



Introduction to Disaster Law – Part 1

ACE Programme 2017

Overview of the session: Part 1

Introduction to
Disaster Law

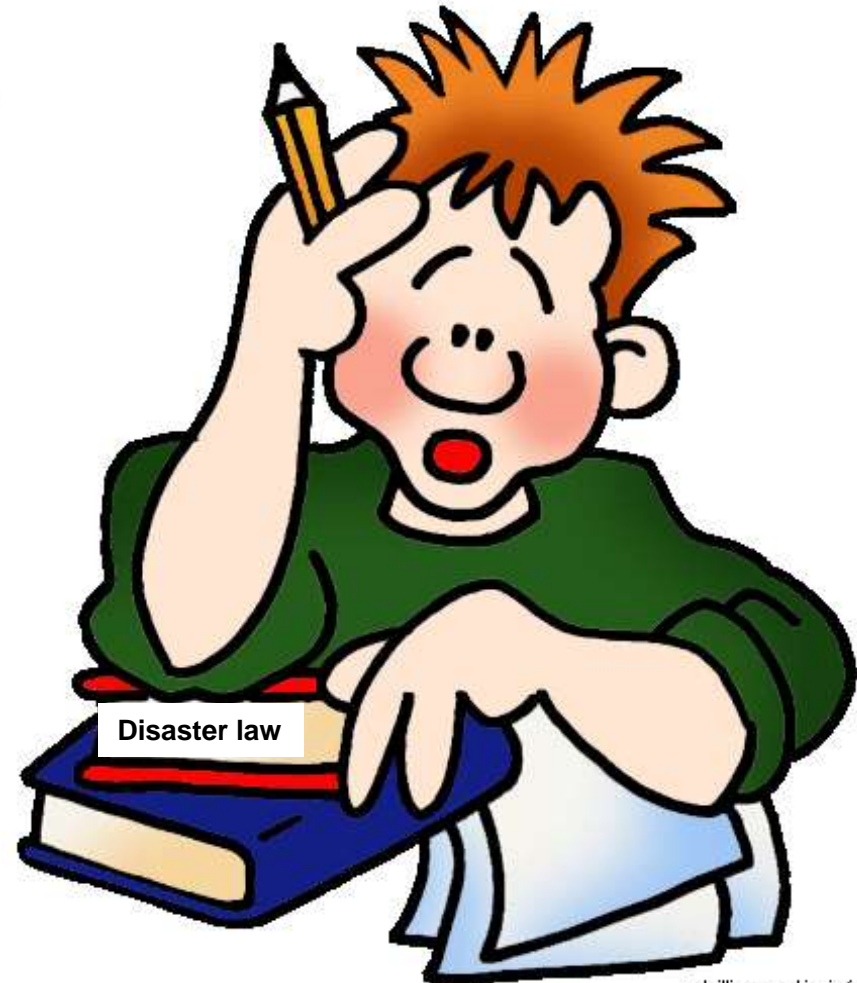
Theme 1: IDRL

What is IDRL?
Background,
tools,
commitments

IDRL scenario
exercise

Part 2: Law and
DRR, regional
developments,
Indonesia
experience

What is disaster law?



Disaster Law is...



- The **laws and regulations** which:
- ✓ address the **roles** and **responsibilities** to **manage** and **respond** to disasters
 - ✓ **minimise impact** of disasters
 - ✓ **reduce disaster risks**

Disaster Law themes



International Disaster Response Law (IDRL)



Law and Disaster Risk Reduction (Law and DRR)



Theme 1: International Disaster Response Law (IDRL): the laws and regulations to handle incoming international assistance

True or False?

- Disasters = chaos, confusion, there are no rules, law doesn't apply.
- Answer: False

True or False?

- IDRL is international humanitarian law
- Answer: False

True or False?

- International humanitarian workers should abide by all national laws when working in disaster affected countries.

- Answer: True

True or False?

- International relief teams need the permission of the affected state to provide humanitarian assistance.
- Answer: True

True or False?

- After requesting international assistance, the affected state must allow foreign governments to bring in any type of aid.

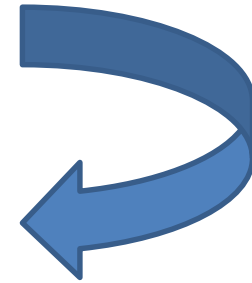
- Answer: False

Why legal preparedness for international disaster response?

