A COMPARATIVE STUDY ON INTERNATIONAL DISASTER LAW APPLICABLE TO SPAIN AND THE PHILIPPINES* 

Un estudio comparado sobre el Derecho Internacional de Catástrofes aplicable a España y Filipinas

Andrés Bautista-Hernáez
Becario-colaborador del área de Derecho Internacional Público y Relaciones Internacionales
Universidad de Málaga
abautista@uma.es


Recibido: 12.04.2018
Aceptado: 25.06.2018

Resumen

Debido al gran número de víctimas que dejan y a sus nefastas consecuencias, las catástrofes naturales constituyen hoy uno de los problemas más importantes. Sin embargo, la regulación internacional en este ámbito se caracteriza por tener considerables vacíos legales, y está compuesta principalmente de normas regionales y nacionales. Tanto España como Filipinas se ven afectados por estas catástrofes, si bien es cierto que este último ocupa el primer puesto en el ranking de número de muertes en el sudeste asiático. Este documento tiene como objetivo analizar el marco normativo aplicable en ambos Estados en relación con esta materia, exponiendo sus principales fortalezas y debilidades.

A Comparative Study on International Disaster Law applicable to Spain and the Philippines Andrés Bautista-Hernáez

Palabras clave

ASEAN; estudio comparativo; Derecho Internacional sobre catastrofes naturales; Ley 17/2015; España; Filipinas; Ley de la República No. 10121 de 2010.

Abstract

Disasters constitute nowadays one of the most relevant issues due to its large number of victims and its harmful consequences. However, the international disaster regulation contains considerable legal weaknesses and it is comprised eminently of regional and municipal rules. Both Spain and The Philippines are affected by disasters, albeit the latter constitutes the top State in number of death in Southeast Asia. This paper aims to analyse the applicable normative framework in both States regarding natural disasters, setting forth its main strengths and weaknesses.

Keywords

ASEAN; Comparative study; International Disaster Law; Law 17/2015; Spain; The Philippines; Republic Act No 10121 of 2010.
I. INTRODUCTION

Disasters constitute a threat to both national and international security. Its effects may destroy or reduce significantly one country welfare state, produce state budgetary constraints, restriction to human rights, etcetera. The effects of a catastrophic situation depends on many factors, but mainly, the occurrence of these phenomena or the degree of vulnerability of the society, the country’s level of development and the improvement of disaster management systems within its territory and at international level.

The Southeast region is one of the most affected areas by disasters around the world. Special reference has to be made to The Philippines, which holds a prominent position compared to its neighbour States.¹ In fact, data shows that this State has a huge trouble to deal with, and that it has been a constant issue in its history.² Tables below shows data of natural disasters occurred in Spain and the Philippines from 2010 to 2017. If we compare these numbers, the Philippines has had more than one hundred catastrophic events than Spain, resulting in 75.145.098 people affected (almost the double of Spanish population). This is one of the reasons why disaster management is of vital importance for the Philippines.

