



International Federation
of Red Cross and Red Crescent Societies

International Disaster Response Law Project

**Report on findings from South Asia, Southern Africa and
Central Americas**

**based on Field Studies commissioned by the
International Federation**

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1 EXECUTIVE SUMMARY	4
2 INTRODUCTION	6
2.1 BACKGROUND TO THE IDRL PROJECT	6
2.2 ABOUT THIS FIELD STUDY REPORT	7
2.3 TERMS OF REFERENCE	7
2.3.1 PURPOSE	7
2.3.2 OBJECTIVES	7
2.3.3 SCOPE	8
2.4 METHODOLOGY FOR FIELD STUDIES	8
2.4.1 PHASE 1 - LITERATURE REVIEW OF PREVIOUS INTERNATIONAL DISASTER OPERATIONS ..	8
2.4.2 PHASE 2 - PREPARATORY CONSULTATIONS WITH RELEVANT FEDERATION AND NATIONAL SOCIETY DISASTER MANAGEMENT STAFF.....	8
2.4.3 PHASE 3 – IN-COUNTRY STUDIES OF CURRENT INTERNATIONAL DISASTER OPERATIONS.	8
2.5 GENERAL COMMENTS ABOUT THE METHODOLOGY	9
3 FINDINGS	10
3.1 ACCESS TO DISASTER-AFFECTED POPULATIONS	10
3.1.1 GOVERNMENT REQUESTS FOR INTERNATIONAL ASSISTANCE.....	10
3.1.2 ROLE OF RED CROSS AND RED CRESCENT NATIONAL SOCIETIES OF THE DISASTER- AFFECTED STATE (‘HOST NATIONAL SOCIETY’)	11
3.1.3 ASSISTANCE OF THE INTERNATIONAL FEDERATION OF RED CROSS AND RED CRESCENT SOCIETIES	11
3.1.4 ASSISTANCE OF OTHER RED CROSS AND RED CRESCENT NATIONAL SOCIETIES (‘ASSISTING NATIONAL SOCIETIES’)	12
3.2 FACILITATION OF INTERNATIONAL HUMANITARIAN ASSISTANCE	13
3.2.1 STATUS, PRIVILEGES AND IMMUNITIES OF PERSONNEL.....	13
3.2.2 VISAS FOR INTERNATIONAL HUMANITARIAN PERSONNEL	13
3.2.3 IMPORT OF RELIEF GOODS AND EQUIPMENT	14
3.2.4 USE OF GOVERNMENT RESOURCES AND FACILITIES	15
3.2.5 TELECOMMUNICATIONS	15

3.3	COORDINATION OF INTERNATIONAL HUMANITARIAN ASSISTANCE	17
3.3.1	GOVERNMENT	17
3.3.2	INTERNATIONAL FEDERATION AND RED CROSS AND RED CRESCENT NATIONAL SOCIETIES	18
3.3.3	UNITED NATIONS AGENCIES AND NGOS	18
3.4	QUALITY AND ACCOUNTABILITY OF INTERNATIONAL HUMANITARIAN ASSISTANCE ...	19
4	CONCLUSIONS	20
4.1	KEY CHALLENGES IN THE DELIVERY OF INTERNATIONAL DISASTER RESPONSE OPERATIONS.....	20
4.2	RELATIONSHIP BETWEEN NATIONAL AND INTERNATIONAL LAW AND THE FACILITATION OF INTERNATIONAL HUMANITARIAN ASSISTANCE	21
4.3	PRELIMINARY CONCLUSIONS FROM THE FIELD STUDIES RELEVANT TO THE IDRL PROJECT AS A WHOLE	21

ANNEX A - Desk research documents examined

ANNEX B - Headquarters interviews

ANNEX C - Countries studied

ANNEX D - Documents collected during in-country studies

ANNEX E - In-country interviews

1 Executive summary

This report contains a summary and preliminary analysis of the findings of a series of field studies commissioned by the International Federation of Red Cross and Red Crescent Societies as part of the International Disaster Response Law (IDRL) Project. The field studies were carried out by Dr. Piero Calvi-Pariseti of GIGNOS Consulting during the period from early October to the end of November 2002. The studies covered some 13 countries in the South Asia, Southern Africa and Central Americas regions and included the examination of evaluations of previous operations, interviews with disaster management personnel from headquarters and workshops and interviews conducted with key actors in the field.

The key objectives of the field studies were:

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

Key challenges for international disaster response activities

The main challenges limiting the effectiveness of humanitarian efforts centre around four key areas:

- Limitations on the ability to access disaster affected populations resulting from unclear or inconsistent practices adopted by governments and humanitarian organisations
- A number of bureaucratic obstacles in the facilitation of humanitarian assistance, including delays in the granting of visas, the import of relief goods and equipment and the use of telecommunications
- Lack of coordination between government, local actors and international organisations in the conduct of disaster response activities
- Lack of implementation of appropriate standards, quality control and accountability mechanisms for humanitarian assistance.

