

The Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (The 'IDRL' Checklist) November 2017

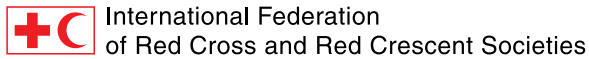


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Cover photograph: Finnish Red Cross. September 27, 2017. Dominica, Roseau. The first relief items arriving to the port in Roseau, Dominica, to help the population cope with the destruction caused by hurricane Maria.

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The Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance

1

Does your country have a clear legal framework for disaster risk management which includes procedures relating to international disaster assistance?

2

Do your country's laws and regulations clearly set out a focal point for coordinating international disaster assistance?

3

Do your country's laws and regulations outline the roles and responsibilities of different institutions relating to international disaster assistance?

4

Do your country's laws and regulations outline a process for requesting/welcoming offers of international disaster assistance, and for terminating international assistance?

5

Do your country's laws and regulations provide for necessary legal facilities to be provided to international assisting actors?

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Do your country's laws and regulations set out quality standards for international assisting actors?

7

Do your country's laws and regulations set out eligibility requirements for international assisting actors to receive legal facilities?

8

Do your country's laws and regulations establish a specialized unit for expediting the entry of international disaster assistance?

9

Do your country's laws and regulations provide adequate transparency, safeguards and accountability mechanisms governing international disaster relief and initial recovery assistance?

10

Do your country's laws and regulations outline procedures for international disaster assistance sent from, and transiting through your country?

Introduction and purpose of the IDRL Checklist

Natural hazards cause massive human suffering and adversely affecting the realisation of sustainable development. These hazards have increased in frequency and their adverse impact on human progress has intensified, as recently exemplified in 2017 by hurricanes that tore across the Caribbean, earthquakes in Central Mexico and at the Iran-Iraq border, the plague outbreak in Madagascar and historical floods in India and Bangladesh. In the first half of 2017, 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 billion¹.

Despite very encouraging advances in disaster risk management capacity over the last several decades, experience shows that no country can assume that it will never need international assistance to meet urgent humanitarian needs. This is true even of the wealthiest and best prepared countries, as evidenced by the experience of Japan after the Fukushima disaster and the United States after Hurricane Katrina. While the main focus should always be on building resilience and preparedness at the local and national level, basic preparedness for international cooperation should also be considered essential.

Why? Long experience has unfortunately shown that goodwill (often in abundant supply) is frequently not enough to avoid regulatory problems in large international operations that undermine the ability of domestic authorities to oversee and coordinate international aid, while also rendering that aid less timely, more expensive to deliver and less effective for those most in need.

Recognizing this problem, as demonstrated through seven years of case study research and a global consultation process, the state parties to the Geneva Conventions adopted the *Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance* (also known as the 'IDRL Guidelines') at the 30th International Conference of the Red Cross and Red Crescent in 2007. The Guidelines are intended to assist states to develop their own laws, rules and procedures to anticipate and prevent the most common regulatory bottlenecks and problems. Since their adoption, over 30 countries² have adopted new laws or procedures drawing on the IDRL Guidelines and National Red Cross and Red Crescent Societies have provided their advice and support to implement their recommendations in over 100 countries.³

The current document – a “Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance” (the 'IDRL Checklist') – has been developed as a supplemental tool to assist states in making use of the IDRL Guidelines. It is a way to help structure a self-assessment process -- examining existing provisions against the recommendations of the Guidelines -- which can sometimes feel a bit overwhelming at the outset. The technique is inspired from successful experience with the *Checklist on law and disaster risk reduction* co-drafted by the IFRC and UNDP in 2015.

Intended audience

The IDRL Checklist is intended to be used by national authorities, including law and policy makers, national disaster management organizations, and the relevant sectoral ministries and departments (such as foreign affairs, immigration, customs, finance, taxation, and health, among others). This tool

1 Centre for Research on the Epidemiology of Disasters, CRED Crunch, Issue No. 48, “Disaster Data: A Balanced Perspective”, September 2017.

2 Details available here: <https://www.google.com/maps/d/u/0/embed?mid=1xr9uo9VsTpKmbbANVlsU29vHxrE&ll=4.083452772113819%2C-1.406248000000005&z=1>

3 Details of where the IDRL Guidelines have been used, and examples of good practice, can be found on the Disaster Law website at www.ifrc.org/dl

is also intended for use by National Red Cross and Red Crescent Societies, international and regional organizations, disaster risk management practitioners, and local and civil society actors engaged in disaster-related law and policy making processes.

