From law to action:
Saving lives through International Disaster Response Law
The cases of Vanuatu, Ecuador and South Sudan
The International Federation of Red Cross and Red Crescent Societies (IFRC) is the world’s largest volunteer-based humanitarian network. With our 190 member National Red Cross and Red Crescent Societies worldwide, we are in every community reaching 160.7 million people annually through long-term services and development programmes, as well as 110 million people through disaster response and early recovery programmes. We act before, during and after disasters and health emergencies to meet the needs and improve the lives of vulnerable people. We do so with impartiality as to nationality, race, gender, religious beliefs, class and political opinions.

Guided by Strategy 2020 – our collective plan of action to tackle the major humanitarian and development challenges of this decade – we are committed to saving lives and changing minds.

Our strength lies in our volunteer network, our community-based expertise and our independence and neutrality. We work to improve humanitarian standards, as partners in development, and in response to disasters. We persuade decision-makers to act at all times in the interests of vulnerable people. The result: we enable healthy and safe communities, reduce vulnerabilities, strengthen resilience and foster a culture of peace around the world.
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Introduction

In the face of climate change, the world continues to witness frequent and large-scale disasters. In the first half of 2017 alone, 149 natural disasters occurred in 73 countries resulting in 3,162 deaths, affecting 80 million people and resulting in the estimated loss of US$32.4 billion. With ongoing famine and food insecurity in Africa, natural disasters occurring regularly across the Asia Pacific, insecurity across the Middle East, not to mention powerful hurricanes in the Caribbean – our humanitarian system is struggling to respond to the unprecedented scale of emergencies we are witnessing today.

While natural hazards continue to cause massive human suffering and adversely affect the realisation of sustainable development, governments need effective legal frameworks and well implemented disaster laws to ensure a well-functioning disaster risk management system, and that the right aid is delivered at the right time. Rules and procedures must be in place before a disaster strikes for the effective management of international disaster assistance. This is crucial for saving lives in a disaster response.

In some cases, an absence of procedures to address these legal barriers during a disaster has served as a catalyst for legal reform, as can be seen in the case studies shared in this report. While law and regulation is often looked upon as a barrier to quick and effective relief, if a country has the right procedures in place it is quite the opposite – laws can indeed create an enabling environment and serve as a solid legal foundation for effective disaster response and save lives.

The IDRL Guidelines

Ten years ago, at the 30th International Conference of the Red Cross and Red Crescent in November 2007, the state parties to the Geneva Conventions and the components of the International Red Cross and Red Crescent Movement adopted the Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance (the ‘IDRL Guidelines’). They contain recommendations for states to legally prepare and effectively manage international disaster assistance. The IDRL Guidelines recognize the primary role of the affected state in the management of international disaster assistance and, at the same time, they set out legal facilities that governments should provide to expedite the movement of international disaster relief goods and personnel, including goods in transit (such as visa, customs clearance and tax exemption). The IDRL Guidelines encourage governments to grant these legal facilities to organizations based on their compliance with humanitarian principles and minimum professional and humanitarian standards. This ground-breaking international standard was the result of years of research and consultation, and provides recommendations drawn from global best practice on how to manage international disaster assistance, if and when required.
Reiterating the importance of the IDRL Guidelines, and the urgency to accelerate progress in this area, two subsequent resolutions were adopted by the International Conference in 2011 and 2015. The IDRL Guidelines have also been recognised as a key tool for states to utilize when developing their legal frameworks for international disaster response in global instruments such as the Sendai Framework for DRR.

The Work of the IFRC

The IFRC has been spearheading work on International Disaster Response Law (IDRL) since 2001. Through its Disaster Law Programme (DLP), the IFRC works closely alongside National Red Cross and Red Crescent Societies to undertake research, capacity building and technical assistance to governments to ensure that the necessary laws and procedures are in place at the domestic level, to manage international disaster assistance. It is through the unique auxiliary role of National Red Cross and Red Crescent Societies that the IFRC and its partners are able to engage in a dialogue on this issue, which has seen concrete, tangible outcomes, as exemplified in this brochure. Through the vast network of National Societies, the IFRC is also able to support the implementation and dissemination of disaster-related laws, which is a crucial element of legal preparedness. Working closely with partners from the United Nations, regional bodies, and non-governmental organizations, the IFRC’s DLP has become a world-renowned leader in IDRL work.