Impact of national and international laws and other regulatory instruments

There were several key findings relating to the impact of national and international laws and other regulatory mechanisms on the efficiency of international disaster response operations:

- There is a direct link between the application of laws and other instruments and the effectiveness of international disaster response, which can have both positive and negative effects
- There is very little awareness and implementation of existing international laws and principles applicable to international disaster response
- National laws are more widely recognised but do not generally incorporate international principles and do not respond adequately to disaster situations

- There were several examples where regional agreements and national laws had been implemented to specifically deal with international disaster response activities and these had greatly facilitated humanitarian efforts

Preliminary recommendations for consideration as part of the IDRL Project

The findings also prompted some preliminary recommendations for how to resolve some of the current legal and operational challenges, to be considered in the context of the IDRL Project as a whole. These include:

- The development of models for the facilitation of disaster response activities which could be incorporated into existing national laws
- Dissemination programs and development of a practical handbook explaining international laws, rules and guidelines
- Assistance for governments wishing to harmonise domestic law and other instruments, with applicable international laws and principles
- Systematic discussion of inter-agency coordination involving governments, international organisations, the Red Cross and Red Crescent Movement, NGOs (national and international) and other key players

2 Introduction

2.1 BACKGROUND TO THE IDRL PROJECT

There has been widening international debate on the adequacy of the existing legal mechanisms to facilitate efficient and coordinated international relief activities in response to natural and technological disasters. A chapter in the World Disaster Report of the International Federation of Red Cross and Red Crescent Societies in 2000¹ took this debate further and provided the impetus for a meeting of experts hosted by the International Federation in February 2001 to discuss some of the difficulties experienced by delegates in the field and the corresponding status of the law. This meeting concluded that there was still much to be done to ensure that the legal and regulatory framework for international disaster response is able to facilitate humanitarian action in favour of people affected by disasters. It was also determined that the International Federation was in a unique position to continue work in this field and to advocate for greater international recognition of this important area of law and to promote its future development.

Based on advice from the relevant statutory bodies of the International Federation, in 2001, the Council of Delegates of the Red Cross and Red Crescent Movement, consisting of representatives from the International Federation, the International Committee of the Red Cross and Red Cross and Red Crescent National Societies, welcomed the initiative of the International Federation to examine the effectiveness of existing legal and other instruments applicable to international disaster response, with a view to identifying how this area could best be improved to meet the needs of humanitarian workers in the field and their beneficiaries². This process became known as the International Disaster Response Law (IDRL) Project.

This IDRL Project involves several important steps:

- Collating and publishing a collection of existing **legal and other regulatory instruments** from both international and regional sources relating to IDRL
- Conducting **field studies** to determine how the existing law relates to problems experienced in the field
- Producing an **academic publication** which examines the nature and content of these instruments in more detail
- Presenting a **report** detailing the findings from the various components of the study. This report will identify significant weaknesses in IDRL and make recommendations for further action in favour of enhancing the effectiveness of international law. It will be presented to the International Conference of Red Cross and Red Crescent in December 2003.

The IDRL project will assist the international community to gain better understanding of the gaps and weaknesses of present laws and other regulatory instruments applicable to disaster response and most importantly, will identify the best way forward for making improvements.

¹ Michael Hoffman, "Towards and International Disaster Response Law" in International Federation of Red Cross and Red Crescent Societies, *World Disasters Report* (2000) (<http://www.ifrc.org/disasters/idrl>)

² Resolution 5, Council of Delegates of the Red Cross and Red Crescent Movement, Geneva, 2001 (<http://www.redcross.int/en/default.asp>)

2.2 ABOUT THIS FIELD STUDY REPORT

This report contains a summary and preliminary analysis of the findings of a series of field studies commissioned by the International Federation of Red Cross and Red Crescent Societies as part of the International Disaster Response Law (IDRL) Project. The field studies were carried out by Dr. Piero Calvi-Pariseti of GIGNOS Consulting during the period from early October to the end of November 2002. The studies covered some 13 countries through the examination of evaluations of previous operations, interviews with disaster management personnel from headquarters and workshops and interviews conducted with key actors in the field. A report from these studies was provided to the International Federation and was used as the basis for this report, in addition to some supplementary consultations and research.

Further field studies in other countries and regions are planned during the course of 2003 with the assistance of other Red Cross and Red Crescent National Societies. The results from the field studies, which consist primarily of observations from field personnel, will also be compared and analysed in more detail in the context of the existing international legal and regulatory framework.

2.3 TERMS OF REFERENCE

2.3.1 Purpose

The field studies form an important part of the IDRL project, as it is recognised that an accurate analysis of the current state of international law can only occur in conjunction with an assessment of experiences and practices in the field. Furthermore, for IDRL to serve as useful tool for the facilitation of disaster operations it must be responsive to operational needs and develop in ways that will provide real benefits to humanitarian workers and their beneficiaries.