# Natural Disasters in Spain 2010-2017

<table>
<thead>
<tr>
<th>Year</th>
<th>Disaster Subtype</th>
<th>Occurrence</th>
<th>Total Deaths</th>
<th>Injured</th>
<th>Affected</th>
<th>Homeless</th>
<th>Total Affected</th>
<th>Total Damage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>Extra-tropical storm</td>
<td>1</td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>340000</td>
</tr>
<tr>
<td>2010</td>
<td>Riverine flood</td>
<td>1</td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>30</td>
</tr>
<tr>
<td>2011</td>
<td>Ground movement</td>
<td>1</td>
<td>10</td>
<td>300</td>
<td></td>
<td>15000</td>
<td>15300</td>
<td>200000</td>
</tr>
<tr>
<td>2011</td>
<td>Riverine flood</td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td>2400</td>
<td>2400</td>
</tr>
<tr>
<td>2012</td>
<td></td>
<td>1</td>
<td>4</td>
<td>6</td>
<td></td>
<td></td>
<td></td>
<td>6</td>
</tr>
<tr>
<td>2012</td>
<td>Riverine flood</td>
<td>1</td>
<td>10</td>
<td>35</td>
<td></td>
<td></td>
<td>635</td>
<td>395000</td>
</tr>
<tr>
<td>2013</td>
<td>Extra-tropical storm</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>Flash flood</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>600</td>
<td>600</td>
</tr>
<tr>
<td>2014</td>
<td>Convective storm</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>Flash flood</td>
<td>2</td>
<td>8</td>
<td></td>
<td>150</td>
<td></td>
<td>150</td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td></td>
<td>1</td>
<td>5</td>
<td></td>
<td>150</td>
<td></td>
<td>150</td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>12</strong></td>
<td><strong>46</strong></td>
<td><strong>341</strong></td>
<td><strong>3930</strong></td>
<td><strong>15000</strong></td>
<td><strong>19271</strong></td>
<td><strong>935000</strong></td>
</tr>
</tbody>
</table>

A Comparative Study on International Disaster Law applicable to Spain and the Philippines  
Andrés Bautista-Hernáez