Since their adoption in 2007, support provided by the Red Cross and Red Crescent has resulted in the IDRL Guidelines having been incorporated into more than 30 domestic disaster laws and procedures and three regional treaties. They have influenced numerous disaster response operations, simulation exercises, the establishment of domestic IDRL taskforces, and policy dialogues at the national, regional and international levels.
Case study
From Pam to Donna: How Vanuatu strengthened its legal preparedness for international disaster assistance
Vanuatu, one of the most disaster-prone countries on earth, is a scattered collection of islands in the Pacific Ring of Fire, beset by tropical cyclones, floods, droughts, earthquakes and volcanic eruptions. In March 2015, Vanuatu was hit by the most intense cyclone in the Pacific’s recorded history – Tropical Cyclone (TC) Pam. Over half of the population, an estimated 188,000 people, were affected by TC Pam. Winds of 250 km/h with gusts peaking at around 320 km/h flattened homes and schools resulting in the displacement of approximately 65,000 people. 17,000 buildings were damaged or destroyed with 96% of agricultural crops wiped out in affected areas severely compromising the livelihoods of at least 80% of the country’s rural population. Fortunately, the official death toll of 11 was minimal, given the size of the disaster. This was attributed to the strong preparatory work that the National Disaster Management Office (NDMO) had undertaken in early warning and community preparedness measures.

Despite sustained investment in recent years in Vanuatu’s disaster management system by the Government and its national and international partners, TC Pam exceeded the national capacity to respond. The Government issued its first ever generalized appeal for international assistance, and this prompted an international response that far exceeded anything previously experienced on the island nation. Scores of international organizations, international NGOs and bilateral partners including foreign militaries flooded into the country, many with minimal knowledge of national actors, institutions and established ways of working. Against such a backdrop, coordination proved challenging among the humanitarian community, and with the national authorities. To regain ownership of the response, the Vanuatu Government temporarily halted all aid distributions to ensure greater cooperation and communication. Vanuatu Red Cross was the first humanitarian agency sanctioned to distribute relief supplies.

Long before TC Pam, Vanuatu had already taken great strides to improve its legal preparedness for international assistance. In 2010, Vanuatu became the first country in the Pacific to undertake an International Disaster Response Law study, with the support of the Vanuatu Red Cross and the IFRC’s Disaster Law Programme. The report on International Disaster Response Laws, Rules and Principles (IDRL) in Vanuatu, published in 2011, provided a review of Vanuatu’s legal and policy framework for disasters, and recommendations on how to manage incoming international disaster assistance. While the recommendations of this report were not implemented in time for TC Pam, the report was heavily utilized during the response. In addition, the IFRC Pacific Disaster Law Delegate was deployed to support the Government with regulatory barriers arising in the TC Pam response efforts. Collaborative efforts between the Vanuatu Red Cross, IFRC, the national disaster management office and partners within the Logistics Cluster resulted in the
drafting of the Vanuatu Policy on Unsolicited Bilateral Donations (UBDs) and the Standard Operating Procedures on international assistance for TC Pam. According to the IFRC Delegate, Finau Limuloa, “this work was largely operationalizing many of the recommendations contained in the 2011 IDRL report which were still relevant and actually coming in to play during the Pam response”.

