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…
No Comprehensive Legal Regime

- Global & Regional Institutions
- RC/RC (Soft) Law
- IHL, HRL and Refugee Law
- Sectoral Law
- Regional Law
- Bilateral Agreements
- Soft Law

3
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
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.
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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