



*Disaster
Law*

LEGAL PREPAREDNESS FOR REGIONAL AND INTERNATIONAL DISASTER AND PANDEMIC RESPONSE IN SOUTH ASIA **REGIONAL AND COMPARATIVE ANALYSIS**



disasterlaw.ifrc.org

About IFRC Disaster Law

Disasters cause massive human suffering and loss, but the right laws and policies can help keep communities safe and save lives.

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

With 20 years' experience developing and implementing disaster law and policy around the world, we are the global leader of disaster law technical advice to governments. As we face climate change, a pandemic and increasingly frequent and intense disasters, the need for effective disaster laws is ever increasing.

Our areas of focus address the many different phases and aspects of disaster risk management, public health emergency preparedness and response, and the National Red Cross and Red Crescent Society's auxiliary role in domestic laws and policies.

Our areas of focus address the many different phases and aspects of disaster risk management, including:

- Domestic disaster preparedness and response.
- Disaster risk reduction and climate change adaptation.
- International disaster assistance (IDRL).
- Disaster recovery.
- Protection, gender and inclusion.
- Public health emergency preparedness and response.
- Auxiliary role of National Red Cross and Red Crescent Societies.

disaster.law@ifrc.org

disasterlaw.ifrc.org

twitter.com/Disaster_Law



International Federation of Red Cross and Red Crescent Societies

P.O. Box 303

CH-1211 Geneva 19

Switzerland

Telephone: +41 22 730 42 22

Email: secretariat@ifrc.org

www.ifrc.org

© 2021 The International Federation of Red Cross and Red Crescent Societies.

All rights reserved.

Cover: Construction of the pilot house being built in the village of Suspa Chhemawati, in the Dolakha region of Nepal. Dolakha was one of the most affected areas after the second earthquake on the 12th May 2015. IFRC and partners (NRCS, Swiss RC) built demonstration and model houses as part of the recovery programme aimed at both training local masons and builders in improved earthquake resistant construction techniques and preparing a model home from demonstration purposes.
Image: © Carlo Heathcote/IFRC.

**LEGAL PREPAREDNESS FOR
REGIONAL/INTERNATIONAL
DISASTER AND PANDEMIC
RESPONSE IN SOUTH ASIA
REGIONAL AND
COMPARATIVE ANALYSIS**

AUGUST 2021

Acknowledgements

This report forms part of a wider project on Legal Preparedness for Regional and International Disaster and Pandemic Response in South Asia: Regional and Comparative Analysis commissioned by IFRC Asia Pacific Disaster Law.

Humanitarian Consulting Pty Ltd was engaged to validate and analyze the country-level research and to prepare this report. The project was managed by Victoria Bannon and undertaken by Rosanna Drew and Hannah Irving. The main author of this Report is Hannah Irving. Technical advice, review and editing were provided by Victoria Bannon and Rosanna Drew of Humanitarian Consulting and Gabrielle Emery Coordinator for Asia Pacific Disaster Law from IFRC.

This Report draws on country-level mappings prepared by the following lawyers and legal researchers:

Amita Singh

Former Professor Law and Governance, Jawaharlal Nehru University.
President, Asia-Pacific Disaster Research Group (NDRG), Har. India

Dr. Kokila Konasinghe

Senior Lecturer in Law, and coordinator of M.Phil. And Ph.D. programmes
Department of Public and International Law, Faculty of Law, University of Colombo,
Sri Lanka

Meen Bahadur Poudyal Chhetri

Executive Member, Nepal Centre for Disaster Management (NCDM)
205, Dhobidhara, Dillibazar, Kathmandu, Nepal

Aminath Shaufa

Project Officer, National Disaster Management Authority
Rihijehi koshi, ameenee Magu, Male, Maldives

Dr Muhammad Ekramul Haque

Professor, Faculty of Law, University of Dhaka
Department of Law, University of Dhaka, Bangladesh

Dr. Gaurika Chugh

Research Assistant
Jaipur, Rajasthan India

This Report was also informed by Mr Bijay Dahal, Legal Adviser, Nepal Red Cross Society) and Herve Gazeau (Programme Coordinator, IFRC Nepal Country Delegation).

