



International Federation
of Red Cross and Red Crescent Societies

International Disaster Response Law Project

**Report on studies and interviews conducted in
Norway, Sri Lanka and Vietnam**

Based on studies conducted by the Norwegian Red Cross

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1 Background and methodology

The Norwegian Red Cross took an interest in the International Disaster Response Law (IDRL) Project following Resolution 5 of the Council of Delegates of the Red Cross and Red Crescent Movement in 2001, and the Appeal of the International Federation of Red Cross and Red Crescent Societies (“International Federation”) for 2002. In co-operation with the International Federation Secretariat, the Norwegian Red Cross undertook to contribute to the IDRL project by compiling international agreements and legal texts relating to disaster response in Norway. In addition to the mapping exercise in Norway, the Norwegian Red Cross also undertook to conduct interviews with past and present humanitarian workers in Norway as well as in Vietnam and Sri Lanka. The studies in Vietnam and Sri Lanka were conducted in co-operation with the respective Red Cross National Society and the International Federation’s delegations. The IDRL project and the studies conducted by the Norwegian Red Cross have received financial support from the Norwegian Ministry of Foreign Affairs.

1.1 Objectives

The aim of the study has been twofold; one being to contribute to the mapping of legal and other instruments relevant to international disaster response activities, the second being to seek information from humanitarian workers in order to:

- identify the key problem areas experienced by humanitarian workers in the conduct of disaster response activities;
- determine which legal and non-legal instruments are used and applied during disaster response operations;
- determine the impact, both positive and negative, of the various regulatory instruments used during disaster response operations.

In mapping legal and other instruments relevant to international disaster response, the research sought primarily international agreements, agreements involving the components of the Red Cross and Red Crescent Movement and agreements between large, established non-governmental organisations (NGOs)s and international organisations (IOs), states or other NGOs.

1.2 Methodology

In its research the Norwegian Red Cross has applied a method based on the International Federation’s IDRL project Guidelines for Legal Studies and IDRL Project Terms of Reference for Field Studies. The data was collected through meetings with government institutions and structured interviews with representatives from international humanitarian organisations. The respondents from the organisations were not by and large of legal background, but were senior personnel with long experience from disaster response situations around the world. It should be observed that the interviewed personnel often used experiences from various organisations to exemplify the obstacles and problems they have met. The

information gathered for this study thereby reflects the respondents' experiences from a variety of *different operations in several countries*.

In Norway a total of 12 interviews were carried out with representatives from six large humanitarian organisations. In addition eight Ministries were contacted and asked to contribute relevant legal documents. In Sri Lanka the data were collected through nine meetings and in Vietnam a total of 17 institutions and organisations were interviewed¹.

The Norwegian Red Cross IDRL Project research has in large part been conducted by Red Cross volunteers with legal backgrounds who were part of the Oslo Red Cross Legal Group. In addition the research has included two staff members of the Norwegian Red Cross.

The research in Vietnam and Sri Lanka was carried out in close co-operation with the International Federation Delegations, the Red Cross Society of Vietnam and the Red Cross Society of Sri Lanka, and the meetings were carried over approximately six working days in each country.

During the data collection, all organisations and institutions were asked to submit documents relevant to the study, in line with the International Federation guidelines. The documents primarily sought after were:

- Ÿ Multilateral or bilateral treaties between two or more States
- Ÿ Agreements or declarations between two or more States
- Ÿ Resolutions adopted by intergovernmental groups, meetings and forums
- Ÿ Agreements involving components of the International Red Cross and Red Crescent Movement
- Ÿ Agreements between IOs and States or between IOs
- Ÿ Agreements between large established NGOs and States, IO or other NGOs

When searching for materials, the respondents were asked to identify documents relating to the conduct of disaster response operations including preparedness, relief and rehabilitation activities, for example:

- Ÿ Visas, entry and working permits
- Ÿ Recognition of professional qualifications
- Ÿ Customs, duties, tariffs and quarantine
- Ÿ Transportation and transit of goods
- Ÿ Status, immunities and protection of personnel
- Ÿ Coordination of activities
- Ÿ Education, training and information exchange
- Ÿ Offers and requests for assistance
- Ÿ Communications
- Ÿ Accountability / liability

As a consequence of the rather wide scope of the mapping exercise, and as the respondents were asked to contribute documents that *they themselves* saw as relevant to the IDRL project, the respondents submitted a great variety of documents. The laws and agreements collected are thus not exhaustive, but may rather be seen as examples of plans, regulations, agreements and other instruments that are applicable in a disaster response situation.

¹ For list of institutions and organisations, see annex 2

Searching for what might be the relevant legal and non-legal documents related to international disaster response for this exercise proven to be a complex and intricate process. In this rather limited study there is an impression that an overall knowledge in the field of international disaster response law is largely absent among relief workers as well as among many government officials.

2 Findings

The guidelines and terms of reference for the IDRL Project research define some key issues related to the conduct of disaster response. The following information regarding these key issues has been divided into five main categories. The findings focus on different aspects that are key to disaster operations, their legal aspects and challenges as encountered by the respondents.

2.1 Access to people affected by disasters

Access to people affected by disasters varies from country to country. Much seems to depend on how the organisation delivering aid is co-operating with the authorities and whether or not they have negotiated written agreements. In some countries international NGO's are requested to work through a national aid organisation or structure in order to operate. Access to disaster victims may be granted by national authorities, but in some situations access might also be determined by the authorities at local or regional level. Well-established cooperation and good working relationships with local and national authorities prior to a disaster eases the process of gaining access to the victims once the disaster has occurred.

