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The Applicability of International Disaster Relief Law to Situations of Public Health Emergency

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An Examination of the IFRC Model Emergency Decree for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (2017)

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M.A. in International Humanitarian Action

Abstract

Recent public health emergencies (PHEs) such as the SARS-CoV-2 coronavirus 2020 have proved that no state can reasonably consider itself immune to the effects of health crises. In the wake of PHEs, in-country capacities are frequently overwhelmed by the prompted increase of needs and the urgency of processing them. It is within this context that the deployment of international relief operations (IROs) plays a substantive role. Up to 2021, there is no global legislative framework to govern the inflow of foreign relief operations in PHE settings on an international scale. This study argues that this void of regulation constitutes a legislative gap and thus explores venues to circumvent it. In doing so, this research examines the application of International Disaster Relief Law (IDRL) to PHEs. The study uses a socio-legal research methodology and, it undertakes the Model Emergency Decree for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (2017) as the instrument of study. The research firstly assesses whether or to what extent the scope of the Model covers PHE situations and whether or to what extent the provisions of the document encompass the features of health crises. Following this analysis, the study puts forth a compendium of recommendations to accommodate the standing version of the Model (2017) to PHEs.

* This Working Paper is a revised version of a master's thesis originally submitted in the Joint European Master's Program in International Humanitarian Action (NOHA) at the University of Groningen, supervised by Dr. Talita Cetinoglu.

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Content

List of Acronyms

ALLEA	All European Academies
DRC	Democratic Republic of Congo
DRM	Disaster risk management
DG ECHO	Directorate General for Humanitarian aid and Civil Protection
EHA	Emergency and Humanitarian Action
EMT	Emergency Medical Team
ERCC	Emergency Response Cooperation Centre
EVD	Ebola virus disease
FAO	Food and Agriculture Organization
G&Es	Goods and equipment
GDPR	General Data Protection Regulation
GHSA	Global Health Security Agenda
GOARN	Global Outbreak Alert and Response Network
HIV	Human Immunodeficiency Virus
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	International Committee of the Red Cross
IDRL	International Disaster Relief Law
IFRC	International Federation of the Red Cross and the Red Crescent Societies
IHL	International Humanitarian Law
IHRL	International Human Rights Law
ILC	International Law Commission
INGO	International non-governmental organization
IP	Intellectual property
IPU	Inter-Parliamentary Union
IROs	International relief operations
MoH	Ministry of Health
MoU	Memorandum of Understanding
MSF	*Médecins Sans Frontières*
NGO	Non-governmental organization
N.d.	No date

PCR Test	Polymerase chain reaction test
PHAP	Professionals in Humanitarian Assistance and Protection
PHE	Public health emergency
PHEIC	Public health emergencies of international concern
PPE	Personal protective equipment
RAT	Rapid antigen test
Res.	Resolution
SCM	Supply chain management
SoD	State of disaster
SoE	State of emergency
UNGA	United Nations General Assembly
UN OCHA	United Nations Office for the Coordination of Humanitarian Affairs
WBG	World Bank Group
WHO	World Health Organization
WHA	World Health Assembly
WOAH	World Organization for Animal Health
WTO	World Trade Organization

List of Abbreviations

COVID-19	SARS-CoV-2, coronavirus (2020)
Draft Articles	Draft Articles on the Protection of Persons in the Event of Disaster (2016)
IDRL Report	IDRL report on 'Law and Public Health Emergency Preparedness and Response: Lessons from the COVID-19 pandemic' (2021)
IFRC Checklist	The Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (2017)
IFRC Disaster Law Toolbox	Disaster Law Toolbox commissioned by the IFRC.
IFRC Guidelines	The Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (2007)
IFRC Model Act	The Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (2013)
IFRC Model Emergency Decree	Model Emergency Decree for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (2013)
OEIWG Report	Report of the open-ended intergovernmental expert working group on indicators and terminology relating to disaster risk reduction (2017)
Tampere Convention	Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (1998)
The TRIPS Agreement	The Agreement on trade-related Aspects of Intellectual Property Rights (1994)
The Sendai Framework	The Sendai Framework for Disaster Risk Reduction (2015)
WHA COVID-19 Resolution	World Health Assembly's resolution on the COVID-19 response (2020)
WHO Framework	WHO Health Emergency and Disaster Risk Management Framework (2019)
WTO Agreement	Marrakesh Agreement Establishing the WTO (1994).

1. Introduction

1.1. Background

Research and experience have highlighted the complexity of managing international assistance operations, irrespective of the nature of the crisis itself. One aspect underlying such complexity is the bureaucratic deadlock faced by the international relief operations in the absence of domestic procedures that regulate international relief and initial recovery assistance. For the purpose of this study, the term "international relief operation (IRO)" refers to the foreign relief operations sent from third parties to the affected country when disaster strikes in non-conflict settings. The IROs may include relief supplies, technical support, emergency teams or assistance of a similar kind.

In the wake of emergencies, states frequently devise hasty approaches that result in the absence of coordination, unnecessary restrictions, delays, and unforeseen expenses for intervening international actors (IFRC 2017a, 4). These administrative bottlenecks range from customs barriers and visa issues to taxation of aid, and they usually arise in an attempt to apply ordinary regulatory frameworks to the extraordinary event of an emergency. The well-known delay in the vaccination program for SARS-CoV-2 coronavirus (COVID-19) caused by logistics constraints and intellectual property restraints illustrates the matter (Lee/Chen 2021, 685).

Although this problem extends to sudden-onset emergencies of all kinds, regulatory complications in the event of an outbreak of infectious diseases affect responders in a very particular manner. Some examples of measures required to ensure these operations include the waiver of travel restrictions, the recognition of professional qualification of medical personnel or the customs clearance for sensitive items, such as surgical material (IFRC 2007, 11). Likewise, as noted by the World Health Organization (WHO), globalization and the interdependence of healthcare staff, goods and equipment have added a layer of difficulty in the response to the outbreak of infectious diseases (World Health Assembly 2006, 3). International mobility, interconnectivity and the appearance of newfound infectious diseases has led to a sequence of factors that facilitate infections by bringing together vector and reservoirs (WHO 2007, 9). In sum, the difficulty to contend with infectious diseases rises exceedingly, and so does the complexity of what is needed and who is needed to respond.

Whereas the Charter of the United Nations and the principles of international law dictate that the primary responsibility for emergency response rests with the state, in-country coping capacities are frequently overwhelmed by the prompted increase of needs and the urgency of processing them (WHO 2007, 5). It is within this context that the deployment of international relief operations (IROs) to respond to health emergencies plays a substantive role. No state can reasonably consider itself immune to the effects of epidemics and pandemics. In this scenario, the establishment of legal frameworks that regulate and facilitate the intervention of foreign relief operations is of utmost importance. Up to 2021, such legal or regulatory frameworks are not common. If they are in place, they lay almost exclusively in the domestic legal frameworks of the states concerned and are poorly attuned to the features of health crises (IFRC 2011, 3). This void of regulation and

the importance of establishing it are the two key reasons used for this study to argue that there is a legislative gap *vis-à-vis* the facilitation and regulation of IROs in situations of PHEs. This legislative gap constitutes the problem identified by this research. The study hereby explores venues to circumvent it.

The research objective is to explore the prospective application of the IDRL to PHEs. In particular, the study examines the possibility of transposing an existing instrument developed under the frame of IDRL regulations and applicable in situations of disasters, to situations of PHEs. This instrument corresponds to the International Disaster Law Toolbox commissioned by the IFRC (hereafter 'the IFRC Disaster Law Toolbox' or 'the Toolbox'). The Toolbox is made up of a set of documents geared towards the regulation and facilitation of foreign relief operations. Further details on the Toolbox are included in section 1.1.1. To better understand this research, it is essential to acknowledge that the instrument remains silent on whether PHEs are considered under the scope of the Toolbox. The study focuses on one document within the IFRC Disaster Law Toolbox, being the 'Model Emergency Decree for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance' (hereafter 'IFRC Model Emergency Decree' or 'the Model').

The Model is the penultimate document released by the IFRC as part of the IFRC Disaster Law Toolbox, and it was published in 2017 (IFRC n.d.-a, 3). The Model constitutes the most elemental tool among the other instruments available in the Toolbox, which allows for an examination of the applicability of IDRL to PHEs in a synthesized manner. Furthermore, documents of this type have proved useful in scrutinizing the role of the law in managing varied contexts. This is the case of the report 'Law and Public Health Emergency Preparedness and Response' commissioned by the IFRC, in which the role of the law in managing PHEs is examined through an emergency decree mapping (IFRC 2021b). Ultimately, the method that this report employs assesses a range of emergency decrees to obtain a snapshot of a given practice. This method serves as a precedent for both method and methodology engaged in this study (IFRC 2021b, 49).

The research questions reads: "How has the 'IFRC Disaster Law Toolbox' been applied to disasters prompted by the outbreak of infectious diseases in non-conflict settings? Which recommendations can be provided to ensure its due applicability?" The study examines the "applicability" of the Model through the study of the scope and content of the instrument using a socio-legal research methodology. To answer the research question, the study assesses first whether or to what extent the scope of the instrument covers public health emergencies and whether or to what extent the provisions of the document encompass the features of health crises. Following this analysis, the dissertation puts forth a compendium of recommendations to accommodate the current version of the Model to disasters prompted by the outbreak of infectious diseases. Ideally, this set of recommendations would incentivize a formal amendment of the IFRC Model Emergency Decree and, by extension, lay ground for the review of the totality of documents that compose the IFRC Disaster Law Toolbox to adapt its application to situations of PHEs.

1.1.1. The IFRC Disaster Law Toolbox

To better understand the foundations of this study, it is important to comprehend what the IFRC Disaster Law Toolbox is about. This sub-section provides some background information on the Toolbox and presents the range of documents that compose it.

The IFRC Disaster Law Toolbox is a set of documents issued by the IFRC aimed at providing recommendations to national governments on how to prepare disaster response laws that minimize the barriers faced by foreign relief actors during the course of their interventions. The problems it seeks to prevent range from restrictions in customs clearance for relief G&Es, delays in obtaining necessary permits for humanitarian personnel or strains in legal registration for foreign humanitarian organizations (IFRC 2007, 7). The IFRC Disaster Law Toolbox comprises four main documents as outlined below.

(i) The Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (hereafter 'the IFRC Guidelines'), published in 2007.
(ii) The Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (hereafter 'the IFRC Model Act'), published in 2013.
(iii) The Model Emergency Decree for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (hereafter 'the IFRC Model Emergency Decree'), published in 2017.
(iv) The Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (hereafter 'the IFRC Checklist'), published in 2017.

The primary and most relevant documents in the Toolbox are the IFRC Guidelines, adopted in 2007 during the 30th International Conference of the Red Cross and Red Crescent by the state parties to the Geneva Conventions and the members of the International Red Cross and Red Crescent Movement (IFRC 2011, 23). In view of the absence of "special laws" that facilitated the inflow of foreign relief operations, the IFRC released an instrument that advises in-country authorities as to the minimum quality standards they should insist upon when receiving humanitarian assistance and the kind of legal facilities aid providers need in order to work effectively (IFRC 2007, 6; IFRC 2011, 8). The IFRC Guidelines, however, appeared to be rather theoretical to governmental officials, who recurrently requested from the IFRC a sample document that reflected how the IFRC Guidelines could be translated into legislative language (IFRC 2013, 7).

In response to these requests, the IFRC partnered with the UN Office for the Coordination of Humanitarian Affairs (OCHA) and the Inter-Parliamentary Union (IPU) to elaborate the IFRC Model Act in 2009 (IFRC 2017a, 5). The document benefitted from the advice of over 200 experts, including senior officials from governments, the IFRC, UN agencies and NGOs, legislative drafters, members of parliament, regional organizations, and academia. During the piloting process of the document, stakeholders noted that a similar tool in the format of an emergency decree would be better suited to the contexts concerned. The IFRC Model Emergency Decree was therefore developed in 2017 with the objective of operationalizing the IFRC Guidelines and supplementing the IFRC Model Act (IFRC

2017a, 5). The last document launched by the IFRC is the IFRC Checklist, published in 2017. The instrument allows states to evaluate their existing domestic frameworks against the recommendations of the IFRC Guidelines (IFRC 2017b, 4).

All in all, the documents that compose the Toolbox derive from the IFRC Guidelines and aim to guide national authorities on their response to emergencies. In the following sections of this introductory chapter, the problem statement is outlined, followed by a presentation of the aim and research objective, the research question and sub-questions, and the justification of the research. Lastly, the thesis outline is disclosed.

1.2. Problem Statement

The problem statement of this paper stems from the complexity of managing international relief operations and can be defined as two-folded. It concerns, firstly, the existence of a legislative gap regarding the regulation of IROs inflows in PHEs; and, secondly, the lack of adaptability of the IFRC Disaster Law Toolbox, originally developed to situations of disasters, to situations of PHEs. The following paragraphs elaborate on the problem and present the arguments that have been used to build a case for this study.

The difficulty of managing international assistance operations, notably PHEs, has been widely reported (IFRC 2017a, 1). Although the COVID-19 outbreak in 2020 constitutes a case study on its own, it serves to illustrate this complexity. The pandemic raised issues of border closures, the imposition of restrictions on the import or export of goods, privacy concerns related to tracing requirements, and the restricted access for international humanitarian personnel (IFRC 2021b, 124). These regulatory and administrative barriers slowed down the response to the emergency and impaired the efficiency of the relief operations at its core. Besides, the absence of a global legal framework to orchestrate the interventions in a comprehensive, proportionate, and time-bound manner only worsened the situation. Whereas the World Health Assembly's resolution on the COVID-19 Response (hereafter the 'WHA COVID-19 Resolution') stressed the need for states to put in place a "whole-of-society response" to ensure the collaboration with relevant stakeholders; the emergency decree mapping on PHE management commissioned by the IFRC (2021b) reported that *ad hoc* arrangements had been the most extended practice during the COVID-19 crisis (IFRC 2021b, 65; World Health Assembly 2020). This statement shows that the elaboration of norms by affected states was made in a reactive manner, as opposed to a preventive one, which had detrimental consequences on the crisis response. It also flagged the importance of elaborating a standardized legal framework that helps to avoid pitfalls when PHEs strike.

The first layer of the research problem lies, therefore, in the existence of a legislative gap on the international regulation of IROs during PHEs. As mentioned before, no global legislative framework regulates incoming flows of IROs at an international scale. In the absence of domestic regulatory frameworks, the national capacity to oversee and facilitate the entry of IROs is compromised. It often results in cumbersome administrative barriers that jeopardize the quality of the operations and ultimately expose the population of concern. This void of regulation needs to be addressed to prevent "unnecessary red tapes" and "poor quality and coordination from some international providers", as the IFRC underlined (IFRC 2011, 8).

The second layer of the research problem derives from the solution postulated by this research to circumvent the identified gap. The study proposes the examination of the IFRC Disaster Law Toolbox. The documents pertaining to the Toolbox have been mentioned in 22 UN General Assembly Resolutions adopted between 2003 and 2017; and, since 2015, have been used by 22 countries to adopt laws, policies or procedures that draw from the IFRC Guidelines (IFRC n.d.-b). Albeit its relevance, the instrument presents some inconveniences when contextualized in PHEs as it was not developed to respond to health crises *stricto sensu*. The disregard of PHEs in the IFRC Disaster Law Toolbox was noted by the IFRC in an informative document titled 'Key messages for National Societies requesting humanitarian access from their authorities during the COVID-19 pandemic' (IFRC 2020, 1). The document provides background information on applicable international frameworks in non-conflict humanitarian assistance. When reviewing these frameworks, the IFRC noted that "the IDRL Guidelines [do not] specifically focuses on pandemics [although] they may provide a starting point for discussions" (IFRC 2020, 3). The IFRC thus implies that the transposition of the IFRC Guidelines, and the IFRC Disaster Law Toolbox, to PHEs, is not automatic although it may be subjected to examination. This dissertation draws on this declaration to hypothesize that the IDRL instruments lack certain modifications that allow the full applicability of the instrument to PHEs. The lack of adaptability of the Toolbox constitutes the second pillar of the research problem. The study aims to provide an analysis of this instrument and contribute to the discussion on how to adapt the IFRC Disaster Law Toolbox to situations of PHEs while addressing the legislative void identified.

1.3. Research Objective

The general purpose of this dissertation is to examine the prospective application of IDRL to situations of PHEs. For this examination, the research assesses whether or to what extent the IFRC Disaster Law Toolbox and, particularly, the IFRC Model Emergency Decree apply to PHE settings. The instrument is analyzed according to two main criteria defined in section 2.6. These criteria are the scope and the provisions of the IFRC Model Emergency Decree (2017). The study thus assumes that the Model is applicable to PHE settings forasmuch as (a) the scope of the instrument covers situations of PHEs, and (b) the content of the instrument adapts to the features that are particular to health crises. These two criteria also define the research's specific objective. The study aims to analyze the scope of the IFRC Disaster Law Toolbox, notably the scope of the IFRC Model Emergency Decree, and to outline some recommendations that help to adapt the instrument to infectious-disease-led disasters.

Furthermore, the research aims to contribute to academic and practitioner debates on prevention and preparedness in situations of epidemics and pandemics. Although the analysis is exploratory and non-exhaustive, the dissertation intends to illustrate the importance of legal preparedness to minimize the adverse impact of health crises. It attempts to give evidence on how these preventive measures can be implemented in practice and, to do so, it engages with the proposition made by the IFRC in March of 2020 concerning the adaptation of the IFRC Disaster Law Toolbox to situations of PHEs. In the same fashion, the research seeks to identify and respond to the operational setbacks that arise in epidemics and pandemics, noting how these pitfalls divert from the ones that arise

in situations of meteorological or geophysical disasters. Lastly, the dissertation aims to illustrate the global nature of the PHEs thus demonstrating why these emergencies need to be regulated at a global scale. In the light of the COVID-19 crisis, a range of policy papers and reports on epidemic preparedness have suggested the strengthening of local capacities to ensure timely and effective humanitarian assistance (IFRC Disaster Law n.d., 1). Attention to the international management of relief operations when in-country capacities are overwhelmed has been rather limited in the literature. The study also contributes to this understudied discussion and offers a thorough analysis that helps to prevent, reduce or cope with the risk posed by PHEs at the domestic, regional and international levels.

1.4. Research Question

The research question reads as follows:

> How has the 'IFRC Disaster Law Toolbox' been applied to disasters prompted by the outbreak of infectious diseases in non-conflict settings? Which recommendations can be provided to ensure its due applicability?