Core principles of the IDRL Checklist

The IDRL Checklist reflects the core principles of the IDRL Guidelines, namely that:

- a. **Domestic actors have the primary role to respond to disasters within their territory.** The responsibility to respond to a disaster sits with the national authorities of the affected State. National Red Cross and Red Crescent Societies and other domestic civil society actors play an important role alongside them. If a disaster exceeds the capacity of the affected State to respond, international assistance may be welcomed or requested – as determined by the affected State.
- b. **International relief providers have responsibilities.** If international assistance is welcomed or requested, international relief providers should be held responsible for abiding by certain minimum standards, such as the Code of Conduct of the Red Cross and Red Crescent Movement and NGOs in Disaster Relief, and the Sphere Humanitarian Charter and Minimum Standards in Disaster Relief. They should also operate in line with fundamental humanitarian principles such as humanity, neutrality and impartiality.
- c. **International actors need legal facilities.** If requested by the affected state, and in order to meet the needs of the affected population, international assisting actors need legal facilities and accommodations in order to provide an effective response. This may include expedited visa processing and customs clearance for relief goods, personnel and equipment, or exemptions from taxes, duties and fees on relief items.
- d. **Some legal facilities should be conditional:** To lend some weight to the responsibilities of assisting actors, the provision of legal facilities to assisting international actors should only be granted to organizations based on their commitment to and ongoing compliance with minimum humanitarian standards and the humanitarian principles listed above.⁴

The terminology used in this Checklist is based on the detailed definitions included in the IDRL Guidelines and the *Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance* (the 'Model Act')⁵. For the sake of brevity, the definitions will not be listed again here, but can easily be accessed in these two documents online.⁶

How to use the IDRL Checklist

The IDRL Checklist can be used in several ways. Firstly, it is intended to be used by national authorities alongside the IDRL Guidelines and the Model Act to review and strengthen the relevant national laws, policies, plans and procedures which relate to the management of international disaster assistance at the domestic level. Secondly, the IDRL Checklist can be used as part of preparedness planning, simulation exercises, or to inform operations of the legal barriers that may be encountered. Thirdly, the IDRL Checklist can also be used as a stand-alone product, to guide discussions and consultations

4 For further details on the core principles, see page 9 of the IDRL Guidelines.

5 The *Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance* is a tool developed by the IFRC, the United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA) and the Inter-Parliamentary Union (IPU), in consultation with states, National Red Cross and Red Crescent Societies, international, regional and civil society organizations. It is a model law which provides the legislative language necessary to implement the IDRL Guidelines into domestic law.

6 For definitions, see page 14 of the *IDRL Guidelines* and page 8 of the *Model Act*.

in this area, whether by governments, local authorities or international actors. The considerations and recommendations contained in the IDRL Checklist are applicable and warrant consideration by all actors who play a role in international disaster response.

The IDRL Checklist questions



Does your country have a clear legal framework for disaster risk management which includes procedures relating to international disaster assistance?

Having an overarching disaster risk management law and policy in place at the national level can serve as the foundation for mechanisms pertaining to the central role of the State to organize, coordinate, and provide humanitarian assistance within its territory. Legal provisions should be put in place for coordinating and managing both domestic and international disaster assistance, clearly defining roles and responsibilities, requirements for international actors and detailing facilities for the entry of disaster assistance, as further detailed in this Checklist. Furthermore, procedures should be in place for the exchange of information on emerging hazards that may cause disasters or emergencies, in order to then facilitate international disaster assistance. This is a crucial first step to ensuring that countries are legally prepared for a large-scale disaster. Additional elements to consider (though not the focus of this checklist) include establishing institutional arrangements for disaster risk reduction⁷, preparedness and response, and recovery, among others.

Over the past 10 years, over 30 countries have adopted new laws and regulations which include a dedicated chapter, section or article relating to the management and/or coordination of international disaster assistance.⁸ Some countries have delineated provisions directly in the disaster risk management, emergency management or civil protection law⁹. Other countries have developed detailed implementing regulations or procedures which contain provisions about international disaster assistance¹⁰. In other cases, an entire law has been developed specifically for the facilitation and regulation of international disaster assistance¹¹. In some instances, procedures relating to international disaster assistance can be scattered across sectoral laws, such as for issues relating to the entry of disaster relief goods and personnel.¹² It is therefore equally important to check the relevant sectoral laws, as suggested below. Copies of these laws can be found on the IFRC disaster law database¹³.

To answer this question, consider the following:

A. Guiding sub-questions:

- i. Does your country have a disaster risk management/emergency management/civil protection law?
- ii. Do either of these laws mention international disaster assistance? Are procedures and protocols in place for the management of international disaster assistance?

