



Review: The International Law of Disaster Relief

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A common thread that runs through this impressive collection of scholarly works is introduced early on; the legal framework for disaster response is nearly as random as the events themselves.

Whether it is the 1985 Mexico City earthquake, Hurricane Katrina, or this year's devastating droughts in East Africa, there seems to be no shortage of human victims of natural disasters. Additionally, disaster response at times looks similar to the aftermath of a car accident, with survivors and witnesses left to pick up the pieces. However, despite the omnipresent threat of natural disasters, laws at the international and domestic levels are inconsistent at best and, at worst, can even exacerbate the crisis at hand. What is the best course of action for a host state and the international community before and after a disaster occurs? What rights must be protected and what kinds of corresponding duties and obligations are present? It is these questions, along with their many uncertainties, affected parties, and the legal and philosophical

underpinnings of potential legal frameworks with which the contributors and editors of *The International Law of Disaster Relief* wrestle.

In response to the devastating 2011 Tohoku earthquake and tsunami, which caused the Fukushima Daiichi nuclear meltdown, the Four Societies - consisting of the international law societies of Australia and New Zealand, Canada, Japan, and the United States - decided to focus on the international law of disasters for their 2012 conference. This resulting volume is a comprehensive and wide-spanning collection of 17 proposals, policy papers, and case studies. The individual contributors tend to come from at least one of three general backgrounds: academia, government legal advisory positions, and non-governmental organizations - and the individual articles certainly reflect this. Nearly every article discusses the individual roles of experts, governments (both host nations and outside nations), and the increasing scope and power of NGOs in times of disaster. The contributors offer compelling, and oftentimes opposing views of these roles, as well as thoughts on the efficacy of each of these actors in past actions.

Additionally, while the selection of contributors provides the reader with effective case studies of individual government frameworks or approaches to disaster response, it is no shock that nearly all of these case studies are based on the actions of governments of Four Societies member states. It should also come as no surprise that a great deal of ink is dedicated to the Japanese response to the 2011 events.

There is a great deal of overlap in the introductions and histories of some of the legal frameworks and guidelines that are regularly referenced, such as the International Federation of Red Cross and Red Crescent Societies' Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance, as well as the UN Draft Articles on Protection of Persons in the Event of Disasters. The fact that these two frameworks in particular were regularly re-introduced by the contributors and the decision to include both texts in full as appendices will be particularly helpful to a reader that is being presented with these materials (or this topic) for the first time.

While the articles themselves are effectively organized in five separate topics (legal theory, local to global response, right of access, anticipatory responses from state actors, and anticipatory responses from NGOs), there are four main ideas that run through nearly all of the articles: the inadequacy of the status quo, the importance of preparedness and planning ahead, the humanitarian roots of disaster relief law, and the conflict between sovereignty and outside relief.

Inadequacy of the Current System/Status of Framework

Nearly every contributor notes that the current framework is a hodgepodge of non-binding laws, guidelines, and recommendations are not sustainable and are not nearly as effective as they should be. For every botched recovery, delayed flight into a disaster zone, or episode of political grandstanding prior to allowing a response team into an affected nation, lives are lost. While discussing disparate topics, nearly every contributor addresses this problem. Imogen Saunders, when discussing sources of international law, refers to the current infrastructure as “scarce” (29). In her chapter addressing the Japanese response to the release of nuclear material into the Pacific, Yukari Takamura credits the confusion to “lacunae in international rules” regarding nuclear pollution (109). Ibironke T. Odumosu-Ayanu effectively argues that the current legal framework regarding economic emergencies has led to “inadequate” responses (316).

Additionally, several contributors discuss the conflict between the “top-down” approach of creating rules and principles at the international level with the purpose of effecting individual domestic frameworks and the “bottom-up” approach of developing such laws and principles at the domestic level with the expectation that these will develop into regional and international norms. (86)

Preparedness

Immediately in the first chapter, Daniel Farber introduces his “cycle of disaster law,” placing a premium on the risk mitigation aspect. (10) He, along with several other contributors, remind the reader that the first step to lessening the severity of a disaster is preparing for it ahead of time. While

some contributors argue that one aspect to preparedness comes in the form of a legal framework, Paul Govind, argues that widespread climate change adaptation funding as the most effective way of preparing for (and mitigating) the effects of disasters. Despite their differences, these two methods share in their goals of reducing vulnerability and the promotion of sustainable economic development.

Preparedness is explored in a variety of ways. Several chapters are devoted to the importance of preparing for disaster by developing legal frameworks and international norms to assist the most vulnerable, including the disabled, women, and migrants. Brian R. Israel offers an interesting insight into space-based remote sensing technology and argues that preparedness means developing frameworks for utilizing and sharing technology with efficacy and agility. (236)

Principles of Disaster Relief Are Based on Humanitarian Law

When justifying the importance of a legal regime or framework, many of the contributors remind the reader that disaster relief, as a doctrine, is based on the same principles and norms of humanitarian law, a much more developed area of international law. Whether it is Katie Sykes's exploration of deriving protections and rights for migrants from existing legal frameworks in times of disaster (191), or Akiko Ito's discussion of the specific vulnerabilities and challenges that disabled individuals face,, the book regularly reminds its readers that while disasters are often reviewed in a macro way, these events hurt individual people (and some types of people more than others).

Conflicts of Sovereignty

Several chapters discuss the importance of working with and around the idea of national sovereignty when dealing with disaster-stricken nations. In Catherine Shanahan Renshaw's aptly titled chapter "Disasters, Despots, and Gun-Boat Diplomacy," the author uses the response to Cyclone Nargis to discuss the limits of the Responsibility to Protect (R2P) doctrine and shows that, based on Myanmar's opposition to outside assistance directly after Nargis

in 2008, it is incorrect to assume that a disaster-stricken country will always want outside assistance. Brian Israel's chapter on space-based technology also deals with the understandable discomfort states may feel when being observed from space by a different nation or a private satellite, even in the case of an emergency. The collection of articles states clearly that despite the fact that sovereignty is a time-honored tradition and is at the root of international law, it can also greatly limit the ability of outside nations and groups to alleviate suffering inside an impacted nation.

Conclusion

Another idea that is brought up in nearly every chapter (between the lines if not explicitly), is the fact that the need for a legal framework for disaster response is growing increasingly dire every year due to the conflict between anthropogenic climate change and unsustainable development. The intensity of storms will only continue to grow and the severity of droughts and corresponding food shortages will become even more painful. In the past, publications such as this may have used hedging language, warning about the potential for disasters if humans don't get their act together, or the possibility that some are more vulnerable than others to the effects of potential climate change. The contributors to this book do not mince words; humans must adapt to climate change and if we do not, disaster response will become much harder to navigate.

It seems that every month there is another city being wiped away, or another nation on a fault line crumbling at its seams. e Four Societies has put together an all-encompassing and accessible guide to the current state of the law of disaster relief and many of its applications and controversies. For any reader interested in this emerging and desperately-underrepresented field, *The International Law of Disaster Relief* serves as an excellent introduction and source of reference.