Contents

Abbreviations and Acronyms	5
Terminology	7
1 Executive Summary	9
1.1 Context and Background	9
1.2 Scope and Methodology	12
1.3 Key Findings and Recommendations	12
1.4 Structure of this Report	14
2 International and Regional IDRL Frameworks and Regional Cooperation Bodies	15
2.1 International IDRL Frameworks	15
2.1.1 IDRL Guidelines	15
2.1.2 IDRL Checklist	16
2.2 Regional Cooperation Bodies and Frameworks	16
2.2.1 SAARC and its Regional Cooperation Agreement on Rapid Response to Natural Disasters	16
2.2.2 Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation	17
2.3 The SAARND and the IDRL Guidelines	18
3 Comparative Analysis of National Laws Pertaining to International Disaster Assistance	21
3.1 Question 1: Do the Legal Frameworks for DRM Address International Disaster Assistance?	20
3.1.1 International Disaster Assistance	20
3.1.2 Reporting Emergency Hazards	22
3.2 Question 2: Are there Clear Focal Points for Coordinating International Disaster Assistance?	23
3.3 Question 3: Do Laws and Regulations Outline the Roles and Responsibilities of Different Institutions Relating to International Disaster Assistance?	24
3.4 Question 4: Do Laws and Regulations Outline a Processes for Requesting, Accepting and Terminating International Disaster Assistance?	26
3.5 Question 5: Do Laws and Regulations provide the Necessary Legal Facilities to be Provided to International Assisting Actors?	26
3.5.1 Landing Rights and General Customs Arrangements	27
3.5.2 Customs Arrangements for Specialized Goods and Equipment	28
3.5.3 Immigration	29
3.5.4 Registration of International Assisting Actors	29
3.5.5 Recognition of Professional Qualifications of Foreign Personnel	30

3.5.6	Tax and Currency Exchange	30
3.5.7	Freedom of Movement of International Assisting Actors	30
3.5.8	Safety and Security of International Assisting Actors	31
3.6	Question 6: Do Laws and Regulations Set Out Quality Standards for International Assisting Actors?	32
3.7	Question 7: Do Laws and Regulations Set Out Eligibility Requirements for International Assisting Actors to Receive Legal Facilities?	33
3.8	Question 8: Do Laws and Regulations Establish a Specialized National Unit for Expediting the Entry of International Disaster Assistance?	34
3.9	Question 9: Do Laws and Regulations Provide Adequate Transparency, Safeguards, and Accountability Mechanisms for Disaster Relief and Initial Recovery Assistance?	35
3.10	Question 10: Do Laws and Regulations Outline Procedures for International Disaster Assistance Sent From, and Transiting Through, the Country?	36
3.11	COVID-19 and International Disaster Assistance	36
4	Conclusions and Recommendations	38
4.1	Conclusions	38
4.2	Recommendations	38
	References	41
	Annex A: International IDRL Instruments	44
A.1	International Treaties and Conventions	44
A.2	Inter-Governmental Resolutions and Standards	45
A.3	Standards on Specific Sector Issues	46
	Annex B: SAARND and IDRL Checklist & Guidelines Comparative Tables	47

Abbreviations and Acronyms

ADPC	Asian Disaster Preparedness Centre
BCWC	BIMSTEC Centre for Weather and Climate
BIMSTEC	Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation
CCDRM	Climate Change and Disaster Risk Management
CEO	Chief Executive Officer
COVID-19	Coronavirus Disease of 2019 (refer to terminology section below)
Customs Clearance Procedure	Customs Clearance Procedure for Relief Materials, 2017 (Nepal)
DDM	Department of Disaster Management
DMC	Disaster Management Centre
DRM	Disaster Risk Management
DRM Frameworks	DRM legislation, which includes any supplementary legislation and key policy documents
DRR	Disaster Risk Reduction
ICRC	International Committee of the Red Cross
IDRL	International Disaster Response Law
IDRL Checklist	The Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance
IDRL Guidelines	Introduction to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance
IFRC	The International Federation of the Red Cross and Red Crescent Societies
INGO	International Non-Government Organization
MoFA	Ministry of Foreign Affairs, Bhutan
National Societies	National Red Cross and Red Crescent Societies
NDMA	National Disaster Management Authority, Bhutan
NDRRMA	National Disaster Risk Reduction Management Authority, the statutory authority created under the NDRRM Act (Nepal) (see entry below)
NDRRM Act	National Disaster Risk Reduction Management, 2017 (Nepal)
NGO	Non-Government Organization
PHE	Public Health Emergency
SAARC	South Asian Association for Regional Cooperation
SAARND	SAARC Agreement on Rapid Response to Natural Disasters. Entry into force: 11 November 2016