Problems especially occur in regions with an on-going conflict, where practical issues such as security and military road-blocks can cause hindrances. Written agreements with the government are often useless in situations like this, either because the parties to the conflict do not recognize or respect the agreements or because they do not know of them. Thus authorities are perceived as rather restrictive in letting foreign organisations into disaster areas when the situation is tense. In certain countries, organisations are faced with difficulties when trying to gain access to border areas and areas inhabited by ethnic minorities. Again, the relationship and trust one enjoys with the authorities seem to be a determining factor as to whether this obstacle might be overcome.

In some countries independent access to victims have been denied. To secure control of a disaster area or for reasons of keeping information from the outside world, relief workers have experienced that whole disaster areas have been sealed off. In doing so, authorities have kept international aid out. In these cases, negotiations and pressure from the United Nations organisations and other international bodies have proven to be effective.

Furthermore, legal issues such as visas for personnel, customs procedures for relief goods and equipment and vehicle registration may cause delays and problems, usually because of heavy bureaucracy and formalities linked to the clarification of the humanitarian nature of the goods. Customs in particular is frequently an obstacle in aid operations, not only because of the lack of existing legal instruments, but also because of a lack of understanding and knowledge

regarding such instruments or agreements by customs officers. Other challenges range from general mistrust and lack of knowledge to corruption.

In disaster response operations and during the subsequent rehabilitation phase, organisations are sometimes faced with additional obstacles linked to a country's bureaucratic structure. The following examples may serve as illustration of the nature of such obstacles.

Getting a humanitarian project plan through the bureaucracy

In a post-disaster situation an organisation might identify a need and will draw up a project plan and seek funding, at which point the process begins for gaining the plan's approval by the relevant level of authorities. This can prove to be a cumbersome, lengthy and sometimes impenetrable process. Projects might be abandoned all together and the funding returned to donors, simply because the necessary permissions could not be obtained within the timeframe of a given project. The circular response from authorities that "You must first be approved and certified by the other office" illustrates the nature of this obstacle.

Differences in priorities between levels of government

This situation occurs when a need has been identified and the central government has requested that a project addressing the need be established. In cooperation with a national aid organisation, a project is planned and funding secured. Then, often for reasons unknown, the project is cancelled and the project plan returned to the organization by local or regional authorities. Differences in leaders' priorities seems to be one possible explanation for this type of obstacle.

Differences in priorities between the local authorities and the aid organisation

In a remote area an organisation may make an assessment, noting that after a disaster, the poorer parts of the population are in need of medical attention. A project targeting the identified needs will then be proposed to the local authorities. However this is sometimes not seen as priority by the local authorities, who would rather the organisation contribute funds for other projects, such a building a new bridge to benefit the more affluent part of the community. The result is that the organisation is denied access to the identified target population.

Agreements with the relevant authorities seem to make a difference in regard to how quickly and easily an organisation may access a given population in a disaster situation. However ensuring access to a population affected by a disaster is not only a legal challenge. The question of an organisation's connections and trust, the degree of co-operation between the organisation and the authorities, the level of knowledge and good will among local authorities and custom officers as well as the security situation in a given area are also perceived to be of importance regarding the facilitation of access.

2.2 Country specific disaster response mechanisms

In most of the countries affected by natural disasters, there are national or local disaster contingency plans. Challenges related to these plans seem to relate to the fact that many are either over-ambitious or outdated. In some cases it can be problematic just to identify the authority responsible for organising or coordinating the humanitarian aid within the area. This might be due to various factors, for example: that the affected region suffers a temporary

collapse of its administrative structures due to the disaster; that the region's bureaucratic structures relating to receiving international aid are weak or uncoordinated; that international aid-workers faces difficulties in identifying the relevant authorities due to lack of prior connections or local knowledge.

The disaster contingency plans are often connected to national organisations or NGOs and in some cases the National Red Cross or Red Crescent Society. This varies from country to country. The national organisations are often important in to the negotiation process with government, particularly when forming bilateral or other agreements relating to an aid operation. Furthermore, the national organisations play a crucial role as source of national and local insight in the country's legislation and structures. The national organisation is also often present in the affected area and can provide an early assessment.

Some countries have extensive disaster response mechanisms, built up from local response capabilities to provincial and national levels. These contingency plans and emergency response strategies are often national documents. The legislation regulating the conduct and co-ordination of the various actors in a disaster situation is also national. The country's capacity within a given area might additionally be strengthened through bilateral or regional agreements regarding, for example, early warning systems, cross border assistance or knowledge exchange. Knowledge of the existence of such international agreements was however limited among the aid-workers interviewed in this study.

2.3 Facilitation of disaster response activities

When conducting disaster response activities, problems connected to legal requirements occasionally occur. In this study most respondents were not aware that many of these problems had a legal basis, though they had indeed experienced these types of problems during operations.

2.3.1 Telecommunications

Many respondents advised that they had not experienced any major obstacles linked to telecommunications, one exemption being the requirements for obtaining approval for the usage of satellite-telephones from the relevant authorities. This seems to be particularly difficult when the disaster takes place in an area of ongoing conflict or in a region where there is a border dispute. Frequency allotment is also perceived as a problem, as the regional authorities in some countries may deny aid organisations the permission to use random frequencies. When asked, only a few of the respondents were familiar with documents such as the Tampere Convention.