In view of the research question, the following sub-questions have been answered:

- *What can be defined as a "disaster"? What are the particularities of disasters when they are prompted by the outbreak of infectious diseases in non-conflict settings?*
- *Which are the legal and regulatory frameworks applicable to disasters prompted by the outbreak of infectious diseases in non-conflict settings?*
- *What is the scope of the IFRC Disaster Law Toolbox? What is the scope of the IFRC Model Emergency Decree?*
- *Which are the key differences between situations of meteorological and geophysical disasters and PHEs? How should these differences be considered within the frame of the IFRC Model Emergency Decree?*

1.5. Justification for Research

The rationale of the study draws on the urgency of developing a legal (hard law) or regulatory (soft law) framework that ensures a comprehensive and coordinated response to PHEs (IFRC 2021b, 64; World Health Assembly 2020). The relevance of the topic is backed by several resolutions adopted by the WHO and the UN General Assembly. These resolutions include, among others, the UN General Assembly's omnibus resolution 'Comprehensive and coordinated response to the coronavirus diseases (COVID-19) pandemic' and the, already mentioned, WHA COVID-19 Resolution adopted by the WHO during the 73rd World Health Assembly on 19 May 2020 (United Nations General Assembly 2020; World Health Assembly 2020). The documents provide guidance to states on the response to the pandemic. In doing so, both the UN and WHO urged states to ensure respect for human rights and fundamental freedoms while guaranteeing exceptions for relevant stakeholders, notably for humanitarian and health workers (IFRC 2020, 59). The emergency decree mapping commissioned by the IFRC (2021b) revealed a wide-ranging room for improvement on the implementation of these recommendations

(IFRC 2021b, 74). The resolutions thereby illustrate the efforts made by the global community to respond to the COVID-19 crisis and, more importantly, they show that improvement remains necessary in the facilitation and regulation of incoming IROs while responding to PHEs.

2. Methodology

This chapter aims to present the theoretical foundations of the selected methodology, the research design and the data collection method. Subsequently, the chapter explains the strategy employed to analyze the collected data and highlights several ethical considerations. The chapter concludes by highlighting the limitations of the study and how the researcher intended to minimize their impact.

2.1. Theoretical Foundation: The Socio-Legal Research

The dissertation conducts socio-legal research that explores the prospective application of the IFRC Model Emergency Decree (2017) to disasters prompted by the outbreak of infectious diseases, namely PHEs.

Singh et al. (n.d.) explain that "a socio-legal study is an interdisciplinary approach to analyze [...] the relationship between [the law] and the wider society" (2). The socio-legal methodologies draw from social sciences and involve a dual analysis. On the one hand, it concerns the empirical study of a social context in which the law is invoked. On the other hand, it involves the theoretical examination of the provisions of the law (Elmore 1981; Gessner et al. 1988; Singh et al. n.d.). In this dissertation, the social element corresponds to the regulation and facilitation of the incoming IROs in response to situations of epidemics and pandemics; and the legal instrument that is scrutinized for this purpose is the IFRC Model Emergency Decree. Although the IFRC Model Emergency Decree is not a binding legal document (hard law) as such, its provisions are suitable to be incorporated in the domestic legal frameworks of the receiving states. This incorporation frequently leads to an in-country emergency decree whose provisions are almost identical to the ones included in the Model, thus turning this quasi-legal document into a legally binding document in its own right. This research identifies the IFRC Model Emergency Decree as a "quasi-legal" instrument or, put differently, as a non-binding document that could potentially evolve into a binding one when incorporated in the domestic legal framework of a given state under the shape of an emergency decree.

The characteristics of the socio-legal research employed in this dissertation are also worth specifying. As presented by Gessner and Thomas (1988), one can discern a variety of socio-legal research designs, each of which may have implications on the norm-formation process. This dissertation engages with what the authors define as the "instrumental" type in which the law is perceived as an instrument that serves to regulate the social context where it applies (Gessner/Thomas 1988, 96). This study also draws from Banakar and Travers (2005), who note that the socio-legal method employs social sciences not so much for substantive analysis but "as a means of data collection" (4). The study thus begins with a legal analysis of the IFRC Model Emergency Decree (2017) as the instrument of study. It examines the scope of the Model as well as the features of the instrument as an "emergency decree" document. This examination brings the "legal element" to the socio-legal method employed in this study. The research continues with the empirical analysis of foreign relief interventions in PHE settings, allowing for the identification of the characteristics that are particular to health emergencies against disasters of another kind. In this empirical analysis, the "social element" comes into play as it collects hands-on

experience from PHEs practitioners and researchers. Once these features are identified, the research reverts to the quasi-legal document and offers recommendations on how to adapt it to situations of PHEs. This analysis brings again the "legal element" of socio-legal research, this time by analyzing the content of its provisions.

Ultimately, the research cultivates the linkage between the social sciences and the law. It collects primary data, reviews secondary data specific to PHEs and cross-checks the findings against the provisions included in the IFRC Model Emergency Decree (2017). Socio-legal methods also contain inherent limitations that are considered and presented in section 2.8. The succeeding section elaborates on how the research has been designed.

2.2. Research Design

The research design is geared towards the examination of the applicability of the IFRC Disaster Law Toolbox and, particularly, the applicability of the IFRC Model Emergency Decree to situations of epidemics and pandemics. The research design spins around the research question and sub-questions as included in section 1.4.

The first sub-question ("What is a disaster prompted by the outbreak of infectious diseases?") is addressed in chapter 3. It sheds light on several baseline definitions whose clarification is crucial to understand the conceptual framework of the research. The key definition in this section is the term "disaster prompted by the outbreak of infectious disease", also referred to as "infectious diseases-led disaster", "epidemics and pandemics", or "PHE." The chapter illustrates the duality of the definition, in which a disaster of this type constitutes both a disaster and a health emergency. Lastly, the section shows the implications of this dualism on the legal and regulatory frameworks that apply to situations of this kind. Thus, chapter 3 lays the ground for the outline of frameworks applicable to infectious disease-led disasters presented in chapter 4.

The second sub-question ("Which are the legal and regulatory frameworks applicable to disasters prompted by the outbreak of infectious diseases in non-conflict settings?") constitutes chapter 4. It consists of a review of the legal (hard law) and regulatory (soft law) frameworks applicable to both disasters and PHEs, in a non-conflict setting. The chapter gives evidence for the legislative gap on the facilitation and regulation of IROs in situations of epidemics and pandemics as claimed in section 1.2, thereby demonstrating the relevance and validity of the problem statement.

The following sub-questions correspond to the two criteria designed to examine the applicability of the IFRC Disaster Law Toolbox to situations of epidemics and pandemics. These criteria were inspired by the literature review in which matters of scope and substance were found relevant to determine the applicability of the instrument. These criteria are used to identify the particularities of PHEs against geophysical and meteorological disasters. Likewise, the study examines whether the IFRC Model Emergency Decree and, ultimately, the IFRC Disaster Law Toolbox apply in situations of PHEs. It mirrors the structure of socio-legal research in which the analysis of a legal document and a social phenomenon intertwines.

The analysis starts with the examination of the scope of the IFRC Model Emergency Decree. It constitutes the third sub-question ("What is the scope of the IFRC Disaster Law

Toolbox? What is the scope of the IFRC Model Emergency Decree?"). This sub-question is answered in chapter 5. Firstly, the chapter examines to what extent epidemics and pandemics fall under the definition of "disaster" adopted by the IFRC Disaster Law Toolbox. Secondly, it shows the limitation of the Model by exploring the scope of an "emergency decree" document. In doing so, the chapter breaks down the definition of "disaster" to explore the limits of its scope, and it identifies the limitations of the Model when regulating the inflow of IROs through a document in the format of an emergency decree.

Subsequently, the study examines the content of the provisions included in the IFRC Model Emergency Decree. It constitutes the fourth set of sub-questions ("Which are the key differences between situations of meteorological and geophysical disasters and PHEs? How should these differences be considered within the frame of the IFRC Model Emergency Decree?"). This sub-question is answered in chapter 6. The chapter outlines the most salient provisions that should be included in the Model when applying it to situations of PHEs. It also identifies the regulatory barriers that arise in situations of epidemics and pandemics and assesses to what extent they could be circumvented by the IFRC Model Emergency Decree. The chapter presents the results of a desk review and several expert interviews, as indicated in section 1.4. It provides a helicopter view of the *modus operandi* of PHEs as well as a snapshot of the most relevant issues covered by scholars in the literature.

This study concludes with an informed discussion in chapter 7. This section draws from the analysis developed in chapters 5 and 6 to answer the research question. The chapter assesses whether or to what extent the IFRC Model Emergency Decree could be transposed to situations of PHEs. Subsequently, the chapter provides some recommendations that help to accommodate the current version of the Model to epidemics and pandemics. The chapter concludes by stressing the importance of incorporating prevention and preparedness measures that regulate the response in the context of health crises. It also flags four principles that can guide these measures.

2.3. Research Material and Data Collection

For the purpose of this dissertation, both secondary and primary data was consulted. Secondary sources provide background information that allows for a thorough understanding of definitions, lessons learned and, ultimately, the issue of concern: the applicability of the IDRL to PHEs. Primary sources were utilized as both the instrument of study and the sources to triangulate the secondary data collected via the literature review.

2.3.1. Secondary Data

The secondary data employed in this dissertation was extracted almost exclusively from two key sources: the IFRC and the WHO. The IFRC secondary resources comprise documents such as the Commentary of the IFRC Model Emergency Decree (2017), the IFRC document on 'Key messages for National Societies in requesting humanitarian access from their authorities for their preparedness and response efforts during the COVID-19 pandemic' (2020b), and the IDRL report on 'Law and Public Health

Emergency Preparedness and Response' (2021b) (hereafter 'the IDRL Report'). Likewise, the researcher attended a high-level panel on 'Implementing Lessons from COVID-19 in Public Health Emergency and Disaster Law' (2021a), in which best practices and lessons learned in response to the COVID-19 pandemic were presented, and the IDRL Report (2021b) was launched. The sources present an array of reports, policy-related documents and case study records that provided contextual information on the ongoing efforts to correlate IDRL and PHE responses. Furthermore, the WHO secondary documents, such as the 'WHO Health Emergency and Disaster Risk Management Framework' (hereafter the 'WHO Framework') (2019), provided direction regarding the overall management dynamics in epidemics and pandemics. Likewise, the secondary sources were essential to give background to the definition of "disaster prompted by the outbreak of infectious diseases" in chapter 3, to conduct a review on the existing legal and quasi-legal frameworks applicable to PHEs in chapter 4, and to scrutinize the problems associated to health crises examined in chapters 5 and 6, respectively.

2.3.2. Primary Data

The researcher distinguishes between two types of primary data that includes the IFRC Model Emergency Decree (2017) and one-to-one interviews of experts.

2.3.2.1. The IFRC Model Emergency Decree

The IFRC Model Emergency Decree constitutes the instrument of examination. The document presents a pilot version of an emergency decree, and it is composed of 37 articles in draft format from which relevant authorities can draw inspiration as they develop domestic legislation. The provisions herein reflect ten different aspects that compose their table of contents. Table 1 below discloses the contents of the Model. This study analyses its provisions on an article-by-article basis and in the light of the three overarching themes identified in the pre-established qualitative coding. These topics concern the state responsibilities, regulation of incoming items, and regulation of approved actors. Further details on the qualitative coding and data analysis are presented in section 2.6.

Table 1: Provisions of the IFRC Model Emergency Decree (2017)

1. Coordination of international disaster assistance (articles 1, 2).
The section deals with the focal point of coordination for international assistance as well as the competent authority responsible for declaring the state of emergency (SoE) (IFRC n.d.-a, 4).
2. Offers and acceptance of international disaster assistance (articles 3, 4).
The section concerns the response to international calls for assistance and the responsibilities of the affected states (IFRC n.d.-a, 7).
3. Responsibilities of assisting international actors (articles 5 to 7).
The section alludes to the responsibilities of approved actors to meet reasonable standards of quality and accountability in their operations (IFRC n.d.-a, 8).
4. Eligibility for facilities (articles 8, 9).

The section refers to the special entitlements provided to the approved actors during the international disaster relief and initial recovery periods (IFRC n.d.-a, 11).

5. International relief [and initial recovery] goods and equipment (articles 10 to 18).

The section fleshes out ways in which imported goods and equipment should be processed under expedited procedures (IFRC n.d.-a, 14).

6. Legal status and facilities for approved actors (articles 19 to 23).

The section sets out the legal provisions to ensure that approved actors are able to operate legally while avoiding delays in the initiation of their relief operations (IFRC n.d.-a, 22).

7. International disaster personnel of approved actors (articles 24 to 27).

The section unfolds key legal elements relevant to the international personnel of approved actors, including the entry of international personnel (IFRC n.d.-a, 27).

8. Specialized unit to expedite the entry of incoming international assistance (articles 28 to 32).

The section establishes a specialized unit for expediting the entry of international disaster assistance to improve the facilitation of international disaster assistance (IFRC n.d.-a, 29).

9. Oversight (articles 33 to 35).

The section extends beyond the scope of specific provisions within the IDRL Guidelines. It deals with transparency, safeguards and accountability for both IROs and government officials regarding their responsibilities under this Model (IFRC n.d.-a, 32).

10. Transparency as to international financial donations (articles 36 to 37).

The section also extends beyond the scope of specific provisions in the IDRL Guidelines. It concerns measures to improve accountability and transparency as to international financial donations (IFRC n.d.-a, 34).

Source: IFRC. (2017a). Model Emergency Decree for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance. IFRC. pp. 4–12.

2.3.2.2. One-to one expert interviews

The dissertation also includes primary data collected through one-to-one interviews. Before the interviews, the provisions of the Model were examined to identify the areas of the instrument that could be contested in situations of PHEs. Some of the areas include the importation of G&Es when considering vaccines or the impact of quarantine measures imposed on intervening international actors. Based on these subjects, questions were formulated and posed to experts. The expert consultations were used in chapters 5 and 6. The collected data serves to triangulate the analysis of the reviewed secondary sources and to reach the hands-on experience necessary to comprehend the research question to the fullest attainable extent.

2.4. Selection of the Model as the Instrument of Study

In this research, the IFRC Model Emergency Decree (2017) was selected as the key instrument for examination among the documents that compose the IFRC Disaster Law Toolbox. The reason to select it draws on the typology of the document ("emergency decree") and its potential use.

The IFRC Model Emergency Decree is a simple document, highly operational, potentially applicable at a global scope and capable of having an extensive horizontal impact among the states that decide to draw inspiration from it (IFRC n.d.-a). These characteristics make the instrument a notable tool to examine. Furthermore, the mapping of emergency decree documents was already considered as a method by additional research projects, such as the report on the 'Law and public health emergency preparedness and response' launched by the IFRC in 2021. This emergency decree mapping highlights the value of examining emergency decree documents to observe the law's role in managing PHEs (IFRC 2021b, 94).

Furthermore, the IFRC Model Emergency Decree is understood as the better-suited instrument to manage the crisis response in emergency contexts (IFRC 2017a). Unlike other tools in the IFRC Disaster Law Toolbox, the IFRC Model Emergency Decree is defined as a simplified and succinct tool that can be applied rapidly in the absence of specific domestic legislation, regulation, or procedures on this matter (IFRC n.d.-a, 3). Although drafters of the instrument noted the importance of adapting the content as required, this quasi-ready-to-use document offers a practical alternative for national authorities that are urged to respond in the wake of an emergency (IFRC 2017a, 7). Moreover, the concise and specific content of the instrument allows for the examination of an overarching issue in a synthesized manner. Ultimately, the examination of the IFRC Model Emergency Decree (2017) represents the initial step to determine the prospective application of the IFRC Disaster Law Toolbox to situations of epidemics and pandemics in non-conflict settings.

2.5. Sampling Method

As mentioned before, this paper conducts socio-legal research that examines the prospective application of the IFRC Model Emergency Decree to disasters prompted by the outbreak of infectious diseases. The methodology infers an empirical component within the study in which the possibility to apply the legal document in a newfound purview is explored (Elmore, 1981). By definition, this empirical component involves the collection and interpretation of primary data based on direct observation or experiences in the field (Yanow/Schwartz-Shea, 2015). The collection of primary data is, therefore, intrinsic to the selected methodology. The interviews conducted are intended to triangulate the analysis of the quasi-legal document and fill the literature gap concerning the regulation of inflows of aid in disaster prompted by the outbreak of infectious diseases.

According to Dworkin (2012), the sample size policy for qualitative research in in-depth interviews may involve a range from 5 to 50 participants (1319). In this study, seven one-to-one expert interviews were conducted. The recruitment strategy used for the interviews was defined according to purposive sampling. Participants hold practical experience in

PHE response and/or IDRL. Subjects of the interviews respond to two key profiles: PHEs responders and IDRL professionals. Overall, participants hold or have held in the past, a coordinator or a front-line role which provided them with hands-on knowledge and experience, allowed out-of-the-box thinking based on practice. During the interviews, illustrative examples were encouraged and looked upon.

In view of this overarching profile, several organizations were targeted in the recruitment process. As PHE responders, the WHO and *Médecins Sans Frontières* (MSF) were selected. The WHO expert offered a strong international overview through the lens of an inter-governmental organization, whose role predominantly concerns the guidance and support of the aid receiving states. Conversely, members of MSF provide a unique non-governmental approach to disaster response and knowledgeable experience in epidemics management. As IDRL professionals, the IFRC and members of the academia were reached. The participation of members of the Disaster Law Programme at the IFRC was of utmost importance as they are the authors of the document that this research examines. In addition, members of academia were consulted with the aim of providing an independent view on the topic of concern. Lastly, experts at the Emergency Response Cooperation Centre (ERCC) at the Directorate General for Humanitarian aid and Civil Protection (DG ECHO) were interviewed. Their coordination role served the purpose of the research as it provided an overview of the potential barriers that impaired the interventions of IROs in PHEs.

The key informants' interviews were semi-structured, and they were carried out in English, the standardized common language. The participants' locations ranged from Belgium, Malaysia and Spain tos Switzerland. The totality of the interviews was conducted online, particularly on Teams and GoogleMeets. Participants' contribution was made in a personal capacity; thus, their interventions were not attributable to the governmental, inter-governmental or non-governmental organization that they work for or have worked for in the past. Interviews were assigned a randomized number that allows for the anonymization of the information that participants shared. Any reference to the interviews contained in this study is purposely non-identifiable.

2.6. Qualitative Coding and Data Analysis

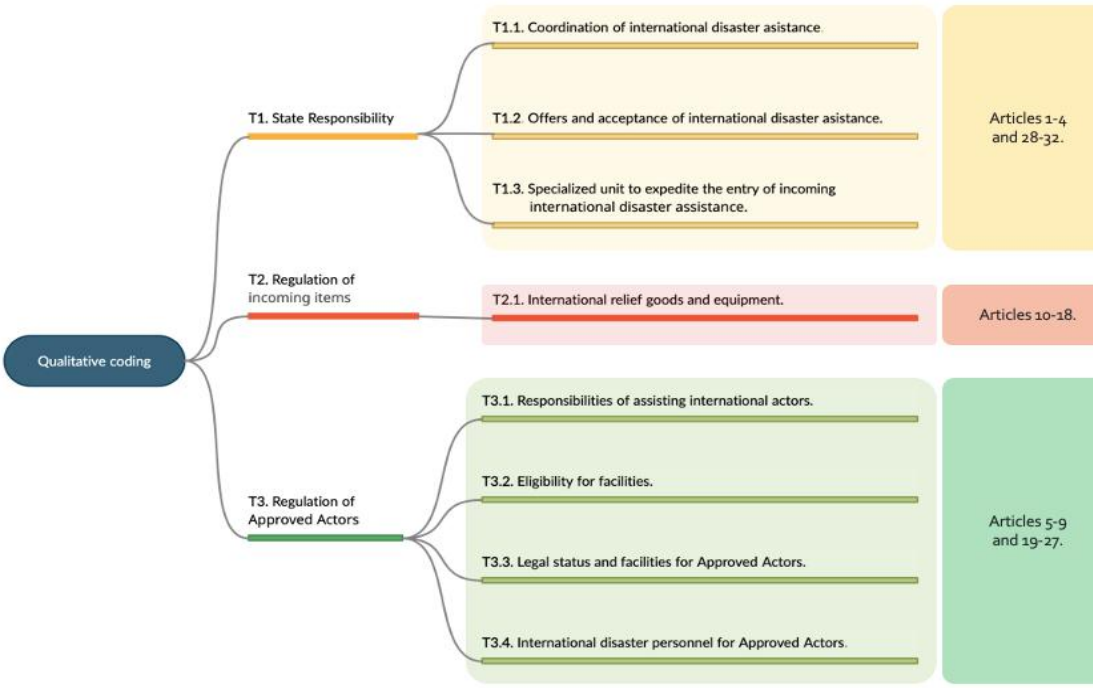
The data analysis follows a concept-driven method for qualitative coding. Following this method, the researcher employed a predefined set of codes assigned to the instrument of study (Medelyan 2020). Figure 1 below illustrates the qualitative coding employed. The codes reflect the content of the IFRC Model Emergency Decree and respond to eight overarching provisions regulated in the document and included in the table of contents. Besides, a hierarchical coding framing was utilized to discern the three overarching topics that guided the dissertation. The researcher identifies three key themes from the Model's table of contents. These themes correspond to the state's responsibility (theme 1), regulation of incoming items (theme 2), and regulation of approved actors (theme 3). They, therefore, liaise with the standing articles of the instrument of study in chapter 6.

