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**Effectiveness and Accountability of Disaster Risk Reduction Practices:
An Analysis Through the Lens of Informal International Lawmaking**

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I. Introduction¹

This paper analyses the International Strategy for Disaster Reduction (ISDR), a global network guiding and coordinating “the efforts of a wide range of partners to achieve a substantial reduction in disaster losses,”² as an example of the growing trend of “informal international lawmaking” (hereinafter abbreviated as “IN-LAW”). Drawing on the methodology of an ongoing research project, entitled *Informal International Lawmaking: Mapping the Action and Testing Concepts of Accountability and Effectiveness* (hereinafter “the IN-LAW project”),³ it will examine the degree to which the ISDR has been successful in promoting the implementation of international norms on disaster risk reduction at the domestic level and whether it has remained appropriately accountable to the right stakeholders in doing so.

It begins with the rationale behind the adoption of the ISDR system and, more generally, the promotion of international norms to address and limit the risks associated with natural disasters. Secondly, it covers in detail the fundamental features of the network such as membership, governance structures, and decision making processes, as well as distinctive attributes of the legal framework it supports. Thirdly, it frames the network’s action within the broader context of informal international lawmaking, highlighting how the ISDR system matches the three criteria of output, process and actor informality adopted by the IN-LAW project. Fourthly, it analyses the efficiency of the network, defined as its ability to promote and support cooperative practices in the field of risk reduction, as well as to trigger visible change within domestic institutions, policies and laws. Having established that the network does define and impact upon national behaviour, the essay ultimately considers the complex subject of accountability through the example of four case studies, in the attempt to locate eventual gaps and offer suggestions for reform.

II. A strategy and a framework

The ISDR is an initiative launched in December 1999 by the United Nations General Assembly as a successor to the International Decade for Natural Disaster Reduction, following the adoption of resolution 54/219. The aim of the resolution was principally threefold. Firstly, member states wished to reaffirm their commitment to reducing vulnerabilities to natural disasters and environmental hazards, taking into account the particular needs of developing countries. Secondly, through the resolution, they established an inter-agency task force and inter-agency secretariat for disaster reduction, located under the direct authority of the UN Under-Secretary-General for Humanitarian Affairs “in a flexible manner” and mandated biannually on an ad-hoc basis. Thirdly, states expressed their support for the development of a “comprehensive strategy to maximise international cooperation in the field of natural disasters,” to be based upon the effective division of labour

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² ISDR, *Connect and Convince to save lives and reduce disaster impacts* (2010), p. 2.

³ Pauwelyn, J., *Informal International Lawmaking: Mapping the Action and Testing Concepts of Accountability and Effectiveness*, project framing paper (2011 - February) p. 2, available at <http://nilproject.org>, accessed 27/03/2011.

in support of capacity-building at all levels, the strengthening of global and regional approaches, and the improvement national coordination mechanisms.⁴

Zeroing in on the peculiar characteristics of ISDR as endorsed by resolution 54/219 is important; the knotty lexicon in fact defines a complex multi-stakeholder system whose features raise compounded issues in the context of the current debate of informal international lawmaking. As a whole, what is traditionally known as the ISDR system denotes in reality a loose “alliance” of states, international organisations, non-governmental organisations, civil society groups, financial institutions, and technical bodies working together and sharing information in the attempt to reduce disaster vulnerabilities of both communities and nations.⁵ In this context, the United Nations International Strategy for Disaster Reduction (UNISDR) - perhaps the better known face of the initiative - represents the secretariat of the System and, as required by resolution 54/219, is accountable and reports directly to the Under-Secretary-General for Humanitarian Affairs.

UNISDR is mandated to act as a focal point, broker, and catalyst for DRR and thus it focuses on involving all stakeholders in the promotion and operationalisation of risk reduction practices. Moreover, since the adoption of the Hyogo Framework for Action (a non-binding agreement unanimously accepted by states, whose features are covered in greater detail below) UNISDR has also advocated for its implementation and regularly reports on progress through an array of tools.⁶ The second important body established under the original resolution - the Inter-Agency Task Force, initially charged with the function of ensuring the complementary of action between separate UN agencies in the context of disaster reduction - worked for a limited period of time before being replaced by the Global Platform for Disaster Risk Reduction. This step, in line with resolution 56/195, highlighted the will of the international community to modify the task force to provide for the increased participation of a larger number of actors at the global level.⁷ Thus, in 2006, the General Assembly, with resolution 61/198, endorsed the Global Platform as the successor mechanism to the more “elitist” Task Force.

The Global Platform, convened on a biannual basis in Geneva, acts principally as a mechanism through which stakeholders can exchange experiences, evaluate progress, and access information on best practices in the context of DRR. Beyond doubt, the Global Platform represents the main global forum in this issue area and the most visible expression of the international community’s will to promote risk reduction.⁸ Nevertheless, it is fundamental to note that the day-to-day activities conducive to tangible change are, to a large extent, mainly carried out by UNISDR in cooperation with an array of less visible bodies such as National Platforms for Disaster Risk Reduction (NPs) and ad-hoc advisory groups. The former in particular represent an interesting feature of the ISDR system; the term in fact loosely denotes “national mechanisms for coordination and policy guidance on DRR that are multi-sectoral and inter-disciplinary in nature, with public, private and civil society participation involving all concerned entities within a country”.⁹ In a nutshell, NPs provide a

⁴ United Nations General Assembly, res. 54/219, “International Decade for Natural Disaster Reduction: successor arrangements” (1999).

⁵ ISDR, “Mission and Objectives”, at http://www.unisdr.org/eng/about_isdr/isdr-mission-objectives-eng.htm, accessed 16/03/2011.

⁶ ISDR, “Hyogo Framework for Action 2005-2015 - Brochure” (2007), p. 5.

⁷ United Nations General Assembly, res. 56/195, “International Strategy for Disaster Reduction” (2001).

⁸ Global Platform for Disaster Risk Reduction, “About the Global Platform - First session, 5-7 June 2007”, at <http://www.preventionweb.net/globalplatform/2007/gp-abouth.html>, accessed 16/03/2011.

⁹ UNISDR, *Terminology on Disaster Risk Reduction* (2009), p. 20.

means to enhance national action and represent the national mechanism supporting the action of ISDR.

As this paper will later address, these platforms exist in multiple shapes and colours and their interaction with governments as well as with UNISDR represents perhaps one of the most peculiar features of the ISDR system as a whole. While some countries have adopted platforms of a strictly regulated nature and formally established them by decree or legislation, others have opted for more informal set-ups. Similarly, while some governments have created well-established and clearly defined channels for communication with UNISDR, others have preferred weaker forms of domestic oversight on the issue of risk reduction, leading to the creation of loosely organised arrangements. As such, the peculiar structure of the ISDR system raise multiple matters of great interest in the context of informal international lawmaking; the nature of the system alone in fact brings up issues of accountability and questions related to the informality of the network, the links between external organisations and domestic agencies, and the life-cycle of the policy making process at the national and international level in the context of DRR. Moreover, the overall picture is rendered even more complicated - yet more interesting for the current study - by the adoption of the previously mentioned Hyogo Framework for Action (HFA).

The HFA - titled in full *Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters* - was adopted in the course of the World Conference on Disaster Reduction, held in January 2005 in Kobe, Hyogo, Japan, which saw the participation of delegates from over 160 states and of representatives of a multitude of international and non-governmental organisations.¹⁰ Importantly, the HFA was later endorsed by the United Nations General Assembly with resolution 60/195, which invited member states and the UN system “to support, implement and follow up the Hyogo Framework for Action” while calling upon them to “fully implement the commitments of the [HFA]” and integrate its goals “in their strategies and programmes.”¹¹ The HFA advocates for the development and strengthening of institutions, mechanisms and capacities to build resilience to hazards, and for the incorporation of risk reduction practices into the implementation of emergency preparedness, response and recovery programmes. In addition, the HFA calls for a more effective integration of DRR into sustainable development policies.

More specifically, in order to achieve the declared intention to substantially reduce disaster losses “in lives and the social, economic and environmental assets of communities and countries” the HFA sets five priorities for action to clearly guide governments in the adoption of practices conducive to disaster resilience and, for each, suggests key activities to be implemented by states subject “to their own circumstances and capacities”.¹² The need to adopt such a clause was dictated by the recognition that hazards and vulnerabilities - just as much as the funds available to implement DRR measures - varied greatly across countries and hence no singular strategy could dictate specific overarching approaches. As such, the five priorities for action were purposefully designed to allow a great deal of flexibility; so to speak, to encourage a certain amount of “room for action,” enabling countries to develop more specific and pragmatic plans at the national level by building upon the more general recommendations included in the HFA. Those recommendations, for example, invite states to

¹⁰ United Nations, “World Conference on Disaster Reduction - Participants”, at <http://www.unisdr.org/wcdr/intergover/official-doc/info/list-participants-WCDR-english.pdf>, accessed 20/03/2011.

¹¹ United Nations General Assembly, res. 60/195, “International Strategy for Disaster Reduction” (2005).

¹² ISDR, “Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters” (2005), p. 3, 6.

“ensure that disaster risk reduction is a national and a local priority with a strong institutional basis for implementation”, to “identify, assess and monitor disaster risks and enhance early warning”, and to “use knowledge, innovation and education to build a culture of safety and resilience at all levels”¹³ hence stressing, amongst others, the importance of information exchange, education and public awareness.

III. Output, process and actor informality

In assessing the relative informality of cross-border cooperation in the context of DRR it is important to consider different features of the mechanism that led to the adoption of the HFA. In particular, special attentions must be given to the nature of the decision-making procedure, the identity of those involved in it, as well as the character of the final document itself. As highlighted by Pauwelyn, formalities of both domestic or international procedures may have to do with either the output, the process, or the actors involved.¹⁴ In a nutshell, in order to evaluate whether particular activities are informal, it is necessary to consider if “traditional” lawmaking formalities are bypassed or not. With this in mind, it must be stressed that lawmaking can be informal in different ways; it can, for example, engage traditional actors such as heads of state, but still lead to the creation of non-binding documents that by their own nature do not constitute traditional sources of law. In this context, the ISDR system represents a perfect example of informal international lawmaking, as international cooperation within it appears to be informal in all of the above three ways.

In first place, ISDR did not lead to the adoption of a formal treaty or any other traditional source of international law. The HFA is a perfect example of soft law, as it is an instrument not intended to be legally binding by the parties to it. It is a collection of guidelines, a set of standards, and, as a whole, it denotes a declaration of intention rather than formal obligations. As such, in line with Aust’s analysis, it could be considered an “informal international instrument”¹⁵ and therefore it represents a great example of output informality. Nevertheless, it is important to stress that discussion is ongoing as to whether a post-HFA binding instrument would be preferable to the present arrangement. Output informality at the international level in fact could be considered as conducive to weaker forms of domestic oversight, and as this paper will later address HFA “informality” often led to the creation of different national-level mechanisms for the promotion of DRR denoted by unclear roles and responsibilities.

