International Disaster Response Laws, Rules and Principles

Bolivia, 3 Dec 2006
Leon Prop
Regional Delegation for Mexico, Central America and the Caribbean
“IDRL”

❖ **I**: International (concerning foreign and international actors)

❖ **D**: Disaster (natural & man-made, but not armed conflict)

❖ **R**: Response (preparedness, relief, rehabilitation, reconstruction)

❖ **L**: Laws, rules and principles (national and international)
IDRL: Why bother?

- IDRL is about the legal problems that consistently arise in international disaster operations.
- These problems:
  - Delay needed aid
  - Create needless costs
  - Reduce efficiency
  - Affect quality
  - Reduce confidence in humanitarian action
- Linked to Hyogo Framework for Action
A changing international disaster response community

UN Humanitarian Reform

Growth of the RC/RC Movement

Expansion of the NGO Sector

Increasing Involvement of Militaries

Direct Involvement of Private Sector

Spontaneous Engagement of Individuals and Civil Society
Access / Personnel

• Delayed request for international assistance

• Delayed or refused visas/work permits for foreign relief workers

• Lack of recognition of professional qualifications (e.g. for doctors and nurses)
Legal status of foreign organisations

- Lengthy procedures for gaining legal status to operate (e.g. NGO registration processes)
- Difficulties hiring local staff
- Problems signing contracts and leases
- Difficulties transferring/exchanging money and opening bank accounts
Goods, transport, equipment

- Delays on the import, export and transit of relief goods, medicines and equipment
- Imposition of taxes, fees and tolls on relief activities
- Restricted use of communications equipment
- Restrictions on purchase, licensing and use of vehicles, aircraft and shipping
Coordination, quality and accountability

- Lack of respect for domestic disaster management structures & laws
- Sending unnecessary or inappropriate relief items and assistance
- Undervaluing and failing to respect local knowledge and culture
- Use of untrained or unqualified personnel
- Lack of adherence to quality and accountability standards
Consistent gaps around the world

**Tsunami, Indonesia, 2004**

“As no specific provisions existed concerning the modalities with which international assistance should be requested and received, the Government issued ad hoc administrative instructions in the midst of a major response operation.” (Government of Indonesia)

**Hurricane Katrina, USA, 2005**

“Comprehensive Policies and Procedures are Needed to Ensure Appropriate Use of and Accountability for International Assistance” (US GAO)
Consistent gaps around the world

Marmara earthquake, Turkey, 1999

“The legislative weaknesses in the Turkish legal system regarding disaster management led to . . . many complexities” (TRCS case study)

Pakistan earthquake, 2005

“Pakistan suffered from the lack of a pre-existing National Disaster Management Authority and identified the creation of a legal framework as a lesson to apply.” (NDMA, ISDR Side-event at ECOSOC, 2006)
No Comprehensive Legal Regime

- Global & Regional Institutions
- Sectoral Law
- Soft Law
- Bilateral Agreements
- Regional Law
Bilateral Agreements

Treaties, MOUs
- Request and Response
- Entry of Personnel and Goods
- Costs
- Liability
Regional Law

- Lomé and Cotonou Conventions
- Open Partial Agreement
- BSEC Agreement
- Nordic Mutual Asst.

- IGAD Dar Es Salaam Declaration

- ASEAN Agreement on Disaster Management and Emergency Response (not yet in force)

- Inter-American Convention
- CDERA
- CEPREDENAC
- CAPRADE
- Assoc. Of Caribbean States Agreement (not in force)
Global “Hard Law”

- Kyoto Convention (1973)
- Convention on Maritime Traffic (1965)
- Tampere Convention (1998)
- Conventions on UN Privileges and Immunities (1946 & 1947)
- Nuclear Accident Convention (1986)
- Int. Health Regs (2005)
- Convention on Oil Pollution (1990)
Global “Soft Law”

Resolutions

Measures to Expedite International Relief (1977)

Guidelines and Models

UNITAR, Model Rules for Disaster Relief Operations (1982)
WCO/OCHA Model Customs Agreement (1996)

Codes and Standards

Red Cross/NGO Code of Conduct (1994)
Sphere Charter and Minimum Standards (2000)
Principles of Good Humanitarian Donorship (2005)
Gaps at the International Level

- Non-binding nature of the most comprehensive instruments
- Binding instruments very specific and/or have few parties
- Lack of legal recognition of some actors (e.g., Govt, IGO, RC/RC, NGO)
International Federation IDRL Programme

- Mandate from International RC/RC conference (every 4 years, includes all States party to Geneva Conventions)
- Online database
- Case studies
- Regional meetings
- Desk study
- Training materials
- Model legislation

Find us at: www.ifrc.org/idrl
Proposal -- a declaration that will:

- Provide guidance for national law
- Compile and reaffirm existing scattered norms
- Suggest facilities that could help ensure effective and efficient assistance
- Link to compliance with minimum standards
What might it provide?

• **Definitions (scope)**
  – “Disaster” expansive but excluding armed conflict
  – “International humanitarian organization” – rarely defined, important to solidify this identity
  – “Disaster Relief” and “Early recovery”

• **Core Responsibilities**
  – States responsible to ensure relief to affected persons
  – International actors responsible for existing minimal humanitarian standards (e.g., RC/NGO Code of Conduct)

• **Preparedness and Early Warning**
  – States to enact comprehensive laws and policies
  – Include means to share information for relief and for avoiding trans-boundary effects
• **Initiation and Termination**
  – Request or offer
  – Orderly termination

• **Designation**
  – A principled basis, utilizing existing international standards, for govts to determine which organizations should receive facilities
    • “Pre-designation” (“early bird gets the worm”)
    • IHOs may also seek designation after disaster

• **Legal Facilities for Entry and Operations**
  – Focused exemptions and entitlements addressing visas, customs, legal personality, taxes, costs, security, etc.
  – Comparable to what is granted under IHL, but some more detail
  – Distinctions between relief and early recovery
Panama IDRL Forum, April 2007

- Co-hosted by Government of Panama, OAS, Federation
- Representatives from governments, Red Cross, UN agencies, NGOs, academia
- Analyse IDRL context and case studies in Americas
- Explore “best practice”
- Discuss draft “declaration” for adoption at next International Conference (Geneva, Nov 2007)
Thank you

More info: www.ifrc.org/IDRL