

Juridical review of disaster management policy in ASEAN and the correlation with the domestic management system of disaster in Indonesia

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Abstract. Southeast Asia was in a natural disaster thus the management was supposed to be a priority to the existing states in this territory. It is the most vulnerable to disaster in the world. By then, the member states of ASEAN agree to issue the regulation for disaster management, ASEAN Agreement on Disaster Management and Emergency Response (AADMER) that in forwarding established ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management (AHA Centre). It is facilitating cooperation and coordination for disaster management in the ASEAN territory. The organization was established in Indonesia as a member state with potential disaster. To reinforce the regulation and disaster management system, the government issues Act No.24 of 2007 on disaster management as the base and manual. The policy refers to the activities implemented immediately for an accident in control arising worst impact, involving rescue and evacuation of the victim, properties, compliance of demand, shelter, refugees handling, and facilities-infrastructure restoration. Moreover, the Act regulating disaster mitigation-based layout system set in an attempt to improve safety and living comfort.

1 Introduction

Southeast Asia was in potential natural disaster thus the management was supposed to be a priority to all states in this territory. It is the most vulnerable to all kinds of natural disasters in the world. The causing factor is that geographically Southeast Asia span between potential tectonic layers resulting in an earthquake, volcano eruption, and tsunami. Moreover, the area is located among the ocean, Indian and Pacific triggering hurricanes.[1]

One of the most horrible natural disasters of the Tsunami of Aceh in December 2004 caused by seismic in the Indian Ocean killed more than 200.000 people. Hurricane in Myanmar of 2008 with 130.000 victims. The natural disaster in Asia does not only cause fatalities but material also. According to the chief of Badan Nasional Penanggulangan Bencana (BNPB), Willem Rampangilei in the speech of the 29th ASEAN Committee on Disaster Management (ACDM), the member states of ASEAN experiences the high-risk natural disaster with the potential loss of material about US\$4.6 billion or 0.2 percent of gross domestic income annually. Based on data from World Bank since 2000, more than 100 million people were impacted by natural disasters and almost all kinds potentially occurred in ASEAN such as

earthquakes, volcano eruptions, tsunami, floods, cyclones, landslides, and drought.[2]

Under the situation, as the institution for member-states cooperation in Southeast Asia, ASEAN must take an action to minimize the risk as low as possible. The community already has an instrument to reinforce the cooperation and unity for natural disaster management, but the effectiveness must be improved in the implementation.

In the ASEAN Ministerial Meeting on Disaster Management (AMMDM) summit was issued ASEAN Agreement on Disaster Management and Emergency Response (AADMER) by ASEAN Committee on Disaster Management (ACDM) as the coordination center. AADMER is the regional framework with proactive for cooperation, coordination, technical assistance, and mobilization of resources in the whole aspect of disaster management.

Moreover, the ASEAN community focused on disaster management policy under the ASEAN Regional Forum (ARF) and ASEAN Defense Ministerial Meeting Plus (ADMM Plus) with all the members including the speech partner state of ASEAN. The focus of institutions is cooperation in support of humanitarian and assistance as a part of disaster management in Southeast Asia. One of the most important components in the AADMERs agreement is the establishment of the ASEAN

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Coordinating Centre for Humanitarian Assistance on Disaster Management (AHA Centre) in 2011. This intergovernmental organization was established by ten member states of ASEAN with the purpose to facilitate the cooperation and coordination of disaster management for member states of ASEAN.

As a member of ASEAN, Indonesia is the island's state located in tectonic plates geographically, Asia Continental, Australia, India Ocean, and Pacific. There is a volcanic belt in the south and east span from Sumatera-Java-Nusa Tenggara-Sulawesi with the side of old volcanic mountains and lowland dominated by swamps. It is vulnerable to all kinds of a disaster such as eruptions, earthquakes, tsunami, and landslides.[3]

Data of Badan Nasional Penanggulangan Bencana (BNPB, 20005) shows that more than 2000 disaster occurred since 2002 to 2005. It is consisting of 743 floods, 615 droughts, 222 landslides, and 217 fires. The total of victims since the period is 165.945 people who died by earthquake and tsunami, and 2.223 of social conflicts. Furthermore, the flood caused 2.665.697 people to lose their houses and become refugees. According to the Bappenas mapping, Indonesia was suffering from seven huge disasters since 2004-2007 with enormous damages caused by the Tsunami of Aceh (2004), Avian influenza (2004-2005), volcano eruption (2006), the earthquake of Yogyakarta (2006), Lapindo (2006), the tsunami of south Java (2006) and the flood of Jabodetabek (2007). It is predicted that the total loss of material is 110.4 trillion.