In second place, the HFA was drafted and adopted through a process which occurred within a loosely organised network of agents. It is important not to confuse the ISDR system with UNISDR, which, as mentioned above, is only the secretariat of the system as a whole. In spite of the fact that UNISDR is often the most visible face of risk reduction efforts at the international level, that body mainly undertakes coordinating functions conducive to DRR advocacy and awareness-building, while enhancing communications and coordination mechanisms between ISDR parties. As stressed by Von Oelreich, “the multi-stakeholder character of the ISDR system is evident” and UNISDR itself appears to be “better known and

¹³ *Ibid.*, p. 6-9.

¹⁴ Pauwelyn, J., *Informal International Lawmaking: Mapping the Action and Testing Concepts of Accountability and Effectiveness*, project framing paper (2011 - February) p. 3, available at <http://nilproject.org>, accessed 27/03/2011.

¹⁵ Aust, A., “The Theory and Practice of Informal International Instruments”, *The International and Comparative Law Quarterly*. Vol. 35, No. 4 (1986): pp. 787-812, at 787.

appreciated outside the United Nations than within”.¹⁶ As such, even if the ISDR system does to a certain extent possess a permanent staff, a physical headquarters in Geneva, and a number of regional offices, these only remain the tangible expression of a much larger and much less identifiable international network. Nevertheless, it is important to stress that the informal character of the ISDR network did not lead to “informal” negotiation or conclusion of treaties. On the contrary, the whole process that paved the way to the adoption of the HFA was open, accessible, and supported by a multitude of parties including humanitarian and civil society organisations such as the IFRC and the Global Network of Civil Society Organisations for Disaster Reduction (GNDR). These also regularly contribute to monitoring efforts through the production of regular reports and reviews rendered available to the wide public such as “Views from the Frontline”.¹⁷

It follows that the process is informal, as it happens outside of traditional and well-established international organisations, but nevertheless it is not invisible or hidden as actors do not take decisions behind closed doors. But who exactly are these actors? On the one hand, it has already been established that a large part of members of the ISDR system belong to categories that are not traditionally involved in international lawmaking, increasing the “degree” of informality of the HFA; nevertheless, in this context it would be misleading to assume that the Framework maintained a certain level of formality by involving state parties in the process. On the contrary, the kind of state agencies involved in the drafting, approval and implementation of the document further increase its informality in the eyes of the present study. As Slaughter highlights, it is unremarkable that a state is not a unitary actor and that there is a clear difference between “government” and “agency” through the lens of bureaucratic politics.¹⁸ In this context, institutions with specific purposes (such as the Foreign Office, the Central Bank, or perhaps the head of state) are traditionally called upon to represent the state at the international level. Indeed, the engagement of recognised - and to some extent standardised - agencies maintains and is conducive to a certain level of formality within the system. But in the case of ISDR and the HFA that formality is largely missing, as states are represented by ministries uncommonly seen at the international level and - in a large number of cases - also by independent or semi-independent agencies.

A quick look at the list of participants to the World Conference on Disaster Reduction, in the course of which the HFA was adopted, is indicative to the level of actor informality involved in the process. It displays a wide variety of uncommon entities that seldom appear and interact outside of national borders. These include, for example, ministries of development, agriculture and forestry, civil engineering, public works and settlements, together with departments for disaster preparedness, civil protection and disaster management agencies, and even hydrological or meteorological institutes. Moreover, the list also comprises a broad range of private actors and international organisations, as already stressed above.¹⁹ The rationale behind the need to involve so many different actors in the creation of an international framework for the promotion of DRR practices is dictated by the nature of DRR itself; effective risk reduction is in fact only achievable through the involvement and

¹⁶ Von Oelreich, E., *In-depth study on the United Nations contribution to the implementation of the Hyogo Framework for Action*, prepared for UNISDR (2011), p. 10.

¹⁷ GNDR, *Views from the Frontline: A local perspective of progress towards implementation of the Hyogo Framework for Action* (2009), available at http://www.preventionweb.net/files/9822_9822VFLfullreport06091.pdf, accessed 03/04/2011.

¹⁸ Slaughter, A., “Agencies on the loose? Holding government networks accountable” pp. 521-546 in G. A. Bermann, M. Herdgen, and P. L. Lindseth (eds.) *Transatlantic Regulatory Cooperation* (Oxford University Press, 2000), p. 521.

¹⁹ United Nations, “World Conference on Disaster Reduction - Participants”, at <http://www.unisdr.org/wcdr/intergover/official-doc/info/list-participants-WCDR-english.pdf>, accessed 20/03/2011.

complementary work of diverse stakeholders. Hazards, for example, must be monitored and assessed in a wide range of fields, best practices need to be implemented in multiple areas and integrated in a country's development plan, and above all change is required to happen at all levels of the system. As such, resilience against disasters can only be improved by promoting vertical interaction between the international, national, and community level as well as horizontal cooperation across the different actors operating at each level. But is this happening? The HFA was specifically designed to promote such an approach, but as of today doubts still remain regarding the impact and potential of the Framework.

Indeed, it is important to note that an explicit requirement of the Framework is that progress on its implementation will be monitored and reported on. In fact, it clearly establishes the responsibility of states to prepare and publish national baseline assessments of the status of disaster risk reduction, to periodically update a summary of national programmes in this context, and to develop procedures for reviewing national progress against the HFA.²⁰ Moreover, it also determines the responsibility of the ISDR system to develop "generic, realistic and measurable indicators" to assist states in assessing their progress in the implementation of the HFA, and to prepare periodic reviews on progress towards achieving the objectives and priorities of the framework.²¹ These two clauses determined the formation of two major on-going evaluation mechanisms, the National Progress Reports and the Global Assessments Reports. In addition, the last clause also led ISDR to establish a one-off Mid-Term Review of the HFA, which published its findings in March 2011. These "tools" represent the major source of information of the status of DRR practices at the national and international level vis-à-vis the Framework, and hence from the point of view of the present study they help in evaluating the domestic impact of the network.

IV. Effectiveness

Informal international lawmaking, which entails a process that goes beyond the mere output informality of a non-binding agreement by also promoting a degree of process and actor informality, is often considered an excellent device for minimising the impediments to cooperation. As Lipson highlights, all international agreements - whether formal or informal - entail promises about future national behaviour, and they do so by implying future commitments or outlining reciprocal strategies for action.²² Nevertheless, informal agreements display a number of features that cannot be matched by formal ones. In the first place, informal bargains are more flexible than treaties, and can be adapted to meet uncertain conditions and shocks at a speed unmatched by formal ones. Secondly, the former also make fewer institutional demands on the parties, freeing negotiators from the need to comprehensively contract for all the states. Thirdly, they can be concluded and implemented quickly, as they commonly do not require elaborate ratification at the national level. Finally, informal agreements are generally less public and prominent and, as Lipson ultimately stresses, "this lower profile has important consequences for democratic oversight, bureaucratic control, and diplomatic precedent."²³

²⁰ ISDR, "Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters" (2005), p. 14-15.

²¹ *Ibid.*, p. 17-18.

²² Lipson, C., "Why Are Some International Agreements Informal?", *International Organizations*. Vol. 45 (1991): pp. 495-538, at 498.

²³ *Ibid.*, p. 500.

But even if such agreements benefit from a number of advantages, their “existence” is not necessarily easy and unchallenged. Lipson indeed also highlights that all the aforementioned benefits come at a price, as “the flexibility of informal agreements also means that they are more easily abandoned.” The avoidance of public debate also conceals “the depth of national support for an agreement,” ultimately creating final accords that could be considered less reliable for all participants.²⁴ Is this the case for the HFA? Has its scope been forgotten? Has its agenda ultimately been ignored by national policy-makers? In a nutshell, has the informal nature of the international lawmaking process in the context of DRR policies acted as a catalyst for change, or has it hindered their effective development?

There is a heated debate in DRR circles regarding the appropriateness of the content of the HFA. Major discussions are, for example, taking place over the question of whether DRR policies should be mainstreamed into development policies or not, or on whether climate change concerns should be further integrated into HFA implementation.²⁵ But these questions are beyond the scope of this paper. Effectiveness in this context does not refer to the content of the HFA, but to the process that led to its adoption. Did informal international lawmaking allow for cooperation to materialise in the field of DRR? Did such kind of cooperation stick, or did it wither away? And did it ultimately solve the problem? As Pauwelyn highlights, these are some of the questions that must be considered in order to assess the relevance of IN-LAW as a device for minimising the impediments to cooperation.²⁶ The “problem” in this context is not represented by low levels of community resilience per-se, but rather by an original lack of consideration for DRR. As such, in line with what stressed above, the study does not directly attempt to evaluate the HFA, but rather the ability of the process that led to its adoption to trigger international cooperation conducive to changes in national policies.

A major problem generally encountered when evaluating the impact of the HFA at the national level is the inability to clearly quantify progress. The five priorities for action are rather general; indeed, the lack of clear and measurable targets - such as those adopted by the Millennium Development Goals - make any attempt to objectively assess the success of the HFA a difficult task. For example, in relation to priority 4 (reduce the underlying risk factors), the HFA does not express the “à la MDG” desire to “increase by 50% the construction of earthquake proof infrastructures by the year 2015”; on the contrary, it merely articulates the commitment of states to “mainstream disaster risk consideration into planning procedures for major infrastructure projects”.²⁷ Similarly in relation to priority 1, the HFA does not stress the responsibility of states to successfully implement specific legislation to support risk reduction, but rather it generally indicates their commitment to ensure that legislation is adopted or modified “where necessary.”²⁸ While the rationale behind the adoption of guidelines of a general nature will be further explored at a later stage, it is important for the time being to highlight that the lack of HFA-embedded targets led UNISDR to develop independent criteria.

²⁴ *Ibid.*, p. 501.

²⁵ See for example UNISDR, “Summary of Mid-Term Review Online Debate - Topic 2: Less effective elements of the HFA” and “Topic 3: Integration of climate change in HFA implementation”, at <http://www.preventionweb.net/english/professional/publications/v.php?id=18197>, accessed 05/04/2011.

²⁶ Pauwelyn, J., *Informal International Lawmaking: Mapping the Action and Testing Concepts of Accountability and Effectiveness*, project framing paper (2011 - February) p. 22, available at <http://nilproject.org>, accessed 27/03/2011.