<table>
<thead>
<tr>
<th>Year</th>
<th>Disaster Subtype</th>
<th>Total Deaths</th>
<th>Total Affected</th>
<th>Total Homeless</th>
<th>Injured</th>
<th>Homeless</th>
<th>Deaths</th>
<th>Injured</th>
<th>Homeless</th>
<th>Deaths</th>
<th>Injured</th>
<th>Homeless</th>
<th>Deaths</th>
<th>Injured</th>
<th>Homeless</th>
<th>Deaths</th>
<th>Injured</th>
<th>Homeless</th>
<th>Deaths</th>
<th>Injured</th>
<th>Homeless</th>
<th>Deaths</th>
<th>Injured</th>
<th>Homeless</th>
<th>Deaths</th>
<th>Injured</th>
<th>Homeless</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>Ash fall</td>
<td>1</td>
<td>4</td>
<td>22</td>
<td>2</td>
<td>2</td>
<td>14161</td>
<td>118</td>
<td>22</td>
<td>2059840</td>
<td>2059862</td>
<td>925</td>
<td>78</td>
<td>2059840</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Flash flood</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>2</td>
<td>295412</td>
<td>133</td>
<td>2</td>
<td>787073</td>
<td>787073</td>
<td>927</td>
<td>78</td>
<td>787073</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Riverine flood</td>
<td>5</td>
<td>44</td>
<td>44</td>
<td>44</td>
<td>44</td>
<td>2595454</td>
<td>123939</td>
<td>123939</td>
<td>284420</td>
<td>284420</td>
<td>284420</td>
<td>284420</td>
<td>284420</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Tropical cyclone</td>
<td>3</td>
<td>212</td>
<td>212</td>
<td>212</td>
<td>212</td>
<td>2595412</td>
<td>123939</td>
<td>123939</td>
<td>284420</td>
<td>284420</td>
<td>284420</td>
<td>284420</td>
<td>284420</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Viral disease</td>
<td>1</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Ash fall</td>
<td>2</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Flash flood</td>
<td>7</td>
<td>33</td>
<td>33</td>
<td>33</td>
<td>33</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td>737</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Bacterial disease</td>
<td>2</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Ground movement</td>
<td>2</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td>23</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Landslide</td>
<td>3</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td>29</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Riverine flood</td>
<td>8</td>
<td>89</td>
<td>89</td>
<td>89</td>
<td>89</td>
<td>89</td>
<td>89</td>
<td>89</td>
<td>89</td>
<td>89</td>
<td>89</td>
<td>89</td>
<td>89</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Tropical cyclone</td>
<td>1</td>
<td>33</td>
<td>33</td>
<td>33</td>
<td>33</td>
<td>33</td>
<td>33</td>
<td>33</td>
<td>33</td>
<td>33</td>
<td>33</td>
<td>33</td>
<td>33</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Viral disease</td>
<td>1</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td>30</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Bacterial disease</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Ground movement</td>
<td>2</td>
<td>114</td>
<td>114</td>
<td>114</td>
<td>114</td>
<td>114</td>
<td>114</td>
<td>114</td>
<td>114</td>
<td>114</td>
<td>114</td>
<td>114</td>
<td>114</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2010</td>
<td>Landslide</td>
<td>1</td>
<td>75</td>
<td>75</td>
<td>75</td>
<td>75</td>
<td>75</td>
<td>75</td>
<td>75</td>
<td>75</td>
<td>75</td>
<td>75</td>
<td>75</td>
<td>75</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Year</td>
<td>Disaster Subtype</td>
<td>Occurrence</td>
<td>Total Deaths</td>
<td>Injured</td>
<td>Affected</td>
<td>Homeless</td>
<td>Total Affected</td>
<td>Total Damage</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>------------------</td>
<td>------------</td>
<td>--------------</td>
<td>---------</td>
<td>----------</td>
<td>----------</td>
<td>---------------</td>
<td>--------------</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>Riverine flood</td>
<td>6</td>
<td>156</td>
<td>16</td>
<td>4565850</td>
<td>35762</td>
<td>4601628</td>
<td>75330</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2012</td>
<td>Tropical cyclone</td>
<td>9</td>
<td>2039</td>
<td>2724</td>
<td>7557756</td>
<td></td>
<td>7560480</td>
<td>918137</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>Flash flood</td>
<td>1</td>
<td>10</td>
<td></td>
<td>507769</td>
<td></td>
<td>507769</td>
<td>2800</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>Ground movement</td>
<td>1</td>
<td>230</td>
<td>976</td>
<td>3221248</td>
<td></td>
<td>3222224</td>
<td>51459</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>Riverine flood</td>
<td>4</td>
<td>95</td>
<td>59</td>
<td>3992510</td>
<td></td>
<td>3992569</td>
<td>2231988</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2013</td>
<td>Tropical cyclone</td>
<td>8</td>
<td>7415</td>
<td>28858</td>
<td>17915713</td>
<td></td>
<td>17944571</td>
<td>10136563</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>–</td>
<td>2</td>
<td>1</td>
<td></td>
<td>102720</td>
<td></td>
<td>102720</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>Flash flood</td>
<td>1</td>
<td>4</td>
<td></td>
<td>3770</td>
<td></td>
<td>3770</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>Riverine flood</td>
<td>1</td>
<td></td>
<td></td>
<td>99185</td>
<td></td>
<td>99185</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2014</td>
<td>Tropical cyclone</td>
<td>9</td>
<td>326</td>
<td>2269</td>
<td>13066714</td>
<td></td>
<td>13068983</td>
<td>1062899</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>–</td>
<td>4</td>
<td>44</td>
<td></td>
<td>230429</td>
<td></td>
<td>230429</td>
<td>200</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>Drought</td>
<td>1</td>
<td></td>
<td></td>
<td>181687</td>
<td></td>
<td>181687</td>
<td>84399</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>Riverine flood</td>
<td>1</td>
<td>9</td>
<td></td>
<td>880</td>
<td></td>
<td>880</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2015</td>
<td>Tropical cyclone</td>
<td>10</td>
<td>148</td>
<td>131</td>
<td>3602774</td>
<td>3300</td>
<td>3606205</td>
<td>1881367</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>–</td>
<td>2</td>
<td>26</td>
<td></td>
<td>1271907</td>
<td></td>
<td>1271907</td>
<td>9320</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2016</td>
<td>Tropical cyclone</td>
<td>6</td>
<td>10</td>
<td>2</td>
<td>1069297</td>
<td></td>
<td>1069299</td>
<td>67093</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>124</td>
<td>13835</td>
<td>165973</td>
<td>74940063</td>
<td>39062</td>
<td>75145098</td>
<td>17598811</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: *Country Profile, Guha-Sapir, D., Below, R., Hoyois, Ph., EM-DAT: The CRED/OFDA International Disaster Database... op. cit.*
Furthermore, disaster management regulation has to face problems such as the misleading and overcomplicated terminology.\(^3\) In that sense, there is no uniformity on defining the term “disaster”. Doctrinal debate still goes on, but some definitions where provided by international instruments and academia.\(^4\) The United Nations International Law Commission (ILC) ended up its work on the protection of persons in the event of disaster defining the term as “a serious disruption of the functioning of a society”.\(^5\) For its part, the 2005 Vientiane Agreement\(^6\) gives a similar definition.\(^7\) The Philippine Disaster Risk Reduction and Management Act of 2010\(^8\) provide a large notion of the term, as follows:

“A serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources. Disasters are often described as a result of the combination of: the exposure to a hazard; the conditions of vulnerability that are present; and insufficient capacity or measures to reduce or cope with the potential negative consequences, Disaster impacts may include loss of life, injury, disease and other negative effects on human, physical, mental and social well-being, together with damage to

---

\(^3\) This problem is not new, as it was pointed out, in the field of sociology, long time ago in Porfiriev 1995: 286.

\(^4\) Authors that have work on this topic are, inter alia, Auly, Laymond, Prat y Veiga 2012; Caron y Leben 2001: 33; United Nations 2009: 13-14; Park 2014: 291-307; Pérez de Armiño 2000; Prieto Sanjuán y Thouvenin 2011: 41-50.


\(^7\) Emphasis added; Article 1 paragraph 3.

property, destruction of assets, loss of services, social and economic disruption and environmental degradation”.9

In the European scene a similar definition can be found in the European Union (EU) legislation and in domestic law of its Member States (MS). The Decision No. 1313/2013/EU on a Union Civil Protection Mechanism (UCPM)10 set out the following definition: “Disaster means any situation which has or may have a severe impact on people, the environment, or property, including cultural heritage”. Also, the Spanish national law defined disaster (catástrofe) as “a situation or event that disrupts the functioning of a community”.11 Therefore, taking into account the similarities between definitions described, one of the main idea is that disaster reflects in some way a “serious disruption of the functioning of a community”.

International disaster law (IDL) regulates a wide array of issues during the various phases of natural, anthropogenic or hybrid disasters.12 These matters are, inter alia, “the obligation of the States to prevent or mitigate a disaster and to appropriately give assistance, the relations between the disaster-affected State and other States or international organizations, the way of request and offer assistance, the status of relief personnel”.13 Likewise, IDL has to give an adequate response to these matters during all the phases of the so call disaster management cycle which includes: prevention, preparedness, response and reconstruction.14

---

9 Sec. 3, Paragraph (h).


11 Article 2 paragraph 6 of Law 17/2015, of 9 July, del Sistema Nacional de Protección Civil, BOE No 164 of 10 July 2015.

12 According to the inception of the hazard, disasters could be classified in three different kinds: natural, anthropogenic (or man-made) or hybrid. The latter is also known as Natech or Na-Tech accidents; they are defined as “accidents initiated by a natural hazard or disaster which result in the release of hazardous materials […] This includes releases from fixed chemical installations and spills from oil and gas pipelines”; see http://enatech.jrc.ec.europa.eu/. This classification has been used by academia, inter alia, Pérez de Armino 2000; Institut de Droit International 2003: 3-4; International Law Commission 2008: 16; Fernández Liesa y Olivia Martínez 2012: 19.