This study examines articles 1 to 32 concerning the three overarching themes identified above. Conversely, this research excludes articles 33 to 37 concerning issues of "oversight" and "transparency as to international financial donations." As indicated by the IFRC (n.d.-

a) on the Commentary to the Model Decree, the provisions in articles 33 to 35 "extends beyond the scope of specific provisions within the IDRL Guidelines" (34). The research does not examine articles 36 and 37 either, as it presumes that the underlying provision of transparency as to international financial donations remains the same regardless of the nature of the emergency. The deliberated exclusion of these articles constitutes a self-evident limitation to the dissertation that is further discussed in section 2.8.

Based on the pre-established topics, the data is collected and analyzed. The information obtained from participants emboldens the discussion on two main fronts. On the one hand, it helped to better understand the provisions that need to be included in the IFRC Model Emergency Decree in situations of PHEs. On the other hand, it enhanced the understanding of the problems that impair the intervention of IROs in situations of PHEs, as well as their tentative solutions. This information is addressed in chapters 5 and 6.

Figure 1 – Qualitative Coding Diagram



Source: Self-elaboration.

2.7. Ethical Considerations

The study complies with the European Code of Conduct for Research Integrity (2017) and the European General Data Protection Regulation (2018). As indicated by the first document, good research practices build on fundamental principles of research integrity that refer to the reliability, honesty, respect and accountability of the researcher and the research in itself (ALLEA 2017, 4). These principles were subjected to the ethics clearance procedure commissioned by the Ethics Committee of the degree program. Their approval was provided together with a written declaration of having complied with the Research Ethics Rules and Guidelines upon completion. Furthermore, the University of Groningen ensured a careful and fair procedure for handling complaints and subsequent decision-

making. To this end, the functioning mailbox was established and communicated to participants. Additional ethical considerations such as ensuring the informed consent of key informants, the voluntarily character of its participation and the anonymity of the data collected were safeguarded in this study.

2.8. Limitations of the Research

The methodology of this research entails a range of limitations that may lead to a certain level of subjectivity and personal biases. The following paragraphs present the identified limitations and explain how the researcher intended to minimize them in a justifiable manner.

Firstly, the level of diversity and specificity of the information desired influenced the sampling of key informants leading to certain limitations. The information required for this study was highly varied, and it ranged from inter-ministerial coordination to taxation of imported goods and equipment. Ideally, this study would have recruited an overly specific informants' profile such as human resources, finance, legal or technical staff, among others. This sampling method would have catalyzed the number of interviews needed to capture the reality comprehensively. To adapt the sampling method, the researcher targeted participants that held a supervisory profile and whose viewpoint encompassed a more wide-ranging approach to the issues of concern. Thus, instead of interviewing the human resources, finance, the legal and technical department of a given organization, the researcher targeted the supervisory post. This maneuver prioritized overview over theme-specific knowledge and provided rich information from a single informant.

Secondly, the focus on the examination of the IFRC Model Emergency Decree brought some limitations. As indicated above, the choice of the IFRC Model Emergency Decree was substantiated on the typology of the document and its potential use. The provisions included in the Model correspond to draft articles in the format of a "decree-law". Its applicability is therefore time-bound by the duration of the SoE and very specific to the context in which it is enacted. As such, their provisions differ from the ones included in the additional documents, such as the IFRC Model Act (2007) or the IDRL Checklist (2019), whose format and content do not specifically target the wake of the emergency. This characteristic restricts the generalization of this study to the entire compendium of the IFRC Disaster Law Toolbox. Despite the limitation, it is worth mentioning that the study is of an exploratory nature and thereby analyses the applicability of the IFRC Disaster Law Toolbox to epidemics and pandemics through a simplified document. The exploratory value of the thesis underpins the relevance of the study and mitigates the identified limitations.

Thirdly, the dissertation presents a non-exhaustive analysis of the IFRC Model Emergency Decree in which articles 33-37 are not considered for examination. The reason to do so rests on the scope of the provisions, as they refer to the transparency, safeguards, and accountability of the so-called "approved actors" and the "international financial donations" (IFRC 2017a, 11-12). More specifically, these articles aim to prevent corruption and establish consequences of non-compliance if the incoming assistance does not abide by their responsibilities under the Model Emergency Decree. In this context, the

researcher presumes that these provisions are essentials for every international response, irrespective of the nature of the crisis itself; thus, its applicability should extend to disasters prompted by the outbreak of infectious diseases. This assumption generates a limitation in itself as it employs generalization to bypass the analysis without any further examination. The theme, however, suggests a relevant topic for future research complementing the present study.

Fourthly, several limitations were associated with the concept-driven method utilized for qualitative coding. Due to the nature of the coding method, the interviews were oriented to extract a very specific list of information that was not necessarily known by participants. For instance, a point of interest for the study concerned the use of the "health documents" referred to in part IV of the IHR (2005). The documents include certifications of vaccination or other prophylaxis (article 36) or the compliance towards the Maritime Declaration of Health (article 37), among others. Several key participants declared that they have not heard of the documents as their positions did not incur direct involvement with these Declarations, which limited the triangulation of information of high interest for this study.

Lastly, the contractual obligations of participants towards the organizations they work for limited the collection of data. Tentative participants were bound by non-disclosure agreements that prevented them from sharing information with externals parties without prior approval from the organization. Issues of IDRL were found to be of special sensitivity, particularly when referring to the IFRC's auxiliary role in which the organization has access to information classified as confidential for advisory purposes and is therefore bound to maintain strict confidentiality.

3. Theoretical Framework

The theoretical framework presented in this chapter builds on the concept of disasters. It introduces the notion of PHE as a particular type of disaster and argues that, from a legal standpoint, the nature of disasters of this kind is bifold as it constitutes a disaster and a PHE at the same time. This section explains the dual nature of PHEs from a regulatory point of view, which is key to understanding why the research can explore the applicability of a quasi-legal document whose scope concerns "disasters" in a health emergency context.

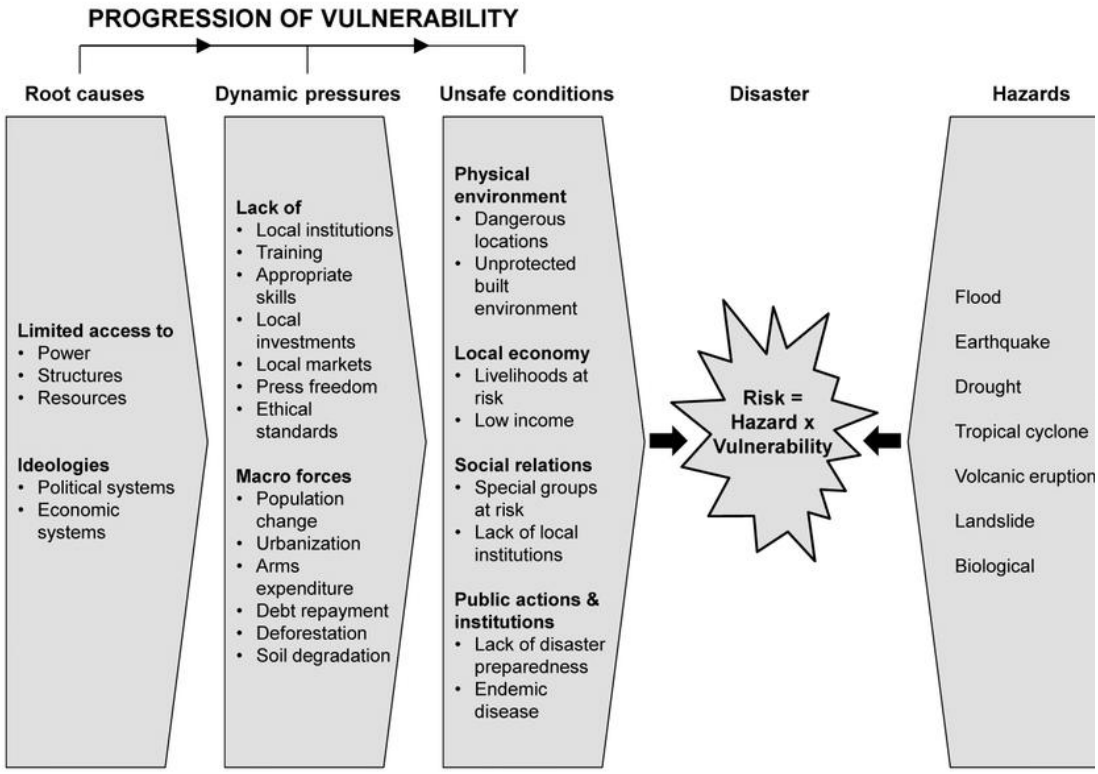
3.1. Defining "Disasters"

The term "disaster" has been defined in nearly as many different ways as there are international instruments on the topic (IFRC 2007b, 22). The WHO undertakes the definition of disaster given in 1991 by the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (hereafter the 'Tampere Convention'). This definition was also incorporated by the IFRC in the IFRC Disaster Law documents, and the term is common to the four instruments that compose the Toolbox. The definition is included in article 1(6), and it reads as follows. A disaster is defined as

> *a serious disruption of the functioning of society, posing a significant, widespread threat to human life, health, property, or the environment, whether caused by accident, nature or human activity, and whether developing suddenly or as the result of complex, long-term processes* (Tampere Convention 1998, 7).

A second layer on the analysis of the definition of "disaster" requires the specification of the elements that determine it. Disasters are the result of the way in which individuals and societies relate to threats. These threats originate, in turn, from hazards and vulnerabilities (WHO/EHA 2002, 13). The term "hazard" refers to the "natural [or anthropogenic] events that threaten to adversely affect human life, property or activity to the extent of causing a disaster" (WHO/EHA 2002, 11). The term "vulnerability" indicates the predisposition of a given community to suffer damage due to external events (WHO/EHA 2002, 14). Figure 2 below presents the 'Disaster Pressure and Release Model' presented by Bruton, Rufat and Tate (2018) and illustrates the underlying causes, dynamic pressures and unsafe conditions that cause vulnerability, alongside the events that prompt the occurrence of hazards (WHO 2019, 22).

Figure 2 – Disaster Pressure and Release Model (1994)



Source: Bruton/Rufat/Tate 2018.

3.2. Defining "Public Health Emergencies"

Although the literature engages with the notion of PHEs as a particular type of disaster, the definition of what are health crises remains inconclusive (IFRC 2020, 45). The report 'Law and Public Health Emergencies Preparedness and Response' launched by the IFRC in 2021 contains an extensive overview on the absence of a definition as well as on the conditions under which health crises amount to a disaster. The report reviews two key documents: the 'Report of the open-ended intergovernmental expert working group on indicators and terminology relating to disaster risk reduction' (2017) (hereafter the 'OEIWG Report') and the 'Draft Articles on the Protection of Persons in the Event of Disaster' (2016) (hereafter 'Draft Articles'). By examining the OEIWG Report, the document suggests that PHEs are included under the definition of disaster, although the document does not explicitly define what a health emergency is (UNGA 2016, 13). The document continues to revise the definition of disaster adopted by the International Law Commission in the Draft Articles (2016). In this context, the report argues that the definition is "broad enough" to encompass PHEs, although it focuses on disasters of another type (UN ILC 2016, 2).

In addition to the notions presented above, the most widely accepted definition of PHEs rest within the WHO, and it reads as follows. A PHEs is defined as

> *an occurrence or imminent threat of an illness or health condition, caused by bio terrorism, epidemic or pandemic disease, or [a] novel and highly fatal infectious agent or biological toxin, that*

> *poses a substantial risk of a significant number of human [fatalities] or incidents or permanent or long-term disability* (WHO 2007).

The terminology of PHEs employed by the WHO encompasses different types of health crises. It comprises public health emergencies of international concern (PHEIC) as defined by the WHO in the IHR (2005), whose impact extends "beyond the affected State's national border" as well as disease outbreaks of a more localized nature (WHO 2006, 9). Likewise, the definition expands to PHEs such as "bioterrorism, epidemic or pandemic disease, [and any] novel and highly fatal infectious agent or biological toxin that poses a substantial risk" (INEE 2022). For the purposes of this research, the term PHEs refers solely to epidemics and pandemics. This is so because the communicable nature of the hazard that causes epidemics diseases lead to greater restrictions from the affected state. Other types of PHEs, such as those caused by non-communicable diseases (e.g. HIV crisis), are managed differently and would not reflect the approach engaged in this study. The research also excludes the phenomenon of "bioterrorism" under the definitions of PHE. This is due to the fact that incidents involving the release of agents and toxins typically take place amidst conflict (IFRC 2021b, 58). As explained in chapter 5, the scope of the IFRC Model Emergency Decree excludes disasters that occur in conflict settings. In other words, as the document examined in this study does not apply in the contexts where episodes of bioterrorism take place, the research purposely omits its analysis.

The paragraphs below disclose the definition of "epidemic" and "pandemic" used for the purpose of this study. Additional terms such as "disasters prompted by the outbreak of infectious diseases" or "infectious disease-led disasters" refer to the same concept and are used interchangeably in this study. An epidemic is defined as

> *the occurrence in a community or region of cases of an illness, specific health-related behaviour, or other health-related events clearly in excess of normal expectancy* (Porta et al. 2014).

A pandemic is defined as

> *an epidemic occurring worldwide, or over a very wide area, crossing international boundaries and usually affecting a large number of people* (Heath 2011, 1).

3.3. Defining "Disasters Prompted by the Outbreak of Infectious Diseases"

Drawing from the definition of "disaster" and "PHE", this study argues that, under certain circumstances, PHEs constitute a particular type of disaster. As stated by the WHO, disasters occur when hazards meet vulnerabilities (WHO/EHA 2002, 13). These hazards can be of many types; thus, disasters may be as varied as the hazards that cause them. The 'WHO classification of hazards' categorises the outbreak of infectious diseases as a "natural", "hydro-meteorological", and "biological" hazard (WHO 2019, 22). This classification implies that the outbreak of an infectious disease may be considered as a disaster forasmuch as the vulnerability of the population cause "a serious disruption of the functioning of society, posing a significant, widespread threat to human life" (Tampere Convention 1998, 7). In light of the aforementioned, a PHE can reasonably be considered as a disaster prompted by the outbreak of infectious diseases.

The study states that the nature of disasters of this kind is two-folded. In other words, a disaster prompted by communicable diseases is simultaneously a "disaster" and a "health

emergency". This duality entails implications from a legal standpoint, as the applicable legislation involves (i) standards and guidelines oriented to better manage the impact of health crises and, where applicable, the competence of the WHO; and (ii) DRM legislation. Experience has shown that, on some occasions, these two key pillars of the law act in a complementary manner (IFRC 2021b, 22). When one of the fields involved (public health or DRM) does not cover a specific issue, the other field seems to step in filling the void. One example to illustrate this point is the use of DRM mechanisms to respond to the relief response to the COVID-19 crisis in view of the lack of domestic mechanisms specialized in public health emergency management (IFRC 2021b, 84). In most instances, this is, however, not the case. The characteristics of the legislation applicable to disasters add up to the DRM frameworks. This lack of harmonization leads to the over-regulation of certain areas, provoking bureaucratic bottlenecks that slow down the relief response; and the under-regulation of some others, jeopardizing the quality of the response and the coordination of the relief efforts (IFRC 2011, 5).

The following chapter illustrates the existing frameworks that regulate disasters prompted by the outbreak of infectious diseases. The objective is to show the irregular patchwork of frameworks that apply in the contexts concerned by this study and, ultimately, to underpin the lack, and hence the importance, of elaborating a document that regulates and facilitates the intervention of foreign relief operations in PHEs.

4. Legal and Regulatory Frameworks

This chapter reviews the different legal (hard law) and quasi-legal (soft law) frameworks applicable to disasters prompted by the outbreak of infectious diseases. Whereas the review is not exhaustive, it serves as a representation of the most salient legal and regulatory frameworks that apply to disasters and PHEs in non-conflict settings.

4.1. National Legal Frameworks

The legal frameworks regulating disaster response and PHEs rest predominantly in the domestic frameworks of the states concerned (IFRC 2011, 3). These in-country set of norms frequently detach DRM regulations from the PHE regulations (IFRC 2021b, 23). The PHE Mappings commissioned by the IFRC in 2021 reveals that the most common approach for PHE-management frameworks derives from a combination of regimes that encompasses PHE norms and DRM procedures. This finding implies that PHE and disaster response are often regulated separately; therefore, a combination of both is needed and looked upon. The PHE Mappings also identifies three "spectrum of frameworks" in which PHE and DRM conflate:

(i) Frameworks based on PHE regulation with the availability of DRM legislation to be invoked "in extreme circumstances" ("PHE dominant frameworks"). It includes countries such as Brazil, the UK and Liberia (IFRC 2021b, 22).
(ii) Frameworks mainly based on PHE legislation with DRM regulation supplementing it ("hybrid or combination frameworks"). It includes countries such as China, Colombia, or Sri Lanka (IFRC 2021b, 22).
(iii) Frameworks based solely on DRM regulation ("DRM dominant frameworks"). It includes countries such as South Africa, Honduras and Jamaica (IFRC 2021b, 22).

The PHE Mappings also suggests that the COVID-19 pandemic has set precedence for integrating a "PHE-management" element into the traditional disaster management response, even in DRM dominant frameworks. The creation of *ad hoc* COVID-19 agencies within pre-existing crisis management framework emerged as a common practice. For instance, in Honduras, the pandemic stirred the Ministry of Health (MoH) to take disaster-related actions, including declaring epidemiological emergencies. It created the Special Commissioner for Emergency Attention COVID-19 in March 2020, and it granted this figure with competencies tailored to PHEs such as "coordination of epidemiological surveillance" (Republic of Honduras 2020, 2). In China, the General Office of the State Council was allowed to issue the Measures for the Administration of Emergency Response Plans, including measures to respond to the COVID-19 crisis. In Brazil, the establishment of an Inter-ministerial Executive Group on Public Health Emergencies of National and International Importance was enabled to address COVID-19 (IFRC 2021b, 22). These examples illustrate the variety of ways in which the PHEs and DRM regulation intertwined when responding to the COVID-19 crisis.