However, it was not only legal requirements that proposed challenges to the facilitation of relief operations - poor assessment on relevance of relief goods is another recurring problem addressed by several of the respondents. In relation to telecommunications the following example from Vietnam might serve as an illustration:

In 1999, following a flood in the country, a donor organisation proposed to have a VHF system installed in the disaster area. To get the equipment into the country caused custom problems. After a lengthy process, the equipment was installed –but it was never used. There seemed to be two reasons for this, both of which could have been identified had a better assessment taken place. Firstly, to operate a VHF system

one has to rent a frequency, which is rather expensive, and there was no local interest or capacity to cover the costs. Secondly all main cities have a mobile phone network which made the VHF redundant.

2.3.2 Distribution of relief supplies

Legal obstacles can hamper the distribution of relief goods if there has not been negotiated any agreements prior to the operation. Whilst the distribution of locally purchased goods is, in general, perceived as causing little if any problems, the import and distribution of goods from outside a given country might be delayed by bureaucracy.

The distribution of relief supplies might also encounter a number of technical and practical obstacles. The mapping of these are beyond the scope of this study, however it is worth including an observation made by one organisation, which relates to an element which may often be lacking in the agreements, strategies and plans - the dignity of the recipients:

“No one wants to be regarded as the ‘poorest’ or as those in ‘greatest need’. Recipients have actually asked to be put on the list of the group ‘in second most need’, rather than to be on the list of the most vulnerable.”

2.3.3 Leasing of buildings

When an organisation is permitted to work in a given country, the leasing of buildings does not seem to constitute any major obstacle. Rental agreements and laws regarding the leasing of buildings are perceived among most respondents, as being scarce in many of the regions where the organisations conduct their disaster operations. Often buildings are rented on a non-coordinated ad-hoc basis. The main obstacle is not perceived to be legal, but rather financial, as money could be saved if a greater co-ordination had been in place.

2.3.4 Hiring of staff, local and expatriate

Without a legal status agreement, it is often difficult for organisations to obtain permission as a liable employer for local personnel. Where there is no legal status agreement in place, local staff might be hired through a national partner organisation. Furthermore, governments may want to influence or control the hiring of staff and some organisations have observed that authorities from time to time would have a preference of local staff, even though they may be less qualified compared to other experienced expatriate personnel.

Visa applications for expatriate staff propose another aspect of facilitation of relief operations. Lengthy processing of working permits has, in some cases, caused delays in operations. Acceptance of professional qualifications of expatriate personnel seems in general to cause few problems, though it has been observed that certain groups of professions, for example medical doctors, have been faced with limitations in practicing in some countries.

2.3.5 Tools, guidelines and international standards

On the question of the use of international standards, the respondents named a rather overwhelming variety of available toolkits, guidelines and working standards, originating from within the UN organisations, the RCRC and the international NGOs. The Code of Conduct and SPHERE standards are both used in aid operations, and are widely acknowledged as useful tools. In addition to this, the different organisations also have their own guidelines and personnel attend relevant training courses.

2.4 Relationship with other actors

In the first phase of disaster response, international actors small and large, might flood into the centre of a disaster area. Co-ordination between the various actors is often a challenge. Where co-ordination meetings are in place this seems to greatly facilitate the operational situation. Few of the humanitarian workers interviewed in this study referred to any problems with relationships with other actors. Most of the organisations could report good co-operation with other actors such as the International Committee of the Red Cross, the local Red Cross or Red Crescent National Society, local NGOs, United Nations agencies and the government in the respective countries.

The United Nations agencies were perceived by many respondents in this study as large, complex organisations, operating rather independently of the other actors. Communication between the international NGO's and the United Nations agencies was sometimes described as being difficult due to the United Nations' position in a country. However, the United Nations agencies were seen as extremely valuable in their role as organising authorities, particularly in relation to establishing contact and co-operation on governmental level. In this regard the United Nations agencies seem to be working as a link between the NGOs and the authorities concerned.

In general, the relationship between the aid organisations and the governments were perceived as good, however this varied from country to country depending on the internal situation. It was mentioned that in countries with on-going conflicts, organisations would sometimes face difficulties in cooperating and communicating with the government when a natural disaster occurred.

Formal agreements with the authorities were generally viewed as an important asset. Many of the NGOs, as well as the International Federation, had established formal written relationships with the country's government, either prior to, or when the disaster struck. The legal framework provided by such an agreement greatly facilitated the work of the organisation. These formal agreements were often negotiated by the organisation's local counterpart, which acted as a link between the organisation and a country's government.

2.5 Application and impact of legal and non-legal documents

Disasters affect a whole community and sometimes an entire country. From this study, the regulations and laws that apply to the different aspects of relief operations seem to be mainly national, divided between the various authorities of relevant expertise. In some countries there is an impression of a complex web of international decisions, national legislation, strategies and plans that apply in a disaster situation and that might facilitate an international disaster response operation, in other countries the applied national regulations are at a bare minimum.

In some countries there are central bodies in charge of disaster related matters. One such example is found in Vietnam being its Central Committee for Flood and Storm Control under the Ministry of Agriculture and Rural Development. Other countries such as Norway, have no standing central structure for disaster management².

² See also paragraph 3.5

International and bilateral agreements between states may relate to disasters in a variety of ways. Agreements might focus on early warning systems, or cooperation regarding preventive measures such as regulating rivers and water reservoirs, or on requests and offers of assistance with a neighbouring country. The impression from the present study is that there are few international agreements, laws or other legal instruments that exclusively or directly address international disaster response – or alternatively, the awareness of such mechanisms were limited among those interviewed. As the responsibilities for the different aspects of disaster response will often relate to several different government bodies, each institution will generally only be aware of international agreements relating to its specific field of expertise and responsibility.