More frequent
and larger natural
disasters



More and different
international
responders



**Absence of laws and procedures to regulate
an increasingly complex context**

Research shows that a lack of legal preparedness hampers international relief



- **Barriers**

- Initiation, visas, customs, radio use, taxes, professional qualifications, registration, transport, liability

- **Oversight gaps**

- Inappropriate items, ignoring standards, poor coordination, corruption

- **Bottom line**

- Aid is slower, more expensive, less effective, sometimes counter-productive

A few anecdotes...





**Global & Regional
Institutions**



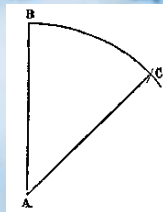
**RC /RC
(Soft) Law**



**Soft
Law**

3

**IHL, HRL and
Refugee Law**



**Sectoral
Law**



**Regional
Law**



**Bilateral
Agreements**

No Comprehensive Legal Regime

IFRC tools: IDRL Guidelines & Model Act



Introduction to the Guidelines
for the domestic facilitation and regulation of international
disaster relief and initial recovery assistance

www.ifrc.org
Saving lives, changing minds.

IFRC International Federation
of Red Cross and Red Crescent Societies



Model Act
for the Facilitation and
Regulation of International
Disaster Relief and Initial
Recovery Assistance
Pilot Version
November 2011

IFRC International Federation
of Red Cross and Red Crescent Societies
OCHA
United Nations Office for the Coordination of Humanitarian Affairs

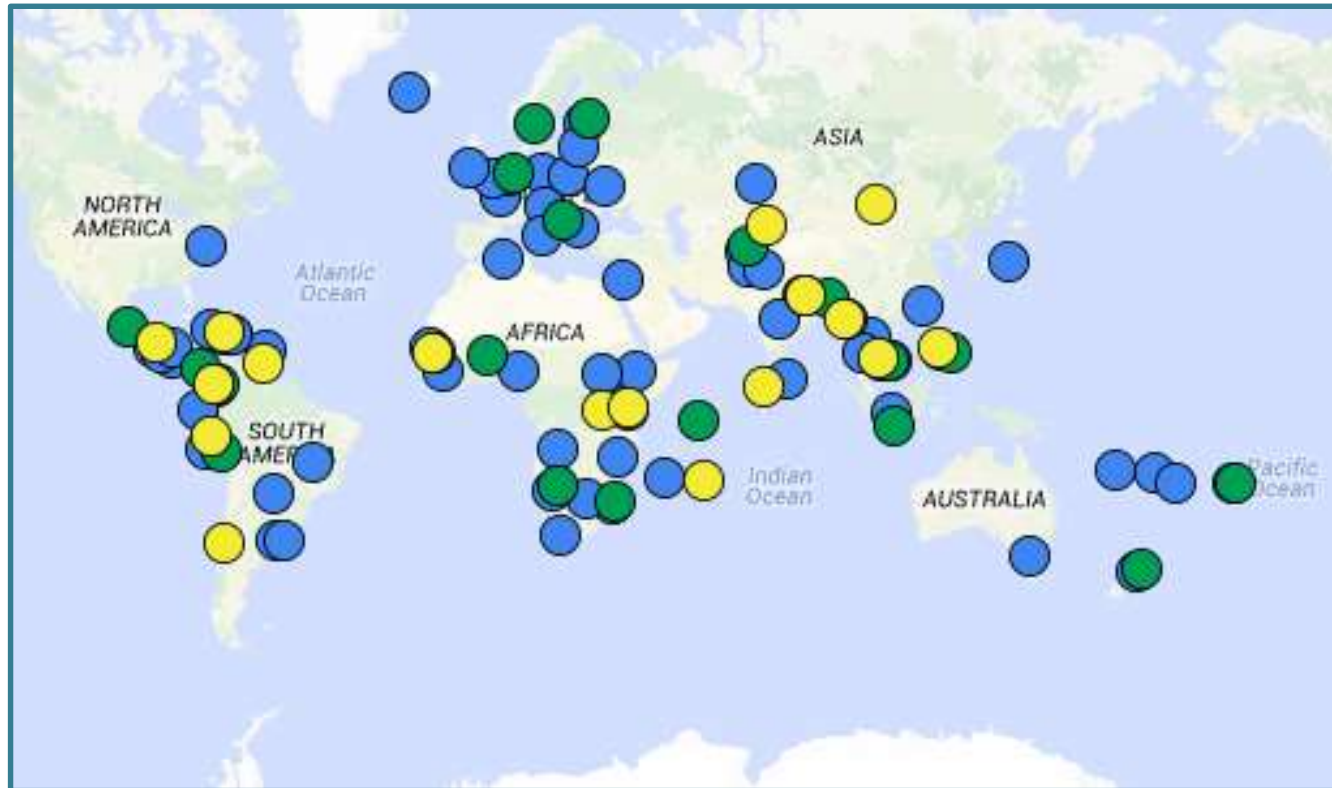
- Draw upon existing international norms and best practice
- Recommendations to governments on how to prepare domestic laws and procedures for international assistance
- Requests for 'legislative language' to implement the Guidelines = Model Act
- Translated into different languages