13 See Guttry, Gestri y Venturini 2012: 9

14 There are many activities that fall under these four main phases, such as, disaster risk reduction (DRR), mitigation and early recovery. See on this issue Guttry, Gestri y Venturini 2012: 8-9
II. CONVENTIONAL INTERNATIONAL DISASTER LAW APPLICABLE TO SPAIN AND THE PHILIPPINES

The sources of Public International Law (PIL) are treaties, international custom, general principles of law, judicial decisions and academia scientific publishing, among others. The bound of the present paper does not allow a comprehensive research of all aforementioned sources of law; thereby we will focus on conventional rules applicable to the Philippines and to Spain. Some other general rules may be applicable even if they could not be enforced. These include United Nations (UN) documents, particularly its General Assembly Resolutions (UNGA Res.), Disaster Risk Reduction


16 With the exception of the UN Security Council Resolutions, General Assembly Resolutions and other UN documents do not represent mandatory rules of PIL, but may be considered significant evidence of an ongoing customary rule or principle.

17 See the following latest key documents, among many others, UN Secretary-General Reports A/54/132-E/1999/80, 21 July 1999 (The Geneva Mandate on Disaster Reduction), A/57/578, 29 October 2002 (International cooperation on humanitarian assistance in the field of natural disasters, from relief to development); A/71/230, 29 July 2016 (on implementation of the International Strategy for Disasters Reduction); UNGA Resolutions A/RES/46/182, 19 December 1991 (Strengthening of the coordination of humanitarian emergency assistance of the United Nations), A/RES/59/279, 28 January 2005 (Strengthening emergency relief, rehabilitation, reconstruction and prevention in the af-
Declarations comprising the Sendai Framework\textsuperscript{18} and the Hyogo Framework,\textsuperscript{19} climate change agreements (such as the Paris Agreement\textsuperscript{20}), and the recent work of the ILC on this subject.\textsuperscript{21}

1. *Multilateral level*

We could find two key multilateral universal agreements related to natural disasters: the 1998 Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations\textsuperscript{22} (hereinafter the Tampere Convention) and the 2000 Framework Convention in Civil Defence Assistance\textsuperscript{23} (henceforth, the Framework Convention in Civil Defence).

Spain accessed to the Tampere Convention on 27 February 2006,\textsuperscript{24} but the Philippines have not signed nor ratified the agreement to date. Regarding the...
Framework Convention in Civil Defence it has been ratified only by four States: Jordan, Libyan Arab Jamahiriya, Tunisia and Ukraine; all of them MS of the ICDO, except Ukraine. In that sense, despite the importance and a truly lack of other universal agreements on this topic, the Framework Convention in Civil Defence has not been ratified neither by Spain nor by the Philippines. Probably this decision is related to the fact that they are not MS of ICDO, however nothing would impede the ratification of the Agreement if they really intended to do so.

It can therefore be concluded that only Spain is compelled by a set of international obligations due its ratification to the Tampere Convention, and none of the above agreements is applicable to the Philippines. However, the Tampere Convention’s purpose is not an all-encompassing regulation of disasters. It only contains rules regarding the procedures for the provision and request of telecommunication support in the event of a disaster. Albeit, this treaty recognizes the right of a State to give their consent prior to receive assistance within its territory and the right to control and to coordinate aid provided.

2. Regional level

Regarding the Philippines, disasters regulation has been strongly developed within the regional sphere, in particular, through the Association of

fall within the area of responsibility of the European Community, Spain cannot implement those decisions unless the European Community becomes a party to the Convention”. Up to date, the European Union is not part of this Convention, thus we may find a lack of implementation of related decisions due to a distribution of competences. See the full text of declarations and reservations at https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXV-4&chapter=25&lang=en.


26 See the status of signatures, accessions and ratifications of both treaties at United Nations Treaty Collection, online resource available throw https://treaties.un.org.

27 Fernández Liesa y Olivia Martínez 2012: 27.

Southeast Asian Nations (ASEAN). The latter is based on the purposes of to promote active collaboration and mutual assistance on matters of common interest, inter alia, in the economic, social, cultural, technical, scientific and administrative fields. Bearing this in mind, ASEAN constitutes the most appropriate sphere for regional disaster management. There are a number of instruments adopted within this Organisation regulating catastrophe-related issues, such as, the mutual assistance, emergency food supply, and disaster management itself.

