APCEL Climate Change Adaptation Platform

Legal Agenda for a Disaster Resilient Asia: Developments in the Philippines

by

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Introduction

The 2004 Indian Ocean tsunami originating from an earthquake in the sea off Sumatra (Indonesia) devastated 12 countries including Indonesia, Thailand and Sri Lanka. As an immediate response, the Asian Wetland Symposium 2005 held in India recommended to, among others, "Prioritize the natural coastal defenses through greenbelt/coastal 'bioshield' development……" In connection therewith, the Sendai Framework for Disaster Risk Reduction (2015) identified as one of four priorities the matter of "investing in disaster risk reduction for resilience."

Not to be missed is the ASEAN Agreement on Disaster Management and Emergency Response (AADMER), which came into force in 2009 with the intention of providing "effective regional mechanisms to mitigate impacts of natural disasters…through concerted national efforts and intensified regional cooperation."

In the light of scientific information that natural disasters are projected to intensify in Asia, the AADMER mentioned above could be utilized for disaster prevention and mitigation purposes even if the Agreement leans heavily on disaster preparedness, emergency response, and rehabilitation, i.e. faster movement of relief goods, better utilization of civilian and military response, etc. In short, it could serve as the foundation for Southeast Asian countries' active role at disaster risk reduction by incorporating effective wetlands management strategies in their legal agenda for climate change resilience.

Disaster risk reduction, according to the AADMER, means "a framework of elements considered with the possibilities to minimize vulnerabilities and disaster risks to avoid, through prevention or, to limit, through mitigation and preparedness, the adverse impacts of hazards within the broad

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context of sustainable development." On the other hand, resilience, according to the United Nations Office for Disaster Reduction, is the ability of a system, community or a society exposed to natural disasters to resist, absorb, accommodate, adapt to, transform and recover from the effects of that disaster.

In recent years, wetlands have been acknowledged to be among the world's most valuable ecosystems providing a number of benefits to people. As defense fortifications, wetlands, particularly mangroves, prove to be excellent defenses against the onslaught of typhoons and tsunamis as proven by the earthquake occurrence mentioned above. Scientists have explained that the roots of vegetation in Asian mangroves and other forest wetlands help to hold the sediments in place against the impact of strong winds and waves.

The AADMER is replete with provisions which could be used by Asian countries in refuting the claims that while emergency response is almost well attended to from the local to the national government levels, much remains to be done with regard to (i) cooperation in developing and putting into effect solutions to reduce disaster impacts; (ii) development of strategies to identify, prevent or reduce disaster risks and losses; (iii) prevention and mitigation legislation, regulations, policies, plans, programs and strategies; and (iv) raising public awareness about disaster prevention and mitigation.

Disaster Resilience in the Legal Agenda

In pursuance thereof, Asian countries could very well incorporate wetlands' wise use and other innovative ways for disaster risk reduction and build resilience in their legal system. The legal agenda may include, but is not limited to:

(1) *Planting of mangrove saplings in rules or regulations* - The strategy of planting mangrove saplings could be a continuing year-round activity in the long and extensive coastlines of Asia, pursuant to applicable laws on forestry or land use, i.e. implementing rules or regulations. The same is true with regard to the massive planting of high quality and commercially productive variety of bamboo, which could be introduced in

riverbanks/river basins and lakeshores as a technique not only for protection but also to preserve and rehabilitate freshwater sources and lakes and provide an added source of income to people.

(2) *Reforms in Building Codes* - Reforms in Building Codes could be pursued as infrastructure solutions, by introducing a shift in disaster risk reduction approaches through 'build back better' infrastructures, thereby increasing buffer capacity of the wetland landscape to absorb shocks and long-term changes. This includes, but is not limited to, building better hurricane resilient houses with stable and stronger base; retro-fitting structures, for example, in existing government buildings for extra use as evacuation centers in times of calamities. This presupposes sharing technology to come up with hurricane resilient houses and, in general, improve critical infrastructures in coastal communities. This would necessitate the amendment and strict implementation of existing national building codes.

(3) *Inclusion of climate adaptation projects in the national budget or appropriations law* - Developing and financing adaptation projects is an excellent way of building up a country's resilience to disasters. In this regard, adaptation means enhancing resilience, policies, and programs against the impacts of climate change. The Philippine General Appropriations Act (2018) have calamity and environment provisions to make our budget a climate budget with special provisions on adaptation - such as the establishment of multi-hazard early warning system, rain harvesting, seed banks, rooftop gardens and practice drills for response and preparedness. An Adaptation Summit is planned in 2018, to showcase best practices and launch a mentoring process for small vulnerable communities in the country.

(4) *National Resilience Council* - In the Philippines, the consolidation of resilience endeavors was adopted with the recent launch of a National Resilience Council (NRC) in response to the Sendai Framework on Disaster Risk Reduction call to align and integrate various endeavors (science and technology, civil society organizations (CSOs), private

sector/business, government) in strengthening disaster reduction governance and investing in resilience, in effect integrating all resilience efforts on the same track.