7 Recommendations for states on how to strengthen legal frameworks for disaster risk reduction can be found here <http://drr-law.org/resources/The-Checklist-on-law-and-DRR-Oct2015-EN-FINAL.pdf>

8 Details available here: <https://www.google.com/maps/d/u/0/embed?mid=1xr9uo9VsTpKmbbANVIsU29vHxrE&ll=4.083452772113819%2C-1.406248000000005&z=1>

9 Such as in Mexico and Mongolia.

10 Examples include Indonesia, Colombia and the Philippines.

11 Such as the recently adopted 'IDRL' laws in Kyrgyzstan and Finland.

12 Examples can be seen in Mexico and Norway, with elements addressed in their migration laws, and in Colombia with their customs law.

13 <http://www.ifrc.org/publications/disaster-law-database/>

- iii. Do the relevant sectoral laws (as listed below) contain any provisions relating to international disaster assistance?
- iv. Does the law or policy specify a procedure to report to other governments/regional organizations/United Nations about emerging hazards that could lead to disasters and/or emergencies in the country and/or in a neighbouring country?

B. Check laws and regulations related to:

- Disaster risk management/Emergency management/Civil protection
- Foreign Affairs
- Immigration
- Customs
- Taxation
- Finance
- Health
- Food security

See also IDRL Guidelines paragraphs 3, 7 and 8.

2

Do your country's laws and regulations clearly set out a focal point for coordinating international disaster assistance?

In recent research undertaken by the IFRC, coordination problems in both international and domestic response operations were identified as the most frequent types of regulatory issues, and those with the highest impact on the efficiency and operation of disaster response operations.¹⁴ Four types of coordination problems were frequently raised. These included gaps in coordination between domestic authorities about how they manage international response; gaps in coordination between different agencies and/or levels of government; gaps in coordination between international responders and domestic authorities; and gaps in coordination between governmental and non-governmental actors. It is therefore necessary to consolidate coordination mechanisms in order to prevent the management of humanitarian aid and communication from becoming an additional burden at times when delays can cost lives.

Given that primary responsibility for responding to disasters sits with the affected state, it is crucial that a focal point for the coordination of international disaster response is clearly designated and, ideally, mandated by law. In most countries, this responsibility sits with the national disaster management agency or civil protection. The focal point should serve as the central agency in-country for liaison among governmental agencies and between the government and assisting international actors, in order to promote the effective facilitation, coordination and oversight of international disaster assistance. The focal point should also serve as the main counterpart in-country for any applicable regional and global coordination mechanisms. Furthermore, adequate procedures should be in place to ensure the

¹⁴ IFRC, Report on the survey on disaster relief, regulation and protection, November 2015
[http://www.ifrc.org/Global/Photos/Secretariat/201506/Report%20of%20the%20IDRL%20Survey%20\(final\).pdf](http://www.ifrc.org/Global/Photos/Secretariat/201506/Report%20of%20the%20IDRL%20Survey%20(final).pdf)

coordination of international efforts among actors at the national, provincial and local levels. Local and civil society actors, such as National Red Cross and Red Crescent Societies (as further outlined in question three below), should also be part of these coordination mechanisms, and their role should be clearly outlined in the law.

International actors, in turn, must respect the central role of the authorities in the management of disaster assistance and cooperate with them in their efforts to provide humanitarian relief and early recovery assistance.

To answer this question, consider the following:

A. Guiding sub-questions:

- i. Is there a specific governmental focal point identified in your country's laws for the coordination of international disaster assistance (including governmental and non-state actors)?
- ii. Are there adequate and efficient procedures in place to ensure the coordination of international and domestic efforts among all levels of the government (national, regional and municipal) and across all governmental agencies?

B. Check laws and regulations related to:

- Disaster risk management/Emergency management/Civil protection
- Regional and global cooperation mechanisms, as applicable to your country context.
- Health emergencies

See also IDRL Guidelines paragraphs 3(3), 4(1), 4(3)(c), 8 and 9.



Do your country's laws and regulations outline the roles and responsibilities of different institutions relating to international disaster assistance?