There are two basic instruments applicable for managing disasters: the 2005 Vientiane Agreement and the 2011 Bali Agreement. The former, regulate regional and international cooperation at the various stages of disaster, but mainly on prevention, preparedness and response. One of the most relevant aspects of this instrument is the creation of the ASEAN Standby

---

29 The ASEAN was established by the ASEAN Declaration (Bangkok Declaration) done in Bangkok on 8 August 1967 (United Nations, Treaty Series, vol. 1331, p. 243) by the founding fathers, namely Indonesia, Malaysia, the Philippines, Singapore and Thailand. Currently, the Organization has ten MS: the five founding members and Brunei Darussalam (joined on 7 January 1984), Viet Nam (on 28 July 1995), Lao Peoples Democratic Republic’s and Myanmar (on 23 July 1997), and Cambodia (on 30 April 1999). The ASEAN Secretariat is based in Jakarta, Indonesia. Later in 2007 the ASEAN Member States adopted the Charter of the Association of Southeast Asian Nations, on 20 November 2007, entered into force 15 December 2008. Currently, the Philippines hold the presidency of ASEAN for 2017; see http://www.asean2017.ph/. About this international organization and its international personality see Chesterton, S., “Does ASEAN exist? The Association of Southeast Asian Nations as an International Legal Person”, Singapore Yearbook of International Law, vol. 12 (2008), pp. 199-211.

30 See Bangkok Declaration, article Second, paragraph 3.

31 The ASEAN Declaration on Mutual Assistance on Natural Disasters of 26 June 1976 and the ASEAN Agreement on Transboundary Haze Pollution of 10 June 2002.


34 Regulating: risk identification, monitoring (article 5), mitigation (article 6) and early warning systems (article 7).

35 Setting out of regional contingency/response plans and standard operating procedures for regional actions (article 8).

36 Procedure for requesting assistance is regulated in article 11.
Arrangements for Disaster Relief and Emergency Response (article 9); it provides equipment and human resources earmarked for disaster response. It is established on a voluntary basis by each State Party, and must be listed by the ASEAN Coordinating Centre for Humanitarian Assistance on disaster management. The Bali Agreement creates the ASEAN Coordinating Centre for Humanitarian Assistance on disaster management (AHA Centre) based on the Terms of reference included as Annex in the 2005 Vientiane Agreement. The AHA Centre serves as a requesting point throw which disaster relief could be applied for; but also it could be demanded directly to another State Party. In my opinion, it seems not to be very effective since there is not a specific pooling of command and control of disaster management. For that reason, in practice, the AHA Centre constitutes a kind of “voluntary” liaison point between MS, lacking efficiency and effectiveness in managing a rapid response to disasters.

Spain, as member of the EU shares its disaster related competencies with this regional Organization. EU regulation on disaster mainly concerns civil protection, which implement the solidarity clause under article 222 of the Treaty of Functioning of the European Union (FTEU). Civil protection policy culminated in Decision No. 1313/2013/EU on a Union Civil Protection Mechanism, in force since 2014. It brought many enhancements from the

37 The AHA Centre is located in Jakarta (Indonesia). This instrument lays down the rules governing its functioning, its governing bodies and its legal personality in the territory of the host country.


previous Community mechanism for Civil Protection. The Decision focuses on prevention, preparedness and response phases of disaster management. The EU disaster management creates the European Emergency Response Capacity which aims to improve response relief. It also established a coordination centre (the Emergency Response Coordination Centre) with more and best-defined functions and powers than its ASEAN counterpart (the AHA Centre).

Both regions have in common a number of security challenges, besides disaster management, that requires a nearest cooperation between them. Spanish and Philippines regional mechanisms are based on solidarity between their neighbouring states, as a mean of promoting amity assistance to disasters. Both systems creates a coordination focal point with pooling capacities and specific budgetary resources (within the text or deferred for upcoming one), but only the EU brought in an specific evaluation system of the Decision.