²⁷ ISDR, “Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters” (2005), p. 12.

²⁸ *Ibid.*, p. 6.

In this context, the secretariat proposed in 2008 a set of specific indicators for each priority, inviting states to evaluate their progress vis-à-vis each indicator both qualitatively (by providing a description of the activities undertaken) and quantitatively (by assigning a value to the level of progress itself, with 1 representing minor achievements and “few signs of planning or forward action to improve the situation” and 5 denoting comprehensive achievements with “commitment and capacities to sustain efforts at all levels”).²⁹ Each indicator takes the form of a statement of a precise nature; for example, in relation to priority 2 (identify and monitor disaster risk) indicator iii reads “early warning systems are in place for all major hazards, with outreach to communities.”³⁰ Progress in each priority for action is evaluated through the use of four to six indicators and, as a rule of thumb, each state signatory to the HFA submits to UNISDR a National Progress Report on a biannual basis, where detailed accounts on the status of implementation of the framework are given in relation to each indicator.

It is important to note that there are no specific guidelines clearly defining where the responsibility for monitoring and reporting on progress lies at the national level. The list of indicators is offered to “nationally-designated HFA focal points, and officials in relevant sectors such as national development, civil protection, environment, education, agriculture, health and water resources.”³¹ As such, reports received by UNISDR tend to be prepared by bodies or departments that vary across countries. French reports, for example, have been compiled by the Ministry of Sustainable Development, Pakistani ones by the National Disaster Management Authority, and Senegalese ones by the Civil Protection Unit.³² This variety, together with the fact that reports are the product of internal self-reviewing, implies that assessments of progress could be biased. But in spite of the fact that care must be taken when handling subjective information contained in them, reports as a whole constitute an excellent source of factual information on the specific legal or institutional arrangements each country developed in the context of DRR.

Still, national reports - as mentioned above - are not the only source of information on the status of implementation of the HFA. Every two years, UNISDR oversees the publication of a Global Assessment Report whose objectives are to increase political and economic commitment to DRR as well as the effectiveness of risk reduction policy and strategies. The report - produced through a complex consultation process involving a large majority of ISDR partners - carefully reviews risk patterns and trends in DRR, while “providing strategic policy guidance” to both countries and the international community.³³ In order to evaluate specific progress on the status of HFA implementation, in 2010 UNISDR also facilitated a Mid-Term Review. The review process - overseen by an advisory group comprising DRR experts and representative from governments, civil society, and grass-roots organisations - promoted the collection of information through different tools such as in-depth studies, workshops, one-on-one interviews, and on-line debates. Findings were published in March 2011, giving useful insights on the state of affairs of HFA implementation.

²⁹ UNISDR, *Indicators of Progress: Guidance on Measuring the reduction of Disaster Risk and the Implementation of the Hyogo Framework for Action* (2008), p. 10.

³⁰ *Ibid.*, p. 13.

³¹ *Ibid.*, p. 2.

³² HFA National Progress Reports available at <http://www.preventionweb.net/english/hyogo/progress/reports>, accessed 20/03/2011.

³³ ISDR, “Global Assessment Report - Abstract”, at <http://www.preventionweb.net/english/hyogo/gar/2011/?pid:34&pil:1>, accessed 22/03/2011.

V. Evaluating change

As the literature review undertaken by UNISDR in the context of the Mid-Term Review of the HFA highlights, there is little systematic material available that describes the state of DRR in 2005, articulates it along the broad structure of the Framework, and presents it in a manner comparable across countries.³⁴ This implies that establishing a firm baseline to evaluate the status of risk reduction practices at the national level prior to the adoption of the HFA is a difficult task. From the point of view of international cooperation, on the other hand it can safely be assumed the launch of the ISDR in 1999 represented a landmark event that led to the initial development of cross-country synergies in the field of DRR. Research in fact did not find significant advocacy and/or informational material suggesting the existence of DRR-related international cooperation prior to the ISDR, although it might be suggested that the *Yokohama Strategy and Plan of Action for a Safer World*, adopted in 1994 at the World Conference on Natural Disaster Reduction, did pave the way to the future creation of the ISDR system. The document was intended to be a “call to action” and a “catalyst for change” to promote disaster prevention, mitigation, preparedness and relief.³⁵ Even so, it remained - if anything - the demonstration of existing political will rather than an example of cooperative practices.

Overall, there appears to have been little interaction at an intergovernmental level prior to ISDR. The 1990s were indeed designated as the International Decade for Natural Disaster Reduction by the United Nations General Assembly following the adoption of resolution 44/236,³⁶ nevertheless, that resolution, with the exception of designating the second Wednesday of October “International Day for Natural Disaster Reduction,” led to few tangible results. Yet it remains important to highlight that, during the 1990s, political interests were channelled - through initiatives such as the Yokohama Strategy - towards the creation of ISDR. And from this point of view a simple answer to the first of the questions above can be found: informal international lawmaking did indeed allow for cooperation to materialise in the field of DRR. In comparing the pre-ISDR state of affairs with the present one, it appears in fact clear that the system was pivotal in promoting - through an informal process that involved informal actors and that eventually climaxed into the adoption of an informal agreement - international cooperation in the field of DRR. In a nutshell, IN-LAW was conducive to addressing the original problem of a lack of cooperation in a specific issue area.

But will that informal cooperation endure? Giving a final answer to this second question is a more complex issue due to the time-frame at stake. Considering the relatively new nature of the network, it is still too early to predict future trends. Cooperation has clearly “stuck” up to today. Most importantly, as revealed below through an analysis of actors’ involvement, cooperation seems to have increased since the adoption of the HFA, which prompted both the creation of special state-level institutions such as National Platforms for DRR and of ad-hoc non-governmental organisations such as the Global Network for Disaster Reduction (GNDR). The latter network, which groups national civil society organisations involved in risk reduction practices, was absorbed in the ISDR system in the course of the 2007 Global Platform for DRR, in order to promote further cooperative practices especially at the local

³⁴ Kishore, K., *Literature Review for the Mid-Term Review of the Hyogo Framework for Action*, prepared for UNISDR (2011), p. 3.

³⁵ World Conference on Natural Disaster Reduction, “Yokohama Strategy and Plan of Action for a Safer World”, (1994), p. 5, available at http://www.preventionweb.net/files/8241_doc6841contenido1.pdf, accessed 27/04/2011.

³⁶ United Nations General Assembly, res. 44/236, “International Decade for Natural Disaster Reduction” (1989).

level.³⁷ A quick look at the number of participants involved in the Global Platforms for Disaster Risk Reduction which took place in 2007, 2009, and 2011 gives moreover a simple indication of the fact that cooperation not only endures, but thrives. These events – which, as previously highlighted, represent the principal mechanism through which stakeholders exchange experiences, evaluate progress, and access information on best practices in the context of DRR - have in fact witnessed a substantial increase in participation throughout the years.

If in 2007 the first Global Platform registered approximately 1200 participants, including representatives from 120 governments and 54 non-governmental organisations,³⁸ in 2009 the second session registered approximately 1600 participants, including representatives from 152 governments and 69 non-governmental organisations.³⁹ Nevertheless, numbers from the 2011 session - which took place between the 8th and 13th of May - are even more impressive. The initial estimate of over 2000 participants⁴⁰ was largely exceeded, as the event ultimately counted approximately 3000 participants. They represented over 170 governments and 100 NGOs, and met throughout the week in high-level plenary sessions, multiple roundtables on pressing issues, an ad-hoc thematic panels.⁴¹ Even if numbers alone cannot be an indicator of effective cooperation, they can nevertheless be a good indicator of sustained cooperation. The progressive involvement over the last decade of both states and NGOs in the ISDR network - as exemplified by the creation of National Platforms, DRR-specific NGOs, and the increasing attendance to the Global Platform - clearly highlights that the informal process that led to the adoption of the HFA not only allowed cooperation to materialise, but also to endure.

Even so, it is important to remember that the HFA remains first and foremost a document with “an expiry date”; as its name suggests, it constitutes in fact a framework to guide action between 2005 and 2015. Cooperation established through IN-LAW has endured for the time being, and it could be continued after 2015 through a new HFA-like informal agreement. Nevertheless, it could be “reinvented” through the adoption of a binding treaty, or it could also be abandoned as a whole. Generally speaking cooperation “has stuck” and even increased up to today, but its future remains uncertain. Beyond doubt, the central question remains how much the current IN-LAW-based system has insofar achieved. Future cooperative mechanisms in the field of DRR are in fact likely to be determined by the results obtained by previous arrangements. But how can we evaluate how effective the HFA and as a whole the ISDR system that led to its adoption have been? If we consider - as previously stressed - a general lack of consideration for DRR at the national level as the central problem informal cooperation at the international level attempts to solve, than one way to evaluate the effectiveness of IN-LAW in this context would be to assess its ability to trigger changes in national policies, laws and institutions.

³⁷ GNDR, “Who we are - About Global Network for Disaster Reduction”, at <http://www.globalnetwork-dr.org/about-us.html>, accessed 09/04/2011.

³⁸ IISD, “Global Platform for Disaster Risk Reduction Bulletin”, at <http://www.iisd.ca/ymb/gpdr1/html/ymbvol141num1e.html>, accessed 25/04/2011.

³⁹ ISDR, “Global Platform for Disaster Risk Reduction 2009 - List of Participants”, at <http://www.preventionweb.net/globalplatform/2009/background/documents/GP09-Provisional-List-of-Delegates.pdf>, accessed, 25/04/2011.

⁴⁰ Global Platform for Disaster Risk Reduction, “About the Global Platform - Third Session, 8-13 May 2011”, at <http://www.preventionweb.net/globalplatform/2011/about/>, accessed, 25/04/2011.

⁴¹ IISD, “A Daily Report of the Third Session of the Global Platform for Disaster Reduction”, at <http://www.iisd.ca/download/pdf/sd/ymbvol141num3e.pdf>, accessed 14/05/2011.

Priority for action 1 (ensure that disaster risk reduction is a national and a local priority with a strong institutional basis for implementation) clearly states that “countries that develop policy, legislative and institutional frameworks for disaster risk reduction and that are able to develop and track progress through specific and measurable indicators have greater capacity to manage risks and to achieve widespread consensus for, engagement in and compliance with disaster risk reduction measures across all sectors of society”.⁴² As such, while the other priorities for action focus on more technical aspects of DRR, priority 1 strictly advocates for those fundamental “modifications” that are a-priori required to support any further action. It is in fact difficult to imagine how priority 2 (identify, assess and monitor disaster risk and enhance early warning) could be achieved without the creation of specific institutions in charge of the process; likewise the fulfilment of priority 3 (use knowledge, innovation and education to build a culture of safety and resilience at all levels) would be impossible without the adoption and implementation of specific policies that for example promote the inclusion of DRR knowledge in school curricula. In a nutshell, evaluating national progress towards the achievement of priority 1 represents the foremost important step in the assessment of the HFA’s ability to promote change at the national and sub-national level.