SDGs	The Sustainable Development Goals as outlined in UNGA Resolution A/70/L.1, <i>Transforming our world: the 2030 Agenda for Sustainable Development</i> , adopted 25 September 2015
Sendai or Sendai Framework	Sendai Framework for Disaster Risk Reduction
Sphere Handbook	The Sphere Humanitarian Charter and Minimum Standards in Humanitarian Response
UN	United Nations
UNGA	United Nations General Assembly
UNDAC	United National Disaster and Assessment Coordination Centre
UNDRR	UN Disaster Risk Reduction
UN OCHA	The UN Office for the Coordination of Humanitarian Affairs
USOCC	On-Site Operations Coordination Centre

Terminology

The following terminology has been largely adapted from the IDRL Checklist and Guidelines as well as the IFRC's recently prepared report on Law and PHE, *Law and Public Health Emergency Preparedness and Response*.

Affected State means the State upon whose territory persons or property are affected by a disaster.

Assisting actor means any assisting humanitarian organization, assisting State, foreign individual, foreign private company providing charitable relief or other foreign entity responding to a disaster on the territory of the affected State or sending in-kind or cash donations.

Assisting humanitarian organization means a foreign, regional, intergovernmental or international non-profit entity whose mandate and activities are primarily focused on humanitarian relief, recovery or development.

Assisting State means a State providing disaster relief or initial recovery assistance, whether through civil or military components.

COVID-19 is an infectious disease caused by the coronavirus SARS-CoV-2. It can also be referred to as **coronavirus disease**.

Disaster relief means goods and services provided to meet the immediate needs of disaster-affected communities.

Disaster means a serious disruption of the functioning of society, which poses a significant, widespread threat to human life, health, property or the environment, whether arising from accident, nature or human activity, whether developing suddenly or as the result of long-term processes but excluding armed conflict.

Disaster risk is the potential loss of life, injury, or destroyed or damaged assets, which could occur to a system, society or a community in a specific period, determined probabilistically as a function of hazard, exposure, vulnerability and capacity.

Disaster risk management (DRM) is the application of policies, strategies and other measures to prevent new disaster risk, reduce existing disaster risk and manage residual risk (through disaster preparedness, response and recovery), contributing to the strengthening of resilience and reduction of disaster losses.⁴ DRM is usually interpreted as including DM and in this Report references to, for example, DRM frameworks should be read as references to DRM and/or DM frameworks.

Disaster risk management (DRM) Frameworks refers to disaster risk management legislation, including any supplementary legislation, policies and strategies, that create an enabling environment for disaster risk reduction and management.

Disaster risk reduction is aimed at preventing new, and reducing existing, disaster risk and managing residual risk, all of which contribute to strengthening resilience and therefore to the achievement of sustainable development.

Eligible assisting humanitarian organization means an assisting humanitarian organization determined to be eligible to receive legal facilities pursuant to Part V by the originating, transit or affected State, as applicable.

Equipment means physical items, other than goods, that are necessary for disaster relief or initial recovery assistance, such as vehicles and radios.

Goods means the supplies intended to be provided to disaster-affected communities for their relief or initial recovery.

Initial recovery assistance means goods and services intended to restore or improve the pre-disaster living conditions of disaster-affected communities, including initiatives to increase resilience and reduce risk, provided for an initial period of time, as determined by the affected State, after the immediate needs of disaster-affected communities have been met.