The Government of Vanuatu acknowledges that TC Pam provided a wake-up call for legal reform. The existing National Disaster Act quickly came under the spotlight which, according to the Regional Disaster Management Advisor for the Australian Civilian Corps (ACC), Wojciech Dabrowka, “It needed to be updated to enable the government to be better prepared for the common legal problems related to emergencies and international assistance”. Later, in 2016, Vanuatu Red Cross and IFRC were requested by the Government of Vanuatu to support the legislative review of the National Disaster Act. Disaster law tools such as the IDRL Guidelines and the DRR and Law Checklist and Handbook were utilized. The Vanuatu Red Cross provided legal drafting support as well as supported numerous national and community consultations with key partners. “Vanuatu is being brave,” says Mr. Dabrowka, “embedding the Government-led Cluster system as part of the humanitarian architecture into legislation is an unchartered territory. If Vanuatu could get these changes through and adopt the legislation, it would create a very exciting precedent and show a way forward for the rest of the Pacific.” The Disaster Management Bill, recognizes Red Cross’s special status as auxiliary to the public authorities, and institutionalizes key disaster risk management principles including the facilitation of international assistance, is understood to be submitted to parliament toward the end of 2017.

However, before the new law could come into effect, Vanuatu was tested again. In early May 2017, Tropical Cyclone (TC) Donna made landfall in Torba Province of the Torres Islands, the northernmost island group in the country. The government response to TC Donna was vastly different. Mr Shadrack Welegtabit, Director at the National Disaster Management Office Vanuatu explained that “The lessons from TC Pam were a turning point in how the government both manages the response to disasters in country and utilizes international assistance. The Government has undertaken significant strengthening of the resources and structures for disaster response... including a review of the disaster legislation”.
Requests and provisions of international technical assistance were much more specific and coordinated during TC Donna. The Government of Vanuatu was in direct communication with the Pacific Humanitarian Team and other partners to request specific technical skills. Donors were more closely engaged and responded to needs communicated from the government based on information provided through its coordination mechanisms. Though the needs in TC Donna were not as great, the structure of the NDMO and coordination architecture from national to provincial level was in a much better position to request and absorb international support. According to Ms. Limuloa, “the TC Donna response was a well thought-out, measured, calculated and coordinated response, where the government was at the helm the entire step of the way. The Government issued specific requests to specific partners, provided facilities for their expedited entry and ensured they engaged in the response in a coordinated manner.”

As always, Vanuatu Red Cross was there before, during and after the disaster. “The improved coordination mechanisms enabled efficient collaboration between Red Cross staff and volunteers and the NDMO in the timely distribution of relief items to those most affected” explained Mr. Dickinson Tevi, Organizational Development Coordinator of the Vanuatu Red Cross. Furthermore, as Mr. Tevi explains, “Working together on Disaster Law has really helped to strengthen our relationship with the government, particularly their understanding of the work we do as Red Cross. This has certainly helped to cement our role as auxiliary to the government in Disaster Risk Management through the institutionalization of the role of Vanuatu Red on the National Disaster Management Committee.”

It is now anticipated that once the new disaster management Bill is passed by parliament, the new law must be disseminated widely to ensure that everyone knows of their rights, roles and responsibilities in disaster, from community level up to national level and beyond. “People across the country must understand what the new law means” explained Ms. Augustine Garae, Disaster Management Coordinator of Vanuatu Red Cross, “right down to the provincial and community level.”.

Both TC Pam and TC Donna provided a number of good learning opportunities and the Vanuatu government has been proactive alongside the Red Cross, in ensuring that these lessons lead to changes in the current system. “The Vanuatu NDMO is very pleased with the ongoing support provided by the IFRC Disaster Law Programme in our legislative review”, concludes Mr. Welegtabit. “We value their partnership and their expertise in this area".
Case Study
A catalyst for legal reform: the Ecuador earthquake
The international response to the magnitude 7.8 earthquake that struck coastal Ecuador on 16 April 2016 demonstrated how IDRL can positively impact a large-scale response, and serve as a catalyst to drive legal reform before, during and after disasters.

In 2013, the Ecuadorian Red Cross (ERC) worked together with national authorities to assess the strengths and weaknesses of the national legal and institutional framework on international disaster assistance, utilizing the IDRL Guidelines as benchmark. Through the involvement of key stakeholders, including the Secretariat for Risk Management, Customs, Migration, Foreign Affairs and other departments and civil society organizations, recommendations were produced in the report on IDRL in Ecuador which served as the basis for a roadmap to strengthen the country’s systems for managing international disaster assistance. Interestingly, discussions about the report’s recommendations were being held in a national workshop even just a few days before the massive earthquake struck.