4.2. International Legal Frameworks

4.2.1. International Human Rights Law

The IHRL consists of a series of instruments that confers legal form to human rights (OHCHR, n.d.). The framework comprises two key documents: the International Covenant on Civil and Political Rights (ICCPR)[1] and the International Covenant on Economic, Social and Cultural Rights (ICESCR)[2]. The body that composes IHRL applies at all times, save for the rights derogated upon official declaration of the SoE. The rights that could be derogated include, but are not restricted to, limitations on the liberty of movement, the right to privacy or the right of peaceful assembly (Ponta, 2020). These derogatory rights are particularly relevant to disaster situations and PHEs as they allow states to temporarily restrict them to address threats to "the life of the nation" or to secure the "independence or security" of the state (Criddle/Fox-Decent, 2012, 40). These limitations of human rights adversely affect the IROs in their respective interventions, for instance, by disrupting supply chains due to blockages on the movement of people and material (Kovács/Sigala 2021, 41). This research argues that the limitations posed by the derogation of certain human rights impair the intervention of the IROs and, therefore, need to be explored, mitigated and circumvented accordingly. Chapter 6 examines which regulatory barriers (or 'problems') are posed to foreign intervening actors and how they could be addressed by the IFRC Model Emergency Decree.

4.2.2. International Health Regulations (IHR)

The International Health Regulations (IHR) are a set of regulations adopted under the auspices of WHO and are legally binding on its 196 member States. The IHR constitutes the primary law governing international PHEs, and it encompasses the latest instruments that have addressed the problem of cross-border infection (Aginam 2002, 947). The IHR defines States' rights and obligations in handling public health events forasmuch as they have been declared a PHEIC. As stated in article 1, a PHEIC refers to outbreaks of infectious diseases that (i) pose a public health risk to other states and (ii) potentially require a coordinated international response (WHO n.d.). These two prerequisites infer that the IHR will not apply to the outbreak of infectious diseases that do not necessarily or immediately amount to a PHEIC. Notwithstanding the pre-conditions to apply the IHR, their provisions contain relevant information as of the responsibility of the state towards the WHO that need to be addressed by the IFRC Model Emergency Decree when examining its application in situations of PHEs.

Additionally, it is relevant to state why the IHR are unsuitable for the regulation of IROs in situations of PHEs. As noted by Onzivu (2011), the strong state-centred approach embedded in the provisions of the IHR relegate the role of INGOs to an "observatory-only"

[1] The ICCPR was adopted by the United Nations General Assembly Resolution 2200A (XXI) of 16 December 1966. It entered into force on 23 March 1976, in accordance with article 49, for all provisions except those of article 41; 28 March 1979 for the provisions of article 41 (Human Rights Committee), in accordance with paragraph 2 of the said article 41. The ICCPR is part of the United Nations, Treaty Series, vol. 999, p. 171, available at: https://www.refworld.org/docid/3ae6b3aa0.html (last check: 8 July 2022).

[2] The ICESCR was adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. Entry into force 3 January 1976, in accordance with article 27. The ICESCR is part of the United Nations, Treaty Series, vol. 993, p. 3, available at: https://treaties.un.org/doc/Treaties/1976/01/19760103%2009-57%20PM/Ch_IV_03.pdf (last check: 8 July 2022).

position within the WHO governance mechanisms (Onzivu 2011, 225). This finding is supported by the empirical case study compiled by Masiira et al. (2019), which examines the implementation of the IHR within the context of Integrated Disease Surveillance and Response in Uganda. The study reports a disregard from the state towards the non-governmental stakeholders within the state-led plan of action (Onzivu 2011, 241). These examples show that the IHR considers the state as the subject of its provision, thus omitting the regulation of other intervening actors such as the INGOs.

4.2.3. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

The World Trade Organization (WTO) Agreement on TRIPS is a multilateral agreement on intellectual property (IP) that regulates the adoption of patent systems for essential medical tools, technologies and vaccines (WTO/WHO 2002, 38). Pertinent to this research are the provisions contained under articles IX 3 and 4 of the Marrakesh Agreement Establishing the WTO (hereafter the 'WTO Agreement') concerning situations of emergency ("exceptional circumstances"). The Agreement affirms that a waiver from certain obligations under WTO treaties, such as TRIPS, can be implemented *vis-à-vis* exceptional circumstances. They are, however, subject to the approval of the TRIPS Council and the WTO TRIPS Ministerial Conference, respectively (MSF 2020, 2). The COVID-19 pandemic has ascertained the difficulties of this procedure, especially in what concerns copyrights and related rights, industrial design, patents, and protection of undisclosed information given its commercial value (MSF 2021). Ultimately, the Agreement poses IP barriers that hinder access to effective medicines, vaccines, or diagnostics, affecting the goods and equipment that IROs require to respond in the event of epidemics and pandemics (MSF 2020, 6). The Agreement on TRIPS brings a political element to the examination of the IFRC Model Emergency Decree in its application to PHEs. The analysis is addressed in chapter 6.

4.3. Soft Law and other International Standards

4.3.1. The International Disaster Relief Law (IDRL)

The IDRL is an emerging field of international law designed to regulate the humanitarian response to disasters (PHAP n.d.). The current study falls under the scope of the IDRL. Whereas no comprehensive legal framework has been hitherto developed, two major international projects have emerged around the legal aspects of the response to disasters. First, the Draft Articles (2016) initiated by the United Nation's International Law Commission (ILC) in 2007; and second, the 'Disaster Law Program', a project commissioned by the IFRC in 2001 (Tokunaga 2014, 46). These projects simultaneously explore the legal aspects pertaining to the disaster response; nonetheless, the channel and approach undertaken to attain this goal differ among the two. While the 'Draft Articles on the Protection of Persons in the Event of Disasters' systematize the main legal issues relevant to the disaster under the auspices of the United Nations body of experts; the Disaster Law Program prioritizes technical assistance, capacity building, advocacy, dissemination, and research as a means of strengthening preparedness in the affected country (Tokunaga 2014, 60). In the Disaster Law Program, the regulation of IROs is

explicitly tackled; however, as explained in section 1.2, their provisions are not conducive to respond to PHEs.

4.3.2. The Sendai Framework for Disaster Risk Education

The Sendai Framework for Disaster Risk Reduction 2015–2030 (hereafter 'The Sendai Framework') is a non-binding agreement adopted at the Third UN World Conference on Disaster Risk Reduction held in 2015. The Sendai Framework encompasses risk reduction, sustainable development and climate change adaptation (UNISDR 2015, 1). Relevant to this research is the association between the Framework and the health sector. The Sendai Framework places a strong emphasis on enhancing health system resilience and, more importantly, on addressing epidemics and pandemics (PreventionWeb 2016b; UNIDRR 2015, 2). To implement these goals, the International Conference on the Implementation of the Health Aspects of the Sendai Framework for Disaster Risk Reduction 2015–2030 established the so-called 'Bangkok Principles' (UNISDR 2016, 1-3). Their focus raises attention on the inter-operable and multi-sectoral approach to promote cooperation, integration and coherence between disaster and health risk management (PreventionWeb 2016a). Nonetheless, neither the Sendai Framework nor the Bangkok Principles specify how the inter-operable and multilateral response is supposed to be brought into practice.

4.3.3. The Global Health Security Agenda (GHSA)

The Global Health Security Agenda (GHSA) provides a partnership between 70 states, international organizations, non-governmental organizations, and the private sector to "leverage and complements the strengths and resources of multisectoral partners" (GHSA n.d., para. 1). The GHSA aims to improve country capacities in terms of prevention, early detection, and effective response to infectious disease threats. Likewise, it intends to measure progress and enhance accountability. Despite the efforts to achieve these goals, the GHSA members have acknowledged that "significant work remains to fully achieve and sustain health security" (GHSA 2018, 3). To address this subject, the GHSA's 2024 Framework was launched in 2018. This framework recognizes the need for an interface with the global health security actors to ensure the all-encompassing response to PHEs. These actors include the WHO, the Food and Agriculture Organization (FAO), the World Organization for Animal Health (WOAH) or the World Bank Group (WBG) (IFRC 2021b, 62). Hence, the GHSA's 2024 Framework aims to involve a wider spectrum of stakeholders in the response to PHEs; however, neither its scope expends to situations of disasters, nor it offers the forum to facilitate and regulate the inflow of IROs in situations of PHEs.

4.3.4. The United Nations General Assembly Resolutions 46/182 (1991) and 74/274 (2020)

The United Nations General Assembly (UNGA) has passed various resolutions concerning disaster management, emergency response and global health. The pivotal resolution on the collective commitment to provide life-saving assistance was provided by the UNGA resolution 46/182 (1991) on 'Strengthening of the coordination of

humanitarian and disaster relief assistance of the United Nations' applicable to "natural disasters and other emergencies" (article 1). Particularly relevant to this research is the provision under para. 35(d) in which the active facilitation of access to ensure the rapid provision of emergency assistance is noted expressly (UNGA 1991, para. 35d). Moreover, paragraphs 6 and 7 emphasize the necessity to ensure the transit and access of humanitarian assistance and relief providers to the territory of concern. Finally, the UNGA resolution 74/274 (2020) on 'International cooperation to ensure global access to medicines, vaccines and medical equipment to face COVID-19' recognizes the importance of equitable access to essential medical supplies by "strengthening supply chains that promote and ensure fair, transparent, equitable, efficient, and timely access to and distribution of [health] materials" (UNGA 2020, article 2).

All in all, the UNGA Resolutions provide legal grounds to bolster, firstly, humanitarian access to non-conflict areas and the population of concern and, secondly, access to medicines, vaccines and medical equipment. These premises are essential to secure the appropriate intervention of the IROs during epidemics and pandemics, as the examination of the IFRC Model Emergency Decree aims to address.

4.3.5. The WHO Resolution and Further Regulation

The WHO regulations provide non-binding recommendations to prepare, regulate and respond to health emergencies. The WHO resolution on 'Global health security, with special emphasis on MERS-CoV and A(H5N1)' published by the Regional Committee for the Eastern Mediterranean in 2015 recalled the urgency of containing the transmission and threatening national, regional, and local capacities to safeguard the global health security (WHO Res. EM/RC62/Tech.Disc.1 September 2015). In addition to the resolutions, several WHO regulations provide a quasi-legal framework that guides the *modus operandi* of states *vis-à-vis* health crisis. Relevant to this study is the 'WHO Health Emergency and Disaster Risk Management Framework (2019)'. The content of the aforementioned documents is, however, limited to the scope of the WHO pursuant to the global health agenda. No specifications regarding the regulation of IROs inflows in the response is herein included.

4.3.6. The IFRC Resolution 'Time to Act: Tackling Epidemics and Pandemics Together'

In December 2019, the International Committee of the Red Cross (ICRC), the IFRC, and the National Red Cross Red and Crescent Societies committed "to contribute to a predictable and coordinated approach to epidemics and pandemics, including effective international cooperation and coordination, and engagement with and support to affected communities" (IFRC 2021b, 64). Although the resolution was adopted unanimously, the provisions do not formally bound states that approved it. The resolution endorses the correlation between emergency management and the outbreaks of infectious diseases (e.g. measles, polio, dengue); and purposely highlights the importance of a localized response by involving the affected community at the forefront of the operation (IFRC Res. 33IC/19/R3). Likewise, the document inquired a "predictable and coordinated approach" to epidemics, although the intervention of IROs is not herein envisaged.

4.3.7. Summary Points

The review has shown that the legal frameworks applicable to disasters and PHEs in non-conflict settings do not usually regulate both phenomena as a unit. They either regulate PHEs or disasters. When they do – as it occurs in the IHRL, which is applicable to disasters and PHEs – the frameworks fail to provide a comprehensive international instrument that facilitates the intervention of foreign relief providers. It also appears that the absence of harmonization among the different instruments creates regulatory barriers that hinder the full effective intervention of the IROs. Some examples that illustrate these problems draw from IHRL restrictions, such as the liberty of movement that impairs the access of relief aid providers to the population of concern. Ultimately, this chapter has demonstrated:

- *The existence of a legislative gap pertaining to the international regulation of IROs during PHEs in non-conflict settings.*
- *The existence of a compendium of quasi-legal documents provided by the IFRC (the IFRC Disaster Law Toolbox) that do regulate the intervention of IROs during disasters but whose provisions are not conducive to respond to PHEs.*

As indicated before, the objective of the research is to examine the prospective adaptation of the Toolbox to fill the identified void of regulation. The next chapter thus explores the prospective application of the IFRC Model Emergency Decree (the instrument of study) to disasters prompted by the outbreak of infectious diseases.

5. Examination of the Scope of the IFRC Model Emergency Decree (2017)

This chapter examines the prospective application of the IFRC Model Emergency Decree to situations of disaster prompted by the outbreak of infectious diseases. In doing so, the chapter analyses the scope of the Model as the first criteria to determine its applicability. The first section studies the scope of the term "disaster" to assess whether or to what extent PHEs fall under this definition. The second section defines the limitations of the Model by displaying its scope as an "emergency law" document.

5.1. The Scope of the Term "Disaster" Considered in the IFRC Model Emergency Degree

Firstly, it should be noted that the scope of the IFRC Model Emergency Decree is given by the scope of the definition of "disaster" herein considered. This definition is not explicitly mentioned within the provisions of the document. It is, however, presented in the IFRC Guidelines (2011). According to the 'Annotations to the Draft Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance' (hereafter 'the Annotations') (2007a), the IFRC Disaster Law Toolbox undertakes the definition of "disaster" included in the article 1(6) of the Tampere Convention (see definition in section 3.1), save for the contexts in which the instrument applies. Unlike the Tampere Convention, the IFRC Guidelines excludes "armed conflict" situations (IFRC 2007a, 7). On the grounds of this definition, three premises need to be touch-based for a hazardous event to be categorized as a "disaster". These requirements involve:

(i) the element of significant, widespread threat ("serious disruption of the functioning of society, posing a significant, widespread threat to human life, health, property or the environment [...]) (Tampere Convention 1998, 7; IFRC 2007a, 7).
(ii) the element of sudden-onset and slow-onset disasters ("suddenly or as the result of complex, long-term processes") (Tampere Convention 1998, 7; IFRC 2007a, 7).
(iii) the non-conflict settings ("excluding armed conflict") (IFRC 2007a, 7).

In the light of the first requirement, the PHEs may fall under the scope of the instrument to the extent that they pose a threat that is categorized as "significant and widespread" (IFRC 2007a, 7). In the context of epidemics, the magnitude of the outbreak is determined by the "alert threshold" (or "epidemic threshold") as defined by the Sphere Handbook (2018). Accordingly, the threshold is reached when the infectious disease spreads rapidly, which means that each disease has a specific threshold tailored to its characteristics (The Sphere Handbook 2018, 316). Notwithstanding the epidemiological benchmarks, it is the official declaration made by the affected state that formally determines the significance and widespread extent of the outbreak. Such declaration is made by virtue of a SoE or a State of Disaster (SoD). Both declarations provide for "special procedures" to be put in place, such as the activation of disaster response funding mechanisms. The conditions for this declaration to take place, however, vary among different countries. The Annotations

(2007a) provide a pertinent example when noting that "in Singapore, the security or economic life of the country must be threatened in order to declare an emergency" (4). Hence, having reached the epidemic threshold does not necessarily provide a reason for declaring the SoE or the SoD in the given country. It thereby shows that the outbreak of infectious diseases requires, on the one hand, a certain level of rapidity in the speed it spreads, and at the same time, the threat it raises should be deemed as "disrupting enough" by the national authority competent for declaring the SoE.

Considering the pandemic context, the core criteria employed by the WHO to declare a PHEIC show the prominent role of the political inferences in the declaration process. These criteria state that, for a PHE to amount to a PHEIC, the outbreak of the infectious disease must be considered extraordinary, constitute a public health risk to other states through the spread of disease, and require a coordinated international response (WHO n.d.). The decision-making process remains therefore open to considerable interpretation. Public health and international law experts have greatly criticized the subjectivity of the PHEIC process, especially after the 10th Ebola virus disease (EVD) outbreak in the Democratic Republic of Congo (DRC) and the COVID-19 pandemic (Mullen 2020, para. 5). Ultimately, the declaration of the outbreak as "significant" and "widespread" is left to the discretion of the political bodies that do not necessarily, or solely, consider the epidemic threshold. Additional aspects to consider include, among others, the financial consequences towards the affected community, as proved by the example of Singapore. This aspect, however, does not prevent a PHE from falling under the given definition of disaster.

The second element explains that a "disaster" encompasses sudden-onset and slow-onset events alike. The Annotations (2007a) explicitly mention that this definition does not only extend to immediate catastrophes such as volcano eruptions, but it also covers "gradual events, such as droughts and HIV crises" (IFRC 2007a, 7). This provision is particularly relevant to PHEs as it leaves room for a potential declaration of SoE or SoD on the grounds of a slow-onset disaster that has not yet reached the epidemic threshold. Equally relevant for the analysis is the referral made to "HIV crises" as an example to define what a disaster is. This forthright referral to a PHE scenario demonstrates that health emergencies were perceived by the drafters as a particular type of disaster for which the instrument do apply.

The third element draws the distinction between disaster situations that occur in conflict and non-conflict settings. The Annotations (2007a) explain that the IFRC Guidelines and, by extension, the IFRC Disaster Law Toolbox is designed "for disaster situations and not for armed conflict" (6). The scope of the instruments includes natural and man-made disasters and excludes situations of armed conflict or disasters that occur during armed conflicts (IFRC 2007a, 13; IFRC 2017a, 5). The Annotations (2007a) justify this distinction by reminding that conflict situations are regulated by international humanitarian law (IHL), whose provisions offer a "greater and more explicit [link] between the persons in need and international humanitarian actors" (6). Furthermore, the document refers to the political and operational differences between conflicts and non-conflict situations. It explains that conflict settings are inherently more politically sensitive than pure disaster situations, which leverages the predisposition of the affected state to receive foreign relief actors (IFRC 2007a, 13). In the light of the aforementioned, the Model does apply to PHEs that take place in non-conflict settings.

5.1.1. The Political Implications of Disasters Prompted by the Outbreak of Infectious Diseases

Besides the theoretical analysis of the scope of the Model, interviews provided additional findings that support the assessment. The most relevant outcome lies in the strong political implication of PHEs. This aspect was highlighted by the totality of the interviewees. Key informants identified the political connotations of PHEs as the main difference between epidemics and pandemics, and meteorological and geophysical disasters. To illustrate this distinction, a participant highlighted the political tone of PHEs by comparing them with conflict settings: "[a PHE] is a bit like a war zone. [In a war] the army may not want to end the war because it entails a huge benefit. In a way, the same applies to PHEs." (Interview 4). This analogy between PHEs and conflicts is of utmost importance, considering that the drafters of the Model purposely excluded situations of armed conflict due to the political tone impregned in these settings (IFRC 2007a, 13).

In the same fashion, key informants raised concerns about the role of bureaucracy as a means for political negotiation. Participants noted that the instrumentalization of the administrative procedures in order to serve the political interest is a common practice in PHEs. The two interview excerpts below offer two cases in which political inferences are observed. Whereas the first statement reflects the political connotations of PHE interventions through a hands-on example in Ethiopia, the second one explains how the regulatory requirements aggravate the difficulty to access the affected population when deploying technical experts.

