

# Law and Disasters in South Sudan

## Workshop Report



Facilitated by the South Sudan Red Cross Society (SSRCS) and the International Federation of Red Cross and Red Crescent Societies (IFRC)

15th November 2012

Aron International Hotel, Juba, South Sudan

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# Introduction

## Background

On 15 November 2012, some 25 South Sudanese government stakeholders in disaster management gathered in Juba to review the legal framework pertaining to disasters in South Sudan. The delegates consisted of senior level DM officers, Red Cross and Red Crescent representatives and representatives of ICRC, UN OCHA as well as members of the media community present in Juba. This event took place as a collaboration of the International Federation of Red Cross and Red Crescent Societies (IFRC) and the South Sudan Red Cross Society.

## International Disaster Response Law (IDRL)

Over the last twenty years, the number of disasters has nearly doubled worldwide due to the effects of climate change. We are also beginning to see droughts, storms and floods of greater intensity, occurring in new areas and affecting more communities. Most countries do not have special laws in place for facilitating and regulating international relief, and even if they do they are not always implemented. The result is a common set of problems, including unnecessary taxation or delays at customs, and restrictions in the operation concerning the use of communication equipment and a lack of overview over the quality of the assistance delivered to the affected communities. Other issues arise out of the growing numbers and greater variety of international humanitarian actors, which make it much more difficult for the affected State to coordinate the assistance and to monitor the type and quality of the relief offered to its population. It is widely accepted that the poor and marginalized will bear the brunt of these developments if we do not pass to action, both to reduce disaster risks and to be better prepared for responding to disasters when they strike. As affirmed in the Hyogo Framework for Action, law is a critical tool for empowering such action and adapting to a changing world.

Every government has the possibility to think ahead by preparing its legal framework so as to facilitate the import, export and transit of humanitarian aid, as well as to monitor and coordinate the performance of humanitarian actors.

The purpose of this Workshop was to (1) develop a shared understanding of potential legal problem areas in international disaster assistance and of key international norms and tools, particularly where they apply in South Sudan, and (2) to explore the need and possibilities for South Sudan to adapt existing tools and/or legislation relating to border crossing disaster assistance into South Sudan.

## The IDRL Guidelines and the IDRL Model Act

The International Federation of Red Cross and Red Crescent Societies (IFRC) Disaster Law Programme seeks to reduce human vulnerability by promoting legal preparedness for disasters, in particular with regard to international assistance. Since 2001, the IFRC has been leading research and consultations on disaster law issues, with a special focus on the regulation of international disaster relief operations. On the latter issue, the IFRC and its members have gathered existing international norms, sponsored over two dozen studies in various parts of the world and consulted globally with governments, humanitarian organizations and experts in disaster management and law. It has developed several tools and trainings to support government in their preparation for disastrous events. Notably, these include the "Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance" (the "IDRL Guidelines"), which were adopted by the State Parties to the Geneva Conventions at the 30th International Conference of the Red Cross and Red Crescent and the "Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance", developed in partnership by the IFRC, UN OCHA and the Inter-Parliamentary Union, which is currently available in a pilot version.

*For more information please visit our website at [www.ifrc.org/dl](http://www.ifrc.org/dl)*

# Proceedings

## Welcome and orientation

*Mr. Arthur Agany Poole, Secretary General of South Sudan Red Cross Society*

The Delegates were welcomed by Mr. Poole, who highlighted that South Sudan Red Cross, as an auxiliary partner of the Government, endeavours to support where the strengthening of the legal framework of South Sudan for the for the facilitation and regulation of international disaster response. He reiterated how, in 2011, the 31st International Conference of the Red



Cross and Red Crescent, the supreme deliberative body of the Red Cross and Red Crescent Movement, called on States to undertake this improvement of the legal framework. As all States party to the Genève Conventions, including South Sudan, are members of this International Conference, seeking to gain understanding of South Sudan's legal framework pertaining to international disaster response operations is a logical step.

## Message from the IFRC

*Peter Iseli, Country Representative for South Sudan, IFRC*

Mr Iseli highlighted the substantial practice of the Red Cross and Red Crescent Movement in disaster response in Africa and explained how this led IFRC to investigate the legal and regulatory barriers that humanitarian actors may experience. He expressed the IFRC's commitment to improving the legal facilitation and regulation of international disaster response, and encouraged the delegates not to hold back on their thoughts and comments. He expressed his hope that this workshop would provide insight into the ways in which the IDRL Guidelines can be translated into policy, particularly by addressing the key areas where positive legislation can make a difference in the efficiency and effectiveness of border crossing disaster response in South Sudan.

## Keynote address

*His Excellence Joseph Lual, Minister of Humanitarian Affairs and Disaster Management*

The Minister described the wider context of the new nation of South Sudan, which is one of the more disaster prone countries in the IGAD region. For example, there are areas in the country that are flooded 8 months a year, giving us access to the population there for only 4 months a year. This situation requires precise and forward thinking. The Minister reminded the participants of the importance of preparing today for disasters that may affect populations tomorrow - a responsibility of the entire community of relief workers, including the Ministry of Humanitarian Affairs and Disaster Management itself, as well as the many local and international NGOs, the UN and Red Cross and Red Crescent Movement present in South Sudan. The Minister expressed his appreciation for the subject of the present workshop, which aims at clearing the way for disaster relief operations from the legal and regulatory perspective, leading to more efficient disaster response in the future. He wished the participants fruitful deliberations.



