

Natural Disaster Management: National Sovereignty and International Solidarity

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In a world confronting the devastating effects of climate change, natural disasters are increasingly at the forefront of international community concerns. The management of such disasters is an essential task of governments, given their sovereign powers and responsibility to protect populations. Yet the scale of disasters and the severity of damage they cause, along with the limited capacities of many states, entail international responsibility as part of global solidarity. This brings into conflict at least two principles of international law:

- on one hand, international law is built around the sovereign equality of States, which prohibits any interference by a third State in the internal affairs of another State, and;
- on the other, principles of international interference which, a priori, flout the principle of sovereignty; as is the case in humanitarian interference or the responsibility to protect.

INTRODUCTION

This duality opposes the state as an actor in international relations and a subject of international law, and the international community as a regulator of relations and a producer of law. This clash of principles operates at two levels. That of responsibility and that of sovereignty, the two being correlated and feeding off each other:

- how can one be accountable in terms of responsibility when one is not sovereign, and ;
- how can one proclaim oneself sovereign if one does not fulfill and assume one's responsibilities.

Who is responsible for and where in the state in the first place? Which will prevail over the other, that of the State or that of international bodies (UN)?

In short, the relationship between the State and international bodies is put to the test, particularly when it comes to managing natural disasters:

- State responsibility is put to the test in the face of international community prerogatives or responsibility;
- State sovereignty is put to the test in the face of interference (right or duty) by third countries or international bodies.

When managing natural disasters, the question of defining the relationship between the State and international bodies, on one hand, and between the disaster-stricken State and other States, on the other, arises. This question also begs another. Are the conditions requiring humanitarian intervention and/or the application of the right to protect defined and assessed by individual states as they see fit, or are they decided and assessed by UN bodies? Can a state unilaterally decide that the conditions for interference on humanitarian grounds have been met, and that it therefore has the right to intervene, or must it wait to be mandated, where appropriate, by international bodies (UN) after these have assessed the situation with the affected country?

The idea for this paper arose from the reaction of the media in some countries to the earthquake that struck the Al Haouz region in Morocco. Just as international bodies and Morocco authorities began coordinating in the early hours, in accordance with international rules and protocols, the media in some states - some of them technologically advanced international powers, others mere pretenders to regional power with no technological legacy, suitable resources or even expertise in the field - were offended when Morocco failed to respond to their offer of help. Reacting in the very first hours of the disaster, they cast doubt on the country's ability to cope with the event, when no one had yet assessed either the scale of the event or the effectiveness of Morocco's resources, still in early stages of intervention and deployment of rescue operations. This assessment, in fact, is the key to any arbitration between the responsibility and sovereignty of the affected state and the possible responsibility or interference of third countries and/or the international community. For, as the very definition of natural disasters dictates, the scale of such disasters depends not only on the damage they cause, but also and above all on the state's ability to limit it.

1. Natural disaster definition: putting State capacities to the test

A natural disaster is defined as "a serious disruption of society and its ability to function", involving human, material, economic or environmental impacts and losses, caused by a natural phenomenon (Sandrine Rivet, Les Études du CERI N° 157 - September 2009).

Restricting ourselves to this definition, we still face the question of what constitutes a disruptive situation. When and under what conditions can a community or society be declared to be in a state of disruption, faced with a natural phenomenon that has led to human and material losses?

The United Nations Office for Disaster Risk Reduction (UNDRR) provides a more detailed definition. For the UNDRR, a natural disaster is "a serious disruption of the functioning of a community or society involving significant human, material, economic or environmental losses and impacts, which exceeds the capacity of the affected community or society to cope using its own resources".¹

The UNDRR definition adds a second criterion or condition, that of proportionality between the scale of the phenomenon and the state's capacity to deal with it. The definition is more precise and comprehensive:

- on one hand, it envisages a natural disaster as a situation in which normal functioning is disrupted. This can happen to any community, society or state. It involves the occurrence of natural phenomena which, by virtue of their unpredictability, take the authorities by surprise, and which, by their sheer magnitude, generate damage and harm that disrupt and destabilize the normal functioning of countries, whatever their means and capacities. These events require exceptional resources and measures to be deployed;
- on the other, the UNDRR definition emphasizes a major element likely to condition its intervention as an international organization, namely the State's ability to overcome the disruption and return to normality by its own means, and thereby avoid a situation of breakdown that would require the compulsory and necessary intervention of third-party States or international organizations.

The UNDRR's clarification is not limited solely to the definition, but introduces a further element that rules on possible assistance from foreign countries or international bodies:

- if the state (society, community) is unable to prevent the disruption from turning into a breakdown (which was by far not the case in Morocco), the international community has the right, indeed the duty, to step in to take the place of the failed state in managing the natural disaster;
- if the state (society, community) has the means, aptitudes and skills to overcome the disruption and damage (however serious) caused by the natural disaster, its sovereignty cannot be flouted under any pretext, and there is no scope for foreign intervention. The definition does not even include natural disasters. The State, which is then in control of the situation, can, if it deems necessary and useful, call on the complementary efforts of international bodies and friendly, earnest countries, reputed to be effective in such

1. See: "Risks and disasters" <https://www.un-spider.org/fr/risques-et-catastrophes>

circumstances² (this is what Morocco did, calling on the assistance of Spain, the United Kingdom, Qatar and the United Arab Emirates).