Legal Facilities means the special entitlements and exemptions that are made available to Eligible Actors under Chapter VI of this Act.

Personnel means the staff and volunteers providing disaster relief or initial recovery assistance.

Public health emergency (PHE) is an occurrence or imminent threat of an illness or health condition, caused by bioterrorism, epidemic or pandemic disease, highly fatal infectious agent or biological toxin, which poses a substantial risk to human fatalities, incidents or long-term disability.

Services means activities (such as rescue and medical care) undertaken by disaster-relief and initial-recovery personnel to assist disaster-affected communities.

Transit State means the State through whose territorial jurisdiction disaster relief or initial recovery assistance has received permission to pass on its way to or from the affected State in connection with disaster relief or initial recovery assistance.

1 Executive Summary

1.1 Context and Background

Legal preparedness for international and regional disasters and public health emergencies is key to countries in South Asia due to the escalating risks the region is facing. With disasters increasing in both intensity and frequency, due to a range of environmental and anthropogenic factors, countries may need international support to prepare, respond and recover from disasters.

Drawing on country-level mappings and research coordinated by IFRC Asia Pacific Disaster Law, this report identifies trends in the legal and regulatory approaches to international disaster relief and recovery assistance in South Asia **(the region)**. Specifically, the report identifies gaps, progress, and areas of good practice with respect to relevant laws in the following eight countries:

- (i) Afghanistan;
- (ii) Bangladesh;
- (iii) Bhutan;
- (iv) India;
- (v) Maldives;
- (vi) Nepal;
- (vii) Pakistan; and
- (viii) Sri Lanka

(the Eight Countries or the Countries).

For the purposes of determining the parameters of this comparative exercise, the report first identifies points of convergence between (i) IFRC's *Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Checklist)*¹ and IDRL Guidelines,² which reflect international best practice with respect to disaster assistance; and (ii) the South Asia Association for Regional Cooperation (SAARC) Agreement on Rapid Response to Natural Disasters (SARRND).³ This analysis reveals that while the SARRND covers many of the issues reflected in the IDRL Checklist and Guidelines, the latter are more comprehensive and wider in scope and so the comparative exercise is done with reference to these two instruments. As the IDRL Checklist represents a consolidated version of the IDRL Guidelines, this report will refer to the IDRL Guidelines when referring to these standards.

1 IFRC, *The Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance* (2017) <<https://disasterlaw.ifrc.org/media/1325>> (IDRL Checklist).

2 IFRC, *Introduction to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance* (2007) <<https://disasterlaw.ifrc.org/media/1327%3e>> (IDRL Guidelines). Note: the IDRL Guidelines have been re-issued with new forewords in 2011 and 2017.

3 SAARC Agreement on Rapid Response to Natural Disasters, Islamic Republic of Afghanistan, People's Republic of Bangladesh, Royal Government of Bhutan, Republic of India, Republic of Maldives, Government of Nepal, Islamic Republic of Pakistan, Democratic Socialist Republic of Sri Lanka, opened for signature on 26 May 2011 (entered into force 11 November 2016) [Unsigned version] <<https://www.ifrc.org/docs/idrl/N840EN.pdf>> (SARRND).

South Asia is highly prone to extreme weather events, many of which result in natural disasters.

Amongst other hazards, the region:



(i) hosts the largest, youngest and most active seismic mountain region in the world;



(ii) has one of the largest non-polar glacial deposits which is melting due to climate change;



(iii) is prone to heavy rainfall as well as a high silt load on numerous water bodies, causing recurrent flooding;



(iv) is prone to cyclones and storm surges; and



(v) includes islands threatened by rising sea levels.⁴

The region is also prone public health emergencies (PHE), including the ongoing COVID-19 pandemic.

Since 2005, there has been progress in South Asia with respect to laws and policies related to disaster risk management (DRM), carried out with varying levels of intensity and success across the region. There have also been initiatives at the regional level to strengthen collaboration and coordination on disaster risk management in South Asia. This is illustrated by SARRND which, among other things, demonstrates Member States' commitment to being legally prepared to facilitate and regulate international disaster assistance. This Agreement was ratified by all SAARC member states in 2017.