*His Excellence Joseph Lual, Minister of Humanitarian Affairs and Disaster Management, delivers a keynote speech, drawing in the cameras of Juba's media community.*

## Introduction to IDRL: why does the legal framework matter?

*Sanne Boswijk, Disaster Law Coordinator for Africa, International Federation of Red Cross and Red Crescent Societies (IFRC).*

This interactive session introduced the urgency to address the area of international disaster law in Africa. Of particular interest were several pertinent examples of how regulation can actually prevent international disaster relief, for example delays to Swiss search and rescue teams arriving in Japan after the tsunami of 2011, and administrative complications delaying flights carrying food to the Horn of Africa in 2011. This was followed by an overview of the major international instruments that govern disaster law, setting out the key international and regional examples and explaining their content and relevance. Although there is no general disaster management treaty, there are international legal instruments that address elements of disasters. Hence, the Tampere Convention on the use of telecommunication in disasters was addressed, as well as annexes in the Istanbul and Kyoto customs agreements that address import of humanitarian goods. Of note is the AU Convention for Protection and Assistance of Internally Displaced Persons (IDPs) in Africa, also known as the Kampala Convention, which is not yet in force but which forms a significant example of international treaty relating to disasters in Africa. However, overall the international legal framework does not address common regulatory barriers adequately. The IFRC has developed the Guidelines on the domestic facilitation and regulation of international disaster relief and initial recovery assistance (also known as the 'IDRL Guidelines') and the IDRL pilot Model Act to support governments in preparing their legal systems for international disaster response cooperation. These tools introduce the issues that governments should anticipate once international humanitarian actors enter the territory of the affected state. These issues include regulatory aspects of obtaining legal personality, opening bank accounts, security, insurance, monitoring of the quality of aid and coordination with domestic authorities. It is recommended that governments grant certain facilities to international actors to avoid these issues; however, such facilities should only be granted on the basis of eligibility and a constant monitoring of the quality of assistance.

## The current DM framework in South Sudan

*Dominic Clarence, Secretary, Ministry of Humanitarian Affairs and Disaster Management*

Coordination with the humanitarian community commenced during the struggle. It was however since independence that the authorities were empowered to start facilitating and regulating this coordination. For example, the RRC was able to provide for travel permits after the independence. Currently, the South Sudan government is in the process of developing laws and policies pertaining to disasters. What South Sudan wants is a legal framework that is flexible enough to address an emergency situation. A Bill on NGOs is currently being finalised, which provides for entry of personnel and relief goods, including exemptions from taxation, work permits for disaster relief personnel and registration of organisations. However, at this time there is no Disaster Management policy setting out the institutional framework and responsibilities. The development of a DM Policy is scheduled for 2013, and it is the intention to make sure it also includes the issues highlighted in the IDRL Guidelines.

## Working group sessions: using legal tools to solve DM problems

### *Fictional disaster scenario*

Ms Boswijk led a presentation that introduced the participants to the fictional country Zaland, which is hit by floods. This fictional disaster scenario formed the basis around which the participants would analyse and discuss the issues raised in the working group sessions. Participants were encouraged to 'think like a lawyer'.

### *Working groups session 1: Initiation and entry of international relief*

This session focused on international instruments governing requests and offers for assistance, and the problems international actors may encounter at customs. A set of questions addressed the legal instruments governing the entry of relief personnel and importation of specific humanitarian items such as radio equipment.

### *Working groups session 2: Entry of special goods and operations of international relief*

This session was designed to improve the participants' understanding of the regulatory issues that can arise once international actors enter the domestic sphere, such as registration requirements and recognition of professional qualifications of foreign medical staff, as well as distribution of foreign medication. Participants were asked to consider recommendations or solutions available under the IDRL Guidelines or Model Act.



# Improving Disaster Law in South Sudan: Conclusions and recommendations

*Moderation: Sanne Boswijk, IFRC*

Bearing in mind the knowledge generated in the working group sessions, the participants assessed the legal preparedness of South Sudan and possible steps forward for the country.

The Government of South Sudan is committed to humanitarian assistance as well as legal preparation for it. South Sudan is currently developing laws and procedures relating to disasters, for instance a law pertaining to the regulation of NGOs. In fact, the Council of Ministers has suggested the establishment of an 'NGO desk', encompassing all relevant agencies, to streamline the registration, quality monitoring and operational coordination. For 2013, the Ministry of Humanitarian Affairs and Disaster Management intends to convene stakeholders to start developing DM Policy. This process of regulating international disaster response operations should involve all stakeholders, such as Customs, the Brigadier of Police, the Ministry of Finance, the decentralized States, and all other relevant stakeholders in Disaster Management. In addition, to learn from international experience, the authorities will identify international good practice on DM policies. The government requests the support of its partners in this process. The IFRC and the South Sudan Red Cross Society are available to support the South Sudanese authorities in the development of these national level instruments. UN OCHA looks forward to the developments in this field of disaster response laws and congratulates South Sudanese authorities with their ongoing work to coordinate with the international community.



*All participants received a Certificate of Completion out of the hands of Arthur Poole, Secretary General, South Sudan Red Cross Society and Peter Iseli, Country Representative for South Sudan, IFRC.*