



Disaster Law



CASE STUDY

Disaster Law in Malawi

Saving lives and keeping communities safe through the development of national climate, disaster and emergency-related legislation, policies and procedures.

Protecting communities, strengthening legal frameworks

Malawi faces substantial disaster risks from floods and droughts as well as earthquakes, fires, epidemics and landslides. With half the population living below the poverty line, the impact of disasters on already vulnerable communities is significant.

Malawi Red Cross is one of the key national humanitarian organisations that supports the Government in disaster risk management. Seeing the impact of frequent disasters and the need for a strengthened disaster risk management system to keep people safe, save lives, and better facilitate the flow of international assistance, Malawi Red Cross in 2013, through its auxiliary role with government, advocated to begin the process of reviewing the legal framework for international disaster response.

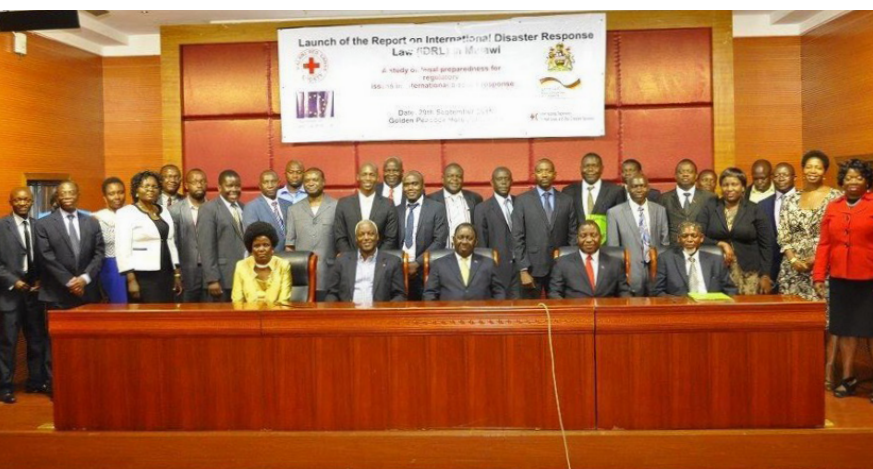
The first stage of the project was a study that mapped and analysed Malawi's current framework for disaster risk management. Then, using the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines) as a benchmark, Malawi Red Cross, with the support from IFRC Disaster Law, led an international disaster response laws, rules and principles project alongside the Malawi Department of Disaster Management Affairs (DoDMA). This project included extensive government, civil society and community engagement.

The project culminated in a report, Legal preparedness for regulatory issues in international disaster response,

which recommended regulations to guide national authorities in requesting, vetting and accepting international humanitarian assistance. The report also recommended clearly outlining the role of Malawi Red Cross in disaster risk management.

Malawi Red Cross, a national expert on disaster law, further advocated with the government to provide technical support to implement the report recommendations and was entrusted by the government to review the recommendations and revise the Disaster Preparedness Relief Act (DPR Act) of 1991. The revision included provisions on how to request and utilise international assistance as well as the obligations for international actors operating in Malawi. Draft Operations Guidelines were developed as an addendum, to provide regulation on the receipt and coordination of international assistance, responsibilities of assisting international actors, processes involved in the initiation and termination of International Disaster Relief and Initial Recovery Assistance, as well as the legal facilities available for the entry of personnel, goods and equipment, and their use during operations.

Legislation and policy processes can take significant time to develop and implement, but while the draft Disaster Risk Management Bill (DRM Bill) awaits approval from Parliament, the learnings and awareness of the role and importance of disaster law have been widely felt in Malawi.



Representatives from Malawi Red Cross, Malawi Department of Disaster Management Affairs and supporting partners at the report launch event.

“Through the incorporation of IDRL provisions in the draft Bill, a clear set of rules and procedures will guarantee that the appropriate aid is timely received and reaches the population in need. It will also facilitate coordination between national and international stakeholders and will enhance the localisation of aid.”

PRISCA CHISALA

*Director of Programmes and Development,
Malawi Red Cross.*

Community engagement and participation

The review of disaster laws requires extensive, participatory consultations, not only with the policymakers but also with communities at risk – the people who are most affected by disasters and who need the most assistance.

As part of the consultative process, a task force chaired by DoDMA was established to provide a platform for all stakeholders with a role in disaster risk management to engage in, facilitate and contribute to the review and drafting process. More than 70 stakeholders were consulted as part of the review.

These consultations ensured that the DRM Bill was reflective of local issues, risks and needs. This localised engagement is critical in ensuring local actors have agency in disaster response to address the needs of their communities in a timely way.

When the DRM Bill is adopted, Malawi Red Cross will support DoDMA with the implementation and dissemination of this instrument by raising awareness of rights, roles and responsibilities of disaster management actors at the local and national level as well as within the community.

A community engagement session in Malawi, allowing people most affected by disasters to be included in developing the draft DRM Bill.

What are the International Disaster Response Law Guidelines?

Even the best-prepared governments may need international assistance when a major disaster strikes. However, few governments are legally prepared to receive a sudden influx of international assistance. A lack of legal preparedness can delay lifesaving assistance, while also creating quality control and coordination problems.

International Disaster Response Law (IDRL) is the area of disaster law that deals with the facilitation of international disaster assistance. IFRC is globally recognised as leaders in IDRL, having developed the IDRL Guidelines, as well as a suite of complementary IDRL tools, which have been successfully used around the world.

The IDRL Guidelines are a set of recommendations to governments about how to prepare their disaster laws and plans to mitigate the common regulatory problems that arise in international disaster response operations.



Disaster Law in Southern Africa

Southern Africa is one of the regions most affected by the serious impacts of climate-induced disasters. In 2019 for example, a succession of cyclones and floods resulted in significant loss of life and livelihoods in Malawi, Mozambique, South Africa and Zimbabwe. Humanitarian organisations, including members of the International Red Cross and Red Crescent Movement, contributed to disaster preparedness, emergency responses, as well as recovery and reconstruction efforts.

Many national economies in Southern Africa are agriculturally-based, and as long as climate change mitigation strategies enshrined in existing global policies are not wholeheartedly implemented, a significant portion of the 340 million inhabitants of Southern Africa could be food-insecure in the coming years because of famine. An increase in the mass movement of people from areas affected by climate-induced natural disasters is also more likely. Internal and external migration will necessitate greater coordination among humanitarian organisations to adequately support receiving communities and countries to respond to the added burden introduced by new arrivals.

This is why strong disaster laws are important in the region – to ensure that future risks are mitigated and that clear rules and procedures ensure timely and effective disaster response.

IFRC Disaster Law

IFRC Disaster Law works with Red Cross and Red Crescent National Societies and governments to strengthen disaster risk governance, through the development and implementation of climate, disaster and emergency related legislation, policies and procedures.

With 20 years' experience developing and implementing disaster law and policy around the world, we are the global leader in providing technical advice to governments.

Our unique work includes providing holistic support to governments on disaster risk management; ensuring the link between disaster law and public health emergencies, such as the COVID-19 pandemic, protection, gender inclusion, displacement and climate change adaptation.

Get involved

As we face climate change, a global pandemic and increasingly frequent and severe disasters, the need to strengthen disaster laws, policies and plans is greater than ever.

There are various ways you can get involved or support the work of IFRC Disaster Law around the world. We welcome opportunities to partner with international organisations, law firms, government agencies and academic institutions on disaster law projects.



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