The competent national authorities and agencies which play a role in managing international disaster assistance should clearly be identified through law. This includes a specific government focal point responsible for coordination, clarity as to who is responsible for requesting, welcoming or notifying of the termination of international disaster relief, and precisions as to which governmental entities are responsible to facilitate the entry of international assistance. The roles and responsibilities of all relevant actors involved, including foreign affairs, immigration, customs, health, social welfare, taxes, transport and agriculture departments among others, must be clearly delineated, particularly in terms of who is responsible for developing and implementing the laws, protocols and procedures corresponding to their area for the effective management of international disaster assistance, and how they coordinate with the abovementioned focal point. The roles and responsibilities of national institutions whose specific purpose is to guarantee the safety and protection of persons, such as police forces and women's groups, should also be clarified. Finally, States are encouraged to ensure that their legal systems account for the role of the United Nations Resident Coordinator,¹⁵ not only for the

15 For more information about the role of the UN Resident Coordinator, see <https://undg.org/leadership/the-un-resident-coordinator/>

dissemination of information on emerging hazards, but also for requests of humanitarian assistance. Governments may also wish to give consideration to the existing international humanitarian “cluster” system that is activated in some disasters.

Ensuring that the roles and responsibilities of national and local actors are outlined in the law provides a clear mandate to these actors, and can thereby empower them to act and respond to the needs of disaster affected populations. Experience shows us that it critical to have knowledge about roles and responsibilities of national and local actors and applicable regulations in order to avoid confusion, unnecessary delays any costs, particularly where immediate assistance is needed to save lives.

Notably, National Red Cross and Red Crescent Societies have a unique role as ‘auxiliaries’ to their national authorities in the humanitarian sphere as set forth in the Statutes of the Red Cross and Red Crescent Movement (accepted by all States parties to the Geneva Conventions, as well as by the components of the Movement) and in national laws recognizing each National Society. Essentially, it means that National Red Cross and Red Crescent Societies enjoy a special and distinctive partnership with their authorities, entailing mutual responsibilities and benefits, as a private organization with certain recognized public functions. They operate autonomously and in compliance with the Red Cross and Red Crescent Movement’s Fundamental Principles. Based on this, National Societies support and supplement the public authorities in their humanitarian tasks, including in disaster management activities. Their role and responsibilities in disaster management in support to their authorities should be mutually agreed and set out in the country’s disaster risk management law, health law, or disaster-related legislation, as well as in their specific Red Cross or Red Crescent law.

To answer this question, consider the following:

A. Guiding sub-questions:

- i. Are the roles and responsibilities of relevant national institutions outlined in the disaster risk management/emergency management/civil protection law or other relevant sectoral laws?
- ii. Who is responsible for developing and implementing the protocols and procedures of the respective areas for the effective management of international disaster assistance?
- iii. Are the roles of the United Nations Resident Coordinator, National Red Cross/Red Crescent Society, and local or civil society actors in disaster response outlined in the law?

B. Check laws and regulations related to:

- Disaster risk management/Emergency management/Civil protection (including for the establishment of a national disaster management authority)
- Foreign Affairs
- Immigration
- Customs
- Taxation
- Finance
- Health
- Food security
- Red Cross or Red Crescent

See also IDRL Guidelines paragraphs 3, and 8.

4

Do your country's laws and regulations outline a process for requesting/welcoming offers of international disaster assistance, and for terminating international assistance?

Procedures for requesting international assistance are needed to avoid delay in providing life-saving assistance. The decision to initiate a request for international assistance or welcome offers of international assistance should ideally be based on a needs assessment undertaken by the national disaster management or civil protection authority. States, when making a request or accepting offers, should exchange all information relevant to the specific needs of the affected population, according to the circumstances and urgency of the situation and in order to prevent unnecessary supplies and services from being sent.

The initiation process is in many countries the responsibility of the Ministry of Foreign Affairs. Other relevant authorities can also be tasked with managing this process. It is important to note that this question can also relate to requests for foreign military assistance.¹⁶ Systems should be in place to rapidly assess and decide whether to accept offers of international disaster assistance based on needs identified and timing of the assistance to be delivered.

Finally, the decision to terminate international disaster relief and initial recovery periods, and the application of special legal facilities (as outlined in question five below), should be communicated clearly, based on the current needs assessments, and with sufficient notice to international assisting actors, to not negatively impact disaster relief and early recovery efforts.

To answer this question, consider the following:

A. Guiding sub-questions:

- i. Is there a specific governmental entity responsible for requesting international disaster assistance or accepting offers?
- ii. Are there procedures in place for such requests? Do your country's laws specify the level of detail to be included in the requests?
- iii. Are the procedures in place to ensure coordination and exchange of information about specific needs between the entity responsible for requesting international assistance and the national disaster management agency or civil protection?
- iv. Are the procedures clearly stipulated and the information easily accessible to governmental and non-state actors wishing to provide assistance?
- v. Are there provisions in the law about the acceptance or refusal of international offers of assistance?

B. Check laws and regulations related to:

- Disaster risk management/Emergency management/Civil protection
- Foreign affairs

See also IDRL Guidelines paragraphs 3(2), 7(1), 10, 11 and 12.