Indonesia realizes that the disaster must be handled seriously since an earthquake followed by a tsunami occurred in Aceh in 2004. Disaster is the most comprehensive discussion and multidimensional. In response to the increasing disaster annually, consideration to the disaster management must be understood and implemented by all concerned parties. The disaster is a concern for all parties. Consequently, periodically Indonesia establishes the national system of disaster management.[4]

Therefore, the required system and policy of disaster management provide manual or standard when disasters happen by nature, engineering, or social factors. The regulation required the base of law to take any action efficiently and immediately to minimize the loss impact. Another important factor is the appointment of a responsible party for coordination when a disaster has happened. Therefore, issuing Act No.24 of 2007 on disaster management has important meaning as the manual of concerned parties for disaster management much occurred in Indonesia.

On the other side, it is important to consider the international regulation of disaster to compare the system or policy for disaster management such as ASEAN Agreement on Disaster Management and Emergency Response implemented in ASEAN and the other one.

2 Methods

Dominantly, a method used in this research is "normative juridical" applied by literature, and the observed data is secondary with primary law material, secondary, tertiary,

etc.[5] In correlation with the research, use published laws relate to the research objects consisting of regulation on disaster applied in ASEAN and Indonesia, textbook, journal, dictionary, any comments, and judge's decision. Moreover, there is no non-law material used in relevant and supporting research.

The study use technique and processing method and "qualitative data analysis". In general, processing and analysis consist of (1) data reduction, (2) simplification and presentation of data, and (3) verification of result and conclusion. The data analysis was arranged simultaneously by data processing, even it was begun since the data collection process. As the legal research, the qualitative analysis used is juridical. Therefore, the phases of data analysis are the simplification of the data processing phase only.

3 Analysis and Discussion

3.1 The Legal Aspect of Disaster Management Policy System In ASEAN

There was established AHA Centre in ASEAN or Humilitarian Assistance of ASEAN as the institution o international organization in 2007 as the implementation result of AADMER from ASAN Special Leader's Meeting on Aftermath of Earthquake and Tsunami Disaster known as Tsunami Summit in Jakarta of 2005. The vision of AADMER is the state survives against disaster and social safe in ASEAN. The establishment of AADMER intends to reduce casualties and loss of property influencing the economy, society, physic, and environment of member states of ASEAN in natural or caused by human error through AHA Centre.

Establishment of AHA Centre easy monitoring on natural disasters in Southeast Asia. The organization has a disaster monitoring system when a disaster is detected in the member state. In this case, AHA Centre could give a fast response to the disaster in coordination with the member states for reducing impact. Additionally, set up AHA Centre is become the base of coordination for humanitarian assistance and disaster management, facilitating cooperation and coordination among the parties, such as United Nation and concerned international organizations to promote regional cooperation. Under the AHA Centre, ASEAN could give a fast response to the member states of ASEAN suffering disaster, especially in emergency response.

Especially, to implement the mandate, AHA Centre collaboration with disaster management national organization of ASEAN member states. There is two high-level commitment to reaffirmation the role of the AHA Centre as the main regional coordination agent of ASEAN in disaster management and emergency response, the declaration of ASEAN on the response of disaster in and out of the territory and the vision of ASEAN 2025 on disaster management. The headquarter of AHA Centre is in Indonesia and the mechanism of work and policies is as follows :

1. Risk assessment, early warning, and monitoring.

The strategic instrument of the working program intends to reduce casualties, property through disaster identification and risk before occurring by increasing the warning period. The activities described in three sub-components will bring proper assessment of regional risk and early warning through a focus on cross-border issues requiring interstates collaboration, thus it will bring benefit to the area, most inclusive-restoration plan, and attempt to mitigation effort and target management response and recovery.