On a national level one might find many plans and legal documents relevant to disaster response. International disaster response activities are in general subject to national laws and regulations, and there is, unless otherwise negotiated, taxation on imported goods, customs requirements that must be met, visa regulations and working permits that must be obtained and so on. In addition, many agreements between the organisations and the authorities are made on the local or regional level within a given country. It is not always easy for the international aid worker to get an overview of existing regulations and agreements of an international or even national character. Some aid workers regarded the low level of awareness of relevant regulations among customs officers and other state employed staff as an obstacle to the smooth running of operations.

The extent to which regulations and plans are known, varies from country to country. In Vietnam for instance, the Strategy and Action Plan for Mitigating Water Disasters³ appears to be widely known and is perceived to have a high degree of implementation. In countries where few regulations are in place, the operations might meet with less bureaucratic obstacles but on the other hand respondents note that the lack of legal guidelines in a country might create a situation of uncertainty and unpredictability for the NGOs working there.

The interviewed aid workers had a high degree of awareness about international standards such as SPHERE and Code of Conduct but had rather limited knowledge about international agreements beyond those relating directly their own organisation. Negotiated agreements between the authorities and an organisation seem of high importance in facilitation of smooth running operations, and central co-ordination and co-operation bodies or meetings between the organisations, with or without the government present, are also perceived to have a positive impact, both on co-ordination and as a forum for exchanging knowledge on laws and regulations.

The study identified several international regulations and agreements between two or more states that were perceived to have relevance to disaster response situations. More research will need to be conducted in order to determine the impact of these existing international instruments with respect to international disaster response operations, as their impact had not been obvious to the respondents.

3 Case study: Legal mapping Norway

³ For details see annex 1, 5.3

The aim of the case study in Norway was to map legal documents relevant to disaster preparedness and disaster response. Norway has not, in recent history, encountered any disasters where large-scale international assistance has been required, thus the country's ability to receive and coordinate international assistance has as such not been put to any major test. The project therefore focused on identifying international laws and documents which might have an impact in a response situation, and did not aim at reviewing any actual capacity in the event of a catastrophe.

3.1 Methodology

The research in Norway took as its starting point the IDRL Guidelines for Legal Studies, focusing on collecting international agreements and other legal instruments. The data for the case study was collected from the beginning of February to the end of April 2003. The process started in February 2003 when the Norwegian Red Cross organized an information meeting on IDRL, with representatives from different branches of government. Following this meeting, relevant ministries were asked to submit information on legislation concerning international response to disasters in Norway. Information received from different ministries and the relevant international agreements deposited in the Royal Norwegian Ministry of Foreign Affairs, formed the basis for the study.

The research team comprised 10 people, all Red Cross volunteers of legal background.

Approximately 2000 agreements dating back to 1939 were identified and subsequently reviewed. Of this rather vast number, only 31 documents, all listed under paragraph 6.1, were found to be of interest.

3.2 Legal framework for international disaster response in Norway

Norway is a developed country in northern Europe with close historic and cultural relations with its Nordic neighbours⁴, which has resulted in homogenous legislation, innumerable agreements and close co-operation in various fields.

In addition, Norway is also member of the European Economic Area⁵ which reduces the obstacles for movement of personnel and goods within the EEA. The continuing development of a common European law through the European Union legislative bodies also diminishes legal differences within the EEA.

Even though Norway's relationship with Russia is of a different character than the other neighbouring countries, Norway co-operates with Russia in multiple areas. However, international hindrances for IDRL co-operation are mainly of relevance in relation to our Eastern European neighbours.

Sector responsibility is the main principle for disaster response law in Norway. This entails that each Ministry is responsible for disaster response legislation, wherever this is necessary.

⁴ Sweden, Norway, Denmark, Iceland and Finland.

⁵ Agreement between the European Union and the EFTA countries Island, Liechtenstein and Norway.

3.3 *International Co-operation*

Norway has a long tradition of committing herself to international co-operation. In the field of disaster response law this has led to several multilateral and bilateral agreements. However, the findings indicate that the selection of international agreements Norway has ratified is chosen randomly. Some ministries have reported that refraining from signing certain agreements, were based on the assumption that the Norwegian regulations already fulfil the commitments under the agreements.

In the following chapter the research findings will be presented according to themes in the IDRL guidelines.

3.4 *Research findings*

3.4.1 Visas, entry and working permits

Norway is part of the Schengen agreement of 1990, which is implemented in the Immigration Act from 1988, and the Immigration Regulations from 1990. In a disaster situation the regulation for visa is article 113 in the Immigration regulation, which allows for exceptions from the regulations.

3.4.2 Recognition of professional qualifications

The Norwegian rules concerning approval of professions is adjusted to the EU's requirements for approval and authorisation of special groups within the health services. It is doubtful whether Norwegian authorities have the possibility to make dispensations from the EU requirements.

3.4.3 Customs, duties and quarantine

Norway has implemented the rules in the Istanbul Convention of June 26. 1990 in Customs Act and its regulations, but has not ratified it. Norway is expected to ratify the convention in 2003. Also, Norway has implemented the rules in the Kyoto Convention, and will ratify the convention in the nearest future. However, according to Norwegian legislation, national authorities have the possibility to make dispensations in case of disasters.

3.4.4 Transportation and transit of goods

Norway is part of several bilateral and multilateral agreements which facilitates the transport and transit of goods. However, no agreement concerning disaster situations has been found in the research.

3.4.5 Status and immunities and protection of personnel

Norway is a party to the Convention on the privileges and immunities of the United Nations of February 13. 1946, the Convention on the Privileges and Immunities of the Specialized Agencies of January 25. 1950, the Agreement on the Privileges and Immunity of the International Atomic Energy Agency (IAEA) of July 1. 1959, and the Convention about Security of UN Personnel etc. of December 9. 1994.

