Introduction to Disaster Law
Philippine Red Cross (PRC) Orientation Session

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Overview of the presentation

- What is disaster law?
  - Background and mandate
- International and regional commitments
- Key disaster law themes
  - IDRL and DRR
- Progress in the Philippines and highlights from the region
- Cross-cutting connections
- Moving forward
What is disaster law?

The laws and regulations which:

- address the roles and responsibilities to manage and respond to disasters
- minimise impact of disasters
- reduce disaster risks
Common domestic disaster law issues

- Response, Preparedness, Risk Reduction, Recovery
- Definition of Disaster
- Central/local coordination
- Who is at the table
- Protection
- International Assistance
- Funding
- Accountability
- Implementation and Awareness
Disaster Law and the Red Cross Red Crescent Movement – our mandate

- An international conference convenes every 4 years
- Gathers the state parties to the Geneva Conventions (including Philippines) and all components of the RC/RC Movement
- Addresses key issues of general humanitarian concern
- Several resolutions have been passed calling on governments and the RCRC movement to research and strengthen disaster law
Red Cross and Disaster Law

- **2003**: Request to IFRC to study IDRL
- **2007**: Adoption of IDRL Guidelines
- **2011**: Reiterates “urgency” of IDRL; request to IFRC and NSs to support states on a broader range of disaster law issues (DRR Law)
- **2015**: Accelerating progress on IDRL; DRR and law checklist; first aid.
The role of the RCRC in disaster law: keeping communities at the centre

- Contribute to development of laws and policies
- Bring relevant stakeholders together to discuss issues and challenges
- Promote awareness and enhanced implementation at community level

Provide technical expertise through IFRC DL programme
Disaster Law: International and Regional Commitments
Disaster Law Progress in the Asia Pacific

- 95% of states have some kind of DM law (DM, civil protection, environmental protection etc)
- 25% have provisions in place for international assistance
- Risk reduction slowly making its way into DM laws
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?

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

- Answer: True
True or False?

- IDRL is international humanitarian law
- Answer: False
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 is legal preparedness for international disaster response important?

- More frequent and larger natural disasters
- More and different international responders
- Absence of laws and procedures to regulate the increasingly complex context
Research shows that a lack of legal preparedness hampers international relief

- **Barriers**
  - Initiation/requests for assistance, visas, customs, taxes, use of specialized telecommunications equipment, recognition of foreign professional qualifications, registration etc.

- **Oversight gaps**
  - Inappropriate items, ignoring standards, poor coordination

- **Bottom line**
  - Aid is slower, more expensive, less effective, sometimes counter-productive
A few anecdotes...
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Regional Law

Global & Regional Institutions

Soft Law

No Comprehensive Legal Regime

IHL, HRL and Refugee Law

Soft Law

Sectoral Law

Regional Law

Bilateral Agreements
IFRC tools: IDRL Guidelines & Model Act

- 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
Core Ideas of the IDRL Guidelines

- Domestic Actors have the primary role
- International Actors have responsibilities
- International Actors need legal facilities
- Some facilities are conditional
**Progress to date: implementing the IDRL Guidelines at the national level worldwide**

Key:

- **Blue**: disaster law projects (50+)
- **Green**: new laws/regulations adopted (19+)
- **Yellow**: new laws/regulations pending (17+)
Remaining gaps at country level

- The **vast majority** of countries still lack clear and comprehensive procedures

- Very hard to move from ‘interest’ to adoption **AND** implementation

- Tendency to **postpone details** to later instruments
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International commitments

Sendai Framework:
✓ Global best practice
✓ Calls upon states to use the IDRL Guidelines

Resolution 6:
✓ reiterates the importance of legal preparedness
✓ Recognizes progress but not enough
✓ States need to take more action
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)

- New AADMER work programme has many references to strengthening and implementing laws for more effective response, and links with the 8 new priority areas
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 since been reviewing its disaster management law: this is an opportunity to improve the law and ensure effective response
Recent Experiences from Myanmar and Nepal
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- Law development is a long-term process: changes do not happen overnight
- Dissemination
- Implementation
**Points to remember: Why is IDRL important?**

- **Sets out procedures, roles, responsibilities**
- **Facilitates response operations**
- **Controls incoming int. assistance; regulates actions on the ground**
- **Provides ‘legal facilities’ for international actors to operate in country**

**For states and local actors →**

**For international actors ←**

**The right aid at the right time!**
Questions to consider...

Which IDRL issues have you come across in your experience?

Which challenges might be most relevant in your country context?