VI. Policies, platforms and laws

A country’s legislative and governmental systems provide the basis for plans and organisation in all areas of DRR, and therefore the assessment of existing legislative and administrative situations “help reveal the current capacities, strengths and shortcomings” of different countries.⁴³ As previously mentioned, in 2008 UNISDR proposed a set of specific indicators (each taking the form of a statement of specific nature) for each priority, inviting states to evaluate their progress both qualitatively and quantitatively through National Progress Reports. As Priority 1 constitutes the fundamental benchmark for change, a close analysis of the reports submitted by the signatories to the HFA represents therefore the best way to tangibly assess ISDR-induced developments at the national and sub-national level.

So how far have countries across the world gone towards the achievement of these objectives since the adoption of the HFA? As a whole the 2009 Global Assessment Report noted that according to the individual reports “progress has been significant under HFA Priority for Action 1 particularly in the development of policy and legislation, and in strengthening multi-sectoral institutional systems and platforms for disaster risk reduction”.⁴⁴ In relation to the aforementioned quantitative scale ranging from 1 (minor achievements) to 5 (comprehensive achievements) countries have communicated an average level of progress of 3.5 for indicator 1 (existence of policy and legal frameworks), 3.1 for indicator 2 (availability of resources), 3.2 for indicator 3 (decentralisation and community participation), and 3.3 for indicator 4 (existence of multi sectoral platform).⁴⁵ As such, by referring to the five-level assessment tool⁴⁶ it could be assumed that in relation to priority 1 institutional commitment has generally been attained, yet that deficiencies in areas such as operational capacities or financial resources still exist. The literature review carried out in the context of the Mid-Term Review

⁴² ISDR, “Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters” (2005), p. 6.

⁴³ UNISDR, *Words Into Action: A Guide for Implementing the Hyogo Framework* (2007), p. 21.

⁴⁴ ISDR, *Global Assessment Report on Disaster Risk reduction: Risk and Poverty in a Changing Climate* (2009), pp. 117, 120, 121.

⁴⁵ *Ibid.*, p. 120.

⁴⁶ UNISDR, *Indicators of Progress: Guidance on Measuring the reduction of Disaster Risk and the Implementation of the Hyogo Framework for Action* (2008), p. 10.

of the HFA supports those findings through an analysis of national policy documents, and highlights that, “over the last five years, national level efforts have increasingly been framed using the HFA.” It also reiterates that there appears to have been “notable progress in setting up institutional structures and developing plans,” yet limited movement on “allocating resources from regular national budgets and encouraging broad-based participation in the process leading up to new institutional structures.”⁴⁷

Beyond doubt, a large number of states directly attribute progress in the development of different governance systems for DRR to the HFA. This is most evident in the increasing number of National Platform and HFA Focal Points present across the world. These in fact can be directly associated with the guidance provided in the Framework itself; on the other hand, it appears more difficult to link the development of more general policies to the HFA. Virtually all states display a variety of policies which could be considered conducive to DRR: a quick review of National Progress Reports highlights the existence of a myriad of disaster risk management policies, national disaster management policies, or emergency management policies. Moreover, states also report the existence of specific sectoral policies related, for example, to fire prevention, environmental protection, or water management as examples of achievement in DRR.⁴⁸ While these are important features in evaluating the level of preparedness of a country, they cannot be considered direct examples of the impact an informal lawmaking process such as the HFA had at the national level. Many of these policy frameworks existed prior to the adoption of the HFA, and due to their variety in shape and purpose it is difficult to trace their evolution in connection to the Framework itself.

What is therefore important to consider is the adoption of those arrangements specifically invoked by the HFA. As previously mentioned, the presence of focal points can for example be directly associated with the guidance provided in the HFA. A focal point is merely the person officially designated by the state as the primary contact for the implementation of the HFA and, as the Mid-Term Review reports, the existence of such demonstrates “a clear interest by governments in complying with and implementing the provisions of this instrument”. The growing number of focal points, which rose from 63 in 2006 to 192 in 2011, denotes in particular that “virtually all countries, with a few notable exceptions, have made an express commitment to the HFA.”⁴⁹

However, what appears to be even more relevant is the increase in the number of National Platforms across the world. As previously highlighted these are multi-sectoral and interdisciplinary mechanisms for policy guidance on DRR. The primary task of a National Platform is therefore to represent itself as the institutional mechanism specifically created to advance the implementation of the HFA on a national level; indeed, such represents the fundamental pillar of the ISDR system within a state. While it is impossible to directly link the development of specific policies to the implementation of the HFA, it appears easy to associate the creation and empowerment of National Platforms - charged with the task of coordinating such policies - with the guidance provided in the HFA. The HFA in fact strongly advocates for the creation of such multi sectoral national platforms⁵⁰ and, as

⁴⁷ Kishore, K., *Literature Review for the Mid-Term Review of the Hyogo Framework for Action*, prepared for UNISDR (2011), pp. 3, 5.

⁴⁸ HFA National Progress Reports available at <http://www.preventionweb.net/english/hyogo/progress/reports>, accessed 01/05/2011.

⁴⁹ UNISDR, *Mid-Term Review of the Hyogo Framework For Action 2005-2015* (2011), pp. 21-22.

⁵⁰ ISDR, “Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters” (2005), p. 6.

highlighted by indicator 4 of the National Progress Report, assessing their existence appears to be of primary concern for the ISDR system. So how effectively the HFA has promoted the creation of National Platforms? The Mid-Term Review of the HFA - the last document published by UNISDR assessing the level of progress in the Framework's implementation - reported that the number of officially recorded National Platforms grew steadily since the adoption of the HFA in 2005. In particular platforms were recorded in 38 countries in 2007, which rose to 45 in 2008, and ultimately to 73 as of February 2011.⁵¹

Even if approximately half of the signatories to the HFA have thus far created National Platforms, it is nevertheless important to understand that the time span since the adoption of the Framework has been relatively short. The trend clearly suggests that platforms are on the increase, and substantial progress could be forecasted over the remaining 4 years of its implementation. Numbers again quite distinctly communicate that the HFA did indeed contribute to promote policy change at the national level. The existence of National Platforms constitutes in fact one of the tangible examples that informal international cooperation not only "materialises" and "sticks", but most importantly that it is implemented and complied with. Nevertheless, before becoming too optimistic about the overall role of IN-LAW in the promotion of effective international cooperation it is important to take a step back and consider more closely some of the features of those "changes" produced by the HFA.

National Platforms are in fact peculiar creatures; as highlighted by Sanahuja in the course of a study commissioned by IFRC and UNISDR, the link between platforms and the implementation of the HFA "probably constitutes the main common denominator that can be found in the vast diversity in formats and dynamics of existing National Platforms."⁵² Arguably, the fact that specific bodies called National Platforms were created at the national level in response to the adoption of the HFA is the only factor that ties such bodies together. As previously highlighted, they exist in multiple shapes and colours; indeed, their composition, concerns, and operating procedures appear to vary greatly depending on how they have developed across countries. Of great interest for the current study is the fact that participation of civil society and the private sector is highly uneven across National Platforms.⁵³ A large number of complaints were for example reported by the Mid-Term Review with regard to a lack of involvement of community level representatives in National Platforms, as well as a lack of transparency in their membership and operations.⁵⁴ At the core of this problem lies a rather simple issue of accountability; the general nature of the provisions contained in the HFA - coupled with the "freedoms" associated with the informal nature of the process that supported its adoption - ultimately led to the creation of blurry governance mechanisms.

This is not surprising, considering that a large number of states failed to develop specific legislative mechanisms for the promotion of DRR. Laws in fact can help in setting the record straight by clearly allocating responsibilities, defining the scopes of different agencies, and laying explicit budgetary arrangement. Moreover laws also allow individuals to base their arguments on recognised rights, making governments more accountable for eventual negligence in the implementation of risk reduction practices. Good governance for disaster

⁵¹ UNISDR, *Mid-Term Review of the Hyogo Framework For Action 2005-2015* (2011), pp. 21-22.

⁵² Sanahuja, H. E., *National Platforms for Disaster Risk Reduction in the Americas*, prepared for IFRC and UNISDR (2010), p. 10.

⁵³ Kishore, K., *Literature Review for the Mid-Term Review of the Hyogo Framework for Action*, prepared for UNISDR (2011), p. 6.

⁵⁴ UNISDR, *Mid-Term Review of the Hyogo Framework For Action 2005-2015* (2011), p. 58.

risk reduction is indeed a matter of coordination and ultimately of accountability, and can therefore be better promoted through specific formal legislative structures at the national level, rather than through informal policy mechanisms such as those generally promoted by National Platforms. The importance of laws for DRR is explicitly acknowledged in the HFA, which, in Priority 1, recognises legislative frameworks as key elements in the promotion of mitigation activities through “regulations and mechanisms that encourage compliance and that promote incentives”.⁵⁵ On a secondary note, the adoption of specific laws can also be used - just as much as National Platforms - as a significant barometer of commitment to DRR directly associated with the guidance prescribed in the HFA.

It is relatively easy to find a compilation of recently enacted DRR legislation and, while a number of countries began adopting risk reduction laws independently already in the mid-1990, several others appear to have developed new laws or updated existing ones by explicitly relying upon the principles included in the HFA. This therefore represents another example of the tangible impact that informal international lawmaking can have. As the Mid-Term Review reports, countries with new or updated laws include for example India and Sri Lanka in 2005; El Salvador, Saint Lucia, Saint Vincent and Grenadines in 2006; Anguilla and Gambia in 2007; Indonesia in 2008; Egypt and Philippines in 2009; and Zambia and Papua New Guinea in 2010.⁵⁶ Clearly there has been a certain amount of progress in the adoption of DRR-specific laws, even if it is not as evident as in the case of National Platforms. Nevertheless, even in this case it is important not to overstate the trend, as it appears clear that not all laws are good laws. Legislative frameworks for disaster risk reduction differ widely on a number of fundamental issues related, for example, to the extent of the decentralisation of authority, the promotion of community participation, the management of resources, and the development of liabilities for the failure to adopt and support established DRR practices.