16 It is important to note that specific guidance exists with relation to the use of foreign military and civil defence assets in disaster response, such as the 'Oslo Guidelines', available online at https://www.unocha.org/sites/unocha/files/OSLO%20Guidelines%20Rev%201.1%20-%20Nov%2007_0.pdf

5

Do your country's laws and regulations provide for necessary legal facilities to be provided to international assisting actors?

Research and consultations over the past 10 years have demonstrated that managing international disaster response operation has become increasingly complex, and that regulatory barriers or 'red tape' continues to hamper disaster relief operations around the world.¹⁷ Likewise, the absence of necessary regulations can contribute to an uncoordinated response that is counter-productive to the operation at hand, and fails to respect local actors and even the disaster affected communities themselves. Where law is often considered a barrier to the effective facilitation of disaster relief, it can in fact serve as an enabler, by creating an environment and system which provides 'legal facilities' to those assisting international actors and organizations from whom an affected state has welcomed or requested offers of assistance.

After years of research and consultation, the IFRC and its partners have determined which legal facilities are most essential when it comes to effectively managing and enabling an international disaster response. The legal facilities mentioned below, and as contained in the IDRL Guidelines are not intended to apply to all actors and to create a 'free-for-all' situation. In fact, it is intended that procedures are put in place so that national authorities of the affected state can maintain control over the international assistance coming into their territory, whilst at the same time facilitating a swift and effective disaster response and early recovery (these procedures are outlined in question seven below on eligibility requirements). The main legal facilities suggested are outlined in the following areas and sub-questions listed below, all of which are critical to consider.

It is also important to note that these legal facilities should cover the period of international disaster relief and initial recovery assistance, in order to create a favourable legal environment for the entry of international disaster assistance. All legal requirements and procedures in place should be clearly stipulated and the information easily accessible to international assisting actors.

To answer this question, consider the following:

A. Guiding sub-questions:

i. Landing rights and general customs arrangements:

- a. Does existing law have special provisions for priority landing of airplanes carrying humanitarian assistance supplies?
- b. Does the national customs law have any provisions about simplified paperwork and requirements for emergencies?
- c. Does the national customs law have provisions for the elimination of customs duties, tariffs or fees (including stockroom rates and pending review)?
- d. Are there measures in place aimed at preventing delays?
- e. What types of documents are required to be able to benefit from a special and simplified procedure?

¹⁷ Op. Cit. 18

ii. Customs arrangements for specialized goods and equipment:

Communications equipment:

- a. Does the disaster risk management or telecommunications law provide exceptions or simplified procedures to import/export restrictions?
- b. Does it allow for speedy licensing or waiver of license requirements in disasters?

Food, medication and quarantine :

- a. Does the food safety law provide for any special or simplified procedures in disaster settings regarding food imports?
- b. Does existing law regulating medications have special or simplified rules to facilitate and monitor the import/export of medications for disaster relief?
- c. Does the animal quarantine law have any exceptional provisions for rescue dogs?

Vehicles:

- a. Does the motor vehicle law provide any special or simplified provisions for the importation and registration of foreign vehicles for relief and recovery work?

iii. Immigration:

- a. Do the immigration or disaster risk management laws have any specific provisions, expedited processes or waivers for visas for international disaster relief personnel?
- b. Are there specific and simplified procedures in place regarding the migration status of international humanitarian assistance staff (including work permit)?
- c. Does the law provide for specific procedures to recognize privileges and immunity to diplomats and consular officials consistent with the Vienna Convention?
- d. Are there special and expedited procedures in place for the recognition of foreign/international drivers' licenses?

iv. Registration of international assisting actors:

- a. Does the law or policy set out a special and simplified system for the registration of international assisting actors?
- b. Are the legal requirements stipulated clearly and is the information accessible to international assisting actors (e.g. need to register with multiple agencies or different ministries, focal point for registration, types of registration such as association, foundation, corporation)?
- c. Does the law or policy indicate how these organizations can become eligible to obtain the relevant legal facilities for their assistance and recovery work (such as demonstrating that the organization has the experience and the capacity required)?

v. Recognition of professional qualification of foreign personnel

- a. Are there simplified procedures in place for the speedy accreditation of foreign qualifications (especially for physicians, nurses, paramedics, engineers, architects, etc.) nationwide?
- b. What types of documents are required?