3.4.6 Co-ordination of activities

Norway is party to different conventions concerning co-ordination of activities in disaster situations. Through Norway's membership in NATO, Norway is part of the NATO Euro-

Atlantic Disaster Response Co-ordination Centre (EADRCC). Upon request from the stricken country, the organization co-ordinates responses to the disasters.

3.4.7 Information exchange

Concerning co-operation in situations with outbreaks of diseases and possible epidemics; reporting to the WHO and the EU takes place in accordance with established practice and the co-operation which has developed between international institutions of infectious disease control. The legal basis of such reporting lies in the council decision 2119/98/EC concerning the “Network for epidemiological surveillance and control of contagious diseases”, which is incorporated in the EEC agreement. This and related decisions regulates the Norwegian reporting and participation in the European networks detecting and describing outbreak situations. This can also be effective in a disaster situation.

3.4.8 Offers and request for assistance

There are several agreements between the Nordic countries (except Iceland) and between Norway and Russia, concerning search and rescue missions and assistance (Index). In addition the EADRCC⁶ also offers assistance.

In the case of radiation accidents, Norway can offer and receive assistance upon request in co-operation with the International Atomic Energy Agency (IAEA).

Norwegian medical experts have a good and close co-operation with foreign experts. In case of need for increased capacity or specialised treatment (either unavailable in Norway or if the capacity for treatment in Norway is very limited), the specialists themselves take contact with colleagues in other countries, in order to transfer patients to foreign hospitals. This has functioned without any written agreements. However, a Nordic agreement concerning health emergency preparedness was signed June 14. 2002, but has not yet come into force. With this agreement the Nordic countries will be committed, in the case of an emergency or disaster situation, to as far as possible assist each other and inform each other about measures undertaken. Otherwise, to further co-operation by eliminating obstacles in national rules and regulations, develop competence and keep each other informed regarding relevant changes in the countries' emergency preparedness. This agreement supplements the Nordic agreement concerning rescue service.

Fortunately the Nordic countries have not experienced major disasters which have challenged the total capacity of joint Nordic disaster response capability.

3.4.9 Communications

As a member of the International Telecommunication Union Norway is obliged to give priority to telecommunications concerning safety of life as well as to epidemiological telecommunications of exceptional urgency. Norway has not ratified the Tampere Convention on the provision of telecommunication resources for disaster mitigation and relief operations.

3.5 A brief analysis

⁶ The NATO Euro-Atlantic Disaster Response Co-ordination Centre.

According to our findings it seems to be few legal hindrances for disaster response within the Nordic countries and within the EEA. At the same time Norwegian regulations and multilateral and bilateral agreements reduce the legal obstacles for disaster response towards the rest of the world, in case of emergency. However, the international agreements Norway has ratified, do not seem to be a result of an overall strategy. This illustrates the lack of one central governmental body responsible for disaster issues in Norway.

Even though the legal hindrances to receive disaster response, seems of limited significance for Norway, a lack of an overall assessment appears, concerning contingency planning in case of disasters. Recent international events have made disaster response an important topic in the Norwegian discourse. This debate provides an opportunity for a renewed focus on how responsibilities for disaster response are organised in the country, the country's capacity to deal with disasters as well as on the need for agreements with neighbouring countries regarding requests and offers for assistance in disaster situations.

4 Conclusions

This study has focused on mapping problems encountered by international humanitarian workers in disaster operations and sought to identify links between these problems and the legal framework in which the disaster response was conducted. Certain aspects of disaster response seem of particular interest in this regard, namely access to people affected by disasters; the understanding and implementation of country specific response mechanisms; facilitation of disaster response activities and the relationship between an organisation and other actors in the field. The role legal and non legal documents play in relation to international disaster operations has been a cross cutting perspective in this study.

There are many different types of instruments, both legal and non-legal, that regulate disaster response activities in times of natural and technological disaster. Indications in this study show that national laws and regulations are playing a prominent role. International agreements take effect when implemented nationally. However there seems to be little awareness of the connections between national regulations and international agreements. As such the impact of international agreements in a disaster response situation was not apparent to the respondents in this study.

Access to people affected by disasters has been a key issue in the study. Respondents have informed that access is to a large extent facilitated through the negotiated agreements the organisations holds with the national authorities. Access might in some countries in addition depend on decisions made by regional or even local authorities. The question of an organisation's connections and trust, the degree of co-operation between the organisation and the authorities, the level of knowledge and good-will among regional and local authorities, as well as the security situation in a given area are perceived to be of importance regarding the facilitation of access.

Even though there might be in place both laws and regulations, aid operations might face delays due to legal issues e.g. visa, customs, vehicle registration. Another delaying factor is connected to poor assessment by the donors on relevance of the relief goods, which is perceived as a recurring problem addressed by several of the respondents.

Customs in particular, often occurs to be an obstacle for performing a rapid disaster response. Indications in this study has lead us to believe that this is not only because of the lack of possible legal instruments, but rather because of lack of understanding and knowledge regarding relevant instruments and agreements at the level of custom officers and other employees working for the authorities at different levels. The degree of such problems varies, from distrustfulness and lack of knowledge to corruption. Locally purchased goods does not usually create a problem except where serious shortages arise over a longer period of time.

In most of the countries affected by natural disasters, there are national or local disaster contingency plans based on years of experience in dealing with natural disasters, and where focus is set on local and regional capacities. It was found that again, it is national laws and regulations which have the most direct impact on the speed and efficiency also when it comes to international disaster relief operations, provided that these laws and regulations are easily applicable. Coordination between actors in the emergency phase of a disaster is a challenge. In countries where there are national plans and structures for coordination, this is in general perceived as positive. For many organisations local counterparts play an important role in facilitating contact with the authorities. Coordination-meetings between the different organisations and the relevant authorities during the disaster response phases is perceived to make a difference and improve efficiency.