The earthquake was one of the biggest the region had ever seen, claiming 663 lives and affecting more than one million people. Red Cross volunteers were among the first to respond, digging people out from under the rubble and providing life-saving assistance in the hours and days that followed. The solidarity soon expanded, bringing humanitarian actors from across Ecuador and around the world, including Red Cross personnel. “From the start, hundreds of Red Cross volunteers were mobilized to provide humanitarian services, including pre-hospital care and restoring family links” explained Walter Cotte, IFRC Regional Director for the Americas.

“From the outset, several National Red Cross Societies from the region and from around the world offered expertise and support, ensuring the Ecuadorian Red Cross had the resources to provide the support that affected communities really needed.”

Previous preparedness work on IDRL was of great value during earthquake response. A prior awareness and understanding of IDRL issues meant that important legal facilities were provided during the emergency operation, based on key recommendations of the IDRL report. This included the granting of priority landing to flights carrying humanitarian aid by the Director of Civil Aviation, and the swift adoption of a regulation allowing selected international humanitarian NGOs that were not previously registered in Ecuador to operate and provide humanitarian assistance during the response.

“Regulations on the provision of international relief and aid (IDRL) create valuable spaces for generating encounters and synergies between the State agencies involved in the management of international humanitarian assistance and serving the purpose of achieving
greater agility in the reception, transfer and delivery of humanitarian assistance in disaster situations, thus avoiding unnecessary delays" commented Martín Tamayo, Ministry of Foreign Affairs and Human Mobility of Ecuador.

This regulation also placed an obligation on international humanitarian NGOs to coordinate their response operations with the Secretariat for Risk Management and to be accountable through presentation of activities reports to SETECI, the governmental entity responsible for international cooperation in Ecuador. This ensured strong coordination between national authorities and assisting international actors – an important element of a response which does not always materialize during the chaos of a large-scale operation.

Furthermore, SETECI also granted legal facilities to international actors for the period of the state of emergency, with the aim to facilitate the entry of relief goods and equipment. This included a decree to authorize donations of medical supplies, and the expedited clearance of health equipment for Emergency Response Units. “The health equipment deployed by Canadian Red Cross for the ERC and IFRC’s response to the massive earthquake was cleared quickly by the Military Airport Authorities in Manta where it arrived by plane. This permitted us to set up within 48 hours a Basic Field Hospital in Jama and later in Perdernales to assist the population most effected by the Earthquake”, explained David Campfens, Regional Representative for the Americas, Canadian Red Cross.

In addition to putting special procedures in place to facilitate the response, coordination mechanisms had also been significantly strengthened in the years leading up the 2016 earthquake. An International IDRL Cooperation Working Group within the Emergency Operation Centre had been created back in 2013. The establishment of this working group, which was comprised of key disaster response actors in-county, meant that there was an already established relationship among these actors and their roles and responsibilities in a disaster response operation were known by all. During the emergency, the CEO of the working group created an operational IDRL taskforce, or ‘One Stop Shop’, tasked with facilitating the admission of international rescue teams at entry points, including from Chile, Colombia, Peru, Mexico, Venezuela, Bolivia, and Cuba, through expedited migration and customs procedures.
“Although the Inter-Ministerial Agreement on the IDRL Commission had not been adopted when the earthquake struck, previous IDRL work was a catalyst for the Secretariat for Risk Management, Ministries and local agencies to review their respective rules and procedures and compare them with one another” explained Mauricio León, Coordinator Territorial Network, Ecuadorian Red Cross. “It also supported a better coordination and cooperation between the authorities responsible for the management of the emergency. Many agencies acted as if the IDRL provisions were already in full effect.”

The earthquake also served as a catalyst for legal reform in the months following the disaster. During the recovery phase, from October 2016 to April 2017, and strong of its experience of the response to the earthquake, Ecuador continued to strengthen its legal preparedness for the management of international disaster assistance. SETECI was transferred to the Ministry of Foreign Affairs and Human mobility and was renamed Secretariat for International Cooperation. Its core functions include being responsible for the efficient coordination of international assistance, and ensuring that procedures and arrangements are put in place before a disaster strike for the entry of international assistance, such as implementing in domestic contexts mutual cooperation agreements signed with neighboring countries.