The dichotomy between National Platforms and legislation is beyond doubt an oversimplification, as most states do ultimately rely upon mixed combinations of general and sectoral laws, variable policies, and multi-layered institutional mechanisms. Nevertheless, the use of such a dichotomy appears to be extremely relevant for the purpose of the current study. It is in fact not yet clear whether systems supporting increased accountability through the adoption and implementation of formal laws are ultimately more effective than those that do not. As it happens, many practitioners appear to be convinced that less formal mechanisms - such as those displayed by “unregulated” National Platforms - are ultimately capable to better promote DRR. At the centre of the debate lies therefore the traditional question of how accountability influences effectiveness. Does the former necessarily hamper the latter? Or is DRR one of those cases where the two go hand in hand? Giving an answer to such question is not an easy task, as there appears to be a lack of sufficient empirical evidence regarding the effectiveness of different governance systems.⁵⁷ It is still too early to clearly ascertain the impact of policies and laws implemented following the adoption of the HFA. Disaster risk reduction is indeed a long process, the results of which can be seen in time and - in some unfortunate cases - only when natural hazards strike again. Even so, a review of some of the features of the different “systems” adopted at the national level could cast some light on how effectiveness links to accountability.

⁵⁵ ISDR, “Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters” (2005), p. 6.

⁵⁶ UNISDR, *Mid-Term Review of the Hyogo Framework For Action 2005-2015* (2011), p. 22.

⁵⁷ Kishore, K., *Literature Review for the Mid-Term Review of the Hyogo Framework for Action*, prepared for UNISDR (2011), p. 5.

VII. Four interesting cases

Across the world, signatories to the HFA have developed different mechanisms to promote the implementation of disaster risk reduction practices. While most of these approaches are in line with the recommendations included in the document, it appears clear that countries have ultimately favoured some principles over others, in accordance with their specific national realities and needs. Looking at the level of accountability of those mechanisms put in place at the national level in response to the adoption of the HFA therefore seems to be a simple but effective way to classify different approaches to DRR. At one end of the spectrum are those countries that have adopted largely unregulated and unaccountable National Platforms, in a number of cases associated with low levels of transparency and community involvement. On the other end lay those countries that have adopted specific laws in the attempt to clearly define responsibilities and lines of accountability within their overall national mechanisms for DRR or their National Platform. While the distinction between unaccountable systems based on informality and accountable systems based on specific legislation may be somewhat of an oversimplification, the use of such dichotomy allows us to add an extra dimension to the current debate.

a. Dominican Republic

Take for example the case of the Dominican Republic. The country reported a level of progress of 4 under indicator 1 (national policy and legal framework for disaster risk reduction exists with decentralised responsibilities and capacities at all levels) in its latest national progress report, hence denoting “substantial achievement” in line with the five level assessment tool.⁵⁸ Overall, in fact the country appears to have implemented a successful framework for the promotion of DRR, which includes specific policies for disaster prevention, mitigation and response, as well as sectoral legislation addressing sustainable development, climate change, territorial responsibility, public investment planning and decentralisation.⁵⁹ Moreover, in 2002 the country also adopted a specific act for risk management - the *Ley 147-02 Sobre Gestión de Riesgos* - defining the features of the coordination mechanism for DRR and disaster management in the country, which includes various entities such as the National Council of Prevention, Mitigation and Response and the National Emergency Commission, itself composed of multiple bodies. Nevertheless, throughout the text of the law⁶⁰ it appears that while responsibilities and accountabilities are clearly outlined in the context of disaster mitigation and response, such is not the case for disaster prevention. Indeed, the law defines the hows and whos for situations of emergency, but fails to be specific about risk reduction efforts.

Due to the lack of clear and specific guidelines for the promotion of sustained DRR efforts, in 2008, the Dominican Republic empowered a National Technical Committee to serve as an advisory and coordinative body for DRR.⁶¹ This body - which has often been presented at the international level as the country’s National Platform in line with HFA’s recommendations -

⁵⁸ Paulino, L. A., *República Dominicana: Informe Nacional del Progreso en la Implementación del Marco de Acción de Hyogo*, prepared for UNISDR (2010), p. 5.

⁵⁹ Lara, G. - Director General, Dominican Republic Red Cross - presentation given at the Third Session of the Global Platform for Disaster Risk Reduction in the course of the side event “How can legislation promote disaster risk reduction at the community level?” (2011).

⁶⁰ National Congress of the Dominican Republic, *Ley 147-02 Sobre Gestión de Riesgos* (2002), pp. 12-17.

⁶¹ United Nations General Assembly, report of the Secretary General A/64/280, “Implementation of the International Strategy for Disaster Reduction” (2009), p.12.

appears to have achieved positive results since its validation. In particular, it identified for the first time the elements of a clear DRR strategy for the Dominican Republic, it elaborated project proposals for the formulation of the National Plan for Risk Management, it created a guide for municipal emergency planning, and it also secured budget to finance its activities.⁶² The current status of this body in terms of accountability is nevertheless vague: it is formed of 22 permanent representatives of different ministries and state bodies, as well as representatives of the Dominican Red Cross and the academic sector. Nevertheless, the selection of representatives is internal and the position of the Committee itself in relation to law 147-02 largely unclear.⁶³ Moreover, both its level of accountability vis-à-vis the broader society as well as the level of grassroots involvement in the consultation processes are rather low, as reported in the country's national progress report.

In relation to indicator 3 (community participation and decentralisation is ensured through the delegation of authority and resources to local levels), that report acknowledges a level of progress of 2, denoting small and incomplete achievements. In particular, the report stresses that there appears to be little decentralisation of DRR responsibilities and resources.⁶⁴ Both responsibilities and resources remain in fact centralised within the National Technical Committee, which nevertheless appears to work rather effectively in promoting DRR beyond the somehow general provisions included in Law 147-02. The Dominican Republic therefore represents a good example of a country where risk reduction efforts have been successfully supported by a single central authority displaying low levels of accountability to local communities.

b. Sweden

On the other hand, “informal centralisation” of DRR mechanisms does not appear to be the only existing strategy to enhance community resilience; on the contrary, Sweden has obtained positive results by supporting an approach to DRR that relies upon “informal decentralisation”; indeed, the municipality-based mechanism that the country has implemented throughout the years seems to work effectively even in the absence of DRR-specific legislation. Sweden does not possess an encompassing risk management act along the lines of the Law 147-02 of the Dominican Republic. The only law highlighted in the country's national progress report is the *2002 Civil Protection Act*, which provides for “equal, satisfactory and comprehensive protection for the whole country with responsibility given to local authorities”.⁶⁵ This provision is in line with the country's legislation on extraordinary events, which devolves responsibilities to the Country Administrative Boards in their geographical regions. The boards are responsible for acting as coordinators for DRR activities at the local level, which include the assessment of risks and vulnerabilities, as well as well the monitoring of compliance with and implementation of national regulations. Since the adoption of the Civil Protection Act, the boards have been working closely with local governments; chapter 3 of the act clearly defines the obligation of municipalities, which entail the development of plans of action, the implementation of preventive measures, and the

⁶² GFDRR, *Disaster Risk Management in Latin America and the Caribbean Region* (2010), p. 132.

⁶³ Sanahuja, H. E., *National Platforms for Disaster Risk Reduction in the Americas*, prepared for IFRC and UNISDR (2010), pp. 38-39.

⁶⁴ Paulino, L. A., *República Dominicana: Informe Nacional del Progreso en la Implementación del Marco de Acción de Hyogo*, prepared for UNISDR (2010), p. 7.

⁶⁵ Lindahl-Olsson, M., *Sweden: National Progress report on the Implementation of the Hyogo Framework for Action*, prepared for UNISDR (2010), p. 7.

dissemination of information.⁶⁶ At the top of the system sits the Swedish Civil Contingency Agency, which is recognised as the focal point for the country's National Platform. Charged with the task of improving "coordination of the work on preventing and reducing the effects of natural disasters", the agency expressly works towards the fulfilment of Sweden's commitments to the HFA.⁶⁷

As a whole, therefore, risk reduction efforts in Sweden are supported by specific sectoral laws - referring, for example, to land use planning and building permission, crisis management, the environment, fire safety, and social welfare - and are loosely coordinated by a central agency that promotes decentralisation of responsibilities to municipalities and local authorities. Sweden strongly relies upon a "bottom-up approach" that emphasises the importance of "proximity" in the attempt to manage risk directly at the community level.⁶⁸ Informality in this case refers to the fact that decentralisation is not supported by a specific DRR law modelled after the HFA, but rather by general acts - such as the Civil Protection Act - and by governmental policies that empower local authorities over central ones. From this point of view, the difference between the system implemented in the Dominican Republic and the one adopted in Sweden is striking. While the former empowered a single central agency - the National Technical Committee - supporting little community-level involvement, the latter empowered local governments first, and only loosely coordinated their actions in the field of DRR through the national Civil Contingency Agency. In the Swedish case, it is important to stress that decentralisation seems to support greater accountability to the people. As municipalities are directly in charge of writing local action plans for preparedness, undertaking vulnerability analysis and managing budget allocations, they are also directly subjected to the judgement and oversight of their residents.⁶⁹

Both systems seem to work rather effectively in implementing the provisions of the HFA; the National Progress Report of each country highlights substantial progress across the whole spectrum of the five priorities of action even if - in line with the experience of most states across the world - limited financial resources is repeatedly singled out as a major issue. Sweden and the Dominican Republic therefore appear to be largely fulfilling their commitment to the HFA, even without the adoption of specific legislation that clearly defines the role and responsibilities of different national actors. In the former case effectiveness is attained by decentralising DRR tasks to the municipal level, while in the latter case it is attained by empowering a central authority. Nevertheless, in both examples, internal lines of accountability are not clearly institutionalised as national legislation fails to clearly define the roles of different agencies and levels of government in the implementation of risk reduction practices. The Swedish system appears more accountable to the people: even so, this accountability is not institutionalised through specific mechanisms, but rather "manifested" through the local electoral process. But what happens when decentralisation of risk reduction responsibilities is supported by clear and encompassing central laws?

⁶⁶ MSB, "Civil Protection Act: Government Bill 2002/03:119 - Reformed Rescue Services Legislation", at <https://www.msb.se/en/About-MSB/Legislative-areas/>, accessed 24/04/2011.

⁶⁷ Swedish National Platform for Disaster Risk Reduction, "Action Programme", at http://www.preventionweb.net/files/13689_np158NP2010ActionProgramme1.pdf, accessed 25/04/2011, pp. 9-10.

⁶⁸ Lindahl-Olsson, M. - Head of Natural Hazards & Critical Infrastructure Section, Swedish Civil Contingencies Agency - presentation given at the Third Session of the Global Platform for Disaster Risk Reduction in the course of the side event "How can legislation promote disaster risk reduction at the community level?" (2011).