18 These questions can be considered alongside the World Health Organization's Model Guidelines for the International Provision of Controlled Medicines for Emergency Medical Care (1996), available online at <https://reliefweb.int/report/world/model-guidelines-international-provision-controlled-medicines-emergency-medical-care> See also the International Search and Rescue (INSARAG) Guidelines from 2015 available at <https://www.insarag.org/methodology/guidelines>

vi. Tax and currency exchange for disaster relief activities

- a. Does existing law provide for exemptions from VAT, income tax, corporate tax and other tax for humanitarian organizations and personnel providing disaster relief and initial recovery assistance?
- b. Does existing law allow humanitarian organizations to freely bring currencies in and out of the country for operations?

vii. Freedom of movement of international assisting actors during a disaster response

- a. Do national laws policies and plans provide approved international assisting actors with freedom of access to disaster-affected persons?

viii. Safety and security of international assisting actors

- a. Do national laws allow for the safety and security of international assisting actors?
- b. Is the safety and security of relief personnel, premises, transport, equipment and goods charged to a specific domestic institution?

ix. Additional facilities for international disaster relief

- a. Do national laws, policies or plans provide for extended opening hours for key governmental offices/service (such as customs inspection, immigration, dock and airport management) necessary for international relief?
- b. Do national laws, policies or plans provide for free or reduced price facilities for relief and initial recovery providers, such as: in-country transport (including by national airlines), use of buildings and land, use of cargo equipment and loading/unloading support?

B. Check laws and regulations related to:

- Disaster risk management/Emergency management/Civil protection
- Aviation/Sea traffic
- Customs
- Telecommunications
- Health/Medicines
- Food Security
- Quarantine
- Transport/Motor vehicles/Insurance
- Immigration (and domestic travel)
- Exercising of professions (medical, engineering, nursing, architecture, etc)
- Registration of charity/not-for-profit/corporations
- Taxation
- Security

See also IDRL Guidelines paragraphs 16, 17, 18, 20, 21, 22, 23 and 24.

6

Do your country's laws and regulations set out quality standards for international assisting actors?

In large international response operations, issues in regard to the quality of the aid provided are common occurrence and can seriously hindered humanitarian efforts. These include massive, but uncoordinated, donations of relief goods. While often donated by well-intentioned states, organizations, groups and/or individuals, the arrival of relief supplies in the disaster-affected country which do not correspond to the identified needs and international quality standards (including nonstandard items and incorrect packaging), can contribute to congestion at the airport and entry points, delaying the distribution of essential goods and quality aid appropriate for emergency relief.

Frequently, spontaneous organizations, groups and/or individuals arrive in post-disaster settings totally unprepared. They lack expertise, are often unfamiliar with established coordination mechanisms and have no experience of international emergency relief situations, which poses serious challenges and affect the effectiveness and quality of the humanitarian response provided. This lack of coordination cause problems for the authorities, who do not always know exactly who is operating in their country. This can hamper their leadership role in the emergency response and also negatively affect other qualified international actors trying to perform their work in accordance with the established coordination mechanisms.

As a result, this question invites a review of existing national mechanisms to ensure that international actors comply with international quality standards and domestic laws, apply the core humanitarian principles of humanity, neutrality and impartiality, and have technical competences and a genuine capacity for performing the type of work they propose to carry out (for example, suitable staff with appropriate skills, experience, etc.). Compliance with these minimum standards should serve as the basis to be eligible for legal facilities referred to in question 7 below.

To answer this question, consider the following:

A. Guiding sub-questions:

- i. Does the country's national laws and regulations provide for minimum standards in humanitarian/early recovery activities?**
 - a. Are assisting actors and their personnel abiding by the country's domestic laws and applicable international law?
 - b. Are they coordinating with domestic authorities and other assisting actors?
 - c. Are they respecting the human dignity of disaster-affected persons at all times?
- ii. Is the disaster relief and initial recovery assistance provided in accordance with the principles of humanity, neutrality and impartiality?**
- iii. Are there minimum standards set out in your laws and regulations in line with international quality standards?**
 - a. Is the support responsive to the special needs of vulnerable groups and adequate for the needs identified?
 - b. Is it provided by competent and adequately trained personnel, in a transparent manner?

- c. Is it carried out with the appropriate involvement of affected persons, in a manner that is sensitive to cultural, social and religious customs and traditions?
- d. Is it carried out so as to minimize negative impacts on the local community, economy, job markets, development objectives and the environment?

B. Check laws and regulations related to:

- Disaster risk management/Emergency management/Civil protection
- International organizations
- Non-governmental organizations
- Food security
- Medicines/Controlled substances
- Quarantine

See also IDRL Guidelines paragraphs 4, 5, 6 and 9.

7

Do your country's laws and regulations set out eligibility requirements for international assisting actors to receive legal facilities?