Indications in this study show that legal status agreements between the organisations and the government prior to the disaster situation are a valuable tool for facilitating efficient disaster response. Distribution of goods, leasing of buildings or hiring of local staff might be examples of areas often regulated through such agreements.

Telecommunication is another field of importance during a disaster operation. The main obstacles connected to telecommunication seem to be linked to getting approval for the usage of satellite-telephones and to frequency allotment.

The relief worker might meet with many different legal problems when planning and conducting disaster operations. In this study most respondents were not aware of where to find the legal bases for these problems, although they had indeed experienced these types of problems during operations. When asked only a few of the respondents were familiar with international documents such as the Tampere Convention, but the overwhelming majority were familiar with, and actively used, the Code of conduct and the SPHERE standards. In addition many organisations seem to have their own guidelines and manuals for international work and for disaster operations.

The case study in Norway identified several international agreements relevant to international and Nordic disaster response. Some agreements might relate to disaster response indirectly. An observation made during this study in general are that there might be several international agreements relevant to international disaster response, but these instruments are not as such recognised as international disaster response law or agreements.

More research needs to be conducted in order to determine possible mechanisms for addressing the key problems in disaster response operations. The research of the IDRL project, which this study is part of, is a first step seeking to identify the key problems. The International Federation's role as the driving force of the IDRL project has been welcomed by several respondents. In this partial study hopes have been expressed that the IDRL project might lead to an international commitment to improve national facilitation related to defined

core aspects of disaster response, e.g. access for personnel and relief goods and methodology and structures for co-ordination, as well as to increased dissemination of existing legal instruments to ensure awareness among government officials and the relief workers.

5 Annex 1: Collected Documents

5.1 Agreements and documents related to Norway

Visas, entry and working permits

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| Schengen agreement, convention from 19 June 1990. Website: http://www.personvern.uio.no/regler/schengen_e.html |
| Tilleggsoverenskomst til overenskomst mellom Norge, Danmark, Finland, Island og Sverige om opphevelse av passkontrollen ved de internordiske grenser. (Nordic additional agreement regarding bordercrossing) Entry into force 22.04.2001. |
| EEA agreement, protocol VII article 1 (Regulations related to authorisation etc. of medical personel) http://odin.dep.no/hd/norsk/regelverk/lover/030061-200022/index-dok000-b-f-a.html |

Customs, duties and quarantine

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| Avtale mellom Norge, Danmark, Finland, Island og Sverige om gjensidig bistand i tollsaker. (Nordic agreement regarding mutual assistance on custom related issues) Entry into force 26.08.1982. |
| Overenskomst av 19. mars 1955 om lempinger i helsekontrollen med trafikken mellom Norge, Danmark og Sverige. (agreement between Norway, Denmark and Sweden on the issue of health control) Entry into force: 01.04.1955. |
| The Istanbul Convention of 26.06.1990 (not ratified, but implemented) |
| Kyoto Convention (not ratified, but implemented). From December 1997. Website: http://unfccc.int/cop4/kp/kp.html |

Transportation and transit of goods

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| International convention on the harmonization of frontier control of goods. Entry into force: 15.10.1985. Art. 2, 3, 10, 12 |
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Status and immunities and protection of personnel

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| Convention of the privileges and immunities of the specialized agencies. Entry into force 02.12.1948. (for Norway 25.01.1950 – section 11 due to Norwegian declaration 20.09.1951) http://untreaty.un.org/ENGLISH/series/simpleunits.asp |
| The Agreement on the privileges and immunity of the International Atomic Energy Agency (IAEA) of July 1. 1959 |
| Convention about the security for UN personnel etc. from 9 December 1994. |
| Norway is part to the Convention on the privileges and immunities of the United Nations of February 13. 1946 http://www.unog.ch/archives/un_priv.htm |

Co-ordination of activities

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| Norway is a member of the North Atlantic Treaty Organisation (NATO). The Treaty came into force on 24 August 1949, after the deposition of the ratifications of all signatory states. Website of the NATO treaty: http://www.nato.int/docu/basic/txt/treaty.htm Website for the Euro-Atlantic Disaster Response Centre (EADRCC): http://nato.int/eadrcc/into.htm or http://nato.int/eadrcc/fact.htm |
| Avtale vedrørende samarbeid om redningstjenesten i grenseområdene mellom Norge og Finland , 16.01.1986. (Agreement between Norway and Finland regarding rescue services in border areas) |
| Overenskomst mellom Norge og Sverige om forbedring av redningstjeneste i grensetrakter, 19.03.1974. (Agreement between Norway and Sweden regarding improvements of the rescue services in border areas) |
| Annex 12 to the Convention on Search and Rescue for the International Civil Aviation Organization (ICAO) |
| The SAR Convention on Co-operation between states 1997, chapter 3. |
| Avtale mellom Norge og Sverige for å forbedre flysikkerheten i forbindelse med flyging med militære |

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| luftfartøyer. 31.01.1990. (agreement between Norway and Sweden regarding improvement of air-traffic safety) |
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Information exchange

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| Agreement between the parties to the North Atlantic Treaty for cooperation regarding atomic information. Entry into force: 12.03.1965. (art. IV 3.pkt-?) |
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Offers and request for assistance