3. Domestic level

Philippines municipal regulation on disasters was adopted as the Philippine Disaster Risk Reduction and Management Act of 2010 (Republic Act No. 10121 of 2010), and it is implemented by Implementing Rules of 27 September 2010. These set down the legal basis for national disaster management in

---


41 Provided under Article 11 of Decision No. 1313/2013/EU, it is formed by a voluntary pool of capacities from the MS, as well as the ASEAN Standby Arrangements for Disaster Relief and Emergency Response.

42 It is regulated by article 8 of Decision No. 1313/2013/EU. It serves as coordination and monitoring focal point, operating 24/7, and attached to the Directorate-General for European Civil Protection and Humanitarian Aid Operations (ECHO), formerly known as the European Community Humanitarian Aid Office.

43 See Wahlers 2006: 53

44 See article 34 of Decision No. 1313/2013/EU.

the State. The mechanism is based in two main pillars: the National Disaster Risk Reduction and Management Framework (NDRRMF) and the National Disaster Risk Reduction and Management Plan (NDRRMP). It also provides two different bodies: the Office of Civil Defence (OCD) and the National Disaster Risk Reduction and Management Council (NDRRMC). The former has the function of formulate, implement, and harmonize policies, while OCD is in charge of operational powers. The NDRRMF is developed by the NDRRMC and provides a “comprehensive, all-hazard, multi-sectorial, inter-agency and community-based approach to disaster risk management”. The NDRRMP, that brings goals and specific objectives for disaster risk reduction, is conveyed and implemented by the OCD.

Philippine domestic legislation takes actions in the four phases of disaster management cycle by providing policies and plans throw the NDRRMP. Also, an information and monitoring mechanism (the Emergency Response Integration Centre) has been established for gather pieces of information to be used in relief operations.

Spanish key legislation on national disaster management was amended in 2015, creating the National Civil Protection System (NCPS). It repealed the previous Law 2/1985 of 21 January on Civil Protection. The law adopted

48 By setting up the National Disaster Risk Reduction and Management Operations Center (NDRRMO), operating 24 hours, see Republic Act No. 10121 of 2010, Sec. 9 (n).
49 See Republic Act No. 10121 of 2010, sec. 3 (y).
50 Sec. 3 (z), Republic Act No. 10121 of 2010. The NDRRMP “aims to strengthen the capacity of the national government and the local government units (LGUs), together with partner stakeholders, to build the disaster resilience of communities, and to institutionalize arrangements and measures for reducing disaster risks, including projected climate risks, and enhancing disaster preparedness and response capabilities at all levels”; see Sec. 2 (e), Republic Act No. 10121 of 2010.
51 It has a broad scope of action, taking measures: “to all aspects of disaster risk reduction and management, including good governance, risk assessment and early warning, knowledge building and awareness raising, reducing underlying risk factors, and preparedness for effective response and early recovery”; see Republic Act No. 10121 of 2010, sec. 4.
52 It has also been put in place a mobile alert system in the event of a disaster by Republic Act No. 10639, an Act mandating the telecommunications service providers to send free mobile alerts in the event of natural and man-made disasters and calamities, 20 June 2014, available at http://www.ndrrmc.gov.ph/attachments/article/2570/Republic_Act_No_10639.pdf.
53 See Law 17/2015.
responds to the commitments undertaken by the UCPM at the European level in terms of national monitoring and risk assessment. The main purpose of the Spanish instrument is to put accent in prevention, integration, inter-administrative coordination and effectiveness on disaster response. To achieve these goals a national coordination centre (in Spanish: Centro Nacional de Seguimiento y Coordinación de Emergencias de Protección Civil) was established. It will perform and manage disaster response on a national level. The NCPS may take actions on all emergency cycle (forecast, prevention, planning, intervention, recovery and general coordination).