⁶⁹ Lindahl-Olsson, M., *Sweden: National Progress Report on the Implementation of the Hyogo Framework for Action*, prepared for UNISDR (2010), p. 10.

c. Peru

The case of Peru is highly relevant to the current debate. In the 1990s, the country transferred major responsibility for disaster management from the national government to the local governments, through a formal process clearly highlighting the role and duties of all actors involved in risk reduction activities. In particular, the authority of the National System for Civil Defence (SINADECI) – which, since the adoption of *Law 19338 of the National System of Civil Defence* in 1972, had been charged with the task of promoting DRR and enhancing the country’s emergency response mechanisms - was devolved to local Civil Defence Committees in a hierarchical manner. Provincial committees supervise municipal ones, regional committees supervise provincial ones, and, ultimately, the National Institute of Civil Defence (INDECI) leads the planning and control of activities at the country level. However, while the overall coordination of the system and formulation of policies come under the responsibility of INDECI, municipalities and provinces are relatively autonomous in carrying out their plans, programmes and projects, provided that such are in line with national policies.⁷⁰ Indeed, the intended purpose of this decentralisation of DRR mechanisms was to increase risk management capacities at all administrative levels within the country, and was further supported in 2002 by the adoption of *Law 27867 - the Organic Law on Regional Governments* - which established both general and specific duties of local governments.⁷¹

Moreover, following the adoption of the HFA, Peru also instituted its National Platform in 2009. The launch of the platform arrived after a long and complex consultation process. Indeed, the need to clearly allocate the role and responsibilities of the National Platform vis-à-vis both the HFA and the existing (and already complex) national mechanism for DRR led to expected complications and a number of setbacks. Eventually Peru’s NP was established as a support forum for SINADECI, in which representatives of public agencies and ministers, private entities and civil society could meet to strengthen the organisation’s reach and broaden its institutional base. Overall, it is largely believed that the National Platform has promoted wide involvement of the aforementioned representatives in the overarching national DRR mechanism; most noticeably, the participation of civil society in the process is often deemed to be one of the most interesting aspects of the Peruvian case.⁷² The National Platform in fact links civil society with SINADECI - hence providing some level of citizen’s oversight on the operate of the agency at the central and institutional level - while the decentralisation of responsibilities of INDECI to the community level supports local accountability along the lines of the system adopted in Sweden, but with a greater degree of procedural formality.

The Peruvian mechanism for DRR, carefully designed to support central accountability and local accountability to both citizens and governmental institutions, should be expected to yield positive results. Yet this does not appear to be the case. As an IFRC review highlights, local governments in fact “failed or were unable to assign resources or dedicated staff to the activities and designated committees, lacked adequate technical expertise and advice, and did not meet or carry out their expected tasks; moreover, local voters did not hold their mayor to

⁷⁰ ISDR, “Peru: Institutional Settings”, at [http://www.eird.org/wikien/index.php/Peru#HFA_P1 -
_Institutional_and_legal_framework](http://www.eird.org/wikien/index.php/Peru#HFA_P1_-_Institutional_and_legal_framework), accessed 03/05/2011.

⁷¹ NDI, *Peru’s Political Party System and the Promotion of Pro-poor Reform* (2005), pp. 31-32.

⁷² Sanahuja, H. E., *National Platforms for Disaster Risk Reduction in the Americas*, prepared for IFRC and UNISDR (2010), pp. 35-36.

account on this issue”.⁷³ Similar issues are echoed by other studies which report difficulties in the country’s ability to strengthen capacities at the local level, and to adopt functional budgetary approaches to effectively support local level action.⁷⁴ It is important to highlight that in the attempt to solve these issues Peru adopted, at the end of January 2011, the *Law 29664 on the National System for Disaster Risk Management*. This DRR-specific law, carefully drafted upon the recommendations included in the HFA, aims to strengthen the existing mechanism, increase available resources, and reinforce local capacities towards the overall goal of “avoiding the creation of new risks”.⁷⁵ It is obviously too early to assess the effectiveness of the provisions contained in the bill; nevertheless, before drawing the conclusion that more informality and less accountability - as in the case of Sweden and the Dominican Republic - lead to better results than those obtained through detailed and specific institutional mechanisms, it is important to stress that some countries did indeed succeed in promoting effective DRR practices through formal mechanisms and increased accountability.

d. The Philippines

The case of the Philippines is of paramount importance in this context. In 2010, the country adopted the *Republic Act 10121 on Disaster Risk Reduction and Management*, a comprehensive and encompassing act aimed at “strengthening the Philippine DRR and management system, providing for the DRR and management framework, institutionalising the national plan, and appropriating funds”.⁷⁶ The act reviews in details the powers and functions of the National Disaster Risk Reduction and Management Council (NDRRMC), as well as those of related institutions at both the regional and local levels. Overall, it supports decentralisation of responsibilities not only vertically through the different levels of government, but also horizontally across different sectors by including in the process environmental and development agencies.⁷⁷ The act, as reported in the country’s national progress report, seeks to “empower local governments and communities to enforce DRR measures to effectively address their respective risks”, in line with both existing policies such as the Medium Term Philippine Development Plan and existing legislation in the manner of the *Climate Change Act of 2009*. Thanks to the well-defined and comprehensive nature of Act 10121, the Philippines was able to report to UNISDR a level of progress of 4 under indicator 1 (national policy and legal framework for disaster risk reduction exists with decentralised responsibilities and capacities at all levels), also highlighting that current DRR mainstreaming efforts in different institutional spheres were paving the way towards the replication of efforts in other sectors, such as education.⁷⁸

Strong support for decentralisation and the involvement of numerous stakeholders nevertheless do not appear to have been conducive to institutional confusion in relation to lines of accountability. The NDRRMC - a national institution with a long legacy, known before the adoption of Act 10121 as the National Disaster Coordinating Council (NDCC) - remains firmly in charge of the process as the highest policy-making, coordinating and

⁷³ IFRC, *Desk Review on Trends in the Promotion of Community-Based Disaster Risk Reduction Through Legislation*, background paper for the ISDR Global Assessment Report (2010), pp. 3-4.

⁷⁴ Sanahuja, H. E., *National Platforms for Disaster Risk Reduction in the Americas*, prepared for IFRC and UNISDR (2010), p. 37.

⁷⁵ ISDR, “Peru: Institutional Settings”, at http://www.eird.org/wikien/index.php/Peru#HFA_P1_-_Institutional_and_legal_framework, accessed 03/05/2011.

⁷⁶ Congress of the Philippines, *Philippine Disaster Risk Reduction and Management Act of 2010* (2010), p. 1.

⁷⁷ *Ibid.*, pp. 12-21.

⁷⁸ Ramos, B. T., *Philippines: National Progress Report on the Implementation of the Hyogo Framework for Action*, prepared for UNISDR (2011), pp. 5-6.

supervising body for DRR in the country. As spelled out in the recent act, it has the responsibility to monitor the development and enforcement of laws, guidelines, codes or technical standards by agencies and organisations, as well as promoting coordination mechanisms for a more coherent implementation of risk reduction policies. Most interestingly, the act also reiterates NDRRMC's responsibility to "coordinate or oversee the implementation of the country's obligations with disaster management treaties to which it is a party and see to it that the country's disaster management treaty obligations be incorporated in its DRR and management frameworks, policies, plans, programs and projects".⁷⁹ In spite of the fact that the system adopted in the Philippines resemble the one adopted in Peru, results on the ground appear to be radically different. Indeed, since the adoption of Act 10121, the Philippine DRR system has been regarded as a model example for governments across the world, as stressed by Margareta Wahlstrom, Special Representative of the Secretary-General for Disaster Risk Reduction and head of UNISDR.⁸⁰

Above all, it appears that the specific DRR legislation adopted in the country is effectively promoting community empowerment, in line with the provisions contained in the HFA. As reported in a research study undertaken by Oxfam and focusing on the Philippine province of Albay, local governments can rely upon an effective and efficient DRR system backed up by adequate logistical and financial support.⁸¹ Indeed, specific provisions contained in Act 10121 – which, for example, sets out minimal staffing level for local disaster management secretariats, and mandates to reserve 5% of annual local revenues for risk reduction and preparedness activities - appear to mitigate some of the difficulties faced by other countries, such as those previously discussed in the case of Peru.⁸² But how was this achieved? Priscilla Duque, Assistant Civil Defence Executive Officer at the NDRRMC, stressed that the act was the product of a two decades long consultation process that took stock of an enabling policy environment, established institutions such as the NDCC, international guidance as contained in the HFA, as well as the participation of multiple stakeholders in the drafting process.⁸³ In particular, the involvement of civil society's organisations such as the Philippine Red Cross, which played an important part in the creation of Act 10121, ensured support for the adoption of clauses providing for community integration in the national DRR framework.

Such clauses, which support grassroots input and spell out local responsibilities in relation to risk reduction practices, are indeed deemed to make the Philippine's approach "far more effective" than those of other countries.⁸⁴ Whether a similar result will be achieved in Peru following the adoption of *Law 29664 on the National System for Disaster Risk Management* will therefore depend upon the specific provisions included in the new act, as well as the country's institutional capacity to implement it effectively. Legislation in fact appears to be able to support positive DRR action, in particular when it spells out clear lines of accountability, soundly allocates responsibilities, and successfully empowers all actors with

⁷⁹ Congress of the Philippines, *Philippine Disaster Risk Reduction and Management Act of 2010* (2010), pp. 13-14.

⁸⁰ Republic of the Philippines - Department of Foreign Affairs, "Philippines Joins International Disaster Risk Reduction Day Observance in Geneva", at <http://www.dfa.gov.ph/main/index.php/news-from-rp-embassies/1982-philippines-joins-international-disaster-risk-reduction-day-observance-in-geneva>, accessed 10/05/2011.

⁸¹ Preventionweb, "Philippines: Disaster Risk Reduction Practice Ideal Model in Disaster Management Says Study", at <http://preventionweb.net/go/14734>, accessed 10/05/2011.

⁸² IFRC, *Desk Review on Trends in the Promotion of Community-Based Disaster Risk Reduction Through Legislation*, background paper for the ISDR Global Assessment Report (2010), p. 4.

⁸³ Duque, P. - Assistant Civil Defence Executive Officer, National Disaster Risk Reduction and Management Council, Philippines - presentation given at the Third Session of the Global Platform for Disaster Risk Reduction in the course of the side event "How can legislation promote disaster risk reduction at the community level?" (2011).