It is clear that the work done prior to and during the response to the 2016 earthquake saw tangible outcomes in facilitating and regulating the disaster response, while at the same time placing Ecuador Red Cross at the forefront of many of these initiatives. The next steps include formalizing the creation of a permanent IDRL Commission through the adoption of an Inter-Ministerial Agreement, systematizing the standards adopted after the earthquake, and further implementing IDRL research recommendations alongside the lessons learned from the earthquake – including in a new draft law on Disaster Risk Management.

What is striking about the example of Ecuador is how preparedness work on IDRL also paved the way to advance progress in other disaster law areas, including on housing, land and property, where the Ecuador Red Cross and its partners efficiently advocated for new regulations to better address rights to housing of vulnerable populations affected by the earthquake. Through years of work promoting, reviewing, and strengthening laws and procedures for managing international disaster assistance, Ecuador has not only been able to highlight the operational relevance of IDRL, but also demonstrate the important role that law can play within the whole disaster risk management spectrum.
Case study
South Sudan: Preparing to better manage international assistance
In April 2017, the United Nations declared famine for the first time in six years; at least a hundred thousand people were facing starvation in South Sudan. After gaining independence from Sudan in 2011, the young nation of South Sudan has regularly made the front pages – mostly for devastating reasons. In multi-ethnic South Sudan, livelihoods are dependent on stability and the weather, so resources are usually scarce. In the already difficult context of an internal power struggle, which sparked a civil war in 2013 and threatens national security every day, South Sudanese communities have been plagued by drought and disease.

Bearing this turbulent context in mind, it’s no surprise that humanitarian assistance is at peak need. The ongoing crisis has led to many vulnerable internally displaced persons and many international humanitarian actors in the country. The humanitarian situation in South Sudan demands a strong legal and regulatory framework to address the risks and hazards at community level and to regulate and facilitate international humanitarian assistance, based on the recommendations of the IDRL Guidelines.

“Disaster Law is designed to enhance mitigation of risks and response to emergencies, aiming for more resilient South Sudanese communities. If governmental instruments are not well defined, we will lack quality control and risk delays in the delivery of support to people in urgent need of humanitarian assistance. We should take advantage of the vast network of grassroots volunteers of South Sudan Red Cross and the experience of the IFRC in this field” commented Gatwech Peter Kulang, Under Secretary Ministry for Humanitarian Affairs and Disaster Risk Management.

In 2017, in the midst of the violence and the drought, the Ministry of Humanitarian Affairs and Disaster Management has pursued the development of a National Disaster Risk Management policy and the drafting of a new law. This draft Policy sets up an institutional framework for humanitarian assistance and disaster risk management, including promotion of a culture of disaster risk reduction for community resilience and building the capacity for disaster risk management at all levels.
Particularly, the authorities are determined to have an efficient structure in place to receive, manage and oversee international response operations – avoiding delays and unnecessary costs for both international humanitarian actors and the country itself. Decision makers of the Ministry for Humanitarian Affairs and Disaster Management, together with representatives of other Ministries that have a stake in the management of international humanitarian operations, such as Foreign Affairs, Finance and the Ministry of Health, are working together to analyse the problems and develop tools and strategies to facilitate the management of international humanitarian assistance. This includes clarifying the role of the government as prime actor and responsible for the efficiency of the disaster risk management system in South Sudan, while ensuring the smooth entry of high quality relief into the country. “If we fail to plan, we plan to fail”, commented Dr. Michael Charles, IFRC representative in South Sudan.

