Introduction to:
International Disaster Response Law, Rules and Principles (IDRL)

Tessa Kelly
Coordinator for Asia Pacific
Disaster Law Programme
To advance the affected (host) nations’ ability to respond to humanitarian assistance requirements caused by natural disasters.
We must be legally prepared!
Overview of the presentation

- What does it mean to be ‘legally prepared’ for international assistance?
- Existing international law and standards
- What are the IDRL Guidelines and how have they been used?
- Link with civil military coordination
Why legal preparedness for international disaster response? (IDRL)
Disaster Laws

Increasing variety of responders

NGOs


Militaries

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, lack of respect

- **Bottom line**
  - Aid is slower, more expensive, less effective, sometimes counter-productive
A few anecdotes...
No Comprehensive Legal Regime

Disaster Laws

Global & Regional Institutions

RC /RC (Soft) Law

Soft Law

3

IHL, HRL and Refugee Law

Sectoral Law

Regional Law

Bilateral Agreements
Some “sectoral” law examples

Tampere Convention (1998)

Kyoto Convention (1973)

Conventions on UN Privileges and Immunities (1946 & 1947)


Food Assistance Convention (2013)

Nuclear Accident Convention (1986)

Int. Health Regs (2005)
Regional Law

Disaster Laws

- Cotonou Convention
- Civil Protection Mechanism
- Council Reg 1257/96
- BSEC Agreement
- NATO MOU

- IGAD
- ECOWAS

- Arab Agreement
- ASEAN Agreement (2005)
- SAARC Agreement on Rapid Response to Natural Disasters (2011)
- SOPAC
- Inter-American Convention
- CDEMA
- CEPREDENCAPRADE

www.ifrc.org
Saving lives, changing minds.

International Federation of Red Cross and Red Crescent Societies
Legal preparedness at the domestic level: the IDRL Guidelines

- Adopted by consensus by the state parties to the Geneva Conventions in 2007
- Recommendations to governments on how to prepare their own domestic laws and procedures for international assistance
- 11 new laws or regulations / 12 pending, 25 formal reviews
- Drawn upon in AADMER, the SASOP, the Work Programme and ARF Strategic Guidance
The IDRL Guidelines: Core Ideas

• Domestic actors have **the primary role**
• International relief providers have **responsibilities**
• International actors need certain **legal facilities**
• Some legal facilities should be **conditional**
The IDRL Guidelines and humanitarian actors: a sort of domestic “certification”

Humanitarian actor requests legal facilities

Gov’t decides Facilities conditioned on adherence to minimum quality standards

Ongoing obligation of recipient to abide by standards
Gov’t monitors progress
Impact of the IDRL Guidelines in Asia Pacific

- National level
  - Indonesia
  - Cambodia
  - Philippines
  - Vietnam
  - Cook Islands
  - New Zealand

- Regional level
  - ASEAN
  - Pacific Islands Forum
Support in improving legal frameworks

- IFRC and National RC Societies provide support through:
  - Legislative review projects
  - Assistance in drafting new legal instruments
  - Provision of comments on draft laws, regulations and plans
Model Act for International Disaster Assistance

- Model domestic statute with commentary
- Developed with OCHA and IPU, with support from WCO and several international law firms
- Can be used as a whole or in pieces
- Model Decree now out for consultation
  - YOUR COMMENTS NEEDED!
Scope of the IDRL Guidelines

- For governments and humanitarian actors
- Do not specifically address receipt of military and civil defence assets
- Not necessarily for the Red Cross and Red Crescent
Civil Military Coordination: Neutral and Independent Humanitarian Action (NIHA)

- Civil defence and military assets play an important role in disaster relief operations, in particular through the mobilisation of large-scale logistical support.

- However, it’s important to distinguish between humanitarian and military resources and objectives.
The Red Cross / Red Crescent Movement must maintain its neutrality and independence at all times.

It’s not enough to BE neutral and impartial, we must also be PERCEIVED by others to be neutral and independent.

Failing to do so can put not only staff and volunteers at risk, but also jeopardises assistance reaching vulnerable people.
IDRL Guidelines and Civil Military Coordination

- IDRL Guidelines (and the Model Act) recommend setting up a pre-registration system for humanitarian actors.
- Military and Civil Defence Assets should be distinguished in the legal frameworks.
- Model Act: “Assisting States planning to provide aid through military actors shall make such offers according to [regulations or agreements].”
In this TTX think…Why is legal preparedness important?

- 1. For governments:
  - Sets out procedures, roles and responsibilities
  - Controls the type of incoming assistance
  - Coordinates and regulates the actions of international actors

- 2. For international assisting actors:
  - Facilitates response operations
  - Faster, more effective, assistance
Key points to remember

A lack of ‘legal preparedness’ = delays, poor quality aid and less control and coordination

International agreements and standards remain dispersed and fragmented and are poorly implemented

The IDRL Guidelines contain recommendations on how Governments can become better prepared

Being better legally prepared will mean a more effective, better coordinated response
FOR MORE INFORMATION, PLEASE VISIT:

http://www.ifrc.org/idrl

OR CONTACT:

Tessa Kelly
Coordinator
Disaster Law Programme
Asia Pacific

tessa.kelly@ifrc.org
+60 3 9207 5764