The legal facilities mentioned above (in question five) should not be granted to any actor wishing to participate in a disaster response operation, because of the potential to abuse or misuse such facilities. A decision-making mechanism is required to enable States to determine which organizations shall be granted legal facilities. Eligibility to receive legal facilities should be determined based on compliance of international actors with domestic laws, possessing adequate technical competences and a genuine capacity for performing the type of work they propose to carry out. They should also comply with minimum standards in humanitarian disaster relief and adherence to fundamental humanitarian principles such as humanity, neutrality and impartiality should also be respected (as detailed in question 6 above). In any case, the requirements established by the States must be narrowly defined to avoid unnecessary administrative obstacles and should not restrict the independence of the humanitarian organizations providing assistance.

Those deemed as eligible actors might include states and intergovernmental organizations whose offers have already been approved by the Ministry of Foreign Affairs, components of the International Red Cross and Red Crescent Movement that are supporting the Red Cross or Red Crescent National Society, or foreign or domestic civil society organizations that are approved by the national authorities on the basis of their experience and capacity to provide disaster relief. It is recommended that procedures outlining eligibility requirements are included in the relevant laws and regulations relating to disaster risk management or civil protection, and that selection or approval of eligible actors should ideally be undertaken before a major disaster strikes to save time. This in turn can help overcome situations where there is a proliferation of actors involved in the disaster response.

- i. Do the legal facilities (point five above) provided by the affected State to international actors depend on their competence and experience, and compliance with domestic laws and international quality standards?

- ii. Was the determination of those international actors that would be eligible for receiving these legal facilities established before the disaster?
- iii. Do you maintain an updated list of approved actors?

B. Check laws and regulations related to:

- Disaster risk management/Emergency management/Civil protection
- Foreign Affairs
- International organizations
- Non-governmental organizations
- Food security
- Medicines/Controlled substances
- Quarantine

See also IDRL Guidelines paragraphs 13, 14, 15.



8 Do your country's laws and regulations establish a specialized unit for expediting the entry of international disaster assistance?

In order to improve coordination and facilitation of international disaster assistance, it is recommended to establish a specialized unit for expediting the entry of international disaster assistance. This can be referred to as a 'One Stop Shop' (or a 'Single Window International Facilitation (Swift) Team')¹⁹. The One Stop Shop is a specialized unit within an Emergency Coordination Centre or other body established for the purpose of coordinating disaster assistance. The actors within the One Stop Shop would be responsible for ensuring complete processing and management of international humanitarian assistance, and advising and supporting the various responsible agencies for airports, seaports and land-border crossing points, on the coordination or facilitation of international cooperation.²⁰ We have seen application of such mechanisms in recent mega disasters, including in the Philippines after Typhoon Haiyan in 2013 and after the earthquake in Ecuador in 2016.

As such, the One Stop Shop is responsible for consolidating and expediting the administrative arrangement concerning the entry of incoming international personnel, goods and equipment of international disaster assistance (point five above). Additionally, it can apply a control mechanism through the selection of international actors entitled to support the response operations based on established quality criteria (point seven above).

The One Stop Shop should be composed of representatives of relevant ministries and agencies, such as foreign affairs, finance, interior affairs, national security, health, immigration etc. It could also include the national armed forces, civil defence, the National Red Cross or Red Crescent Society, local government officers etc.

19 More information about the functioning of a One-Stop-Shop can be found here:
<http://www.ifrc.org/PageFiles/125738/Official%20Legal%20Fact%20Sheet%20on%20IDRL%20Commission.pdf>

20 For more information see paragraphs 28 – 32 of the Model Decree, and article 14 of the Model Act on International Disaster Assistance at [http://www.ifrc.org/PageFiles/88609/Pilot%20Model%20Act%20on%20IDRL%20\(English\).pdf](http://www.ifrc.org/PageFiles/88609/Pilot%20Model%20Act%20on%20IDRL%20(English).pdf)

In addition to establishing a One Stop Shop, it is recommended to put in place a taskforce on international disaster assistance preparedness, with the primary role of enhancing preparedness and coordination for international disaster assistance. This could be led by the focal point identified in question two above, and be comprised of similar actors to those involved in the One Stop Shop. While the One Stop Shop is more of an operational means of coordination, the taskforce would serve to ensure procedures are developed and put in place for the management of international disaster assistance as part of the preparedness phase.²¹

To answer this question, consider the following:

A. Guiding sub-questions:

- i. Are there any procedures in place in the law which provide for a consolidated, 'One Stop Shop' approach to international disaster response?
- ii. Do your laws provide for the establishment of a disaster preparedness taskforce that considers issues related to international assistance?