> *When you want to import, for instance, drugs into Ethiopia, you need to get all the stamps. [And, lastly,] you need to go to [the governmental bodies]. It is there where the conversation is no longer technical because everything is approved. It's just political* (Interview 6).

> *To operationalize a deployment, it is necessary for the Ministry of Foreign Affairs to expedite a letter. Experts have waited for at least four weeks. The reason might be the fact that it's Ramadan […], but the main hypothesis, according to the [organization's human resources department], is that [the receiving country] is not supporting the presence of experts in the refugee camps where they have been assigned to intervene* (Interview 3).

All in all, it should be stated that the IFRC Disaster Law Toolbox and the IFRC Model Emergency Decree excludes epidemics and pandemics that occur amidst conflict. The reason to do so rests on the political implications linked to conflict settings. Key informants have, however, noted that the political implications are deeply entrenched in PHEs interventions even when these relief operations take place in non-conflict settings.

5.2. The Scope of an "Emergency Decree"

Having understood the scope of the definition of "disaster" and the circumstances in which the IFRC Model Emergency Decree may apply, it is crucial to clarify the nature of a decree-law document. By definition, the Model presents a sample of a domestic emergency decree whose enactment takes place in a specific context by a designated authority. This section clarifies the scope, and thereby the limitations, of the instrument in its application to situations of PHEs.

As explained by Demirtas (2017), a decree-law is a regulatory instrument issued by an authority with the power of the legislative body (447). A decree-law document regulates

particular subjects within the national contexts, including the management of incoming international disaster assistance. Following the Annotations (2007a), the Model should be enacted by the President, Prime Minister or other competent figures under the authority of "relevant provisions that provide the authority for the declaration" (IFRC 2007a, 6). The document recognizes the extent of humanitarian needs generated by the disaster and declares that the designated authority welcomes the international assistance "to complement domestic response efforts" (IFRC 2017a, 6). To put it differently, the Model is a document issued by the state to safeguard the best interest of the state. It builds on the principle of subsidiarity and recognizes the role of the foreign relief providers as complementary to the national efforts. These premises figure in the preface of the IFRC Model Emergency Decree and pinpoint key aspects to understand the limitations of the instrument.

Firstly, the document envisages a top-down approach to the regulation of incoming relief actors. It should be noted that the receiving state appears as the author and issuer of the document, which bestows a strong state-centered approach to the Model. The document does not constitute a Memorandum of Understanding (MoU) in which both, the state and the relief actor, are equal signatory parties. It is, however, a decree-law document enacted unilaterally, in which the state holds full liberty on the provisions that the instrument includes. This imbalance between the regulating state and the regulated actor is particularly concerning in PHE situations. From an INGO perspective, informants noted that the Model-like instruments used in PHE settings are commonly employed to control, rather than to facilitate, the access of incoming actors (Interview 6). The Model is therefore prone to impose regulatory obstacles that impair the rapidity of the operations and compromise, among others, basic operational actions such as the maintenance of cold chains for vaccines (Interview 5 and 6).

Secondly, the geographic scope of the Model presents a strong limitation to the facilitation of incoming relief operations. Even under the assumption that the receiving state incorporates the instrument following the principle of good faith (facilitating rather than controlling and limiting), the document has several limitations. It should be noted that the primary responsibility to respond to crises rests with the receiving state and extends upon the persons, property and territory within its jurisdiction (Shaw 2019, 1). In the event the Model is enacted, it only applies within the jurisdiction of the authorizing state. It thereby regulates aspects such as the in-country mobility of imported G&Es, but it does not regulate the procedures that apply to G&Es in their country of origin or in their transit countries (IFRC n.d.-a, 30). This limitation of scope creates offshored regulatory barriers that impact the supply chain management (SCM) of the incoming actors, as explained by the interview excerpt below.

> *Quality assurance and custom clearance occur at the level of the requesting country but also at the level of the country in which the material is manufactured or stored. In a recent request from Guinea Conakry, the offering states faced similar delays in the SCM as the material needed to be custom cleared at the national level, here in Europe, prior to delivery* (Interview 2).

Following this statement, the Model appears as an instrument whose use is restricted to the procedures that take place at the receiving end. This scope is fairly limited considering the large number of countries involved in the mobilization of an international PHE operation, each with its respective regulations.

Thirdly, the time-bound nature of the Model raises an additional limitation. As explained in the previous section, the Model comes into being within the framework of an SoE declared on the grounds of article 4 of the ICCPR and any other applicable law, such as the regional human rights systems (UN Special Rapporteur 1997, 6). It is worth specifying that PHEs are covered within these articles as disrupting events that may amount to public emergencies. In the event a PHE is declared as such, the competent authority is expected to comply with a set of principles that includes the principle of time limitation (UN Special Rapporteur 1997, 5-16). In PHEs, this principle is of particular importance. It dictates that the provisions of the Model are time-bound by the duration of the crisis. Once the SoE concludes, approved actors abide by the ordinary domestic legal frameworks. This aspect creates several challenges for the approved actors due to the cessation of the flexibility granted to them at the beginning of their interventions. At this point, actors are faced with heavy administrative burdens while their relief activities continue. Furthermore, participants explained that the volatile nature of PHE lead to situations in which the evolution of the emergency does not rigorously coincide with the SoE; hence the instrument fails to capture the dynamics of such emergencies (Interview 4 and 6).

The previous sections have reviewed the most salient issues that determine the scope of the IFRC Model Emergency Decree (2017). The assessment has first examined the scope of the instrument, noting that both the political implications of PHEs and the contexts in which the Model is expected to apply ("non-conflict settings") limit its applicability. Furthermore, the analysis shows that the nature of the Model has an "emergency decree" infers several limitations. These limitations derive from the top-down approach of the instrument, the geographic scope of the document and the time-bound nature of the Model. Whereas these limitations constrain the ability of the Model to facilitate and regulate the entry of international responders in situations of PHEs, they do not completely nullify its applicability in health emergency contexts. Drawing from this statement, the analysis continues to assess whether the provisions of the Model align with the features of health crises in chapter 6.

6. Examination of the Provisions of the IFRC Model Emergency Decree (2017)

The chapter examines the extent to which the provisions of the IFRC Model Emergency Decree can be applied in situations of PHEs. It constitutes the second criteria to examine the applicability of the instrument, as established in section 2.2. The chapter firstly reviews the standing provisions of the instrument and assesses whether its content is adapted to the particularities of health emergency situations. Chapter 6 is divided into three sections that reflect the three overarching themes identified through the qualitative coding conducted in section 2.6. In particular, they concern the state's responsibility, the regulation of incoming G&Es and the regulation of incoming approved actors.

6.1. The Responsibility of the State in Situations of PHEs

The first theme corresponds to the responsibility of the state in situations of PHEs. As stated by the Charter of the United Nations and the principles of international law, states hold the primary responsibility to respond to domestic emergencies, including PHEs (WHO 2007, 5). In particular, the IHR (2005) specifies that states have "the sovereign right to legislate and to implement legislation in pursuance of their health policies" (article 4, para. 3) while responding to disasters prompted by the outbreak of infectious diseases. The responsibility of the state in situations of PHEs includes six main areas that encompass "policymaking, financing, public health protection, collecting and disseminating information, capacity building, and the direct management of services" (National Academies of Sciences 2002, 4). The responsibility of the state is, therefore, central to the response.

Building on this point, informants noted that the responsibility of the state in health crises goes in two different directions. On the one hand, they reported it moves downwards to the national level encompassing the national, regional, and local response, including traditional healers. On the other hand, they noted it moves upwards, including the responsibility of the states towards the international community and, in the event of PHEIC, towards the WHO (Interview 3). Following this outline, it can be affirmed that states have a "vertical responsibility" towards the PHE actors that stand at different levels of the chain of operation.

To exercise this vertical responsibility, states deploy domestic platforms of coordination in which the MoH plays a central role. It was the case, for instance, in the most recent EVD outbreak in North Kivu in 2019-2020 (Interview 4). The composition, functions, and allocation of competencies within this platform of coordination is determined by the state concerned. It also depends on the scope of the emergency. Following the example of the EVD case, one of the participants explained how the response to the Ebola outbreak was transferred from the MoH to the presidential level as the epidemic progressed. It thus became an "inter-disciplinary task force", as one informant indicated (Interview 5). The composition of inter-disciplinary task forces usually includes institutions such as the Ministry of Foreign Affairs, Ministry of Interior, the Ministry of Transport, the Ministry of Commerce, the Ministry of Finance, the Ministry of Justice, the Civil Defence, the Armed Forces and the Public Security Authority of Ports and Airports (IFRC 2016, 1).

These coordination platforms often entail the presence of members of the military (Interview 6). The following statement illustrates the constellation of ministries and semi-autonomous bodies that partake in PHEs interventions.

> *As a PHE responder, your intervention involves at least five or six different ministries [...]. If you look for medical care, for sure, the Public Health Ministry. If you have importation, then you have custom, quality assurance and transport. If you need to open a bank account, then you have at least one or two ministries [...]. In [DRC], you even have the National Laboratory, which is probably under the MoH but quite independent in practice. You often have certain bodies that are still part of the public health systems, but, in a way, they are semi-autonomous even in terms of budget* (Interview 4).

This statement shows the complex architecture of the mechanisms deployed in the event of PHEs, and it highlights the importance of achieving cross-sectoral coordination among the stakeholders involved. Considering this statement, it can be affirmed that receiving states also have a "horizontal responsibility" towards the domestic sectors involved in the response that stands at the same level of the chain of operation.

In addition to the "vertical" and "horizontal" responsibility of the affected state towards the actors involved, it is relevant to specify their responsibilities towards the intervening foreign actors. As referred to in section 4.3.4., the receiving state holds a strong "duty of care" as the UNGA resolution 46/182 (1991) underlines. As such, states have the responsibility to actively facilitate access to the population of concern, ensuring the rapid provision of emergency assistance (UNGA 1991, para. 35d). Furthermore, the UNGA resolution 74/274 (2020) recognizes the responsibility of the receiving state to strengthen supply chains in a way that enables the distribution of medical materials in a fair, transparent and timely-efficient manner (UNGA 2020, article 2). This responsibility extends to intervening international actors, which means that the receiving state has the responsibility to facilitate the provisions of medical supplies even if this distribution is done by foreign relief actors.

Having provided an overview of the responsibility of the state in situations of PHEs, the chapter continues to examine the specific content of the IFRC Model Emergency Decree in its application to PHE settings. In particular, the following sections analyse the provisions classified under the title "state responsibility" in section 2.6 of this study. They present how the coordination of the international disaster assistance, the offers and acceptance of international disaster assistance, and the establishment of the unit to expedite the entry of incoming disaster assistance take place in PHEs. The sections compare how these themes evolve in meteorological and geophysical disasters and in PHEs, respectively. Once the differences have been identified, they offer some recommendations to ensure the applicability of the Model in public health contexts.

6.1.1. Coordination of International Disaster Assistance

This part of the IFRC Model Emergency Decree deals with the designation of the focal point for the coordination of the incoming relief assistance (IFRC n.d.-a, 4). Coordination is essential in both disasters and PHE situations. In the context of meteorological and geophysical disasters, the coordination of the international assistance takes place through the DRM authority, and it serves as the central focal point agency to liaise between the government and the assisting international actors (IFRC n.d.-a, 5). In PHE settings,

coordination activities can be assumed either by DRM authorities or by PHE authorities (see section 4.1). The composition of these platforms of horizontal coordination is diverse and differs among countries. Irrespective of the authority that takes the lead in PHEs, there is a specific role that needs to be appointed in the event the health crisis upgrades to the category of PHEIC: the "National IHR Focal Point" as required by article 4 of the IHR (2005) (World Health Assembly 2006, 11). The Regulations establish that, upon declaration of the PHEIC, states must designate a national focal point accessible for communications and in charge of "disseminating information to and consolidating input from, relevant sectors of the administration of the State Party concerned" (World Health Assembly 2006, 11).

In the light of these considerations, it can be stated that the provisions of the Model on coordination (articles 1, 2) are not fully tailored to situations of PHEs. The Model does not comprise the requirements for coordination as provided by article 4 ("responsible authorities") of the IHR (2005), which is a compulsory requirement in the event a PHEIC is declared. To incorporate this observation, the Model should ensure that the content of its provisions aligns with the requirements provided by the IHR (2005). In particular, the instrument can refer to the "National IHR Focal Point" among the provisions comprised in articles 1-2.

6.1.2. Offers and Acceptance of International Disaster Assistance

This part of the IFRC Model Emergency Decree concerns how formal offers of international assistance by intervening foreign actors must be made and accepted. The Model distinguishes between the offers of relief assistance made by states or intergovernmental organizations and by foreign non-governmental actors. Whereas governmental actors must address their offers to the Ministry of Foreign Affairs (or any other competent authority) to coordinate with the receiving states through diplomatic channels, foreign non-governmental organizations are regulated differently (IFRC n.d.-a, 7). Non-state entities are not expected to follow diplomatic protocols. Conversely, they are required to address their offers to the authorized body, such as the designated DRM agency or ministry (IFRC n.d.-a, 8). In addition, non-state entities must inform the leading authority in advance ("hours or days") about the shipment of G&Es or the arrival of personnel, as conferred by article 4 of the Model (IFRC n.d.-a, 7). The main difference between the governmental and non-governmental actors lies in the rigidity of the process to deliver the assistance. The Model imposes on non-governmental stakeholders a timeline that may be challenged by the rapidly changing nature of the emergency. This lack of flexibility particularly concerns situations of PHEs.

As one participant explained, PHEs evolve at a fast-changing pace and, so does the requests made by the affected state. When requesting international assistance, the appeal must be as specific as possible. A "list of requests" must be drafted and shared by the receiving state with the range of the stakeholders concerned. This list is expected to be updated as the emergency progresses; however, the pace at which the list of queries changes in PHEs is much greater than the pace observed in disaster situations: "The authorities may revise the initial list as the [public health] emergency evolves. It occurs quite rapidly and quite constantly when it comes to health crisis" (Interview 2). This

characteristic shows that flexibility is an essential asset to guarantee the adequacy of the offers made by intervening actors, notably by non-governmental actors, in PHE settings.

To ensure flexibility, the Model can amend article 4 in a way that allows for a more adaptable notification deadline by non-governmental actors while guaranteeing that the intervention notice takes place in a timely and efficient manner. In order to incorporate this modification, the affected state is expected to facilitate around-the-clock communication between the leading authority, the health technical advice, and the governmental and non-governmental intervening actors. Likewise, as stressed by a key informant, the decision-makers should be actively involved in the stream of communication to the maximum attainable extent (Interview 6).

6.1.3. Specialized Unit to Expedite the Entry of Incoming International Assistance

This part of the IFRC Model Emergency Decree deals with the establishment of a specialized unit for expediting the entry of international disaster assistance. This "specialized unit" consists of an emergency coordination centre established at the national or regional level. It reflects the "One-stop-shop" approach recommended by the IFRC Model Act on articles 13 and 14. The entity aims to channel the procedures and communication related to the disaster through a single entity with the objective of facilitating the coordination of the response and dispatching speedily the administrative requirements imposed on all the intervening actors (IFRC n.d.-a, 29; IFRC 2016, 1). As indicated by one informant, both meteorological and geophysical disasters, and PHEs, have benefitted from the establishment of specialized units of this kind. The informant highlighted the "functionality and appropriateness" of emergency coordination centres in situations of epidemics and pandemics; however, he also recognized the limitations of the mechanism as the statement below outlines.

> *It really helps to have a single-entry point [...]; however, [the One-Stop-Shop] do not facilitate the totality of procedures required for the intervention. It is the case of the customs clearance of imported G&Es, for instance. Custom affiliations frequently depend on special administrative bodies that cannot be replaced by a single entity established at the receiving state* (Interview 2).

This statement illustrates a pivotal element in situations of health crises, being the offshored procedures in PHE interventions. While operations in disasters situations entail a high element of delocalization, PHE interventions involve an even greater number of offshored stakeholders. When considering vaccines, for instance, informants explained that the bureaucracy for importation involves a wide-ranging list of actors that includes the manufacturer, the distributor, or the specialized drugs agency ("the equivalent to the US Food and Drugs Administration"), among many others (Interview 2 and 4). These stakeholders are located in different countries and therefore must comply with multiple legal frameworks. In turn, every stakeholder imposes regulatory requirements tailored to their activity. Ultimately, foreign intervening actors are faced with cumbersome procedures that lead to strong delays throughout the chain of supply.

In sum, although the One-Stop-Shop considered in the IFRC Model Emergency Decree has been found appropriate to disasters prompted by the outbreak of infectious diseases, the instrument presents strong limitations to circumvent the offshored barriers that raise in emergencies, especially in PHEs. In this context, the Model does not have the capacity

to address this limitation, although some recommendations can be addressed to the recipient state: it can explore diplomatic channels (soft means) to lessen these constraints. For instance, the emergency coordination centre at the receiving state can facilitate communication with the offering country, the country where the material is manufactured and the country where the material is stored. This communication can be oriented to establish fast-tracked mechanisms that minimize to the maximum attainable extent the regulatory barriers that arise at the level of the offering-manufacturing-storing country. These considerations are particularly relevant for vaccines importation, whose intricate bureaucracy can be alleviated through multilateral and cross-sectoral communication among the stakeholders concerned.

6.2. Regulation of Incoming Items in Situations of PHEs

The second theme corresponds to the regulation of incoming items in situations of PHEs. Participants of this research mentioned three main categories of items that are crucial to respond to PHEs. It includes medical items considered as regular cargo, medical items considered as dangerous cargo and vaccines. As the first category ("medical items considered as regular cargo"), key informants referred to the COVID-19 example and mentioned PPEs, FFP2-3 masks, overalls, gloves, or ventilators, as sample items that belong to this category (Interview 2 and 5). One participant noted that the administrative procedures to manage the importation of medical items categorized as "regular cargo" are similar to the ones followed to import non-medical items in situations of disaster (Interview 2). For this reason, the waiver of obligations (customs duties, taxes, tariffs, or additional governmental fees) conferred by the Model to disaster relief items applies equally to medical "regular cargo" imported during PHEs. The Model, however, states that this waiver of obligations should not be granted in situations that pose a risk for "public health or security" (IFRC n.d.-a, 18). In light of this stipulation, it can be assumed that the importation of medical items considered as "dangerous cargo" requires a modification of the content of the instrument. The statement below refers to the dangerous medical cargo, and it justifies why its importation entails further regulatory barriers in situations of PHEs.

> *When you send equipment is one thing, when you start sending cylinders full of oxygen or oxygen itself in containers, then it becomes a dangerous good. It has a completely different approach to the permissions that you need; there are more requirements and more restrictions [...]. This is very particular to PHEs. Of course, you deal with dangerous G&Es in other types of emergencies, but not at this frequency and certainly not in this amount* (Interview 2).