It is clear from the above that state response to disasters is scrutinized by peer states and the international community, which can offer assistance but only intervene if the state's capacities are insufficient to deal with the situation. For international bodies (UNDRR), a natural disaster does not even exist when the State is able to overcome, by its own means, the disruption caused by a natural phenomenon.

2. Sovereignty is the rule, interference the exception

Humanitarian intervention contradicts the universal principle of non-interference in the internal affairs of States, and is therefore nothing more than forced and/or unsolicited assistance. It is "the act of a State interfering in the internal affairs of another State in violation of its sovereignty". It is "the act of interfering, i.e. of intruding improperly, without being required or having the duty to do so, in the affairs of others".³

However humanitarian it may be, interference still remains interference. This is why international law has placed a series of conditions around the principle, to ensure that it is not abused by biased interpretations for non-humanitarian purposes (as in the case of Libya).⁴ The emphasis has therefore always been on sovereignty as the general rule, and interference as the exception.

In the case of natural disasters, we cite the example of United Nations General Assembly resolution 46/182 of 12/19/1991, notably provisions 3 and 4 of its annex (see box below):

2. The fact that these countries are "friendly and sincere" is essential. "Friendly" for the sake of the country's security, because a natural disaster situation can be an opportunity for hostile countries to engage in disruptive interference, using the opportunity to infiltrate means of subversion and nuisance. Furthermore, countries must be sincere insofar as their primary aim must be to help overcome the crisis, and not to cover political objectives, restore their image or feed propaganda, especially when they have no expertise or capacity to do so.

On another note, the choice of partners is a matter of national sovereignty, and should not be criticized for its criteria.

Dans un autre registre, ce choix de partenaires relève de la souveraineté nationale et ne peut souffrir de critiques quant à ses critères.

3. See: "State sovereignty in international law and humanitarian interference: an analysis based on the instrumentalization of humanitarian action in southern countries" https://papyrus.bib.umontreal.ca/xmlui/bitstream/handle/1866/27399/Bonny_Maryse_Ornella_2022_memoire.pdf?sequence=2&isAllowed=y

4. In this respect, the issue of the intervention of European countries in the Libyan crisis remains unresolved, where the main objective - to protect a population - was diverted by one of the intervening states towards political ends. This distortion of the humanitarian objective led to the liquidation of a head of state and the destabilization not only of a country, but of an entire region. In the case of Libya, the intervention was legal because it had been authorized by the United Nations Security Council, but one of the States went beyond the mandate of this authorization to do more than just protect the threatened populations, and extended its action to settling scores with the Libyan head of state.

Provisions 3 and 4 of resolution 46/182:

3. Sovereignty, territorial integrity and national unity must always be respected in accordance with the UN Charter. In this respect, humanitarian aid should be provided with the consent of the affected country, and in principle on the basis of an appeal by the affected country.

4. It is the primary responsibility of each state to care for the victims of natural disasters and other emergencies occurring on its territory. The primary role therefore lies with the affected state, in initiating, organizing, coordinating and implementing humanitarian aid on its territory.

These two provisions outline the issues of responsibility and sovereignty in relations between States, on one hand, and their peers and the international community, on the other:

- **sovereignty through consent:** the annex to which resolution 46/182 refers stipulates that humanitarian aid cannot be provided without the consent of the affected state. This requirement of consent protects the State against the imposition of any will other than its own. A State cannot therefore be reproached for not giving its consent to an offer of aid, and pressure of any kind exerted on that State to accept the aid offered is tantamount to aggression.
- **provision 4 underlines the primary role played by the affected state, and mentions four levels at which this role is played out: no state or international structure can take the place of the state in this primary role:**

 - **at initiative level:** *it is up to the affected State to take the initiative in requesting international aid, and to assess its nature and volume. This exclusive right of initiative tacitly refers not only to the choice of whether or not to request aid, but also to the choice of the provider of this aid. The State is not required to accept any proposal, since it holds the initiative;*
 - **organization:** *state or international structures from which a state hit by a natural disaster requests aid may not take the place of the state in organizing the deployment of this aid;*
 - **coordination:** *assistance resources (material and human) are coordinated by the affected state. It is this state that sets the timing, tempo and rhythm of deployment and use of these resources;*
 - **implementation:** *the state requesting the aid implements actions. It is therefore the State that sets priorities and modalities for implementation on the ground of action decisions designed to overcome the crisis.*

States have the initiative to decide whether or not to request help from third-party States, it also has the initiative to choose from among third-party States those with which it can organize, coordinate and implement necessary measures. This requires a degree of agreement, interoperability and trust.

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The views expressed in this publication are those of the author.

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