B. Check laws and regulations related to:

- Disaster risk management/Emergency management/Civil protection
- Foreign Affairs

See also IDRL Guidelines paragraphs 3(3), 8(2)(3) and part V, and articles 13 and 14 of the Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance.

9

Do your country's laws and regulations provide adequate transparency, safeguards and accountability mechanisms governing international disaster relief and initial recovery assistance?

When reviewing or strengthening domestic laws for international disaster response, consideration should be given as to whether specific procedures or institutions are in place to prevent diversion, misappropriation or fraud concerning disaster relief and initial recovery goods (including funds), and whether or not clear legal authority is mandated to a particular ministry or department to receive and disburse international funding and donations made to the government as part of a response, as well as to carry out monitoring and oversight activities.

As mentioned in question seven of this Checklist, it is important to ensure that international disaster assistance meets minimum international standards and that accountability measures are in place for the delivery and conduct of approved assisting international actors. This includes consideration of whether the laws of your country provide for minimum standards in disaster relief or early recovery, and whether there is a mechanism in place for enforcing those standards.

²¹ See article 13 of the Model Act on International Disaster Assistance, [http://www.ifrc.org/PageFiles/88609/Pilot%20Model%20Act%20on%20IDRL%20\(English\).pdf](http://www.ifrc.org/PageFiles/88609/Pilot%20Model%20Act%20on%20IDRL%20(English).pdf)

To answer this question, consider the following:

A. Guiding sub-questions:

- i. Are specific procedures in place to guard against diversion, misappropriation or fraud concerning foreign disaster relief and early recovery goods/funds?
- ii. Is there clear legal authority for a particular ministry/department to receive and disburse international donations made to the government, and to carry out monitoring and oversight?
- iii. Is there a mechanism in place to remove the eligibility to receive legal facilities from international actors in case of violation of the quality standards in place (as detailed in question 6 above)?

B. Check laws and regulations related to:

- Disaster risk management /Emergency management/Civil protection
- Finance/financial protection
- Anti-corruption
- Civil and criminal (penal) codes

See also IDRL Guidelines paragraphs 3, 4, 5 and 6.



10 Do your country's laws and regulations outline procedures for international disaster assistance sent from, and transiting through your country?

Strengthening legal and operational preparedness for international disaster response tends to focus on the entry and delivery of assistance to and within the affected state. However, it is recommended that consideration also be given to whether laws and procedures are in place for the sending of international disaster assistance from the donor's state, the transit of international disaster assistance from one state and across another, and the re-exportation of equipment or unused relief goods from the affected state. It should be considered whether laws provide for the reduction of any restrictions on the exit for relief personnel (e.g. exit visas, sanctions regimes), the reduction of export restrictions, duties or fees on relief goods and equipment (especially telecommunications, vehicles, food and medicines), or the reduction of inspection requirements for outgoing goods and equipment. With regard to the transit of international disaster relief good and personnel through a given State, it should be examined whether the law provides for the reduction of any restrictions on the transit for relief personnel, such as those relating to visas, for example.

To answer this question, consider the following:

A. Guiding sub-questions:

i. For the transit or sending of international disaster relief, do your country's laws provide for:

- a. The reduction of any restriction on the transit for relief personnel, (e.g. exit visas)?
- b. Reduction of import/export restrictions, duties or fees on relief goods and equipment (esp. telecommunications, vehicles, food, medicines)?
- c. Reduction of inspection requirements for transiting goods and equipment?

B. Check laws and regulations related to:

- Disaster risk management / Emergency management/ Civil protection
- Customs and border control
- Immigration

See also IDRL Guidelines paragraphs 16(2), 17(1)(b), and 19 (3).

Follow-up actions

Legal frameworks will always reflect the context of the country in question and the period in which they were developed – and no legal framework is perfect. The IDRL Checklist is intended to, at the very least, provide a guide for States to identify strengths and gaps in their legal frameworks for international disaster assistance, and prompt action and progress towards their improvement. Whether used on its own, or in combination with more detailed tools such as the IDRL Guidelines and Model Act, it is hoped that this succinct guide will be a useful basis for further discussion and concrete action.

An important point to remember is that having a legal framework in place cannot create change on its own – what is equally, if not more important, is the effective implementation and dissemination of that legal framework. The affected State should also take steps to ensure that the most relevant legislation is communicated to the other States and international actors providing assistance in the initial phase of relief operations. This, in turn, can help to ensure that all actors involved, both domestic and international, know and understand their roles and responsibilities, and apply the laws and procedures in place so that international assistance reaches the communities and individuals who need it most.

Further information and support

Further information, tools, reports and updates on the IDRL Checklist, IDRL Guidelines and Model Act 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

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.

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