In addition to the security concerns raised by the medical "dangerous cargo", the importation of vaccines raises additional constraints. According to informants, the restraints linked to the importation of vaccines encompasses lengthy procedures associated with intellectual property issues; ethics committee clearance procedures; in-country (national and, where applicable, federal) regulation imposed on drugs, medicines, and treatments; or special permissions required in both the producing and the receiving state (Interview 3 and 4). The architecture that composes the regulation of vaccines is complex. Every layer of regulation adds to what one informant referred to as a "lasagne procedure" in which both efficiency and morale come into play (Interview 5 and 7). This is so because regulations, procedures and guidelines pile up to the extent that they do not

facilitate but obstruct the deployment of relief operations, entailing serious consequences for the affected communities. Hereby, the Model should give careful consideration to the presented restraints and adjust its content accordingly.

The following sub-section examines how the particularities of the G&E imported in situations of PHEs can be incorporated into the provisions of the instrument. In particular, the sub-section analyses the provisions classified under the title "the regulation of incoming items" in section 2.6 of this study.

6.2.1. International Relief Goods and Equipment

This part of the IFRC Model Emergency Decree regulates the ways in which disaster relief goods and equipment can be processed under expedited procedures. In particular, it specifies the obligations imposed on the customs authority and on the approved actors. See further specifications on the approved actors in section 6.3.

In light of the considerations presented before, particular attention should be given to the documentation required to import medical items, particularly medical items considered as dangerous cargo and vaccines. As explained in the previous section, these items are likely to entail long-lasting procedures that could delay the interventions and strongly impact the population of concern. Whereas necessary standards must be guaranteed, participants flagged the need to "be operational", which entails a certain level of discretion (or "flexibility") in distinguishing what belongs to the administrative measure, enacted in the pre-disaster legislation, and what stands as a core requirement to preserve the safety and accuracy of the procedure (Interview 2, 5 and 7). In this respect, the Model can undertake a more permissible approach towards the provision that curtails the waiver of customs duties, taxes, tariffs, or governmental fees if "public health" is concerned (IFRC n.d.-a, 18). The rationale of this recommendation is that, by definition, health emergencies involve a public health risk. In practice, this provision would imply that no fee waivers would be granted to intervening foreign actors. This flexible approach should solely be granted once precautionary measures have been observed. When referring to incoming dangerous cargos, the Model may need to foresee how to accelerate the extraordinary procedures that need to be followed when the cargo contains hazardous material while safeguarding security. In sum, the Model should set the ground that allows for an equilibrium between the risks associated with PHEs and the speed required to ensure the efficacy of the response.

6.3. Regulation of Approved Actors in Situations of PHEs

The third theme corresponds to the regulation of approved actors in situations of PHEs. The IFRC Model Emergency Decree uses the term "approved actors" to refer to "states and intergovernmental organizations whose offers have been formally accepted by the Ministry of Foreign Affairs"; to "the Country Red Cross Red Crescent Society" and to "foreign and domestic non-governmental organizations that are approved by the [competent authority] on the basis of their experience and capacity for providing effective relief" (IFRC 2017a, 8). In other words, the Model recognizes governmental entities, non-governmental entities and the National Red Cross and Red Crescent Societies as the authorized actors in situations of meteorological and geophysical disaster. In PHE

settings, the vast majority of the intervening actors are similar to the ones enlisted by the Model. The purpose of their activities is, however, adapted to the needs to manage health emergencies. As such, the actions they perform cover technical areas such as surveillance, data management, case management, or infection prevention and control. The profile of the approved actors is also adapted to the specific features of the crisis, with health workers predominating among all the actors involved in the interventions (GOARN n.d.; Interview 3).

Informants identified several actors whose role is particularly relevant to PHEs: stakeholders acting under the auspices of the WHO and the private sector. Firstly, participants referred to the "Emergency Medical Teams (EMTs)" as the global health workforce deployed by the WHO. The EMTs comprise groups of health professionals that treat patients affected by a given emergency. Historically EMTs focused on trauma and surgical interventions; however, EVD outbreaks in 2014-2016 showed that the need for EMTs in PHEs is greater than in situations of disasters and trauma (GOARN n.d; Interview 5). In addition, participants referred to the experts mobilized by the "Global Outbreak Alert and Response Network (GOARN)" as a relevant public health actor. The GOARN was created under the WHO in April 2000 to assist countries with disease control efforts (WHO 2015, para. 1; Interview 3 and 5). It constitutes a technical collaboration of existing institutions and networks that pool human and technical resources for the rapid response to outbreaks of international concern. In this regard, EMTs and experts deployed through the GOARN should be given due consideration under the Model. The instrument can include both the EMTs and the GOARN under the enlisted approved actors in article 8.

Secondly, informants underlined the role of the private sector in PHE interventions. Taking the COVID-19 crisis as an example, participants stressed the high level of reliance of the PHE interventions on private companies: "There were no commercial flights, or they were flying at an incredibly low frequency. [...] That was critical. Nothing can replace the commercial companies or the commercial air traffic" (Interview 5). Adding to the importance of the private sector, participants highlighted the crucial role of manufacturers in the production of essential medical supplies, such as masks or PPEs (Interview 2 and 5). The current version of the Model is silent on whether commercial actors can be considered under the definition of approved actor. Participants, however, saw merit in considering the private sector as an authorized actor in PHEs (Interview 2). In fact, the EU Humanitarian Air Bridge 2020 organized by ECHO may act as a potential precedent on this practice. In this case, the European Union mobilized commercial flights to bring humanitarian relief to fragile areas, thus turning the airlines' companies into a *de facto* approved actor. The IFRC Model Emergency Decree can therefore incorporate in article 8 a specific referral to the private sector. This would not merely facilitate access to humanitarian interventions but also to the actors that logistically enable the activities of the relief providers.

The following sections move to analyze the provisions concerning the approved actors under the Model. More specifically, it examines the provisions comprised under the title "the regulation of approved actors" in section 2.6 of this study.

6.3.1. Responsibilities of Assisting International Actors

This part of the IFRC Model Emergency Decree concerns the responsibilities of assisting international actors in working according to national law and humanitarian principles. The provisions summarize the key responsibilities of all assisting actors and set out the minimum requirements for assisting international actors to become eligible for the legal facilities conferred by the Model (IFRC n.d.-a, 8). These responsibilities include the respect of the principles of humanity, impartiality, and neutrality; the provision of goods and services in compliance with all applicable laws in the given country; and the provision of G&E in conformity with the Sphere Project Humanitarian Charter and Minimum Standards in Humanitarian Response if circumstances allow. The Model sets out these responsibilities for disaster interventions; nonetheless, they equally pertain to PHEs (Interview 5 and 6). In this respect, article 6 of the Model applies to situations of PHEs as established in the current version of the instrument.

The "duty of information sharing" of the intervening international actors included in article 5 is, however, more problematic. The article states that, in disaster settings, assisting international actors must provide "any information available to [them] on the needs of the affected population, and on the location, type and extent of their disaster relief activities, to ensure a coordinated and effective response" (IFRC n.d.-a, 8). When contextualizing this provision in situations of a health crisis, the risk rests on the sensitivity of the data concerned. As one informant highlighted, "PHEs involve loads of sensitive data. There is always information about names [and] personal details such as addresses or contact numbers [that] is needed for public health actions like contact tracing" (Interview 3). Information management and information sharing are essential for all actors to triangulate their data and avoid duplication of efforts, however, several problems were identified by informants when applying article 5 ("duty of information sharing") in PHEs. These problems include the lack of data privacy regulations on the part of the receiving state, on the one hand, and the potential abusive use of the sensitive data shared by the intervening international actors, on the other hand.

Building on the first point ("the absence of data privacy regulations"), one participant with longstanding experience in data surveillance flagged the lack of confidentiality as a key element to be aware of when applying the Model in PHEs. The interview excerpt below elaborates on this point.

> *Frequently, the countries that are affected by health emergencies have not yet developed their own data privacy regulation. Therefore, they operate in a way that is not concerned with the privacy of the patient and the confidentiality of their details. […] I do not feel that, so far, [data privacy and confidentiality] have been well explained or sufficiently regarded at the international level, and that is essential in PHEs* (Interview 3).

In addition, another informant reported the serious risk associated with sharing sensitive data with states that do not fully respect basic human rights. It was the case of China during the COVID-19 crisis or the DRC during the EVD outbreak in 2014-2016, as one participant explained (Interview 4). In these contexts, the "duty of information sharing" by the intervening foreign actors not only exposes the population of concern to further risk but also induces international relief actors to become complicit in measures that may threaten affected communities. This situation reveals a contradiction within the

framework of the Model in its application to health emergencies. When human rights are contested, the "duty of information sharing" that stands as an obligation under the instrument runs counter to the humanitarian principle of "do no harm". Albeit this axiom ("do no harm") is not expressly mentioned by the instrument; it constitutes one of the foundations of the humanitarian principles and, therefore, must be respected in all instances. These conflicting obligations identified in the Model present a strong limitation to apply the instrument in situations of PHE.

All in all, the IFRC Model Emergency Decree presents two main challenges concerning the responsibility of the approved actors in PHE contexts. These challenges encompass data privacy concerns and the inadequate use of shared data by the receiving state. In what concerns the confidentiality of the sensitive data, the Model can specifically appeal to the respect for data privacy in article 5. To adequately implement this recommendation, states can refer to their specific applicable law, such as the General Data Protection Regulation (GDPR), in the context of the European Union. In the event affected states have not yet developed protocols to safeguard the confidentiality of sensitive data, states should make their best efforts to ensure that data is treated in a secured manner and guarantee it is solely used for medical purposes. In what concerns the inadequate use of data by the receiving state, the Model cannot circumvent the paradox it creates ("duty of information sharing" versus "do no harm") by modifying its provision. These conflicted obligations unveil a strong limitation that, ultimately, questions the applicability of the Model in situations of PHEs.

6.3.2. Eligibility for Facilities

This part of the IFRC Model Emergency Decree deals with the special entitlements granted to foreign intervening actors to enable their operations during the SoE. These special entitlements are referred to by the Model as "legal facilities". The rationale of these provisions in the current version of the Model rests in the large number of assisting actors that are willing to intervene in the wake of a disaster. To regulate it, the instrument provides a framework in which only the best equipped foreign actors are entitled to receive special legal facilities to expedite their activities (IFRC n.d.-a, 12). In order to implement this measure, the instrument encourages states to develop certain "eligibility criteria" that ensures the quality of the response (Interview 1, IFRC n.d.-a, 12). These eligibility criteria are not as such included in the articles of the Model; however, they correspond as a subsidiary resource that states must develop to determine eligibility for facilities for the approved actors.

In the case of states that have implemented the current version of the Model, the eligibility criteria are found in DRM regulation. It is the case of Nauru, whose eligibility criteria for international disaster relief actors is defined in its domestic DRM legislation ("Division 4: Eligibility for Legal Facilities' in Nauru's National Disaster Risk Management Act of 2016") (IFRC n.d.-a, 13). In this case, the set criteria are geared towards finding the best actors to respond to disasters; nonetheless, these actors are not necessarily the best suited to respond to health crises. In this regard, the Model should encourage states to adjust the eligibility criteria to the characteristics of PHEs, considering applicable public health standards. Likewise, cultural requirements must be considered. While cultural

accommodation is essential in any type of foreign humanitarian intervention, it is imperative in health emergency situations. When cultural practices involve the blatant violation of human rights, relief responders need to intervene with sufficient cultural sensitivity so that the consequence of their interventions is not more harmful than the consequences of the health crisis they seek to mitigate. One participant stressed the importance of this point and noted the risk of imposing treatments that contradict local tradition by referring to the EVD outbreak in West Africa 2014-2016 (Interview 3). In this sense, the Model should encourage PHE actors to have, not only a strong experience with the institutions of the country but also a thorough knowledge of the social, religious, political, and cultural dynamics of the communities they intend to assist. This must be done in a reasonable manner, as establishing criteria for measuring cultural accommodation is complex and, if poorly implemented, can be detrimental to the response.

In sum, since the Model does not specify which are the eligibility criteria within its provisions, the instrument does not need to amend any of its articles. Nonetheless, the instrument should encourage the receiving state to adjust these criteria to the particularities of the context and the features of the stakeholders that have a role in responding to health emergencies. In considering the adaptation of these criteria, both public health and cultural criteria must be taken into account.

6.3.3. Legal Status and Facilities for Approved Actors

This part of the IFRC Model Emergency Decree addresses the legal status and facilities that foreign intervening actors must have to operate legally and efficiently within the affected state. As a prerequisite to grant legal status to intervening foreign actors, the Model establishes that they must have legal or juridical personality in their country of origin or under international law. This legal status, however, does not give them the legal capacity to operate within the receiving state. To enable it, the Model grants legal status and legal facilities to approved actors during the relief response and the initial recovery periods. It also provides foreign intervening actors with specific provisions related to the employment of locally engaged personnel and locally purchased G&Es (IFRC n.d.-a, 22).

The provisions that refer to local human resources and locally produced G&Es are included in articles 20 and 22, respectively. These provisions are particularly relevant for humanitarian operations, as they concern the process of localization of the relief interventions. Localization aims to promote the engagement of local and national actors in all phases of the humanitarian response (Plan International 2021, 1). As such, these articles encourage intervening foreign actors to "engage staff or casual labor locally" and avoid that "local suppliers suffer negative financial or administrative impact in providing goods and services" (IFRC n.d.-a, 25). Informants of this study recognized the positive impact of local labor in the affected communities; however, they also highlighted the "limitations of localization in situations of PHEs" (Interview 4 and 5).

Building on this point, one participant explained that the limitations of local procurement rest on the quality of the items needed to respond and the time efficiency of the market (Interview 5). The rapidly changing nature of PHEs urges approved actors to procure at short notice and with requests subject to last-minute changes. Suppliers to approved actors

require, therefore, a powerful production capacity that absorbs variations without affecting the flow of the supply chain. In this sense, one participant recognized that local markets are often limited in their capacity to respond: "Perhaps you can find [relief goods] in the local market but they would take longer. Most of the times the pressure is that high that you need to import" (Interview 4). Another participant emphasized this point, noting that the urgency of the demand is even greater in PHEs. This is due to the fact that any failure in the quality of the material could not only put the affected population at risk but also the caregivers (Interview 2).

The PHEs require, therefore, high-quality G&Es and reactive providers for which local markets may not be the most optimal suppliers. The Model is again limited in its ability to address these situations through its provisions. The Model can, however, offer certain recommendations about the localization of PHEs to the states that implement it. In cases where the localized response presents certain limitations, a recommendation can target the prioritization of responders in neighboring regions when circumstances allow (IFRC 2021b, 124). In health emergencies, time is an asset of prime necessity. Hence, sourcing from regional markets can bring numerous benefits that include the optimization of time and expenses due to the physical proximity of the suppliers. In this respect, the Model can consider the duty waiver for goods purchased regionally – and not only locally as considered in the current version of the instrument. Besides, the affected state can further encourage regional procurement by allocating certain budget lines of relief funding for G&Es acquired from regional and national suppliers. This suggestion finds a precedent in Samoa's National Disaster Management Plan that waives financial obligations imposed to relief G&Es at the time that it releases disaster relief funding to the procurement of relief items (IFRC n.d.-a, 26).

6.3.4. International Disaster Personnel for Approved Actors

The last part of the IFRC Model Emergency Decree analyzed in this study sets out the main legal elements that are relevant to the international personnel (both employees and volunteers) of approved actors. It includes measures that facilitate the entry of international personnel and that enable them to operate rapidly in the receiving state. In particular, the Model refers to the "waiver of entry visa, work permit or residence permit requirements" (IFRC n.d.-a, 28). It also considers the fast-tracked recognition of foreign professional qualifications whose practice would be otherwise constrained by a registration requirement under national law (IFRC n.d.-a, 28). Participants of this study considered that the "legal elements for the personnel of approved actors" granted to disaster relief actors by the Model are overall suitable for PHE-responders. Certain limitations were, however, raised by informants when contextualizing the provisions in PHEs, notably in the COVID-19 crisis.

The main limitation identified by informants to apply the Model in situations of PHEs is that, not surprisingly, the instrument does not facilitate the procedures related to the health requirements imposed during pandemics. An example of this is the polymerase chain reaction (PCR) test for international personnel required by receiving states during the COVID-19 crisis. One participant reported that the PCR tests and the quarantine requirements were the "two big limitations for intervening during the pandemic". He

explained that the organization he works for suspended the deployment of international staff since "these requirements stretched the process to the extent that it did not make sense to proceed with physical deployment" (Interview 2). These health requisites were not only required by the receiving state but also by airlines' companies that transported the relief providers to the location of concern. The same participant explained that airlines companies replicated the PCR requirements imposed by different countries as obligations that passengers had to fulfil before boarding. Hence, even if the receiving state showed a certain degree of flexibility with the type of proof provided to demonstrate that the relief personnel was not infected, the airlines did require it (Interview 2).

In this case, the Model can incorporate two key recommendations. Firstly, the instrument can consider health requirements, such as the PCR test, like any other administrative requirement that should be expedited. This acceleration of the process can be aimed at achieving greater access to diagnostic tests for the foreign intervening actors without compromising, in any way, the public health and welfare of the assisted communities. Another venue to alleviate the health requirements while prioritizing public health is to expand the type of diagnostic tests approved by the recipient state. In the COVID-19 case, this alternative corresponded to the rapid antigen test (RAT). Secondly, and directly related to the previous recommendation, the receiving state can extend this procedural expenditure to all stakeholders involved in health operations. This would ultimately include the private sector, as suggested in section 6.3. Both proposals can simplify the cumbersome procedure that intervening foreign actors must go through in emergency situations. All in all, it would optimize the efficiency of the response for both the affected state and the intervening actors in PHE settings.

7. Conclusion

7.1. Discussion of Findings

This section and sub-sections assess the applicability of the IFRC Model Emergency Decree in PHEs. To do so, it builds on the analysis of the instrument conducted in chapters 5 and 6. It highlights the main points that were raised in these chapters and draw on them to respond to the research question. The chapter consists of three sub-sections. The first sub-section examines whether or to what extent the scope of the Model includes situations of PHEs. The second looks at whether or to what extent the provision with the Model adapts to the features of health crises. The third section flags some final remarks that conclude the analysis.

7.1.1. Examination of the Scope of the Model Emergency Decree

The first section (the scope of the term "disaster") has examined the definition of "disaster" included in the Model with the aim of determining whether situations of PHE fall under its scope. The analysis shows that there is a difference between the theoretical and the practice-based understanding of PHEs as a particular type of disaster. From a theoretical (or "legal") perspective, a PHE amount to a disaster to the extent the outbreak is recognized as a disrupting event that causes a "significant, widespread threat", regardless of whether it is "sudden or the result of long-term processes". It must also take place in non-conflict settings (IFRC 2007a, 7). Following these provisions, PHEs fall under the definition of disaster forasmuch as it complies with the previous requirements.

The analysis of the applicability of the document from an operational (or "social") point of view, however, has found certain difficulties that need to be considered in the assessment. The analysis of PHEs from a practice-based perspective suggests that the Model is not suitable for PHEs on the basis of two key reasons: the political implications of PHEs and the contexts in which the Model is expected to apply ("non-conflict settings"). On the one hand, participants of this study emphasized the role of politics in situations of PHEs and warned about the possible instrumentalization of the Model to restrict access in the name of the law. This concern is particularly pertinent in highly sensitive settings, such as in refugee camps (Interview 3). On the other hand, the purposive exclusion of conflict settings presents a strong limitation to the usefulness of the document. As claimed by a key informant, "the contexts where [the Model] is most needed are conflict areas" (Interview 6). This is due to the fact that states that usually lack emergency regulation, including PHEs regulation, are under-resourced states. Even if, at first, the PHEs takes place in a non-conflict setting, health emergencies act as a destabilizer of the social structures. They attract significant economic resources for which non-state stakeholders will try to seize power. Both the potential abusive use of the instrument and the link between "PHEs–conflict", indicate that the situations in which the Model can be applied are so reduced that the instrument no longer fulfils the purpose for which it was created.