2.3.2 Objectives

The field studies aim to provide an overview of some of the major difficulties experienced by humanitarian workers in the field and the impact of the presence or absence of applicable law and non-legal guidelines in relation to these areas. This information will then be analysed in the context of the legal research in a separate process, to reach more developed conclusions about the current state of IDRL and future steps for the improvement of international humanitarian assistance.

The main objectives of the field studies are as follows:

- To identify the key problem areas experienced by humanitarian workers and other parties in the conduct of international disaster response activities
- To determine which legal and non-legal instruments are understood and applied during disaster response operations
- To determine the impact of the various instruments on disaster response operations

2.3.3 Scope

The field studies examine evaluations from previous international disaster response operations conducted by the International Federation and other organisations and gather a range of both written and verbal accounts of the difficulties experienced in the field, with the aim of identifying key legal issues encountered in the course of field operations.

This process will include a deeper study of several current international disaster operations, examining operating difficulties experienced by a variety of humanitarian actors and government representatives and will also identify some key international and national laws, policies and operating guidelines governing these operations.

2.4 METHODOLOGY FOR FIELD STUDIES

2.4.1 Phase 1 - Literature review of previous international disaster operations

A literature review was conducted in Geneva which examined some selected evaluation documentation from major field operations of the International Federation and other organisations over the past 5 years.

2.4.2 Phase 2 - Preparatory consultations with relevant Federation and National Society disaster management staff

A series of interviews were conducted with some selected International Federation disaster management staff and technical departments to gain a “headquarters” perspective of the key challenges in the field, as a way of identifying area of focus for further examination during the in-country studies.

2.4.3 Phase 3 – In-Country studies of current international disaster operations

A series of in-country studies were conducted in three different regions: South Asia, Central America and Southern Africa. The list of countries visited or included as part of the in-country studies is provided in **Annex A**. These studies provided an opportunity to gain the perspectives of government and humanitarian personnel in a field context to gain a deeper insight into difficulties experienced in the field and the effectiveness of legal and other instruments relevant to that particular disaster. A list of documents gathered during the course of these in-country studies is provided in **Annex B**.

The in-country studies involved the conducting of a number of 2-3 hour workshops and interviews with relevant personnel, including the International Federation, Red Cross / Red Crescent National Societies, government officials and personnel from the United Nations and other organisations. A list of those consulted is provided in **Annex C**.

The workshops and interviews followed a structure which is briefly outlined below:

- “**framework**” - discussion of issues such as the request for international assistance on the part of an affected State, the formal appeal from the National Society of the affected

State to the Federation, the existence of a national disaster response law and the role of the National Society in it, and the legal status of the Federation.

- **“responsibilities of affected State”** – discussion of issues such as the facilitation of entry, stay and exit of international aid workers in case of disasters, the facilitation of import and export of relief goods and equipment, taxation, provision of support by the government of the affected State to the international relief effort (e.g transport, logistics, water, fuel) and privileges and immunities for humanitarian personnel
- **“quality”** - discussion of main responsibilities in assisting countries in the aftermath of a disaster consists of ensuring that assistance is provided with a good level of quality, according to best practices and following agreed-upon standards.
- **“coordination”** – discussion of coordination issues between various agencies and governments involved in disaster response

2.5 GENERAL COMMENTS ABOUT THE METHODOLOGY

The field studies were conducted over a period of approximately three months in total, with approximately 7 days spent in each region.

It is important to note that the findings are limited to the perspectives of those persons interviewed, who were predominantly field workers without extensive legal training, thus the opinions may not necessarily reflect a detailed understanding of the legal context. Most of the interviews were conducted with Red Cross and Red Crescent workers, however other groups were also consulted where possible.

These studies will be supplemented by a separate analysis planned for 2003 which will examine more closely the content of the various international, regional and national instruments collected during the course of the field studies and compare this with the findings below. This will enable some more accurate conclusions about the scope and nature of existing law in this area.

It is also important to note that the field studies did not examine these issues from the perspective of beneficiaries – namely, people affected by disasters – so all findings relating to the effectiveness and quality of assistance must be viewed in this context.

Nevertheless, these field studies do provide a useful insight into the field reality of international disaster response operations and there are many common elements that appear to span the different regions and are reflected in the findings below.

3 Findings

The following findings reflect the key legal and operational issues identified by the interviewees during the field studies, predominantly from the Red Cross and Red Crescent perspective. Whilst they do not reflect the full scope of the challenges in this area, nor cover all viewpoints, these findings highlight areas of particular importance for humanitarian workers and host governments during disaster response operations and raise some important observations about the national and international legal framework.

3.1 ACCESS TO DISASTER-AFFECTED POPULATIONS

The ability for international actors to access the territory of the disaster-affected country and the disaster-affected populations themselves is central to the provision of international humanitarian assistance. For the purposes of these studies, two key areas were addressed: (1) government requests for international assistance, which provides the legal basis for the entry of most international actors; (2) the various ways in which international responders gain access, using the experiences of the International Federation and Red Cross and Red Crescent National Societies as an example.