Both States set down very important pieces of legislation. For the very first time, the Spanish law included an article dedicated to terminology. Philippines law comprised eight pages of definitions of key concepts. This reflects the importance of this issue in disaster management. They also include penalty clauses to avoid infringements of regulations. Regarding the ways of financing of national mechanisms, Philippines law include a budget provision covering one billion pesos (approx. 18 million Euros). Albeit, Spanish law did not include any budgetary restraint; quite astonishingly, it stated that “the measures included within this law must not mean an increase of budget appropriations”. In my opinion, this imposes a lack of efficacy in implementation of disaster management policies due to economic necessities.

Despite the relevance of instruments for disaster management within regional integration organization, we found no specific mention to the ASEAN mechanism in Philippine law. There is only a generic clause in Sec. 6 (q) about the functions of the NDRRMC that states as follows: “Coordinate or oversee the Implementation of the country’s obligations with disaster management treaties to which it is a party…”. On the other hand, Spanish laws include particular dispositions referred to the Mechanism. This is probably due to the closest relationship between EU and States Members, which are not the same that in ASEAN and Philippines.

56 Regulated in article 18 of Law 17/2015.
57 Articles 12 paragraph 3 and 14 paragraph 1 of Law 17/2015.
58 Regulated under Title II chapter II, Law 17/2015.
59 Covered in Title II chapter III, Law 17/2015.
60 Immediate emergency response is regulated in Title II chapter IV, Law 17/2015.
61 Regulated in Title II chapter V, Law 17/2015.
62 One of mechanisms through the general coordination is implemented is the declaration of a “national concern emergency”, regulated in Title II chapter VII, Law 17/2015.
63 Seventh additional provision, Law 17/2015.
64 Emphasis added.
III. CONCLUSIONS

This paper has addressed the conventional and domestic legal rules applicable to disaster management in Spain and in the Philippines. It was made clear that instead the lack of general international treaties, regional and national regulation prevail to date.

With regard to the regional system, there are differences in the commitments undertaken between the national and the supranational organizations, which are reflected in the legislation adopted. Spain, member of the EU, has specifics obligations due to a deeper transfer of sovereignty; its national law was updated but also it had to integrate obligations set forth by the UCPM to the States Members. The Philippines, in the other hand, is part of a regional system (the ASEAN); however, its national law of 2010 did not set up specific measures to implement regional assignments. It only contains a general provision for ensuring alignment with international agreements adopted by the State.

Both regional systems highlight the cooperation between Member States as one of the key element of disaster management, albeit we could find an even more refined coordination instrument in the European field. In fact, the Vientiane Treaty of 2005 did not create the ASEAN Coordinating centre; it was established by the 2011 Bali Treaty (in force since 2014), almost 10 years later.

In my opinion, a strong domestic system is crucial to face the challenge of disaster phenomena. It is necessary not only to adopt series of principles and “proclaiming rights and duties” but also set up structural mechanism and take clear actions in prevention, preparedness, response and reconstruction. Both national laws allow performing activities in the four phases of disaster management cycle, including recovery. They also lay down evaluating procedure to assess deficiencies and enhance the mechanisms.

In conclusion, disasters are a menace not only of welfare state but of the individual itself in all its ways of live. International law has to give adequate answers to this matter. As a corollary, we bring the words of the former UN Secretary General Mr Ban Ki-Moon pronounced in the 2016 international day for disaster reduction:

“We can replace material possessions, but we cannot replace people. I am repeatedly appalled at how many people die in disasters. The majority of victims are invariably the poor and vulnerable”.

In this sense, the challenge is to give an effective and efficient response to disasters under a humanize international law.

BIBLIOGRAPHY


PEREZ DE ARMINO, K. *Diccionario de Acción Humanitaria y Cooperación del Desarrollo*, Icaria/Hegoa (Universidad del País Vasco, Bilbao, 2000).