⁸⁴ IFRC, "Reducing Risk Through Law: The Case of the Philippines", at <http://www.youtube.com/user/IFRCIDRL#p/f/6/B11VhYGzU9Q>, accessed 12/05/2011.

the necessary resources. Nevertheless, it is important to remember that the adoption of comprehensive DRR legislation does not appear to be the only way to fulfil national commitments to the Hyogo Framework for Action. Indeed, the “substantial reduction of disaster losses, in lives and in the social, economic and environmental assets of communities and countries”⁸⁵ appears to be an outcome that countries such as Sweden and the Dominican Republic are pursuing through strategies that support more informal - but similarly effective - approaches to DRR.

VIII. Accountability

The brief review above highlights that there are marked differences in the way countries across the world have either created, altered or maintained different policies, laws and institutions following the adoption of the HFA. The non-binding and voluntary nature of the Hyogo Framework translated in fact into a multitude of pragmatic national-level approaches. While the goal of those approaches is the same - supporting the implementation of the HFA’s five priorities for action - specific “paths” have been ultimately chosen by different countries. Indeed, it appears that governments have favoured some principles over others, in accordance with their specific national realities and needs. Analysing the level of accountability of those mechanisms put in place at the national level therefore appears to be a simple but effective way to classify different approaches to DRR and, more specifically, different responses to the adoption of the HFA. The examples of Peru, the Dominican Republic, Sweden, and the Philippines - overall providing a good overview of global trends - denote that marked differences exist in relation to how much states support, in variable combinations, policies over laws, decentralisation over strong central institutions, and ultimately accountability to their citizens.

Accountability, beyond doubt, is a troublesome term, and one for which there is no formal agreed-upon definition. Slaughter stresses that, “in its broadest sense ..., accountability in a democratic society means responsiveness to the people” entailing “the responsiveness of the governors to the governed” through the creation of “exact rules designed to regulate the behaviour of government institutions.”⁸⁶ Legal approaches stemming from such an understanding of accountability generally single out the existence of two types of rules: substantive and procedural. The former, leading to what is known as output legitimacy, denotes that institutions should act in accordance with the values, goals and aspiration of the people they represent. The latter, leading to what is known as input legitimacy, denotes on the other hand that institutions should also allow people to provide meaningful input in the decision-making process.⁸⁷ As it appears clear, the development and increasing influence of IN-LAW mechanisms in different policy sectors - such as in the case DRR - carries important consequences in relation to these notions of accountability. Within the context of a system where international agencies and networks do influence decision-making at the national level, it is in fact important to consider and examine issues of accountability at both the international and domestic level.

⁸⁵ ISDR, “Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters” (2005), p. 3

⁸⁶ Slaughter, A., “Agencies on the loose? Holding government networks accountable” pp. 521-546 in G. A. Bermann, M. Herdgen, and P. L. Lindseth (eds.) *Transatlantic Regulatory Cooperation* (Oxford University Press, 2000), p. 523.

⁸⁷ Pauwelyn, J., *Informal International Lawmaking: Mapping the Action and Testing Concepts of Accountability and Effectiveness*, project framing paper (2011 - February) p. 13, available at <http://nilproject.org>, accessed 27/03/2011.

So what does the example of ISDR and the HFA tell us? Broadly speaking, informal international lawmaking in the context of disaster reduction appears to support, to a large extent, both the substantive and procedural meanings of accountability. While a large majority of scholars has traditionally criticised international networks for a lack of accountability - Alston for example wrote that they implied “the marginalization of governments as such and their replacement by special interest groups” suggesting “a move away from arenas of relative transparency into the back rooms”⁸⁸ - this does not appear to be the case in the current study. If anything, the transparency of the decision-making process at the international level in the context of DRR often appears to be superior to the transparency of the mechanisms subsequently adopted at the national level. As highlighted above, UNISDR strongly promotes the public diffusion of information on ISDR strategies, as well as on the level of implementation of the HFA. Indeed, following the adoption of the framework - and in line with the specific requirement to monitor and report on its implementation⁸⁹ - it is the international network itself that plays the foremost important role in rendering information publicly available. This is especially true in the case of those developing countries that do not possess enough resources to rely upon information technologies, or at least to ensure the maintenance and update of ad-hoc websites. As stressed by Slaughter, they “may in fact hold the key to responding to the challenge of invisibility ... offering a central site for the dissemination of information and the coordination of activities.”⁹⁰

Major DRR portals directly linked to the ISDR system such as www.preventionweb.net or www.unisdr.org, professionally maintained and regularly updated, constitute the main point of access to information related to both national and international action. From this point of view, the ISDR system can be considered a “transparency enhancer” operating through a double feedback mechanism. The network actively collects information from the above-mentioned multitude of often unknown and hidden national authorities for disaster management, and renders such information available to people across the world. Simple on-line research shows that it is much easier to access information on specific national DRR policies through the monitoring process and information technologies supported by UNISDR, rather than directly through the websites of specific national agencies. With the exclusion of those states that created strong and effective national agencies - such as the Philippines’ NDRRMC which, beyond doubt, directly supports public diffusion of information on its activities⁹¹ - it is in fact often impossible to find any information at all on governments own sites or those of their subsidiary bodies. In a nutshell, transparency on DRR policies largely exists precisely because of the empowerment of an informal international network, which possess the resources to monitor and analyse national approaches: as such, information is not transferred directly from the state to its citizens, but first passed to the network that ultimately provides for its diffusion to the general public.

Transparency alone is obviously not all that is needed in order to promote accountability. Nonetheless, transparency is a fundamental feature of both output legitimacy and input legitimacy. Without transparency it is in fact impossible for people to assess whether a decision, policy, framework or treaty reflects and supports their aspirations. And even more

⁸⁸ Alston, P., “The Myopia of the Handmaidens: International Lawyers and Globalization”, *European Journal of International Law*. Vol. 8 (1997): pp. 435-448, at 435, 441.

⁸⁹ ISDR, “Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters” (2005), p. 14-15.

⁹⁰ Slaughter, A., “Agencies on the loose? Holding government networks accountable” pp. 521-546 in G. A. Bermann, M. Herdegen, and P. L. Lindseth (eds.) *Transatlantic Regulatory Cooperation* (Oxford University Press, 2000), p. 528.

⁹¹ See for example <http://www.ndcc.gov.ph/>

clearly, without transparency it is impossible for people to truly participate in a decision-making process. As already reported, civil society organisations are strongly involved and represented in the ISDR system. The HFA itself was drafted through the joint efforts of civil society organisations, governments, and international organisations. And the same applies to all the successive activities undertaken by ISDR including, as previously stressed, the different Global Assessment Reports and the final outcomes of the Global Platforms for Disaster Risk Reduction. Of course, as stressed by many, there is still not enough social demand for DRR.⁹² The need to create more critical awareness at the grassroots level is obvious; Joseph Weiler for example expressed doubts regarding the usefulness of transparency on its own, reiterating that “if you do not know what is going on, which documents will you ask to see?”.⁹³ But it is exactly this sort of action that ISDR is trying to promote. The need to create a culture of safety is indeed of pivotal importance for the network, as clearly expressed in the HFA’s third Priority for Action.

Provisions supporting civil society participation, mixed with great transparency and continuous efforts to promote awareness at the community level seem therefore to support the view that “the voices of the people” are in many cases better represented at the international level within the context of “informal” mechanisms, rather than at the national level through the creation of more “formal” institutions, as in the case of Peru. Such an observation nevertheless raises an important questions: why the level of output and input accountability displayed at the international level is not necessarily replicated in the HFA-informed decision-making process at the national level? As already mentioned, IN-LAW in the context of DRR allowed for cooperation to materialise, to endure, and ultimately to solve the problem (previously defined as a general lack of consideration for risk reduction policies). Nevertheless, it has also already been stressed that the provisions contained in the HFA have been implemented at the domestic level with a large degree of freedom, creating for example a dichotomy between those states empowering largely unaccountable National Platforms (as in the case of the Dominican Republic) and those favouring more accountable mechanisms through the adoption of specific DRR legislation (as in the case of the Philippines).

But why is this the case? Why international informal lawmaking did not influence national policy-making in a more homogeneous fashion? Part of the answer is provided by Slaughter, which highlights that “network initiatives are subject to the normal political constraints on domestic policy-making processes once they are introduced at the domestic level”.⁹⁴ ISDR was originally created around elements such as transparency, participation, and constant evaluation; nevertheless, the decisions reached at the network level have always to face specific features of national administrative, political and legislative systems during the implementation phase. Indeed, by looking at the final status of HFA implementation in different countries, it appears clear that there are issues in relation to the “timeline” of accountability. While the initial process through which international guidelines are adopted is, to a certain extent, accountable to the people, the latter process through which these are implemented at the national level often appears to display lower levels of accountability, especially in those cases where HFA recommendations are not embedded in clear domestic legal frameworks.

⁹² UNISDR, “Summary of Mid-Term Review Online Debate - Topic 2: Less effective elements of the HFA”, at <http://www.preventionweb.net/english/professional/publications/v.php?id=18197>, accessed 05/04/2011.

⁹³ Weiler, J. H., “To Be a European Citizen: Eros and Civilization”, *Working Paper Series in European Studies* (1998), p. 39, available at <http://aei.pitt.edu/8990/1/weiler.pdf>, accessed 25/06/2011.

⁹⁴ Slaughter, A., “Agencies on the loose? Holding government networks accountable” pp. 521-546 in G. A. Bermann, M. Herdgen, and P. L. Lindseth (eds.) *Transatlantic Regulatory Cooperation* (Oxford University Press, 2000), p. 526.

In the framing paper of the IN-LAW project, Pauwelyn stresses that it is useful to distinguish between “accountability of the decision-making process leading up to IN-LAW (*ex ante* activity), and accountability where judgements are made on activity already taken or questions of implementation or compliance are addressed (*ex post* activity)”.⁹⁵ This distinction appears to be extremely useful within the context of DRR. At the international level, the *ex ante* activities of ISDR were, to a large extent, accountable: the decision-making process leading up to the adoption of a specific informal output (the HFA) was in fact a transparent and open one. Nevertheless, *ex post* activities stemming from the HFA and undertaken at the national level are, at times, less accountable to the people. The transparent and multi-stakeholder character of the international DRR network is in fact often lost at the national level, especially when states implement policies that do not directly support community involvement, specific institutional responsibilities, or clear revision procedures. It should however be kept in mind that such an observation does not entail a negative understanding of lack of accountability.