The Ministry for Humanitarian Affairs and Disaster Management is counting on the support of the South Sudan Red Cross in the legal drafting of the Policy and the proposed legislation to manage international humanitarian aid. Once adopted, South Sudan Red Cross will support the implementation of these new instruments through the dissemination and capacity building in this domain at all levels, including cross-sectoral ministries, parliament, decentralized governance, traditional and religious leaders, civil society and other South Sudanese actors, such as the academia. Indeed, since 2012, South Sudan Red Cross has engaged its authorities on disaster law and from that time on, it has been a homegrown source of knowledge on how best to legislate for disasters.
Conclusions and moving forward

The case studies in this brochure have demonstrated some of the great progress that has been made – yet more remains to be done. It is hoped that the experience and developments of the past ten years will serve as encouragement and motivation for States, the Red Cross and Red Crescent National Societies, and key partners, to continue strengthening their legal and policy frameworks for international disaster response. The IFRC’s Disaster Law Programme stands committed to provide support, together with National Societies, to ensure that national and local actors are in the driver’s seat, and that international disaster assistance is provided in a swift, efficient manner, and saves more lives.

Further information and support

Further information, tools, reports and updates on the IDRL Guidelines, IDRL Checklist, Model Act and Model Decree can be found at www.ifrc.org/dl.

In case of any questions or requests for technical IDRL assistance, the IFRC Disaster Law Programme team can be contacted at disaster.law@ifrc.org.

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ii See Resolution 4 of the International Conference of the Red Cross and Red Crescent in 2007.

iii See Resolution 7 and Resolution 6 of the International Conferences in 2011 and 2015.

iv http://www.unisdr.org/we/coordinate/sendai-framework

v 2005 ASEAN Agreement on Disaster Management and Emergency Response; 2015 Trans-border Agreement between Panama and Costa Rica; 2017 SICA Special Customs Procedures for Relief Goods.

vi Vanuatu National Disaster Management Office (NDMO), Pacific Community (SPC), Tropical Cyclone Pam Lessons Learned Workshop Report, June 2015


viii Refers to goods that are spontaneously donated after a disaster that have not been requested by responding State and frequently do not meet the needs of the affected populations. UBDs create considerable financial and logistical issues for governments and response agencies.

ix http://pacifichumanitarian.info/

x This process is an example of the implementation of the Operating Permit Regulation for Air Transport Providers, which includes a section on prioritizing landing of humanitarian assistance flights in emergency responses and encouraging the granting of legal benefits for such aircrafts. This regulation was adopted in 2014, based on the recommendations of the IDRL report.

xi Regulation 29, issued by the authority responsible of the International Cooperation System (ICS)

xii SETECI adopted Regulation No. 30 on 22 April 2016, clarifying the timeframe of Regulation No. 29 for which the legal facility was to be granted, specifying that it was limited to the period of the state of emergency. It also introduced another temporal element, specifying that the coordination with the Risks Management Secretariat was to be made prior to the operations. On May 2016, SETECI took Regulation No. 31 repealing Regulation No. 30 to reiterate the obligation of all international humanitarian NGOs that had operated to submit, within 30 days, their activities reports.

The Fundamental Principles of the International Red Cross and Red Crescent Movement

**Humanity** / The International Red Cross and Red Crescent Movement, born of a desire to bring assistance without discrimination to the wounded on the battlefield, endeavours, in its international and national capacity, to prevent and alleviate human suffering wherever it may be found. Its purpose is to protect life and health and to ensure respect for the human being. It promotes mutual understanding, friendship, cooperation and lasting peace amongst all peoples.

**Impartiality** / It makes no discrimination as to nationality, race, religious beliefs, class or political opinions. It endeavours to relieve the suffering of individuals, being guided solely by their needs, and to give priority to the most urgent cases of distress.

**Neutrality** / In order to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.

**Independence** / The Movement is independent. The National Societies, while auxiliaries in the humanitarian services of their governments and subject to the laws of their respective countries, must always maintain their autonomy so that they may be able at all times to act in accordance with the principles of the Movement.

**Voluntary service** / It is a voluntary relief movement not prompted in any manner by desire for gain.

**Unity** / There can be only one Red Cross or Red Crescent Society in any one country. It must be open to all. It must carry on its humanitarian work throughout its territory.

**Universality** / The International Red Cross and Red Crescent Movement, in which all societies have equal status and share equal responsibilities and duties in helping each other, is worldwide.