3.1.1 Government requests for international assistance

Most governments of the countries examined had declared a state of national emergency and had made formal requests for international assistance. These requests then formed the basis for the launch of international appeals by international humanitarian organisations and other states. In some instances mechanisms for international assistance were incorporated into various national laws, for example in “civil protection acts”, but in other cases there were no specific mechanisms in relation to international disaster response.

In several cases, the requests for international assistance that had been made by governments were deemed to be unnecessary, according to some interviewees, and were motivated by the government’s desire to benefit from the increased economic activity and additional resources which would flow into the country. Some humanitarian organisations were also felt to be complicit in this at times, deliberately exaggerating the scale and impact of the disaster to attract funding and resources for their own activities.

In contrast however, the governments of three of the thirteen countries studied had not made a formal request for international assistance, even though such assistance was considered necessary by some humanitarian workers. There were different reasons given for this:

In one country, the complex, bureaucratic and politically charged process of declaring a state of calamity, coupled with outdated national legislation on foreign contributions, made it difficult to launch an official request for international assistance. These challenges were partially overcome by a government announcement that it would accept “spontaneous gestures of solidarity” from the international community, which became the basis for extensive financial and operational international assistance for the disaster.

In the other two countries the reasons behind the reluctance to formally request international assistance were less clear. In one instance, the government had already requested such assistance three times in as many years and did not wish to make yet another request to the international community. Other explanations given include the preservation of national pride, a perceived ability to be able to deal with disasters internally, mistrust of the motivations behind the provision of international assistance and concerns that international actors would usurp the primary role of the government in responding to the disaster.

3.1.2 Role of Red Cross and Red Crescent National Societies of the disaster-affected state ('host National Society')

The unique structure and legal status of the various components of the Red Cross and Red Crescent Movement distinguishes them from many other international organisations and NGOs. In the context of major disasters outside of conflict situations, it is the Red Cross and Red Crescent National Societies, often with the assistance and coordination of the International Federation of Red Cross and Red Crescent Societies, which are the primary responders. The International Committee of the Red Cross predominantly responds to conflict situations, however there is often mutual assistance and coordination between all components of the Movement, which has been formalised in the Seville Agreement.³

In many of the countries examined, the National Society of the disaster-affected country is included in some way in national disaster plans or legislation as a responding agency. These plans or legislation detail the various organisations and government agencies responsible for the various activities associated with responding to declared national disasters. In most instances, the National Societies are given a specific function to perform, which in some cases extends to a very broad role encompassing health, rescue, food and non-food relief and shelter. The inclusion of the host National Society in these national instruments was viewed positively by responders, as described in section 3.1.1 above.

In situations where the scale of the disaster is greater than the capacity of the National Society, a request for assistance may be made to other National Societies or the International Federation. This is often the mechanism that triggers international assistance by other components of the Red Cross and Red Crescent Movement, however this aspect is not necessarily expressly included in the relevant government legislation, but may be subject to other agreements with the host government as described below.

3.1.3 Assistance of the International Federation of Red Cross and Red Crescent Societies

In times of disaster, the primary role of the International Federation is to provide assistance to National Societies through the coordination of international appeals and material and other assistance from other National Societies. In some instances the International Federation will also play an advisory role or provide operational assistance to National Societies through the secondment of personnel to carry out disaster response activities. The Federation's contribution requires that it acts in each country through or in agreement with its member National Societies.

³ *Agreement on the Organization of the International Activities of the Components of the International Red Cross and Red Crescent Movement ("Seville Agreement")*, adopted by consensus in Resolution 6 of the Council of Delegates of the Red Cross and Red Crescent Movement in Seville, Spain, on 26 November 1997

In most instances examined in this study, the host National Society had made a direct request for the assistance of the International Federation for a specific disaster operation, which was facilitated through the International Federation delegations located in each country and the headquarters in Geneva. Whilst most of these requests were made spontaneously by the host National Society, there were some instances where requests were made at the suggestion of the International Federation.

One National Society had in fact been prevented from requesting the assistance of the International Federation by the host government, which did not wish to receive any assistance, either directly or indirectly, from the international community.

3.1.4 Assistance of other Red Cross and Red Crescent National Societies ('assisting National Societies')

In some countries, a number of assisting National Societies had also established delegations operating in the disaster-affected country, in a similar way to the International Federation. Unlike the International Federation however these National Societies are not recognised as international organisations. Some had taken the steps necessary to be recognised as NGOs, whilst others had no legal status at all.

In one instance however, an assisting National Society did have its own agreement with the host government and were for a time actually included as an official partner in the national disaster response plans of that country, in addition to the host national society.

3.2 FACILITATION OF INTERNATIONAL HUMANITARIAN ASSISTANCE

In addition to access to disaster-affected populations, international actors require additional assistance from governments to ensure that access can occur quickly and efficiently. The key challenges identified by the field studies are examined below.