As a matter of fact, the old debate of whether accountability hampers effectiveness or whether the two go hand in hand still exists. At the domestic level, *ex post* activities displaying low levels of accountability have proven to be just as successful as those strongly supporting accountability, as in the cases of the Dominican Republic and the Philippines. More interestingly, it is also fundamental to note that legislation - traditionally associated with greater process formality - is not always necessary to support accountability, as alternative and less formal processes (as the decentralised system adopted in Sweden) can equally provide for it. On the contrary, poor and confusing legislative frameworks (as those in place in Peru prior to the adoption of Law 29664) can hamper accountability, in particular when the roles and responsibilities of different domestic agencies involved in DRR are not clearly defined. In a nutshell ISDR and the HFA did support, in spite of their informal nature, *ex ante* accountability at the international level, and appear to have effectively triggered change at the national level. Nevertheless, the nature of *ex-post* activities undertaken at the national level is marked by variety: in some countries the HFA has triggered more accountable mechanisms, while in others less accountable ones.

The nature of the link between accountability and effectiveness of national mechanisms for risk reduction requires, beyond doubt, greater attention. Nevertheless, there is still one last point that must be considered in the current debate: what is the status of *ex post* activities at the international level? UNISDR - and the ISDR system more in general - were not created with the sole scope of producing the HFA. The network endures beyond the adoption of the framework, and therefore activities related to the Framework are not simply “passed on” to individual states, but also endure at the informal international level through the network. In short, while the network was the only referent for *ex ante* activities (it being the only actor in the decision-making process leading up to IN-LAW), both the network and individual states alike are referents for *ex post* activities (as both can be judged for subsequent operations such as monitoring, planning and implementation). One simple way to “dodge” the question would be to stress that we should not be concerned about the status of *ex post* activities of ISDR. As Pauwelyn stresses “even if a particular IN-LAW network misses specific *ex post* accountability mechanisms, no accountability deficit would exist in the absence of any type

⁹⁵ Pauwelyn, J., *Informal International Lawmaking: Mapping the Action and Testing Concepts of Accountability and Effectiveness*, project framing paper (2011 - February) p. 18, available at <http://nilproject.org>, accessed 27/03/2011.

of formal or de facto delegation”, as “if principals (the states) continue to exercise direct, ongoing control, the question of accountability is less relevant, if not moot.”⁹⁶

This is beyond doubt true, as the informal nature of the network - just as much as the non-binding character of the HFA - entails that the state remains the final decision-maker, and hence the only agent that should be held accountable for the adoption of specific policies. As such, what ISDR does should not matter in relation to *ex post* accountability: it does not hold power over governments, and therefore governments’ actions only should ultimately be considered and scrutinised by citizens. This should be kept in mind by those involved in the heated debate over the eventual creation of a binding instrument to follow-up to the HFA in 2015. As reported by the Mid-Term review of the HFA, there seems to be a clear distinction between the opinion of those coming from a government background, and the opinion of academic or civil society representatives. While the former appear reluctant to envisage a legally binding framework, the latter often argue for a legal base “as offering a chance to make progress in meeting the needs of under-served or most vulnerable people.”⁹⁷ Such a division obviously does not come as a surprise in light of traditional state concerns related to the adoption of binding international documents and the “loss of sovereignty” that such an action entails. On the other hand, we find that an increasing number of people positively recognises the action of the ISDR system, and invokes a de facto delegation of authority through a binding instrument.

On its own, this observation goes a long way toward supporting previous findings of this paper. If civil society representatives largely solicit the adoption of a binding instrument to follow up to the HFA in order to “meet the needs” of local communities, it could in fact be assumed that they find themselves better represented at the international level (where the drafting of a binding instrument would take place) rather than at the national level (where internal mechanisms continue to raise questions of transparency and accountability). Nevertheless, it is important to keep in mind why DRR was originally promoted through IN-LAW rather than through more formal international agreements. The practice of disaster risk reduction is a complex one, and one that requires the synergy of actions undertaken by a multitude of actors operating at different levels. As already reported, success in fact strongly depends upon the cooperation of agencies belonging to different fields (environment, development, disaster management, infrastructures) and to different levels (international, regional, national, and local). Indeed, it is the presence of so many actors that poses a first barrier militating against the adoption of the HFA. Formal agreement and consensus would most likely be impossible to reach, under the umbrella of a binding framework which would hold states accountable for eventual compliance failures.

But beyond the issue of consensus, there are also a number of other barriers that are often overlooked by those in support of a binding DRR instrument. In first place, the multidisciplinary nature of effective DRR action is in fact likely to clash with a plethora of existing sectoral laws at the national (but also at regional and municipal level - not to mention the state level in the case of federal systems) that regulate manifold issues such as budget allocations, building codes, education, as well as civil and criminal liabilities. National compliance with an international agreement affecting so many issue-areas would therefore require the amendment of numerous laws: as such, even if a DRR treaty could be adopted, its formal ratification would require a more complex process. In second place, the adoption of an

⁹⁶ *Ibid.*, p. 19.

⁹⁷ UNISDR, *Mid-Term Review of the Hyogo Framework For Action 2005-2015* (2011), p. 65.

effective binding instrument would also require the establishment of clear targets. DRR is not a matter of “banning bad practices.” On the contrary, DRR is an action-oriented approach. As such, a treaty that does not establish “how much” should be achieved would be of little use. But how can we set uniform targets, when the resources individual states possess - as well as national baselines of risk - are so uneven? Finally, as previously mentioned, it is also important to remember that the adoption of a binding document would ultimately require the creation of clear institutional structures increasing the accountability of *ex post* activities at the international level. The adoption of a DRR treaty would be of little use without the formal empowerment of an international institution in charge of addressing issues of implementation and compliance. But as it is well understood, the *de facto* delegation of authority to a supranational body would ultimately raise recurrent questions linked to the issue of democratic deficit.

What is clearly at stake in this context is the informality of the ISDR system. Pure speculation tells us that a move to more formal arrangements at the international level could yield positive results, providing a solution for the lack of accountability of national institutions which is often perceived by the people at the community level. Nevertheless, it is important to remember that a move to increased formality could not only be difficult to realise, but also unnecessary. The informal nature of the ISDR system has in fact already acted as a catalyst for change, and effectively promoted DRR through the agenda of governments in those years when risk reduction was of little concern to many. Moreover, as reported by an independent review undertaken by the IFRC, the HFA has also “enabled the global DRR community to work under a harmonised framework” and allowed practitioners globally and nationally to “speak the same language” and work towards the same goals.⁹⁸ Far from hindering the promotion of effective practices, the output, process and actor informality adopted in the context of DRR has increasingly informed decision-making at multiple levels of authority.

IX. Conclusion

The ISDR system represents an interesting example of network-based international cooperation. As such, it fulfils the three main criteria of output, process and actor informality established by the IN-LAW project, as it supported the adoption of a non-binding document through activities that occurred outside of well-established channels involving, last but not least, uncommon entities not traditionally associated with lawmaking formalities. Overall, the informal nature of the network and the character of the framework it adopted seem to have effectively limited the impediment to cooperation in the field of disaster risk reduction. Indeed, within such specific context IN-LAW appears to have been critical not only in supporting the emergence of consistent practices aimed at addressing pressing issues of common concern at the international level, but also in promoting observable change at the individual domestic level. As reported, in many cases the adoption of the HFA has noticeably influenced national decision-making processes: key specifications included in the document - such as the request to create National Platforms, define clear policies, and adopt specific laws - have in fact been often been complied with.

In spite of the fact that multiple gaps in areas such as operational capacities or financial resources often militate against the effective implementation of national level provisions, hence affecting the ultimate success of DRR practices, it appears evident that the actions of

⁹⁸ IFRC, *Hyogo Framework for Action Red Cross Red Crescent Mid-Term Review* (2010), p. 3.

the ISDR system altered and influenced governments' behaviour. As it happens, these are increasingly framing national efforts for risk reduction using the HFA, taking stock of its Priorities for Action in the development of plans and structures. The implementation of the Framework nevertheless appears to be occurring on an ad hoc basis; the generality of the document, supporting a certain degree of freedom in relation to the specific practices to be adopted, ultimately allowed for the creation of both formal and informal arrangements at the domestic level. While some countries, for example, have merely promoted a policy-based approach through the empowerment of a National Platform, others have favoured specific legislative mechanisms in the attempt to set the record straight. In spite of the fact that the dichotomy between policies and legislation is an oversimplification of the reality on the ground, such is nevertheless helpful for the purpose of the present study.

Different mechanisms implemented at the national level following the adoption of the HFA variable levels of accountability and effectiveness. In some cases, the empowerment of independent technical agencies working "behind the curtain" and escaping traditional lines of accountability has gone a long way towards the promotion of effective DRR practices, as in the case of the Dominican Republic. Nevertheless, the adoption of specific laws clearly allocating responsibilities, laying explicit budgetary arrangements, and supporting citizens' participation has also led to positive results, as shown through the example of the Philippines. Overarching legislative frameworks for risk reduction however do not appear to be the only way to increase the accountability of state institutions. On the contrary - while the adoption poorly drafted laws has at times impeded both effectiveness and accountability - the more informal decentralization of responsibilities has also supported alternative bottom-up approaches promoting greater accountability to the people.

In spite of the fact that it appears difficult to answer the old question how accountability impacts upon effectiveness at the domestic level, it is important to stress that overall IN-LAW, within the specific context of the ISDR system, should not raise concerns in relation to the question of accountability deficit. The actions of the network in fact are transparent and largely influenced by civil society organizations. Indeed, this appears to be more responsive to the people than many domestic agencies. Far from moving the discussion away from arenas of relative transparency into back rooms, ISDR seems as a matter of fact to support exactly the inverse process. If anything, domestic back room discussion is often rendered public only through the action of the network, which does not only acts as a catalyst for change, but also as a transparency enhancer.

What requires more attention and greater concern is therefore the status of *ex post* activities undertaken at the national level. Domestic action in the field of risk reduction has in fact often been triggered by the HFA, but it has ultimately been implemented by governments with varying degrees of success. In order to increase the accountability of *ex post* activities at the national level it would be necessary to increase the power of the network to hold governments accountable. This could be achieved by taking international cooperation in the field of DRR "outside" of the realm of informality, adopting for example new binding instruments. But such an action would eventually raise concerns over the status of *ex post* activities at the international level, translating the existing problem to a new dimension.

Should we be concerned about the eventual lack of accountability of international mechanisms formally regulating DRR actions at the national level? Unfortunately there is not an easy answer to such a question. In line with domestic developments, it is difficult to predict the relationship between effectiveness and accountability. More generally, it is difficult to predict how easily the current system could support and adapt to an increased

level of formality. Such a move could in fact boost the system's capacity to promote effective practices at the ground level, but could also hamper its current efficiency, as it remains entrenched within output, process and actor informality.

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