



Theme of the Case Study

Advocacy,
Disaster Law

Country

Malawi

Case location

Malawi

Disaster Law in Action – Case Study

Leveraging the Auxiliary role to Effect Legislative Changes

Following the adoption of the “IDRL Guidelines” in the 30th International Conference of the Red Cross and Red Crescent Movement, Malawi Red Cross as auxiliary to its public authorities in the humanitarian field, in 2013, advocated with its government to take up a law mapping process to analyze its national legal framework to respond to disasters that required international support. Consequently, using the IDRL Guidelines as benchmark, the National Society led an IDRL project alongside the Department of Disaster Management (DoDMA) that brought together the key governmental entities and humanitarian actors in the country to review the national legal framework for international disaster response focusing on the main strengths, challenges and gaps.

The methodology adopted for this study consisted of a desk review of international disaster response instruments, regional agreements, and domestic legislation dealing with disaster response management in Malawi, complemented by consultation interviews with a wide range of stakeholders. The process also involved a review of customs procedures, immigration law, importation of disaster relief food and non-food items and recognition of foreign professional qualifications of disaster relief personnel. As part of the consultative process, a task force chaired by DoDMA was established to provide a platform for key stakeholders in disaster risk management to engage in, facilitate and contribute to the review process. The task force also provided cross-sectoral advice, information and facilitation necessary to achieve the objectives of the project. This included enhancing the awareness and knowledge of legal problems that commonly arise in situations of disasters requiring international response and discussion regulatory issues in the context of Malawi.

The Report, “[Legal Preparedness for regulatory issues in international disaster response](#)” was subsequently produced. It includes key recommendations to improve Malawi’s legal framework. These included having the Disaster Risk

Management Bill clearly outline the role of the Malawi Red Cross in disaster management as well as reflect the regulations that should guide the national authorities in requesting, vetting and accepting international humanitarian assistance for response and recovery efforts. Following this report, the Malawi Red Cross, now an expert on Disaster Law in the country, advocated to provide technical support to the Government in implementing the IDRL Report recommendations in order to enhance the disaster management legal framework in Malawi to effectively deal with international assistance in major disasters. In 2018, the Office of the Vice President through the Department of Disaster Management Affairs subsequently requested the Malawi Red Cross to support in the revision of the Disaster Risk Management Bill. A task force comprising of the Malawi Red Cross, officials from DoDMA, Ministry of Foreign Affairs, Ministry of Health, Ministry of Transport and Public works, Malawi Revenue Authority among others, was formed to review the IDRL report recommendations and revise the bill accordingly.

The revision of the bill was finalized in November 2018 and provides regulation on international assistance, which includes regulations guiding the requesting and use of international assistance as well as the obligations that have been placed on international actors operating in-country. As an addendum to the bill, the Operations Guidelines were also developed. They also include provisions on “International Disaster Risk Management Assistance” to compliment the provisions in the Bill. Notably, the key IDRL recommendations brought out in the IDRL Report are incorporated in these guidelines. In this respect, the guidelines provide regulation on the receipt and coordination of international assistance, responsibilities of assisting international actors, processes involved in the initiation and termination of International Disaster Relief and Initial Recovery Assistance, as well as the legal facilities available for the entry of personnel, goods and equipment, and their use during operations.

The DRM Bill and the Operational guidelines have been presented to cabinet for their approval and are in the process of being gazetted ahead of being presented to Parliament for debate. To further advance this process, as next steps, the Malawi Red Cross will be supporting DoDMA in its advocacy efforts with Parliamentarians to help get the DRM bill and the Operational guidelines passed. The National Society also hopes to support in the implementation process of the Bill, by raising awareness of rights, roles and responsibilities of disaster management actors at the local and national level as well as within the community.

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