3.2.1 Status, privileges and immunities of personnel

Many of the humanitarian workers interviewed regarded the privileges and immunity of humanitarian personnel as important for the provision of effective humanitarian assistance. In particular, delegates of the International Federation placed a great deal of importance on Legal Status Agreements. As stated in the previous section, the Federation acts in each country through or in agreement with its member National Society. The legal status agreements do not replace nor affect this fundamental rule. Their purpose is to define the legal status of personnel and assets for when Federation decides to operate in a country in accordance with its own internal rules and policies.

Based upon its unique membership and mandate, the International Federation has been able to conclude legal status agreements which establish its status as an international organisation within the host country and are based on the provisions contained in the 1947 Convention on Privileges and Immunities of the United Nations specialised agencies.⁴ This gives the International Federation and its staff the ability to legally operate in country and covers areas such as financial privileges, communications, freedom of movement, ability to conduct operations, tax exemptions, import and export of goods and protection of office premises, vehicles and goods and immunity from jurisdiction. In addition, these agreements generally protect delegates from prosecution, arrest and detention under local laws for acts or words spoken within the context of their official duties.

Such agreements had been concluded in nearly all of the countries studied and provided the legal basis for the establishment of delegations, the hiring of local staff, opening a bank account and other important aspects. Interestingly, some interviewees could give very few examples where the privileges and immunities accorded under the Status Agreements had been used to resolve a specific problem in the field. This is partly the preventive effect of defining the legal status of the Federation on the basis of the status of intergovernmental organisations. Equally, the few situations of potential prosecution or arrest were said to have been resolved or prevented as a result of individual contact and negotiations with authorities.

As indicated in some of the examples below, the Legal Status Agreements do make a significant impact on activities such as the import of goods and tax exemptions, but are not necessarily viewed this way by field personnel.

3.2.2 Visas for International humanitarian personnel

An important aspect of the provision of international humanitarian assistance is the ability for international personnel to be granted entry into the disaster affected territory. In most countries

⁴ *Convention on the Privileges and Immunities of the United Nations specialised agencies*, 1 U.N.T.S. 15, 13 February 1947

studied, this involved the granting of visas by government authorities either prior to or at the point of arrival.

In many instances, visas were granted immediately upon request by the relevant authorities and in at least one instance the visa requirements for representatives of the International Federation were waived at the point of entry in response to the urgency of the situation, on the proviso that all personnel would be properly authorised at a later date. Other flexible arrangements were also implemented by some governments, either involuntarily as a result of a lack of resources to accommodate the large influx of international assistance, or as a positive measure for expediting international assistance.

However such experiences were not enjoyed by all. Some international personnel were excluded from the special waivers on the basis of their nationality, irrespective of the organisation for which they worked. Such personnel were frequently the nationals of countries within the same region as the disaster-affected country and their exclusion or admittance seemed to be based upon the political relationships between the respective countries or depended on the outcomes of protracted negotiations between organisations, embassies and customs authorities.

A number of cases the types of visas issued did not provide any special status for the international personnel, and in some cases international disaster response personnel were admitted on tourist visas or were provided with work visas which expired after a short period of time, requiring the worker to frequently leave the country and re-enter, causing great disruption to operational activities.

3.2.3 Import of relief goods and equipment

The import of relief goods and equipment was an issue of great concern to the various international actors. In most countries, the imposition of heavy taxes or cumbersome bureaucratic procedures on the import of goods necessary for relief efforts presented a source of constant frustration for international assistance.

In relation to taxes and duties levied on items required for humanitarian assistance activities, these frustrations were minimised to some extent for the International Federation by the existence of Legal Status Agreements which provided for the tax free import of relief goods and equipment. However for others, such arrangements frequently depended upon the success of ad hoc negotiations and the establishment of positive personal relationships with government officials.

Similarly, the ability to expedite the clearance of relief goods and equipment was often dependent upon ad hoc arrangements agreed at the local level between government officials and humanitarian personnel. This situation prevailed despite awareness by some personnel of the recommendation on the tax free and expeditious import of relief supplies, reached by member states of the World Customs Organisation.⁵

In several countries the import restrictions for relief goods, in particular for certain food stuffs, were claimed to have been tightened for public health and safety reasons, however some international workers felt that their implementation had been politically motivated. Unfortunately, these restrictions coincided with the commencement of large relief operations and created considerable costs and delays of up to three months with the implementation of a new inspection

⁵ *Recommendation of the customs co-operation council to expedite the forwarding of relief consignments in the event of disasters*, World Customs Organization Doc T2-423 (8 June 1970)

system requiring humanitarian organisations to cover the costs of inspections by several different government ministries for all food consignments.

On the other hand there were some positive experiences where governments had temporarily waived import taxes and significantly hastened the processing of paperwork and other administrative processes relating to relief goods and equipment. In some cases, regional agreements had been put in place to facilitate the import of certain goods between nearby countries, as well as “manuals” containing procedures and guidelines for implementing the agreements for use by the respective Ministries of Foreign Affairs. These had made a very positive impact on humanitarian assistance and effectively resolved the operational challenges by enabling the fast and efficient importation of relief goods within the region.