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| Avtale mellom Norge og Russland om tidlig varsling av atomulykker og om utveksling av informasjon om atomanlegg. Entry into force: 06.08.1995 (agreement between Norway and Russia regarding early warning and exchange of information related to nuclear accidents and atomic plants) www.lovdata.no/udoff/text/tra-19930110-001.html |
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| Avtale mellom Norge og Russland om samarbeid i grensespørsmål av 12.11.2002. Agreement between Norway and Russia regarding cooperation in border related matters. Not yet in force. |
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| Nordic agreement concerning rescue service, dated 20.01.1989. |
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| Convention on assistance in the case of a nuclear accident or radiological emergency. Ratified and come into force: 27.10.1986. |
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| Nordic mutual emergency assistance agreement in connection with radiation accidents. Entry into force: 08.11.1963. (Iceland is not a contracting party to the agreement.) |
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| Nordic agreement concerning health emergency preparedness. 14.06.2002. Not yet in force. |
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| Agreement between Norway, Denmark, Finland and Sweden and the International Atomic Energy Agency (IAEA) concerning mutual emergency assistance in connection with radiation accidents. Entry into force 19.06.1964. http://www.iaea.org/worldatom/Documents/Infcircs/Others/infcirc49.shtml |
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| Convention on the Transboundary Effects of Industrial Accidents (Article 12). Entry into force 19.04.2000. http://sedac.ciesin.columbia.edu:9080/entri/texts/industrial.accidents.1992.html |
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| European agreement on the exchange of therapeutic substances of human origin. Signed in Paris 15.12.1958. |
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Communications

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| Norway and Italy: Exchange of notes concerning humanitarian/emergency/taxi and ambulance flights. Entry into force: 01.02.1984 |
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| Constitution of the International Telecommunication Union, article 1.2(g) and 40 |
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| Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations. Entry into force. www.reliefweb.int/telecoms/tampere |
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5.2 Agreements and documents related to Sri Lanka⁷

⁷ According to the Ministry of Foreign Affairs and the Ministry of Social Welfare there are no legally binding agreements or documents regulating the presence of international humanitarian organisations in Sri Lanka, the exception being ICRC.

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| <p>Consortium of Humanitarian Agencies: “Human disaster management”. A compilation including analysis of the need for disaster management in SL on the background of the actual situation in the country. Sri Lanka, 2003</p> |
| <p>National Disaster Management Centre: “Charter of the Asian Disaster Preparedness Center” (ADPC). Charter regulating the structure, governance/management, vision and mission, powers and financial provisions. Draft, ADPC, Sri Lanka 2. January 2003</p> |
| <p>National Disaster Management Centre: “Policy, Legal and Institutional Arrangements and Planning For Disaster Management in Sri Lanka”. Policy document describing actual situation in SL, policies and legal arrangements on disaster management, institutional framework, functions of NDMC on all levels. By N. D. Hettiarachchi, Director, national Disaster Management Center, Ministry of Social Services.</p> |
| <p>Memorandum of Understanding between the Sri Lanka Red Cross Society, IFRC and ICRC, Final draft 4/7 2002. Document regarding the respective roles and responsibilities of the three components of the Movement in SL</p> |

5.3 Agreements and documents related to Vietnam

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|---|
| Documents relating to UN, RC/RC, and NGOs: |
| Regulations regarding the Management and Utilisation of Reserve Stock for the Vietnamese Red Cross Society and the International Federation of the Red Cross and Red Crescent Societies, Delegation Vietnam, 01.02.2002 |
| Project cooperation agreement between the United Nations Development Programme and the Viet Nam Red Cross Society and the International Federation of Red Cross and Red Crescent Societies, Vietnam 01.12.2000 |
| Emergency preparedness and response plan for Flood Emergencies 2001-2003, UNICEF, Vietnam. |
| Framework document for the Federation’s Regional DM Cooperation in SEA, adopted by the Disaster Management representatives of the 2 nd SEA Regional Disaster Management Cooperation meeting, Da Nang, Vietnam 16-18.11.2001, and endorsed by the National Societies of the region. |
| Memorandum of understanding between the Committee for non-governmental organizations affairs of the socialist republic of Vietnam and the International Federation of Red Cross Society and Red Crescent Movement, signed Hanoi, 08.05.1998 |
| Development Contract between the Vietnamese Red Cross and the Danish Red Cross concerning a Primary Health Care Programme Phase III (January 2001 – June 2006) in Vietnam, October 2002. |
| Memorandum of understanding between the Committee for non-governmental organizations affairs of the socialist republic of Vietnam and World Vision International, signed Hanoi, 08.10.1999 |
| Decision No. 59/2001/QĐ-TTg of the Prime Minister on the establishment of the Committee for Foreign Non-Governmental Organisation Affairs, Ha Noi, 24.04.2001 |
| Decision No. 64/2001/QĐ-TTg of the Prime Minister on the Issuance of the Regulation on the Management and Utilization of Aid from International Non-Governmental Organizations, Ha Noi 26.04.2001 |
| Regulation No. 64/2001/QĐ-TTg on the management and utilization of aid from international non-governmental organisations, signed by Deputy Prime Minister Nguyen Manh Cam, 2001, in conjunction with the Prime Ministers Decision no. 64/2001/QĐ-TTg |
| Agreement between the Government of the Socialist Republic of Viet Nam and The United Nations Development Programme, 15.05.1978 |