a. Risk Assessment

In constant progress and environmental change, the risk growing in the new area and among the population. Identification of high-risk populations and geographical areas and understanding the principle risk, vulnerability, and capability of disaster management is important to be effective in design, management, and recovery. The instrument of disaster management, also, intends to develop and implement the assessment program of regional risk that establishes the existing protocol and best practice to accomplish the initiative of member states. Furthermore, the development and implementation of policy and procedural management are required to ensure that the AHA Centre accepts and consolidates the data of National Focal Point (NFP) and publish the identifiable and analyzed data and risk to the concerned parties.

b. Early Warning

Loss by disaster could reduce by early detection before occurring and coordinated early warning. It is intended to ensure that the member states can develop, maintain, and reviews temporarily on national early warning information system, communication network, public awareness, and preparedness, as well as developing an existing ASEAN system and competence such as Disaster Information Sharing and Communications Network (DISCNet), Online Southeast Asia Disaster Inventory (OSADI), Online Southeast Asia Disaster Map (OSA -Map).

c. Monitoring

Advanced monitoring on risk, vulnerability, and capability of disaster management in jurisdiction is potential for effective implementation of preparedness activity and response required to the early warning system. Article 5 and 7 of AADMER require control that implements continuously in support of risk identification and early warning activity.

2. Recovery

The particular instrument of the working program in Article 17 of AADMER is rehabilitation. It is called "recovery" as the program includes all spectrums of the recovery process including rehabilitation and reconstruction. Moreover, it is secure the consistency with the term used internationally. Article 17 of AADMER summarizes that the member states, individually or collectively, should develop the strategy, implementation of the program, and increase

cooperation (bilateral, regional, and international) for recovery of disaster.

3. Emergency Logistic Assistance

The humanitarian assistance coordination center of disaster management in ASEAN, AHA Centre, issuing emergency logistic system. It is arranged in conjunction with the first anniversary of the AHA Centre in Malaysia Airbase at Subang of Malaysia on December 7th, 2012.

4. Logistic Distribution by AHA Centre

Since its establishment, the organization showed its existence in response to the earthquake that occurred in Myanmar. AHA Centre distributes 250 tents, and 70 tarpaulins in response to immediate requirements confirmed by the government through NFP. The powerful earthquake of 6.8 Richter Scale hit Myanmar on November 19th of 2012. AHA Centre coordinating with RRD of the social department of Myanmar to implement the rescue mission. The main purpose of the team is to understand the impact and assessment for emergency response. Led by the executive director of the organization, the team is accompanied by the Senior Emergency Preparedness and Response Officer and Senior Programme Officer of Japan - ASEAN Integration Fund (JAIF) Management Team. Moreover, the team was supported by a member of ASEAN-ERAT of Myanmar and successfully reach the affected areas such as Kyauk Myaung and Shwe Bo city. By the mission, identified the logistic requirement must be immediate. The first distribution of tent arranged on November 23th from the UNHRD-WEP warehouse in Subang, Kuala Lumpur of Malaysia. Distribution of 250 tents was accomplished on November 26th of 2012, meanwhile, 70 tarpaulins were supplied by Myanmar locally. Handover from AHA Centre to RRD Social Department of Myanmar was carried out on Tuesday 27 November 2012 in Yangon, Myanmar.

3.2 Legal Aspect of Disaster Management Policy System In Indonesia

Indonesia is the largest archipelago in the world with 17.508 islands. It is a site among the Asia and Australia continentals and India and Pacific Oceans. Even though having abundant natural resources and wonderful islands, however, powerful concern must give as it has 129 active volcanos, known as the ring of fire, and it is located in the confluence of three active tectonic plates in the world. On another side, Indonesia was in a tropical area and hydrologic situation triggering other natural disasters such as storms, extreme rainfall, flood, landslide, and drought. Moreover, there are other threats besides natural disasters such as forest fires, social conflict, as well as technological failure.

The tragedy of Tsunami Aceh in 2004 was paid serious attention by the government of Indonesia and international for disaster management. In follow up the situation, issued the Decree of President No.83 of 2005 on National Coordination Agency of Disaster Management

as there is no specific legal instrument in concern to the disaster management.