3.2.4 Use of government resources and facilities

In general, the experiences of humanitarian personnel in relation to the use of government facilities were favourable, although the level of support varied dramatically depending on the resources and capacity of the government involved.

Such support included the following:

- Use of military airports
- Allocation of sites for base operations
- Accommodation for international delegates
- Allocation and free use of warehouses
- Use of hospital facilities
- Helicopter access
- Discounted or free fuel, water and electricity
- Free secondment of personnel to National Societies
- Use of military resources including logistics, transport and rescue services

In some countries, little or no additional support was provided by the government, or was made available only for a charge, sometimes at over-inflated prices.

3.2.5 Telecommunications

The import of telecommunications equipment and access to networks and bandwidths were mentioned as particular areas of concern for telecommunications specialists at headquarters level. Whilst recognising that the import of telecommunications equipment is a sensitive issue for states because of its strategic value and possible impact on national security, the number of administrative hurdles and delays can be so extreme as to prevent effective telecommunications from being established until the disaster is over.

Despite an awareness of international initiatives to regulate and improve the situation relating to the use of emergency telecommunications in times of disaster, in particular through the development of the Tampere Convention⁶, it was felt by many that overcoming these barriers depended largely on personal relationships with authorities, and even then often required long and protracted negotiations.

⁶ *Tampere Convention on the Provision of Telecommunications Resources for Disaster Mitigation and Relief Operations*, opened for signature 18 June 1998 (not yet entered into force)

In one case, permission to install radio equipment in vehicles was granted by local authorities but was not communicated to other relevant government departments, resulting in the temporary military arrest of the delegates. The case was eventually resolved through negotiation.

3.3 COORDINATION OF INTERNATIONAL HUMANITARIAN ASSISTANCE

The overwhelming source of challenges to the fast and effective provision of humanitarian assistance related to the difficulties in achieving a coordinated response between the various local and international actors. These challenges were mentioned by nearly all interviewees and were also reflected in the majority of the written evaluations and literature consulted.

3.3.1 Government

In all situations, it was recognised that the national government of the disaster-affected country was, or should have been, the primary body coordinating the response efforts of all parties. However the practical realities of this resulted in significant frustrations both on the part of international humanitarian workers and government officials for a number of reasons.

In some instances it was felt by international workers that government authorities were not appropriately resourced or did not possess the necessary knowledge or skills to carry out the tasks required of them. Particularly in large-scale disasters, which involved a sudden and massive influx of international assistance, many government agencies were overwhelmed and unable to meet the demands and time pressures exerted on them. This resulted in extensive delays in various administrative processes and sometimes resulted in international organisations feeling forced to deliberately circumvent these processes altogether to ensure that humanitarian activities were not adversely affected.

In addition it was felt that some local authorities had limited knowledge and experience of the “international response system” and lacked an understanding of the different mandates and operating procedures of the various international agencies involved, thus reducing their ability to be effective coordinators and creating further tensions and misunderstandings.

Conversely, some government officials criticised some international actors for not respecting the overall coordination role of the government and not recognising the importance of complying with government administrative procedures. It was felt that the mandates and activities of international organisations were frequently changing and that unrealistic expectations and unreasonable demands were placed on government agencies, particularly on local officials who did not have the authority to override existing bureaucratic processes. Some of these concerns were also reflected in several self-evaluations conducted by international organisations themselves.

Nevertheless, there were some positive examples where governments were able to maintain effective control and coordination of humanitarian assistance, particularly in instances where there were disaster response plans or individual memoranda of understanding in place, detailing the respective roles of the different agencies involved.

Such instruments were particularly important in determining the relationship and division of responsibilities between the government and the Red Cross or Red Crescent National Society, and were generally viewed as a useful tool in achieving effective coordination provided that the provisions were clear, detailed and well understood and applied.

In some instances, ad hoc arrangements were put in place during the course of disaster response operations, where the government’s coordination role was delegated in whole or in part to the host National Society or a local NGO. In other instances, a new management body was established specifically for coordinating response in certain areas, comprising of representatives

from government and various local and/or international organisations. These were generally viewed as positive measures which enabled more effective coordination, however concerns were raised when the responsibility for coordination was changed too frequently.

3.3.2 International Federation and Red Cross and Red Crescent Societies

Many of the challenges of coordinating international humanitarian assistance on a government level were also mirrored in the relationships between the various Red Cross and Red Crescent National Societies and the International Federation.

However, there were many positive experiences of cooperation between the various components, particularly where the International Federation was able to provide a much-needed advisory role for the National Society without taking over operational activities or dominating the public profile. Some International Federation personnel also felt that their operations were significantly enhanced by close cooperation with the host National Society, finding that they encountered less administrative barriers and delays when their activities were conducted under host National Society auspices.