Such developments are in line with IFRC Disaster Law, which has been engaging and influencing decision makers and opinion leaders to develop, revise and implement state-of-the-art disaster and climate legislation, policies and procedures at local, national and regional levels for over a decade. This includes supporting government to ensure that they have the necessary legal and policy frameworks in place to enable them to receive and coordinate international and regional humanitarian assistance in the wake of large-scale disasters. Additionally, government and regional organizations are supported to ensure that national and regional frameworks are revised according to best practice considerations, resulting from evidence-based recommendations and research undertaken by the IFRC and National Red Cross and Red Crescent Societies (**National Societies**) and in line with the 2030 Global Agendas, in particular the Sustainable Development Goals (**SDGs**), the Sendai Framework for Disaster Risk Reduction (**Sendai or the Framework**), and the Paris Agreement on Climate Change.

4 See P.G. Dhar Chakabarti, *Regional Cooperation for Disaster Reduction in South Asia*. (SAARC, 2009) <https://www.adrc.asia/acdr/2010kobe/documents/S3_04_SAARC.pdf>; BIMSTEC, *BIMSTEC and Disaster Management: Future Prospects for Regional Cooperation* (BIMSTEC, 2020) <<https://www.orfonline.org/research/bimstec-and-disaster-management/>>.

IFRC disaster law support extends to a number of thematic areas, including:

- (i) Legal Preparedness for International Disaster Assistance;
- (ii) Disaster Risk Reduction and Law;
- (iii) Law and Domestic Disaster Preparedness and Response; and
- (iv) Disasters and Climate Laws that leave no one behind (ensuring relevant laws and policies are gender and diversity responsive).

From 4 to 6 November 2019, the SAARC Secretariat and the IFRC jointly hosted the 'South Asian Forum on Preparedness for Regional Disaster Response on the Implementation of the SAARC Agreement on Rapid Response to Natural Disasters' (**the Forum**) in Kathmandu, Nepal. Its participants were from SAARC Member States, South Asian National Red Cross and Red Crescent Societies, the SAARC Secretariat, IFRC and development partners from the United Nations (**UN**) and Asian Disaster Preparedness Centre (**ADPC**). At the Forum, the States discussed the opportunities and challenges with respect to DRM in the region. In particular, the participants reflected on the current status of South Asia's regional disaster arrangements and frameworks, as well as the steps needed to accelerate implementation of regional commitments at the national level.

At the conclusion of the Forum, the participants adopted a call to action for the implementation of the SAARND. The call to action proposes recommendations for the consideration of SAARC Member States, SAARC Secretariat, National Societies of South Asia, and international partners for strengthening regional cooperation in preparedness for, and during, disasters and crises.

Given the vulnerability of the region to the impacts of disasters and against the backdrop of the current climate crisis, participants recognized the importance of the SAARC Agreement on Rapid Response to Natural Disasters as an expression of the political will of the Member States. The participants unanimously recommended that its operationalization should be accelerated through several recommendations related to (i) information, communication and awareness; (ii) joint capacity building and peer-to-peer learning; and (iii) domestic legal and policy preparedness.

Since the Forum, South Asia, like the rest of the globe, has been affected by the COVID-19 pandemic. In many cases, governments and humanitarian actors are being asked to respond to the twin impact of a COVID-19 response as well as preparing and responding to more unpredictable and extreme climate related hazards such as Cyclone Amphan which recently struck India and Bangladesh. This pandemic response has required States to implement exceptional measures, including restrictions on mobility, to curb the spread of the virus and to protect public health. While border restrictions or closures may be justified, exceptions are needed to ensure international and national humanitarian assistance can reach populations in need. It is critical that, similar to international/regional disaster assistance cooperation, humanitarian pathways for public health emergencies are formalized in law and policy to ensure sustained access of relief goods, trained personnel and assistance.