The core ideas of the IDRL Guidelines



- i. Domestic actors have the **primary role**
- ii. International relief providers have **responsibilities**
- iii. International actors need certain **legal facilities** (e.g. expedited visa and customs processing, exemptions from taxes duties and fees, priority customs clearance)
- iv. Some legal facilities should be conditional upon **compliance with humanitarian principles** and national law

Progress to date: implementing the IDRL Guidelines at the national level



Key:

Blue: # of disaster law projects (50+)

Green: # of new laws/regulations adopted (+24)

Yellow: # of new laws/regulations pending (+17)

IDRL in action: The experience of the Philippines



- Republic Act 10121 on National Disaster Risk Reduction and Management (section 16 and 18) and IRR (rule 14) refers to international assistance and IDRL
- ‘Welcomed’ international support soon after Typhoon Haiyan / Yolanda
- Established a “One-Stop-Shop” to expedite clearance of relief goods and equipment through customs; Established new immigration procedures and a Task Force
- RA10121 However, not detailed enough: many different orders and guidelines = ad hoc response
- **The Philippines has been reviewing its disaster management law, implementing rules and regulations AND developing a new guideline**



International Commitments



- States adopted a resolution at the 31st International RCRC Conference in 2011 which:
 - Reiterated the urgency to be prepared to facilitate international assistance
 - Renewed its call on states to use the IDRL Guidelines to examine and strengthen their laws
 - Called on regional and international organizations to use the IDRL Guidelines as well.

- A new resolution was adopted at the 32nd international conference in 2015 which states the need for states to ‘accelerate progress’ in developing procedures in line with the IDRL Guidelines and Model Act.

Regional Commitments



- **AADMER Agreement:** a binding agreement that provides a regional cooperation mechanism for disaster response
- Governments in SEA must take legislative measures to implement the AADMER e.g.:
 - *To provide assisting states with exemptions from taxation, duties and other charges of a similar nature, and facilitate entry and stay of personnel and equipment (art 14)*
- Previous AADMER work programme 2010 – 2015 references the IDRL Guidelines as a key tool for developing national legal frameworks for international assistance

IFRC /ACDM - ASEAN Disaster Law Mapping Partnership

Mapping of How Well Domestic Law and Policy in ASEAN incorporates the provisions of AADMER preparedness and response (regional and country level analysis)

Results :Generally domestic disaster risk management frameworks in ASEAN are sufficient to meet the AADMER provisions on disaster preparedness and response..

Gaps: Need to strengthen institutional mandates and resources for management of international assistance and clearer provisions relating to regional preparedness and response, including sending assistance or transit of assistance, or coordination through the AHA Centre

Research will inform peer to peer learning on disaster law in ASEAN. In addition an online platform will be created to provide a “one stop shop” for disaster law and policy information across ASEAN.

Why is IDRL important?



- **1. For governments:**
 - Sets out procedures, roles and responsibilities
 - Controls the type of incoming assistance
 - Regulates the actions of international actors
- **2. For International assisting actors:**
 - Facilitates response operations
 - Provides 'legal facilities' to operate in country



- Law development is a long-term process: changes do not happen overnight!
- **Dissemination**
- **Implementation**

Legal preparedness is
important....



...to provide the right
aid, at the right time!

Questions? Comments?



- Which IDRL issues have you come across in your experience?
- Which challenges might be most relevant in your country context?
- What procedures do you know of that are already in place in your country? e.g. DM law? customs laws? Immigration laws?

FOR MORE INFORMATION, PLEASE VISIT:

<http://www.ifrc.org/dl>

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