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| Memorandum of Agreement on Natural Disaster Mitigation Partnership for Central Vietnam, (NDM-Partnership), 01.06.2001, signed by The Government of S.R. Viet Nam, World Bank, The Netherlands, UNDP, Provincial People's Committee Quang Nam Province, IFRC, Australia. www.undp.vn/ndm-partnership |
| Other documents related to disaster preparedness, management and risk reduction, which have relevance and/or include regulations related to cooperation/involvement of UN/international aid organisations: |
| Decision No. 63/2002/OD-TTg of the Prime Minister on the work of flood and storm prevention and combat as well as natural disaster reduction, 20.05.2002 www.undp.org.vn/dmu/dm-in-vietnam/en/frame.htm |
| Decree No. 62/1999/ND-CP of July 31, 1999 Promulgating the regulation on flood diversion and slowing in the Red River system to protect the safety of Hanoi capital, signed by the Prime Minister Phan Van Khai. www.undp.org.vn/dmu/dm-in-vietnam/en/de-990731-a.htm |
| Ordinance on prevention and control of floods and storms and implementation provisions, signed by the President of the State of the Socialist Republic of Vietnam, 20.03.1993 www.undp.org.vn/dmu/dm-in-vietnam/en/or-930308.htm |
| Permit for the establishment of representative office in Vietnam. Standard for agreement for International non-governmental organisations, which will be attached to the MOU between the State and an organisation. Committee for Foreign Non-Governmental Organizations Affairs, Vietnam |
| Strategy and Action Plan for Mitigating Water Disasters in Vietnam, Ministry of Agriculture and Rural Development, original Plan 1994, first update 1995. UNDP/DMU Project VIE/97/002 |
| Second Strategy and Action Plan for Disaster mitigation and management in Vietnam, 2001-2020. Government of Vietnam, Ministry of Agriculture and Rural Development, CCFSC. UNDP/DMU Project VIE/97/002 |
| Decision 28/1999/QD-TTg Promulgating the regulations on the management and use of aids from foreign non-governmental organisations, signed by the Prime Minister, 23.02.1999 UNDP/DMU Project VIE/97/002, vol 5, part 9 |
| Official Documents of the Government of Vietnam: "Laws, Decrees and Ordinances on Water Resources and Disaster Mitigation in Vietnam" compiled by the Disaster Management Unit, UNDP Project VIE/97/002 |
| Cambodia-Laos-Thailand-Vietnam: Agreement on the cooperation for the sustainable development of the Mekong River Basin, signed Thailand, 05.04.1995 |
| Project agreement: Project number VIE/01/014/01, parties: UNDP, The Government of Viet Nam, The Government of Luxembourg, The Government of the Netherlands. Title: Capacity Building for Disaster Mitigation in Viet Nam, Project of the Government of Vietnam, 2002-2005 |
| Memorandum of Understanding on Development Cooperation between the Government of Australia and the Government of the Socialist Republic of Vietnam, Signed in Canberra 27.05.1993 |
| Proposed Terms of Reference on the ASEAN Committee on Disaster Management, ASEAN Secretariat 16.09.2002 /available from: Central Committee for Flood and Storm Control, Hanoi. |
| ASEAN Secretariat paper from the Regional Programme on Disaster management (ARPDm) on: Strategies for Implementation of Regional Activities. ARPDm meeting Hanoi 15.09.2002 /available from: Central Committee for Flood and Storm Control, Hanoi. |
| BOOKS and DISASTER STUDIES |
| "Emergency Co-ordination Framework in Vietnam Key actors" |

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| Prepared by Katarzyna Grabska, for Oxfam GB, Hanoi February 2001 |
| List of 180 international conventions, agreements and protocols that Vietnam is party to can be found in “International Law, Theory and Practice” by Dr Tran Van Thang and MSC Le Mai Anh, Nhà Xuất Ban Giáo Duc, 2001 (Vietnamese text, not available in english) |
| UNDP project VIE/97/002: A compilation of 12 comprehensive disaster studies which were carried out by various institutions by order of the Disaster Management Unit, Vietnam. These studies formed the base of the second update of the Strategy and Action Plan for mitigating disasters in Vietnam |

6 Annex 2: Sources of information

Norway

- CARE International
- Ministry of Defence
- Ministry of Finance
- Ministry of Foreign Affairs
- Ministry of Health
- Ministry of Justice and the Police
- Ministry of Labour and Government Administration
- Ministry of Local Government and Regional Development
- Ministry of Transport and Communications
- Norwegian Church Aid
- Norwegian Red Cross
- Norwegian Refugee Council
- Norwegian Peoples Aid
- Save the Children

Sri Lanka

- Care International
- Consortium of Humanitarian Agencies
- International Committee of the Red Cross
- International Federation of Red Cross and Red Crescent Societies
- Ministry of Foreign Affairs
- Ministry of Social Welfare, National Disaster Management Centre
- Oxfam GB
- Sri Lanka Red Cross Society
- University of Colombo, Centre for human rights

Vietnam

- CARE International
- Catholic Relief Services
- Danish Red Cross
- Dutch Embassy
- International Federation of Red Cross and Red Crescent Societies
- Natural Disaster Management Partnership
- Norwegian Embassy
- Ministry of Agriculture and Rural development; Disaster Management Unit
- Ministry of Agriculture and Rural development; Central Committee for Flood and Storm Control
- Ministry of Foreign Affairs
- Ministry of Health

- Ministry of Labour, Invalids and Social Affairs
- Oxfam GB
- Red Cross Society of Vietnam
- UNDP
- UNICEF
- World Vision

7 Annex 3: List of Researchers

Aarak, Sissel
Bergh, Anne
Birkeland, Vidar
Egeland, Kristine
Eriksen, Dag
Gautvik, Per
Gundersen, Silje
Halle, Anne
Harlem, Mads
Kolflaath, Anne Kristine
Petterson, Hege Ajer
Rummelhoff, Michael J.H.
Tovsen, Bjørn Christian
Widerberg, Nicolay