1.2 Scope and Methodology

Against the above background, in 2020, IFRC Disaster Law coordinated an examination of the national legal and policy preparedness for disaster assistance in the Eight Countries against the IDRL Guidelines. The findings of these country-specific examinations were then synthesized and analyzed as presented in this report. On the basis of this synthesis and analysis, this report offers brief conclusions and recommendations.

It should be noted that the initial examinations were done by way of desktop review, and so did not consider the extent to and manner in which the Countries' laws and regulations or relevant procedures are carried out in practice or whether there are other good practices in these jurisdictions which have yet to be codified.

1.3 Key Findings and Recommendations

The comparative analysis reveals that each of the Eight Countries have a dedicated DRM legal framework, with the majority of these frameworks explicitly addressing the coordination and facilitation of international disaster assistance. While there are a number of best practice examples across the region with respect to various aspects of international disaster assistance, the approaches to international assistance vary greatly across the region, both in terms of the content and detail.

The comparative analysis reveals a number of opportunities for further developing and strengthening existing DRM laws and codifying existing best practices. To this end, it is recommended the Eight Countries:

1. review their respective DRM Framework to ensure that, in line with the IDRL Guidelines, it comprehensively and expressly provides for initiating, facilitating, and regulating international disaster assistance, and clearly outlines the institutional actor responsible for, and procedures relating to, sharing information with neighboring countries and intragovernmental organizations about emergency hazards which could lead to disasters. It is recommended that the Countries develop and/or coordinate these measures at the regional level.
2. with reference to art 12 of the Model Act, review and amend its respective DRM framework to the extent necessary in order to have a clear focal point for the coordination of international disaster assistance;
3. review and amend its respective DRM framework to the extent necessary so that the responsibility for coordinating international disaster assistance is explicitly assigned to authorities across national and sub-national levels, ensuring that the roles of each authority are separate and distinct. Specifically, with reference to the IDRL Guidelines and Checklist, it is recommended that there are government authorities responsible for:
 - (a) being a focal point for coordinating international disaster assistance;
 - (b) policy decisions regarding international assistance;
 - (c) making executive decisions regarding international disaster assistance, including whether it is required;
 - (d) requesting, accepting and terminating disaster assistance;
 - (e) assessing international actors' eligibility for legal facilities;

- (f) facilitating international actors' entry to, and operations within, the jurisdiction; and
 - (g) monitoring international actors' assistance operations.
4. review and amend its respective DRM framework to the extent necessary so that it authorizes one or more government agencies to accept, request and terminate international disaster assistance and clearly outline the processes for the same;
 5. with reference to the IDRL Checklist, Guidelines and Model Act, review and amend its respective DRM frameworks to the extent necessary to provide international assisting actors the necessary legal facilities to safety and effectively provide disaster assistance. In particular, the laws should clearly outline the scope and processes for the provision of each legal facility;
 6. have legislative and/or regulatory provisions within their DRM frameworks expressly requiring international assisting actors to comply with their respective domestic legal and regulatory frameworks, as well as a set of minimum standards consonant with international quality standards,⁵ and that these measures are developed and/or coordinated at the regional level;
 7. with reference to Articles 20 to 24 of the Model Act,⁶ review and amend their laws and regulations to include eligibility requirements for legal facilities for international assisting actors, which are clear and narrowly defined in order to avoid unnecessary administrative obstacles. It is also recommended that such eligibility requirements be formulated in a way that avoids unnecessarily restricting or impinging on the independence of humanitarian organizations;
 8. contemplate how a specialized unit responsible for expediting the entry of assisting international actors could be established within its institutional infrastructure. Further, to the extent that such procedures exist in practice, it is recommended that these be codified in way that affords the relevant government actors flexibility to the extent necessary without compromising relevant quality standards, transparency, safeguards and accountability mechanisms, and eligibility requirements for legal facilities;
 9. review their DRM laws and regulations for the purposes of either implementing or strengthening provisions to ensure adequate transparency, safeguards and accountability mechanisms governing international disaster relief and initial recovery assistance, including:
 - (a) specific procedures guarding against diversion, misappropriation or fraud concerning funds;
 - (b) a clear domestic legal authority to receive, disburse and monitor international donations; and
 - (c) a mechanism to remove international actors' eligibility for legal facilities where relevant quality standards are violated.