3.3.3 United Nations agencies and NGOs

The involvement of the United Nations and its specialised agencies were not examined in great detail, however the roles of UNDP and UN OCHA in coordinating the activities of international organisations were viewed favourably. In particular, reference was made to positive influence of these agencies in providing an interface between the international actors and the government particularly with administrations in the capital city. However it was also noted that improved coordination and communication was needed between the international and local actors.

At a headquarters level it was felt that coordination between the larger humanitarian organisations, NGOs and United Nations agencies was steadily improving at the international level, however there were still major challenges with the coordination and involvement of numerous smaller NGOs which emerged on an ad hoc basis in response to specific disasters and operated completely independently of the major disaster response players.

3.4 QUALITY AND ACCOUNTABILITY OF INTERNATIONAL HUMANITARIAN ASSISTANCE

In nearly all cases, comments on the quality and accountability of international humanitarian assistance involved reference to the Sphere Project Humanitarian Charter and Minimum Standards in Disaster Response⁷ and the Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations (NGOs) in Disaster Relief.⁸ Generally, these instruments enjoyed wide recognition and were well regarded by humanitarian personnel as a way of improving standards of assistance to disaster affected populations.

However, in some cases they were not always well understood or effectively applied and there was little or no evidence of any organisational compliance or documentation on these standards. There was also some disagreement about the usefulness of some of the specific indicators themselves and concerns about their compatibility in particular country settings, where the general living standards of the population were significantly higher or lower than the Sphere standards.

Nevertheless there were instances reported where these instruments were used in the design, implementation and evaluation of disaster response activities, as well as their inclusion in dissemination and training exercises. Furthermore, the public demonstration of commitment to quality and accountability, particularly through reference to the Sphere Standards and Code of Conduct, was also considered an important strategy for raising the profile of the organisation, attracting donor support and finding favour with host governments.

In terms of specific quality control issues relating to disaster response operations, several examples of poor practice were mentioned:

- Import and distribution of too many relief goods
- Employment of expatriate staff where local skills could have been optimised
- High turn-over of expatriate staff during operations resulting in loss of organisational knowledge
- Manipulation in the targeting of relief programs and distribution of relief to certain groups by governments, funding bodies and other interest groups
- Lack of appropriate link between relief and development activities, including prolonged and unnecessary distribution of relief goods

⁷ The Sphere Project, *Humanitarian Charter and Minimum Standards in Disaster Response* (2000)

⁸ *Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations (NGOs) in Disaster Relief* (1994), prepared jointly by the International Federation of Red Cross and Red Crescent Societies and the International Committee of the Red Cross, sponsored by Caritas Internationalis*, Catholic Relief Services*, The International Federation of Red Cross and Red Crescent Societies*, International Save the Children Alliance*, Lutheran World Federation*, Oxfam*, The World Council of Churches*, The International Committee of the Red Cross. (*Members of the Steering Committee for Humanitarian Response)

4 Conclusions

Whilst taking into account the comments about the methodology described in section 3.5, it is possible to draw a number of useful conclusions about the relationship between the legal framework and disaster response activities based on the experiences of personnel in the field. In addition, these studies enable some preliminary conclusions to be drawn which are relevant to the IDRL Project as a whole and provide some guidance as to future initiatives that could be taken to make improvements in this area. These are presented below.

4.1 KEY CHALLENGES IN THE DELIVERY OF INTERNATIONAL DISASTER RESPONSE OPERATIONS

The studies indicate that the key challenges relating to the provision of international humanitarian assistance in times of natural and technological disaster relate to several key areas: the ability to access disaster affected populations, the facilitation of humanitarian activities, the coordination of the various international and national personnel, and the quality and accountability standards of assistance.

Central to the issue of access was the inconsistency in the ways in which different organisations could legitimately obtain access into a disaster-affected state. In some instances these challenges were caused by complex political factors which unnecessarily encouraged or prevented requests for international assistance by disaster affected states. In other instances, the challenges related more to the technicalities inherent in the legal and policy frameworks of the various governments and agencies involved.

Many of the challenges in the facilitation of humanitarian assistance stemmed from the implementation of bureaucratic procedures, relating particularly to the granting of visas, the import and movement of relief goods, and use of telecommunications equipment and networks. For the most part, the challenges were caused by the inflexibility or complexity of the systems themselves, rather than deliberate obstruction by authorities, however the latter was referred to in some instances.

The issue of coordination, particularly as it related to the central role of the host government, seemed to pose the greatest challenge to the efficiency of humanitarian efforts. On the one hand, there were frustrations about the inadequacy of the host government's coordination ability and a lack of understanding of the international disaster response system by governments officials. On the other hand, some host governments expressed concerns about the lack of respect and cooperation received from the international responders and consequently felt their central role had been usurped. Similar challenges were identified between the various humanitarian organisations at both the national and international level.