The second section (the scope of an "emergency decree" document) continues to examine the nature of a decree-law document with the purpose of presenting the inherent limitations of a document of its kind. The analysis shows that the Model encounters

several limitations to facilitate the PHE operations due to three main motives: the top-down approach of the instrument, the geographic scope of the document and the time-bound nature of the Model. These three limitations hamper the ability of the instrument to facilitate the inflow of relief actors in PHEs. To begin with, the document is presented as an unfinished sample of an emergency decree that leaves room for further modifications. Given the political nuances of PHEs, the Model may be used to restrict the access of incoming actors to the population of concern. Likewise, the limited geographic scope of the Model undermines the ability of the document to facilitate foreign PHE interventions. The Model only regulates the activities that take place within the limits of its jurisdiction, leaving an important part of the procedures involved in the emergency operations unregulated (countries of origin and transit). Lastly, the time-bound nature of the Model raises an additional limitation, as the duration of the response does not necessarily coincide with the duration of the SoE (Interview 4 and 6).

In this context, the IFRC Model Emergency Decree is presented as a one-sided tool enacted by the state to safeguard the best interest of the state. It leaves the door open to possible misuse, does not allow the regulation of the bureaucratic barriers that arise outside the limits of its jurisdiction (mostly the aid receiving state), and imposes an artificial timeline that does not necessarily follow the evolution and dynamics of an emergency. Ultimately, the Model may apply in situations of PHEs that occur in non-conflict settings. However, the analysis has revealed certain limitations that weaken its ability to facilitate the inflow of relief actors. These limitations include the political implications of PHEs, the contexts in which the Model is expected to apply, the top-down approach of the instrument, the geographic scope of the document and the time-bound nature of the Model.

7.1.2. Examination of the Provisions of the Model Emergency Decree

The examination of the provisions of the Model conducted in chapter 6 studied the articles concerning the responsibility of the state, the regulation of incoming items and the regulation of approved actors. This section draws from this analysis to determine whether or to what extent these provisions are applicable to situations of PHEs, thereby responding to the research question. In cases where the instrument does not entirely fit the features of health crises, several recommendations are presented. These recommendations flow in two different directions. On the one hand, they address the content of the IFRC Model Emergency Decree to adjust its provisions to PHE settings. On the other hand, they address the recipient state to facilitate the interventions of foreign relief actors beyond the provisions of the document.

7.1.2.1. Examination of the Provisions of the Model Concerning the Regulation of Items in PHEs

The first section has analyzed the provisions concerning the responsibility of the state in situations of health crises. The sections firstly describe where this responsibility lies and outline how it is exercised in practice. It states that the responsibility of the state in emergencies, including PHEs, yields on the Charter of the United Nations and the principles of international law (WHO 2007, 5). Irrespective of the type of emergency, the state responsibility includes tasks such as disseminating information among the

stakeholders concerned or coordinating the services involved in the response (National Academies of Sciences 2002, 4). It also includes the responsibility to actively facilitate access of foreign intervening actors to the affected population (UNGA 1991, para. 35d). Whereas the state responsibilities come into play in all types of emergencies, the activities it concerns are frequently tailored to the emergency type. Otherwise stated, the responsibility of the state in situations of disasters diverts from the one in situations of public health emergencies. Participants of this study explained that the state responsibility in PHEs is bidirectional. They reported that their activities encompass actors that stand at different levels of the chain of operation ("vertical responsibility") in which the state is responsible towards several actors that range from members of the international community to traditional healers. Similarly, informants referred to the "horizontal responsibility" of the state by noting the affected country is responsible for orchestrating national actors that are called upon to respond in health emergencies.

In the light of the helicopter view shared by the participants to describe the dynamics of health crises, it can be stated that the dynamics of PHEs are considerably similar to the ones outlined in any other type of meteorological or geophysical disaster. The difference between the two lies, however, in the role that health actors play in the two emergencies. While in disaster situations, health actors are one respondent among the wealth of actors inquired about intervening; in health crises, health actors have a more prominent role. The analysis highlights two actors of importance: the WHO and the national ministries of health. The WHO plays an important role in health emergency settings, especially when the crisis is declared as a PHEIC. In these situations, the IHR (2005) become enforceable in the affected state, having a strong implication on the vertical responsibility of the state concerned. Likewise, informants stressed the role of the MoH in health emergencies as, in most instances, they are key to the decision-making strategy followed in the emergency response. Ultimately, both the WHO and the national MoH should be taken into careful consideration when considering the responsibility of the state in PHE settings. This point has implications regarding the content of the Model, particularly when considering the stakeholders involved in the PHEs interventions. This is the case of articles 1 and 2 ("coordination of international disaster assistance") of the instrument.

The analysis shows that the provisions of the Model on coordination (articles 1, 2) are not fully tailored to situations of PHEs. This is due to the fact that the document does not comprise the requirements for coordination as provided by article 4 ("responsible authorities") of the IHR (2005). The first recommendation to adapt the Model concerns, therefore, the alignment of its provisions with the requirements for coordination provided by the IHR (2005). These Regulations confer that, once a PHEIC is declared, the affected state must appoint a national focal point accessible for communications: the "National IHR Focal Point" (World Health Assembly 2006, 11). In this regard, the Model can mention this role among their sample provisions, noting that this role will only be necessary when the WHO announces a PHEIC.

The second suggestion to adjust the content of the Model concerns the provisions on the offers and acceptance of international disaster assistance (articles 3, 4). The rationale of these recommendations' rests on the high level of rigidity imposed on non-state actors when considering notification periods. Participants warned that the consequences of strict processes in health emergencies are critical for the efficacy of the intervention. This is due

to the rapidly changing nature of epidemics and pandemics where requests, although predictable, fluctuate constantly. In this regard, the analysis highlights the need for more malleable processes when considering the intervention of non-state actors in PHEs. It recommends that the Model amend article 4 in a way that allows for a more adaptable notification deadline to non-state actors while guaranteeing that the intervention notice takes place in a timely efficient manner.

In addition to the content of the instrument, the Model presents certain limitations in its applicability to health crises that could not be overcome with a mere amendment to its articles. It was the case of the provisions on the Model concerning the specialized unit to expedite the entry of incoming international assistance (article 28-32). This specialized unit was found by informants as "functional and appropriate" for PHEs. Participants, however, recognized the limitation of this unit to circumvent the multiple offshored procedures concerned in a PHE intervention. In this sense, the recommendations put forth are not aimed at modifying the provisions of the instrument but at establishing a roadmap in which the affected state could make use of diplomatic channels (soft means) to reduce the administrative burden that takes place outside its jurisdiction. All in all, the suggestion goes along the lines of facilitating multilateral and cross-sectoral communication among the stakeholders concerned.

7.1.2.2. Examination of the Provisions of the Model Concerning the Regulation of Items in PHEs

The second section has analyzed the provisions concerning the regulation of incoming items in situations of PHEs. The section firstly outlines the three main categories of items that are crucial to respond to PHEs. It continues by identifying the regulatory barriers associated with importing such items and concludes with some recommendations on how to circumvent or, at minimum, minimize the identified barriers. The section notes that the imported items in situations of PHEs comprise G&Es considered as regular cargo, medical items considered as dangerous cargo and vaccines. Of all these items, medical items considered as dangerous cargo and vaccines receive the most attention for the purpose of the study. This is so because these items involve prolonged administrative procedures that could substantially delay relief interventions. The analysis shows that the provisions of the Model concerning the regulation of incoming items (articles 10-18) do apply to health crisis situations. However, they do not envisage any measure to reduce the long-lasting procedures linked to the G&Es imported in situations of epidemics and pandemics.

To circumvent the identified pitfall, the study argues that it is essential to differentiate what belongs to simple administrative measures and what stands as a core requirement to preserve the safety and accuracy of the procedure. It suggests that the Model undertake a more permissible approach towards the provision that restrains the waiver of customs duties, taxes, tariffs, or governmental fees if "public health" is concerned and anticipate fast-tracked procedures to expedite the importation of hazardous material while safeguarding security (IFRC n.d.-a, 18). Ultimately, it recommends that the Model set the ground that allows for an equilibrium between the risks associated with PHEs and the speed required to ensure the efficacy of the response.

7.1.2.3. Examination of the Provisions of the Model Concerning the Regulation of Approved Actors in PHE

The third section has analyzed the provisions concerning the regulation of approved actors in PHEs. The section firstly outlines the actors that the Model describes as approved actors. It continues to identify two additional responders that, although they are not considered under the current version of the instrument, play a key role in PHEs and should thereby be contemplated when assessing the adaptation of the Model to health crises. This is the case of the stakeholders acting under the auspices of the WHO and the private sector. The section concludes by analyzing additional issues that determine the applicability of the Model in PHEs and, where feasible, provides some recommendations to minimize the identified pitfalls.

The sub-section that examines the provisions concerning the responsibilities of assisting actors (articles 5-7) underlines key challenges that call into question the applicability of the Model in health crisis situations. The challenges include data privacy and the inadequate use of shared data by the receiving state. The analysis argues that these challenges attire are several inconsistencies between the duty of sharing conferred in article 5 and the respect of the humanitarian principles appealed in article 6 of the instrument. The problem roots in the amount of sensitive data required in PHEs. Whereas the Model refers to the obligation of foreign intervening actors to share "any information available to [them] on the needs of the affected population" (IFRC n.d.-a., 8); in most of the cases, this information entails sensitive data that is not treated in line with privacy and confidentiality dues. Participants also cautioned against sharing sensitive data when the receiving state does not respect human rights. It is precisely in these two previous cases where humanitarian principles could be compromised. The analysis warned that the inadequate use of shared data could jeopardize the principle of "do no harm" and ultimately compromise the safety and security of the population of concern. To minimize these risks, the analysis suggests that recipient states make their best efforts to ensure that data is treated in a secured manner and guarantee it is solely used for medical purposes. Despite this recommendation, these conflicting obligations pose a strong limitation to apply the instrument in situations of PHE.

The sub-section that studies the eligibility for facilities (articles 8, 9) deals with the special entitlements granted to approved actors to enable their operations during the SoE, on the one hand, and with the criteria established to determine this eligibility, on the other hand. Although these eligibility criteria are not included among the articles of the Model, the recommendation provided targets with these criteria. The analysis argues that the criteria for eligibility considered in disaster situations do not necessarily constitute the best suitable requirements for health emergency settings. Considering this, the analysis proposes an adaptation of these criteria to the PHE contexts prioritizing both public health and cultural factors. As it occurs in previous provisions, it can be stated that the Model applies in PHEs. However, the recipient state should be strongly encouraged to take subsidiary action that ensures the adaptation of the document to the particularities of epidemics and pandemics.

The sub-section that concerns the legal status and facilities for approved actors (articles 19-23) addresses the entitlements that foreign intervening actors must have to operate

legally and efficiently within the affected state. In particular, the analysis focusses on articles 20 and 22 that refer to local human resources and locally produced G&Es. The articles stir intervening foreign actors to "engage staff or casual labour locally" and make their best efforts to avoid that "local suppliers suffer negative financial [...] impact" (IFRC n.d.-a, 25). Participants, however, informed that both local markets and locally engaged personnel often present serious limitations when responding to health crises, as any failure in the quality of the material or in the patients' treatments could expose both the caregivers and the affected populations. In this respect, it can be stated that the Model does apply in its current version to contexts of PHEs, although it may cause various problems when implementing it in practice. To mitigate the limitations identified, the analysis suggests specific measures such as considering the duty waiver for goods purchased regionally – and not only locally as considered in the current version of the instrument.

The last sub-section describes the measures that facilitate the entry of international personnel and that enable them to operate rapidly in the receiving state (articles 24-27). These measures involve the "waiver of entry visa, work permit or residence permit requirements" (IFRC n.d.-a, 28). In this respect, the analysis identified that the instrument does not facilitate the procedures related to the health requirements enforced during the pandemics. Although this feature does not limit the applicability of the Model in PHEs, it raises a relevant element that should be considered when contextualizing the instrument into health crises. The analysis unfolds two key recommendations. It firstly suggests that the instrument consider health requirements, such as the PCR test, like any other administrative requirement that should be expedited; and, secondly, that the receiving state extends the expenditure of these procedures to all stakeholders involved in health operations, including the private sector.

In sum, the analysis shows that, overall, the Model can be applied to situations of public health emergencies. Nevertheless, the analysis reveals that there is some room for improvement when applying its provisions in situations of PHE. To achieve the adaptation of the instrument, the analysis flags several recommendations that target two key fronts. On the one hand, it suggests the amendment of some articles of the Model. In particular, it calls for a revision of articles 1 and 2 on coordination of international disaster assistance or article 11 on the importation of relief goods and equipment when public health is concerned. On the other hand, it highlights a range of good practices that the affected state could incorporate to circumvent the problems identified in the analysis. These recommendations encompass, among others, a higher level of discretion (or "flexibility") to non-state actors; a multilateral and cross-sectoral communication oriented to enhance coordination and lessen the administrative burden that takes place within and outside the receiving state; and finding an equilibrium between the risks associated with PHEs and the speed required to ensure the efficacy of the response.

7.1.3. Additional Findings

This study provides a helicopter view of the underlying dynamics of health emergencies and how they differ from other types of disasters. From this informed standpoint, this research is confident to flag the urgency of incorporating prevention and preparedness

measures that regulate the response to PHEs. These measures should be implemented at the international, regional, and domestic levels, given the cross-cutting and all-encompassing nature of health emergencies that this study underlined. These prevention and preparedness activities may comprise legal (hard law) or quasi-legal (soft law) measures. However, it is essential that they are operationalized appropriately. This is to say that they should not be limited to a regulatory text, for instance, the adapted version of the IFRC Model Emergency Decree. They should also include a simplified roadmap that guides stakeholders on how to put them into practice. Responders must thereby be acquainted with the established regulation and, more importantly, with the role they play within them (Interview 1 and 2). Likewise, the study showed that prevention and preparedness measures in health emergencies require special adaptation within the DRM frameworks in which they are frequently embedded. Even if IDRL stands as a suitable alternative in the absence of PHE frameworks, the use of the documents they put forth (for instance, the IFRC Disaster Law Toolbox) requires a thorough adaptation that should be carefully implemented. Likewise, humanitarian principles, the axiom of "do no harm", and the risks associated with health emergencies must be regarded, minimized, and, where possible, circumvented.

In addition to these considerations, the study identifies four principles that can guide the measures established to prevent and respond to PHEs. These aspects were recognized by informants when discussing the most recurrent problems when PHEs occur and the best practices to minimize their impact. The principles include (i) a certain level of predictability, (ii) flexibility, (iii) simplification of the decision-making processes and (iv) the adequate transfer of knowledge. Participants noted that creating predictability in a fast-evolving situation, such as health emergencies, is vital to the response (Interview 1 and 7). The rapidity at which the emergency evolves must be paired with pre-established procedures that have analyzed in advance the possible consequences of the emergency and how to alleviate them. In turn, these procedures should be simple and flexible, giving a degree of discretion to decision-makers, whether state or relief responders. By doing so, the response to health emergencies would be made within a well-established framework in which fast-tracked mechanisms would be put in place to solve regulatory problems as they arise. The idea would be "a regulatory framework that, as paradoxical as it sounds, lifts regulation", as one participant underlined (Interview 5). As a final point, it would also be essential to implementing a proactive plan to diffuse the knowledge of epidemic management in other affected states. One informant illustrated the importance of knowledge management and knowledge sharing through the following statement: "You have the speed of the virus and the speed of knowledge. [PHE responders] need to catch up with the speed of the virus by spreading the knowledge on how to contain it at a faster rate" (Interview 5).

In sum, responding to health emergencies is complex and requires the preparation of predictable, simple, and flexible response plans by the states concerned. Once proven effective, these should be circulated to stakeholders who stand to benefit.

7.2. Concluding Remarks

This research explored the prospective application of the IDRL to PHEs. From among the instruments that compose the emerging field of the IDRL, this study examined the Disaster Law Toolbox commissioned by the IFRC. In particular, the research undertook the 'Model Emergency Decree for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (2017)' as the instrument of study. The research question was divided into four sub-questions. These sub-questions were focused on the definition of PHEs as a particular kind of disaster and on the legal and regulatory frameworks that apply when PHEs strike. The sub-questions provided background of what a PHE is and identified the features that differentiate them from disasters of a different kind. The two remaining sub-questions helped assess whether or to what extent the scope and provisions of the IFRC Model Emergency Decree encompassed epidemics and pandemics. When that was not the case, the study provided some recommendations to transpose the Model to situations of health crises.

To answer these research questions, the study uses a socio-legal research methodology. The study employed a qualitative method that consulted both primary and secondary sources. Firstly, a desk review of documents linked to disasters and PHEs was carried out. Secondly, the examination of primary sources comprised the provisions of the Model (articles 1 to 32) and the data collected through seven one-to-one interviews. Participants responded to two key profiles: PHEs responders and IDRL professionals. They worked for organizations such as the WHO, MSF, DG ECHO or the IFRC. Although the sample of the interviews is limited and far from being representative, it does allow to identify key aspects about PHEs management and IDRL that emboldened the research by providing a remarkable viewpoint.

This study argued that PHEs constitute a particular type of disaster forasmuch as they fulfil article 1(6) of the Tampere Convention (1998). It thereby refers to them as disasters prompted by the outbreak of infectious diseases. The study argued that the nature of these emergencies is two-folded, as it constitutes both PHE and a disaster. From a legal standpoint, this duality entails notable implications. The legislation applicable in PHEs encompasses both epidemic management standards and DRM legislation. Whereas the two areas of the law usually apply complementarily, the experience of SARS-CoV-2 coronavirus 2020 has evidenced that DRM frameworks are have been broadly used to respond to PHEs. The problem arises when the DRM frameworks do not reflect the features of PHEs, leading to ill-adapted response operations that jeopardize the efficiency of the response and, ultimately, expose to further risk the population of concern. This is where the rationale for transposing the IFRC Model Emergency Decree (2017), originally developed for disaster settings, to emergency health situations lies.

To assess such applicability, the study first examined the scope of the term "disaster" as well as the scope of an emergency decree document. The study suggested the current version of the document is not suitable for PHEs on the basis of two key reasons: the political implications of PHEs and the contexts in which the Model is expected to apply (non-conflict settings). The study warned about the possible instrumentalization of the Model to restrict access in the name of the law and noted that the purposive exclusion of conflict settings among the contexts in which the instrument apply presents a strong

limitation to the usefulness of the tool. Furthermore, the fact that the Model is shaped like an "emergency decree" entails several limitations that include: the top-down approach of the instrument, the limited geographic scope of the document and the time-bound nature of the Model. The IFRC Model Emergency Decree is hereby presented as a one-sided tool enacted by the state to safeguard the best interest of the state. It does not allow the regulation of the barriers that arise outside the limits of its jurisdiction and imposes an artificial timeline that does not necessarily follow the evolution and dynamics of an emergency, notably a PHE.