Do you know of any laws/procedures in place to address these issues?
Theme 2: Law and Disaster Risk Reduction (DRR)
**Strengthening DRM: more than just response**

- Strengthening risk reduction goes beyond having a national disaster management law or focusing on response – this has been recognized in the Philippines.
- It requires a multi-sectoral, broader DRM approach.
- Includes many areas such as:
  - Building codes
  - Land use plans
  - Environmental protection and climate change
  - Institutional arrangements
  - Health, education etc.
Law as a foundation; creating an ‘enabling environment’

- DRR is not just a government responsibility but a ‘whole of society’ approach
- Everyone has a role to play in reducing risks and preventing new ones
- Law can be a framework for empowerment by mandating roles, resp, resources.
Global Commitments: Sendai framework for DRR

Priority 2: Strengthening disaster risk governance to manage disaster risk:

- Review and strengthen legal frameworks to enhance transparency
- Enhance levels of compliance with existing safety-enhancing provisions of sectoral laws and regulations (building codes, urban planning)
- Assign clear roles to community representatives within legislation
Global research: Multi-country study on law and DRR

IFRC and UNDP launched a global study in 2014 looking at 31 countries:

- Examples of good practice legal provisions
- What helps or hinders implementation
- Recommendations for reviewing or drafting laws
- Aim to support legislators, public administrators and development practitioners to prepare and implement legal frameworks for DRR
Findings: Role of Disaster Risk Management laws

- DRR as a priority in law and policies
- Define roles and responsibilities at different levels
- Provide budget allocation for DRR
- Support DRR education and awareness

DRM law
Global tools: The Checklist on Law and DRR

- A succinct and easy to use tool to support the strengthening of legal frameworks for DRR by:
  - Drawing on key findings of the multi-country study
  - Provides guidance to review and revise laws and regulations for DRR
  - Designed to be used by lawmakers, relevant govt. ministries/departments, RCRC Societies, other DRR practitioners
  - Handbook also available with more details and background for each of the checklist questions
## The checklist questions...

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<thead>
<tr>
<th>Question</th>
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<tr>
<td>1. Do you have a dedicated law for disaster risk management that prioritises risk reduction and is tailored to your country context?</td>
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<td>2. Do your laws establish clear roles and responsibilities related to risk reduction for all relevant institutions from national to local level?</td>
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<td>3. Do your key sectoral laws incorporate provisions to increase safety and reduce vulnerability?</td>
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<td>4. Do your laws ensure that sufficient resources are budgeted for disaster risk reduction?</td>
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<tr>
<td>5. Do your laws establish clear procedures and responsibilities for risk assessments and ensure risk information is considered in development processes?</td>
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The checklist questions (continued)…

6. Do your laws establish clear procedures and responsibilities for early warning?

7. Do your laws require education, training and awareness-raising to promote a whole-of-society approach to disaster risk reduction?

8. Do your laws ensure the engagement of civil society, the private sector, scientific institutions and communities in risk reduction decisions and activities?

9. Do your laws adequately address gender considerations and the special needs of particularly vulnerable categories of persons?

10. Do your laws include adequate mechanisms to ensure that responsibilities are fulfilled and rights are protected?
Why law and DRR? Experience highlights the importance of legal frameworks for DRR

Vietnam:
- Seen the benefits of having strong laws / regulations for DRR in terms of saving lives.
- Legislation on early warning, the establishment of dykes, drains (prevent flooding) and safe shelters and community awareness activities = a substantial reduction in lives lost from flooding and storms.
- The flood level in the Mekong Delta in 2011 was similar to 2000 BUT the number of deaths from floods dropped from 600 down to 60.
**Links with climate change**

- Climate change adaptation measures are increasingly recognised as overlapping with many DRR measures, and vice versa.
- Research has demonstrated, however, that institutions and legislation for climate change are often very separate to those assigned for disaster risk reduction and management.
- To promote a collaborative approach for effective disaster risk reduction AND climate change adaption, it’s a good idea to check whether your DM law specifies mechanisms for better coordination and integration (e.g. through institutional mandates or activities).
True or False?

- If you have a good disaster management law, your legal framework for DRR is complete

- Answer: False
DRR LAW POP QUIZ!!!

Disaster law
**Question one**

- Which of the following are ways to reduce the risk of disasters?
  - A) Reduce exposure to hazards
  - B) Decrease vulnerability of people and property
  - C) Proper management of land and the environment
  - D) Improve preparedness for adverse events

**ANSWER: All of them**
Question two

- What is the Sendai Framework for Disaster Risk Reduction?
  - A) a binding international treaty on disaster risk reduction
  - B) a global framework for how to reduce disaster losses and risks
  - C) Japan’s law on disaster risk reduction

ANSWER: a global framework for how to reduce disaster losses and risks
Question three

If you wanted to check whether your national laws address disaster risk reduction, which laws would you check from the list below?

Laws on:
- Disaster risk management
- Building codes
- Land use planning
- Human rights
- Environment
- Education

• ANSWER: All of them
Question four

Which points below are key factors to consider when reviewing legislation for disaster risk reduction?

