAN is seen by the world as the most important regional organization in the world besides the European Union. With the development of the Asia Pacific region, it is time for ASEAN to strengthen cooperation and strengthen the rules that can bind member countries to act in harmony, seeing that the Asia Pacific region today seems to be an increasingly 'crowded' future region. This of course must be seen and considered a very valuable opportunity for ASEAN by making several preparations to maintain stability in the region. The potential for natural disasters will of course continue to exist in this area, but by working together and having a good disaster management system, of course, it will reduce and accelerate recovery in disaster-stricken areas. The principle of non-intervention is still needed, what must be changed is the principle of non-intervention carried out by ASEAN when it comes to disaster management which requires a quick response from all parties.



#### 4. Conclusion

Natural disasters have become a real challenge for all nations and countries, especially for ASEAN countries which place this region as one of the areas with a very high level of disaster potential. Therefore, it is important for each country to know their respective capacities in disaster management in line with ASEAN's commitment to disaster management. In this case, disaster management in ASEAN can be used as a momentum to strengthen the foundation towards the ASEAN Community but also become a new chapter in running the ASEAN Way.

The problem of disaster management which was previously a domestic and national issue in the process of its development has turned into an international issue due to awareness of disaster management which forces open opportunities for international cooperation in disaster management. Disasters that have a very large impact will always force a good integrated regional interaction to provide better response to cope with disasters that have a very large impact so that it must be considered to reduce the principle of non-intervention carried out in ASEAN. Furthermore,

Because the ASEAN Charter states that ASEAN's future goals are to maintain and enhance peace, security and stability and further strengthen peace-oriented values in the region, and to enhance regional resilience by promoting greater political, security, economic and socio-cultural cooperation.

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