Finally, the issues of quality and accountability raised some concerns about the difference between acknowledging appropriate standards during appeal writing and training activities, and implementing them in the course of actual operations. A few examples of areas where quality was felt to be inadequate were also provided.

4.2 RELATIONSHIP BETWEEN NATIONAL AND INTERNATIONAL LAW AND THE FACILITATION OF INTERNATIONAL HUMANITARIAN ASSISTANCE

Nearly all of those interviewed saw a strong link between many of the challenges faced in the field and the existence and quality of national laws. In instances where specific laws relating to disaster response were in place, there was a tangible difference in the efficiency and quality of international assistance. However, in many circumstances, these disaster laws were limited to encompassing only the national response system and excluded provisions for the entry and facilitation of international actors.

Frequently, national laws and administrative procedures were not specifically designed to accommodate situations of disaster. Such laws were considered by many to be inadequate for addressing the unique circumstances of international disaster response – they were overly bureaucratic and inflexible, resulting in considerable delays for disaster response activities or encouraging international actors to spend time negotiating waivers or ignoring them altogether.

Legal Status Agreements were considered relevant to personnel from the International Federation, who generally saw them as a means to obtain special status and privileges to facilitate the conduct of their activities, particularly with respect to the import of relief goods.

Very few regional instruments were referred to during the course of the studies, however in one region agreements between various neighbouring countries made a significant and positive impact on the import of relief goods from those countries, particularly when they were supplemented with operational “manuals”.

The link between international humanitarian assistance and international laws was not immediately apparent to many of those interviewed for these studies. Several international agreements were referred to, including the Tampere Convention and the World Customs Organisation recommendation on the import of goods, however their influence on the facilitation of disaster response operations was felt to be negligible because they were not being effectively implemented.

4.3 PRELIMINARY CONCLUSIONS FROM THE FIELD STUDIES RELEVANT TO THE IDRL PROJECT AS A WHOLE

The field studies proved to be a useful way to gain an “on the ground” perspective of the challenges involved in providing international humanitarian assistance, both from the point of view of the various international and national actors. They also demonstrate that there are still many operational barriers to contend with, which hinder the effectiveness of disaster response operations.

The studies show that, in many cases, it is national laws and regulations which have the most direct impact on the speed and efficiency of disaster response operations. Where these laws are designed specifically for disaster and emergency situations, they can make a valuable contribution to the overall coordination and effectiveness of international humanitarian assistance for both the host government and those delivering international assistance.

However, the overwhelming experience of humanitarian workers is that national laws do not adequately respond to the increased demands and time pressure that characterises many disaster response operations, which ultimately reduces the effectiveness of international assistance and encourages poor practices and even avoidance of authorities by humanitarian workers. As a result, there may be a need for the development of models which could be incorporated into existing laws and regulations by all countries. Such models could be particularly helpful for cases where immediate international assistance is needed by the stricken country and would expedite the delivery of assistance.

On the international level, the existence and relevance of law and other regulatory instruments is not well understood, particularly in the field at operational levels. Despite the existence of many different international laws, principles, resolutions, guidelines and other instruments that have been gathered during the course of the IDRL Project, they are not widely recognised or applied in practice. There could therefore be a need for better dissemination programs and perhaps a handbook which explains the existing laws, rules and guidelines in language which can be easily used in disaster situations.

There is also very little evidence of a close relationship between existing international and national laws and regulations. This could reflect a need for assistance and information sharing for governments that wish to harmonise their national laws, as well as bilateral or regional agreements, to better reflect the international framework.

Finally, in spite of considerable improvement, there is a need for better inter-agency coordination, involving UN agencies and others, including leading non-governmental organisations, involved in the provision of disaster management and relief. This suggests a need for the systematic discussion of these issues in a forum which involves governments, international organisations, the Red Cross Red Crescent Movement, NGOs (international and national) and other key players.

These preliminary conclusions and recommendations can be considered during the course of the other research and consultation processes which will form part of the continuation of the IDRL project during 2003.

Countries studied

- Costa Rica
- El Salvador
- Guatemala
- India
- Lesotho
- Malawi
- Mexico
- Nicaragua
- Panama
- Suriname
- Swaziland
- Zambia
- Zimbabwe

Documents collected during in-country studies

World Customs Organization, *Recommendation of customs co-operation council to expedite the forwarding of relief consignments in case of disasters*, (8th JUNE 1970, T2-423)

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Republic of Botswana, August 1996, *National Policy on Disaster Management*

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Central American Security Commission, *Mechanism for Coordinated Cooperation in Disaster Response*

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- Basant Patro, Bijoy, Regional Information Officer, Regional Delegation South Asia, IFRC New Delhi
- Beliz, Jose, Director General, Panama Red Cross
- Bradbury, Alan, Regional Disaster Preparedness Delegate, Regional Delegation South Asia, IFRC New Delhi
- Brauten, Stein, Regional Transport Manager, IFRC Johannesburg
- Carver, Jon, Head of Regional Logistics Unit, IFRC Panama
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