In 2007, therefore, the government establish a policy of disaster management system based on Act No. 24 of 2007 on disaster management with 85 Articles ruling on the mechanism. According to Article 1, described that disaster is an accident or sequel threatening and disturb of social living caused by, whether in natural or human error thus result in fatalities, environmental destruction, properties, and psychological impact. This Act classifies disaster according to the natural, engineering, and social. The system of disaster management policy of Indonesia is arranged by four aspects as follows:[6]

- a. Social, economic, and culture.
- b. Environment sustainability.
- c. Useful and effective.
- d. Scope of area

In the implementation of disaster management, the government can set the vulnerable area to forbidden one for settlement and/or repeal in the partial or comprehensive right, ownership on the property according to the regulation [7] The principle of disaster management involves humanitarian, justice, equality, position before the law and government, balancing, synchronization, and harmonization, order and legal certainty, togetherness, environmental sustainability, and science technology (Article 3). Meanwhile, implementation of disaster management consists of 3 phases including pre-disaster, in time-emergency response, and post-disaster.[8] Temporarily, in the potential situation of a disaster, there are preparation, early warning, and mitigation.

Additionally, the central and local governments are responsible for the implementation of disaster management (Article 5). According to Article 6 the government (central) is responsible for the implementation of disaster management including a) reduction of risk and combination between risk and development program, b) protection of people, c) properly right indemnity, d) recovery, e) allocation of state budgeting, f) ready-used fund budgeting, g) credible data and authentic document maintenance from disaster risk.

In the meantime, local government is responsible according to Article 8 as follows: a) assured social rights and refugees properly, b) social protection, c) risk reduction and combination between reduction and development program, and d) budgeting of local government; the Act No. 24 of 2007 was described to establish the Disaster Management National Agent follow up by Decree of President No. 8 of 2008.

Act No. 24 of 2007 resulted in alterations significantly on disaster management policy in Indonesia, whether at the national or local level, that in general, it is capable to protect people by management in characteristic, frequency, and understanding of vulnerability and risk. According to Article 8 of the Act mandated to establish a new unit, the Disaster Management National Agent (called, *BNPB*) substitutes the Disaster Management National Coordination Agent and Local Disaster Management Agent substitute the Implementing Coordination Unit and Local Coordination Unit. Based on

Article 13 the Agent implements the responsibility as follows:

- a. Formulate and establish the regulation of refugees-disaster management.
- b. Fast response is effective and efficient.
- c. Coordination in implementation of disaster management on schedule, integrated, and comprehensively.

In the meantime, duties of BNPB (Article 12) are as follows: a) provides the manual and instruction on disaster management effort including prevention, emergency response, recovery, and reconstruction in equal, b) establish the standard and requirement of disaster management according to the regulation, c) publishing information of disaster management in public, d) reports the implementation of management to the President monthly in a normal situation and all the times in emergency, e) uses and responsible the national-international assistances, f) responsible the received national budgeting, g) implement another responsibility according to the regulation, and h) arrange the establishment manual of Local Disaster Management Agent.

Moreover, the government exposed the chance to the third party to sustain the disaster management according to the Articles 28 and 30 that the business institution and international agent have an opportunity to implement disaster management, whether collective or individual is required to minimize the occurred disaster.

4 Conclusion

- a. In the ASEAN Ministerial Meeting on Disaster Management (AMMDM) summit was issued ASEAN Agreement on Disaster Management and Emergency Response (AADMER) by ASEAN Committee on Disaster Management (ACDM) as the coordination center. AADMER is the regional framework with proactive for cooperation, coordination, technical assistance, and mobilization of resources in the whole aspect of disaster management. Any attempts of AHA Centre in disaster management in Southeast Asia is implementing the function in establishing the emergency response system starting from risk assessment, early warning and monitoring, recovery, and establish the logistic assistance system insecure the material availability required in proper, as a part of response system after the disaster in middle and high level.
- b. Act No. 24 of 2007 on disaster management result in any alteration significantly to the disaster management in Indonesia, whether at the national and local level in general; the regulation can provide the safety for people in Indonesia in a characteristic manner, frequency, and understanding of vulnerability and risks. In this Act, mandated to establish new agent, Disaster Management National Agent (called, *BNPB*) substitutes the Disaster Management National Coordination Agent and Local Disaster Management Agent substitute the Implementing Coordination Unit and Local Coordination Unit. Article 23 of Act No. 24

of 2007 was described that the government (central) responsible to implement disaster management. Therefore, the policy of the system was ruled comprehensively by the regulation.

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