With partnership among government, private sector, CSOs and other organizations with clearly defined roles in disaster response, recovery and rehabilitation, the National Resilience Council is jointly chaired by the Secretary of National Defense and the representative of the business (private) sector. Four vice-chairs were appointed to represent science/academe, CSOs, government and the private sector.

Aside from consolidating the resilience efforts in the country, the NRC aims to localize the pre-existing and potential exposure to vulnerability of the economy, environment and communities to disasters and to focus on building needed capacities through multi-stakeholder cooperation.

In close coordination with the Department (Ministry) of Local Governments, the NRC will look at developing a Philippine Disaster Resilience Scoreboard for local governments and the Leadership Resiliency Program for the local chief executives (LCEs) and other local government officials. All of this is designed to reward success and help participant cities adopt best global disaster risk reduction and resilience practices. Capacity building training will be required for LCEs and other officials. The success of the resilience scoreboard will depend on how the LCEs practice what they learn.

The first public-private partnership (PPP) for disaster resilience was launched in the Philippines in October 2017. Dubbed the 'Resilient Cities/Municipalities Leadership Program for Local Chief Executives', it brought together, for the first time, the government and big private businesses for disaster resilience. Big businesses like SM and Zuellig Family Foundation, along with Arise Philippines, the Disaster Risk Reduction Foundation of Manny Pangilinan and Jaime Augusto Zobel de Ayala, the Makati Business Club, and the Philippine Chamber of Commerce and Industry, to mention a few, are actually giving time, effort and expertise in helping communities with

emergencies to save lives and protect properties. As a leading Filipino environmentalist said, "There should be increased investment in disaster preparedness, conduct and sharing of risk assessment, establishment of multi-hazard early warning system, protection of ecosystems and mangrove reforestation, among others."

(5) *Innovative insurance program to boost disaster reduction management* - In August 2017, a disaster risk insurance program to help the Philippines better respond to losses from climate change and disaster risks was also launched with the support of the World Bank. The program provides US $206 million in coverage against losses from severe typhoons and earthquakes to national government assets and to participating provinces.

Briefly, under the program, the Philippine Government Service Insurance System (GSIS) provides the government and the 25 participating provinces with disaster risk insurance. The World Bank acts as an intermediary to transfer GSIS's risk to a panel of international reinsurers e.g. Hanover RE, Munich RE, and Swiss RE, which were selected through a competitive bidding process.

The new insurance program illustrates how the World Bank can leverage capital from the market to help governments receive fast cash injections for emergency response, and to sustain essential services in times of crisis empowering local governments to more effectively assist their constituents.

The program also bolsters the government efforts at resilience by developing an innovate financial solution to mitigate the financial impacts of extreme climate change and weather-related events as well as major earthquakes.

Conclusion

Disaster resilience may be considered a breakthrough in the area of environmental law implementation, which has suffered from a lack of implementation or delayed or lingering implementation efforts. Take for example the matter of control of air pollution caused by emissions from motor vehicles: no one dies or immediately contracts lung disease with the

inhalation of polluted air. Disasters are different. They result in sudden deaths, physical injuries and loss or damage to properties. Disaster resilience is now a leading concern in the whole world and people should be made aware of the need for an immediacy of action against disasters.

It should always be borne in mind, however, that building a disaster resilient Asia needs partnerships among governments, the private sector, CSOs, local government units (LGUs), and other institutions with clearly defined roles - not only in disaster response but in disaster prevention, response, mitigation and adaptation as well, integrating in the process all resilience endeavors on the same track. To begin with, a program on the values and functions of wetlands for disaster risk reduction and onwards to consolidating resilience endeavors among Asian countries on the same track could be embarked on. Disaster resilience is a matter that deserves priority along with food security, poverty alleviation, and population control, among others.

Hopefully, this recommendation is realized soon because Asia remains vulnerable to natural disasters. However, through multi-stakeholder engagement, improvements can be made at a much faster pace, so that the region can have its much- needed disaster resilience system.

References

1. "Asean: Better, faster, disaster reliefs?" The Manila Times, 7 February 2015.
2. "Asean environment: Wetlands for disaster resilience," The Manila Times, 27 May 2017.
3. "Bamboo to save Laguna Lake", Manila Bulletin, 28 April 2017.
4. "Documentation by drones," D+C, 07-08/2017.
5. "Philippines Launches Innovative Insurance Program to Boost Natural Disaster Risk Management," The World Bank Press Release, 15 August 2017.
6. "First PPP for disaster resilience launched," The Manila Times, 15 October 2017.
7. "National Resilience Council," The Philippine Star, 18 August 2017.
8. "Strategy for disaster risk reduction," The Manila Times, 19 November 2013.
9. "Vulnerable coasts," D+C, 05-06/2017.