The study further assessed whether or to what extent these provisions are applicable to situations of PHEs. It examined three overarching topics that include the responsibility of the state, the regulation of incoming items and the regulation of approved actors. The analysis showed that, overall, the Model could be applied to situations of public health emergencies, although there is room for improvement when applying its provisions to situations of this sort. To achieve a rigorous adaptation of the instrument, this study flagged several recommendations that target two key fronts. On the one hand, it suggests the amendment of some articles of the Model. In particular, it calls for a revision of articles 1 and 2 on coordination of international disaster assistance or article 11 on the importation of relief goods and equipment when public health is concerned. On the other hand, it highlights a range of good practices that the affected state could incorporate to circumvent the problems identified in the analysis. These recommendations encompass, among others, a higher level of discretion (or "flexibility") to the intervening actors; a multilateral and cross-sectoral communication oriented to enhance coordination and lessen the administrative burden that takes place within and outside the receiving state; and finally, the need to find an equilibrium between the risks associated with PHEs and the speed required to ensure the efficacy of the response.

In sum, this research stands in favor of the applicability of the IDRL to PHEs situations. Nonetheless, contextualization and several modifications, both in the provisions of the IFRC Disaster Law Toolbox and on the responding mechanisms of the receiving state, are necessary to ensure its due application in non-conflict health crises.

8. References

Aginam, O. (2002). International Law and Communicable Diseases. *Bulletin of the World Health Organization*, 80, 946–51. Retrieved from https://www.researchgate.net/publication/10913225_International_Law_and_Communicable_Diseases (last check: 8 July 2022).

All European Academies (ALLEA). (2017). *The European Code of Conduct for Research Integrity Revised Edition*. Berlin: ALLEA. pp. 4-8. Retrieved from: https://www.allea.org/wp-content/uploads/2017/05/ALLEA-European-Code-of-Conduct-for-Research-Integrity-2017.pdf (last check: 8 July 2022).

Banakar, R. & Travers, M. (2005). Theory and Method in Socio-Legal Research. Retrieved from: https://www.researchgate.net/publication/228262192_Theory_and_Method_in_SSoci-Legal_Research (last check: 8 July 2022).

Burton, C., Rufat, S. & Tate, E. (2018). Social Vulnerability: Conceptual Foundations and Geospatial Modeling. In Sven Fuchs & Thomas Thalert (Eds.), *Vulnerability and resilience to natural hazards* (pp. 53-81). Cambridge: Cambridge University Press. p. 37. Retrieved from: https://www.researchgate.net/publication/329660010_Social_Vulnerability_Conceptual_Foundations_and_Geospatial_Modeling (last check: 8 July 2022).

Criddle, E. J. & Fox-Decent, E. (2012). Human Rights, Emergencies, and the Rule of Law. *Human Rights Quarterly* 34, 39–87. Retrieved from: https://muse.jhu.edu/article/466130 (last check: 8 July 2022).

Demirtas, H. (2017). Judicial Way to Decree-Law: Extraordinary State of Emergency *International Journal of Economic Perspectives* 11, 447–50.

Dworkin, S. L. (2012). Sample Size Policy for Qualitative Studies Using In-Depth Interviews. *Archives of Sexual Behavior, 41*, 1319–1320. Retrieved from https://doi.org/10.1007/s10508-012-0016-6 (last check: 8 July 2022).

Elmore, R. F. (1981). Implementation and the law: Authority, responsibility, and competence. In *Association for Public Policy and Management Annual Meeting*.

Gessner, V. & Thomas, J. M. (1988). Socio-Legal Research and Policy Studies: A Review of the Issues. *Law & Policy* 10, 86–94.

Global Health Security Agenda (GHSA). (2018). *Global Health Security Agenda (GHSA) 2024 Framework*. Retrieved from: https://ghsagenda.org/wp-content/uploads/2020/06/ghsa2024-framework.pdf (last check: 8 July 2022).

Global Health Security Agenda (GHSA). (n.d.). A partnership against global health threats. *GHSA*. Retrieved from: https://ghsagenda.org/ (last check: 8 July 2022).

Global Outbreak Alert and Response Network (GOARN). (n.d.). GOARN Partners Deploy Experts to Fight the COVID-19 Pandemic. *GOARN*. Retrieved from: https://extranet.who.int/goarn/content/goarn-partners-deploy-experts-fight-covid-19-pandemic (last check: 8 July 2022).

Heath, K. (2011). The classical definition of a pandemic is not elusive. *Bulletin of the World Health Organization* 89: 540–541. Retrieved from: https://apps.who.int/iris/handle/10665/270942 (last check: 8 July 2022).

IFRC. (2021a). *Implementing Lessons from COVID-19 in Public Health Emergency and Disaster Law*. IFRC.

IFRC. (2021b). *Law and Public Health Emergency Preparedness and Response: Lessons from the COVID-19 pandemic*. Disaster Law Programme. Geneva: IFRC. Retrieved from: https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2021-09/20210926_Law_PHE.pdf (last check: 8 July 2022).

IFRC. (2020). *Key messages for National Societies in requesting humanitarian access from their authorities for their preparedness and response efforts during the COVID-19 pandemic*. IFRC. Retrieved from: https://www.unocha.org/sites/unocha/files/Advocacy%20Key%20Messages%20for%20%20NS_Aux%20Role%20and%20IDRL_Disaster%20Law%20Programme_EN.pdf (last check: 8 July 2022).

IFRC. (2017a). *Model Emergency Decree for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance*. IFRC. pp. 4–12. Retrieved from: https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2020-09/Model-Decree_EN-LR.pdf (last check: 8 July 2022).

IFRC. (2017b). *The Checklist on Law and Disaster Preparedness and Response*. IFRC. Retrieved from: https://disasterlaw.ifrc.org/media/1325 (last check: 8 July 2022).

IFRC. (2016). *Briefing Note: Single Window International Facilitation Team (SWIFT)*. IFRC. pp. 1–2. Retrieved from: https://disasterlaw.ifrc.org/media/1902?language_content_entity=en (last check: 8 July 2022).

IFRC. (2011). *Introduction to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance*. IFRC. Retrieved from: https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2020-09/1205600-IDRL-Guidelines-EN-LR.pdf (last check: 8 July 2022).

IFRC. (2007a). *Annotations to the Draft Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance*. IFRC. Retrieved from: https://disasterlaw.ifrc.org/media/1782?language_content_entity=en (last check: 8 July 2022).

IFRC. (2007b). *Law and Legal Issues in International Disaster Response: A Desk Study*. Geneva: IFRC. pp. 19–157. Retrieved from: https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2020-08/113600-idrl-deskstudy-en.pdf (last check: 8 July 2022).

IFRC. (n.d.-a). *Commentary to the Model Decree for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance*. Geneva: IFRC. Retrieved from: https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2021-02/MED-Commentary-FINAL.pdf (last check: 8 July 2022).

IFRC. (n.d.-b). Disaster Law. *IFRC*. Retrieved from: https://www.ifrc.org/disaster-law (last check: 8 July 2022).

IFRC Disaster Law. (n.d.). Disaster Law Database. *IFRC Disaster Law Disaster Law*. Retrieved from: https://disasterlaw.ifrc.org/disaster-law-database (last check: 8 July 2022).

Inter-agency Network for Education in Emergencies (INEE). (2022). *Health Emergency*. https://inee.org/eie-glossary/health-emergency (last check: 26 July 2022).

International Association of Professionals in Humanitarian Assistance and Protection (PHAP). (n.d.). International Disaster Response Law (IDRL). *PHAP*. https://phap.org/PHAP/Sector_Monitoring/Themes/Law_and_protection/IDRL/PHAP/Themes/IDRL.aspx (last check: 8 July 2022).

Kovács, G. & Sigala I. F. (2021). Lessons Learned from Humanitarian Logistics to Manage Supply Chain Disruptions. *Journal of Supply Chain Management* 57, 41–49. Retrieved from: https://doi.org/10.1111/jscm.12253 (last check: 8 July 2022).

Masiira, B., Nakiire, L., Kihembo C., Katushabe, E., Natseri, N., Nabukenya I., Komakech, I., et al. (2019). Evaluation of Integrated Disease Surveillance and Response (IDSR) Core and Support Functions after the Revitalisation of IDSR in Uganda from 2012 to 2016. *BMC Public Health* 19, 46. Retrieved from: https://doi.org/10.1186/s12889-018-6336-2 (last check: 8 July 2022).

Medelyan, A. (2020). Coding Qualitative Data: How to Code Qualitative Research. *getthematic*. Retrieved from: https://getthematic.com/insights/coding-qualitative-data/ (last check: 8 July 2022).

Médecins Sans Frontières (MSF). (2021). Countries Obstructing COVID-19 Patent Waiver Must Allow Negotiations to Start. *MSF*. https://www.msf.org/countries-obstructing-covid-19-patent-waiver-must-allow-negotiations (last check: 8 July 2022).

Médecins Sans Frontières (MSF). (2020). *Briefing Document: India and South Africa Proposal for WTO Waiver from Intellectual Property Protections for COVID-19-Related Medical Technologies*. MSF. Retrieved from: https://msfaccess.org/sites/default/files/2020-10/COVID_Brief_ProposalWTOWaiver_ENG_2020.pdf (last check: 8 July 2022).

Mullen, L. (2020). An Analysis of IHR Emergency Committees and PHEIC Designations. *outbreakobservatory*. Retrieved from: https://www.outbreakobservatory.org/outbreakthursday-1/6/25/2020/an-analysis-of-ihr-emergency-committees-and-pheic-designations (last check: 8 July 2022).

National Academy of Sciences. (2002). *The Future of The Public's Health in the 21st Century*. The National Academies Press. Retrieved from: https://doi.org/10.17226/10548 (last check: 8 July 2022).

Office of the High Commissioner for Human Rights (OHCHR). (n.d.). International Human Rights Law. *OHCHR*. Retrieved from: https://www.ohchr.org/en/professionalinterest/pages/internationallaw.aspx (last check: 8 July 2022).

Onzivu, W. (2011). (Re)Invigorating the World Health Organization's Governance of Health Rights: Repositing an Evolving Legal Mandate, Challenges and Prospects. *African Journal of Legal Studies*, Vol. 4. Retrieved from: https://doi.org/10.1163/170873811X585592 (last check: 8 July 2022).

Plan International. (2021). *Localisation of Humanitarian Action*. Plan international. Retrieved from: https://www.alnap.org/help-library/localisation-of-humanitarian-action (last check: 8 July 2022).

Ponta, A. (2020). Human Rights Law in the Time of the Coronavirus. *The American Society of International Law* 24 (5). Retrieved from: https://www.asil.org/insights/volume/24/issue/5/human-rights-law-time-coronavirus (last check: 8 July 2022).

Porta, M., Greenland, S., Burón, A., and International Epidemiological Association. (2014). *A dictionary of epidemiology* (6th ed.). Oxford, England: Oxford University Press. Retrieved from https://www.oxfordreference.com/view/10.1093/acref/9780199976720.001.0001/acref-9780199976720 (last check 26 July 2022).

PreventionWeb. (2016a). *Bangkok Principles for the Implementation of the Health Aspects of the Sendai Framework for Disaster Risk Reduction 2015–2030*. PreventionWeb, Retrieved from: https://www.preventionweb.net/publication/bangkok-principles-implementation-health-aspects-sendai-framework-disaster-risk (last check: 8 July 2022).

PreventionWeb, (2016b). *International Conference on the Implementation of the Health Aspects of Sendai Framework for Disaster Risk Reduction 2015–2030*. PreventionWeb. Retrieved from: https://www.preventionweb.net/files/47606_bangkokprinciplesfortheimplementati.pdf (last check: 8 July 2022).

Republic of Honduras (2021). *Law for the facilitation of humanitarian assistance in case of disasters and initial recovery*. In La Gaceta Section A Decrees and Agreements, No. 35 220. Retrieved from: https://disasterlaw.ifrc.org/node/429?language_content_entity=en (last check: 8 July 2022).

Shaw, M. (2019). International law. In *Encyclopedia Britannica*. Adam Augustyn, Heather Campbell, Brian Duignan, Gloria Lotha, Amy Tikkanen & Grace Young (Eds.). Retrieved from: https://www.britannica.com/topic/international-law (last check: 8 July 2022).

Singh, R, Bajpai, G.S., Singh, M. & Bajpai, G.S. (n.d.). Module IV: Socio-Legal Research. *Research Methodology*. 2–15. Retrieved from: http://epgp.inflibnet.ac.in/epgpdata/uploads/epgp_content/law/09._research_methodology/04._socio-legal_research/et/8151_et_et.pdf (last check: 8 July 2022).

Sphere Association. (2018). *The Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response*. Geneva: CHS Alliance, Sphere Association and Group URD. Retrieved from: https://www.spherestandards.org/wp-content/uploads/Sphere-Handbook-2018-EN.pdf (last check: 8 July 2022).

Lee, T. H., & Chen A. H. (2021). Last-Mile Logistics of Covid Vaccination – The Role of Health Care Organizations. *The New England Journal of Medicine*, 685–87. Retrieved from: www.nejm.org/doi/full/10.1056/NEJMp2100574 (last check: 8 July 2022).

Tokunaga, E. (2014). Evolution of International Disaster Response Law: Toward Codification and Progressive Development of the Law. In David D. Caron, Michael J. Kelly, & Anastasia Telesetsky (Eds.). *The International Law of Disaster Relief* (pp. 46–64). Cambridge: Cambridge University Press. Retrieved from: https://doi.org/10.1017/CBO9781107447844.008 (last check: 8 July 2022).

United Nations General Assembly (UNGA). (2020). Resolution 74/274. *International cooperation to ensure global access to medicines, vaccines and medical equipment to face COVID-19*. A/RES/74/274 (20 April 2020). Retrieved from: https://undocs.org/en/A/RES/74/274 (last check: 8 July 2022).

United Nations General Assembly (UNGA). (2016). *Report of the open-ended intergovernmental expert working group on indicators and terminology relating to disaster risk reduction*. A/71/644 (1 December 2016). Retrieved from: https://www.preventionweb.net/files/50683_oiewgreportenglish.pdf (last check: 8 July 2022).

United Nations General Assembly (UNGA). (1991). Resolution 46/182. *Strengthening of the coordination of humanitarian emergency assistance of the United Nations*. A/RES/46/182 (19 December 1991). Retrieved from: https://undocs.org/A/RES/46/182 (last check: 8 July 2022).

United Nations International Law Commission (UN ILC). (2016). *Draft articles on the protection of persons in the event of disasters*. A/71/10 (68th session, 2016). Retrieved from: https://legal.un.org/ilc/texts/instruments/english/draft_articles/6_3_2016.pdf (last check: 8 July 2022).

United Nations Office for Disaster Risk Reduction (UNDRR). (2015). *Fact Sheet: Health in the Context of the Sendai Framework for Disaster Risk Reduction Health Is a Key Element of the Adopted by Member States in March 2015 at the UN World Conference on Disaster Risk and Endorsed*. UNDDR. Retrieved from: https://www.undrr.org/publication/fact-sheet-health-context-sendai-framework-disaster-risk-reduction (last check: 8 July 2022).

United Nations Office for Disaster Risk Reduction (UNISDR). *Sendai framework for disaster risk reduction 2015–2030*. In: UN world conference on disaster risk reduction, 2015 March 14–18, Sendai, Japan. Retrieved from: http://www.wcdrr.org/uploads/Sendai_Framework_for_Disaster_Risk_Reduction_2015-2030.pdf (last check: 26 July 2022).

United Nations Office for Disaster Risk Reduction (UNISDR). *Bangkok Principles for the implementation of the health aspects of the Sendai Framework for Disaster Risk Reduction 2015-2030*. In: International Conference on the Implementation of the Health Aspect of the Sendai Framework for Disaster Risk Reduction 2015-2030, 10-11 March 2016, Bangkok, Thailand. Retrieved from: https://www.preventionweb.net/files/47606_bangkokprinciplesfortheimplementati.pdf (last check: 26 July 2022).

United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA). Disaster Response Branch. (1998). *Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations*. UN OCHA, Disaster Response Branch. Retrieved from: https://digitallibrary.un.org/record/1492818 (last check: 8 July 2022).

United Nations Special Rapporteur. (1997). *The Administration of Justice and the Human Rights of Detainees: Question of Human Rights and States of Emergency*. Report by the UN Special Rapporteur, Mr. Leandro Despouy. E/CN.4/Sub.2/1997/19/Add.1 (9 June 1996). Retrieved from: https://digitallibrary.un.org/record/240377 (last check: 8 July 2022).

World Health Assembly. (2020). Resolution WHA73.1. *COVID-19 Response*. WHA73.1 (19 May 2020). Retrieved from: https://apps.who.int/gb/ebwha/pdf_files/WHA73/A73_R1-en.pdf (last check: 8 July 2022).

World Health Assembly. (2008). *International Health Regulations (*2nd ed.). Geneva: World Health Organization. Retrieved from: https://www.who.int/publications/i/item/9789241580410 (last check 26 July 2022).

World Health Organization (WHO). (2019). Health Emergency and Disaster Risk Management Framework. Geneva. Retrieved from: https://apps.who.int/iris/bitstream/handle/10665/326106/9789241516181-eng.pdf (last check: 26 July 2022).

World Health Organization (WHO). (2015). Emergencies: Emergency Medical Teams. *WHO*. Retrieved from: https://www.who.int/news-room/q-a-detail/emergencies-emergency-medical-teams (last check: 8 July 2022).

World Health Organization (WHO). (2007). *International Health Regulations (2005): Areas of Work for Implementation*. Lyon: WHO. Retrieved from:

https://www.who.int/publications/i/item/international-health-regulations-(-2005)-areas-of-work-for-implementation (last check: 8 July 2022).

World Health Organization (WHO) and Emergency and Humanitarian Action (EHA). (2002). *Disasters and Emergencies Definitions*. Addis Ababa: WHO/EHA Panafrican Emergency Training Centre.Retrieved from: http://apps.who.int/disasters/repo/7656.pdf (last check: 8 July 2022).

World Health Organization (WHO). (n.d.). Strengthening health security by implementing the International Health Regulations (2005). *WHO*. Retrieved from: https://www.who.int/news-room/questions-and-answers/item/emergencies-international-health-regulations-and-emergency-committees (last check 26 July 2022).

World Trade Organization (WTO) & World Health Organization (WHO). (2002). *WTO Agreements and Public Health: A Joint Study by the WHO and WTO Secretariat*. Geneva: World Trade Organization/World Health Organization. Retrieved from: https://apps.who.int/iris/handle/10665/42535 (last check: 8 July 2022).

Yanow, D & Schwartz-Shea, P. (2015). *Interpretation and Method: Empirical Research Methods and the Interpretive Turn*. New York: Routledge. Retrieved from: https://doi.org/10.4324/9781315703275 (last check: 8 July 2022).

33rd International Conference of the Red Cross and Red Crescent. (2019). Resolution 33IC/19/R3. *Time to act: Tackling epidemics and pandemics together*. 33IC/19/R3 (9-12 December 2019). Retrieved from: https://rcrcconference.org/app/uploads/2019/12/33IC_R3-Epidemic_Pandemic-resolution-adopted-ENing-CLEAN-EN.pdf (last check: 8 July 2022).

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