- A) Whether it ensures that community members can participate or contribute to decision making for DRR
- B) Whether it takes into account the different needs of groups who are most vulnerable to disasters
- C) Whether it clearly assigns roles and responsibilities from national to local level, and to all relevant institutions across different sectors
- D) Whether outlines the exact procedure for funding a response to a disaster

ANSWER: All of them
**Progress in the Philippines and highlights from Southeast Asia**

**PHILIPPINES**
- 2011/2012 workshops
- 2013 research, deployment, IDRL bill
- 2014-2016 review of RA10121
- Development of PIHAC
- PRC DL initiative

**SOUTH EAST ASIA**
- Vietnam law, advocacy, exchange, disseminations
- Laos: Disaster and climate change, advocacy
- Myanmar law, rules, operations, advocacy/profiling
- Cambodia law, advocacy and disseminations
- Indonesia: comprehensive framework; IDRL and DRR, projects, advocacy, simulations.
South East Asia: Leaders in Disaster Law!
Disaster law is a cross-cutting area of work

**Disaster Management:**
DRR, preparedness, response, shelter

**Health:**
legal preparedness for health emergencies, first aid legislation

**Gender and diversity**

**OD: Red Cross Law**

**Community engagement & accountability**

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**Disaster Law Programme**
## Disaster law and Red Cross law

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<th>National Red Cross law</th>
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<td>Law governing disaster (risk) management for the whole country (not just RC)</td>
<td>Provides ‘legal basis’ for National Red Cross Society</td>
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<tr>
<td>Sets up govt. roles, responsibilities, institutions, funding mechanisms for DM, DRR etc.</td>
<td>Establishes the roles, responsibilities and ‘mandate’ for a National Society in their given country</td>
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<tr>
<td>Can outline role of local / domestic and civil society actors</td>
<td>Can include recognition or protection of RC emblem (or sometimes this is in a separate ‘emblem law’)</td>
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<tr>
<td>Can outline international cooperation and coordination (IDRL)</td>
<td>Can include allocation of govt. funding for NS</td>
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<td>Can ensure adequate funding for DRM at all levels, and put in place accountability mechanisms (e.g. reviews, penalties etc.)</td>
<td>Can outline role of RC in DM/DRR activities – this is where there can be a connection with disaster law work</td>
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Law and first aid

- New theme: providing supportive legal frameworks for **saving lives through first aid** (together with Global First Aid Reference Centre)
- Research on mandatory training requirements for first aid training, official standards for the quality of training programmes and protection from liability for people (particularly volunteers) who have first aid training.
- Law can: making first-aid education accessible to all and not just for those who can afford it.
- Compulsory first-aid training at different stages (school, workplace, driving licence)
- Mandate time limits for first aid certificates to establish refresher courses that should be taken every five years.
- Regulation against holding first-aid providers responsible for poor outcomes.
Links with gender & diversity

- **In DRR:** Analysing the distinct roles and needs of men, women, boys and girls, addressing gaps through law and policy.
- Equitable access to learning, skill-building (e.g. swimming) EW information etc.
- Ensuring protection for everyone in society is a key concern for disaster law makers and requires some gender analysis.
- **In Response:** Distribution of relief e.g. making sure it reaches female-headed households.
- Consideration of needs e.g. dignity kits, maternal health kits, etc.
- Avoid tokenism – laws can clearly mandate an active role for women.
Community engagement in and disaster law: It works two ways…

**TOP DOWN:** ensure communities know their roles, rights, responsibilities and the accountability mechanisms available.

**BOTTOM UP:** Collect and represent community views in decision-making processes that will affect them: they feel the impact of disasters the most, and know how to prepare and respond.
Some examples of good practice in SEA

**Vietnam**
Right for communities to access information and participate in development of local plans

**Myanmar**
Calls for active participation of communities in preparedness; promotes public awareness and community engagement in DRR

**Philippines**
Includes involvement and participation of stakeholders and institutions with specific roles and responsibilities

Participation of civil society and communities under DM laws
Links with shelter, housing land and property (HLP)

- Regulatory barriers to the provision of rapid, equitable shelter / Housing, land and property rights
- Hazard mapping and land use planning
- Acquisition / designation of land for emergencies (e.g. open spaces in Nepal)
- After Haiyan: advocacy and technical advice on issues around no build zones, relocation, construction and quality of temporary shelter (bunkhouses) etc.
- There is a role for law and policy to improve many of these processes
Moving forward in the Philippines

Consolidating and building upon work already done

Focus on knowledge and capacity building for PRC: institutionalize

Positioning of PRC as partner of choice through various processes

Cannot do it alone: link with other partners and initiatives

Short-term and long-term approach
Thank you for listening!

For more info:

Public website and IDRL online module (instructions online)
www.ifrc.org/dl

Online library:
https://sites.google.com/site/drrtoolsinsoutheastasia/

Email:
lucia.cipullo@ifrc.org

Comments?

Questions?
FOR FURTHER INFORMATION PLEASE CONTACT:

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