5 See IFRC, OCHA and Inter-Parliamentary Union, *Model Act for the Facilitation and Regulation of International Disaster Relief and Recovery Assistance (with commentary)* (IFRC, OCHA, and IPU, 2013) arts. 2(c)(i), 18 <<https://www.ifrc.org/docs/IDRL/MODEL%20ACT%20ENGLISH.pdf>> (**Model Act for International Disaster Relief and Recovery Assistance**).

6 Ibid arts. 20–24 (pp. 30–32, 84–88); IDRL Checklist, p. 16;

10. include in their DRM laws and/or regulations, procedures for: expediting exit, transit and entry visas for international assisting personnel; exempting goods and equipment in the disaster context from export and transit restrictions; and re-exporting equipment and unused goods by international assisting actors;
11. against the background of COVID-19 and with reference to the IFRC's Law and PHE Report, and the IDRL Guidelines, review its respective approaches to PHE risk management and DRM frameworks with a view to addressing clear processes with respect to international humanitarian assistance and PHEs, resolving any relevant gap, conflict, inconsistency or unnecessary duplication between powers, roles and responsibilities and other arrangements created by PHE and DRM instruments; and
12. with reference to this report, relevant DRM and sectoral laws and practices, consider forming a high-level committee of experts comprised of governmental and civil society stakeholders, for the purposes of reviewing their respective DRM frameworks for facilitating and regulating international disaster assistance, including with reference to this Report.

1.4 Structure of this Report

The body of this report has three key chapters. The first, **Chapter 2**: (i) briefly maps the international and regional IDRL frameworks and regional cooperation bodies. This mapping is accompanied by a more detailed account of the relevant international instruments in **Annex A**; and (ii) compares the SAARND with the IDRL Guidelines. This comparison is accompanied by the tables in **Annex B**.

This is then followed by **Chapter 3**, which analyses the trends in, and the similarities and differences between, the Eight Countries' legal and regulatory frameworks with respect to international disaster assistance. As intimated above, this analysis is done with reference to the IDRL Guidelines.

Finally, **Chapter 4**, upon the basis of the analysis in Chapter 3, offers a set of brief conclusions and twelve recommendations.



Women and girls involved in Disaster Risk Reduction activities in the Maldives.
Image © IFRC.

2 International and Regional IDRL Frameworks and Regional Cooperation Bodies

2.1 International IDRL Frameworks

2.1.1 IDRL Guidelines

As discussed below in **Sub-Chapter 2.3**, the comparative analysis of legislation in this report is based on the standards and recommendations drawn from the *Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance (IDRL Guidelines)*.

The IDRL Guidelines were developed by the IFRC to clarify the principles, standards and legal facilities for the sending and receiving of international assistance following major disasters, including pandemics. They encourage all States to improve legal preparedness for international assistance by putting in place domestic laws and policies which:

- ensure good coordination and set out minimum standards of quality and accountability for international relief operations; and
- facilitate a fast and effective response by minimizing costs and bureaucratic restrictions for the entry of authorized international relief personnel, goods and equipment.

The IDRL Guidelines are based on pre-existing international law and standards which are found throughout a wide range of international treaties, inter-governmental resolutions and state practice. A number of the key instruments in this area are described further in **Annex 1** in of this report.

The IDRL Guidelines were adopted in 2007 by States Parties to the Geneva Conventions and by the components of the Red Cross and Red Crescent Movement at the 31st International Conference of the Red Cross and Red Crescent. They have since been adopted and endorsed through several resolutions of the UN and other inter-governmental bodies and are widely regarded as reflecting international norms in this area.⁷

7 F.Z. Giustiniani, 'The Works of the International Law Commission on "Protection of Persons in the Event of Disasters": A Critical Appraisal' in Andrea de Guttry, Marco Gestri and Gabriella Venturini (eds), *International Disaster Response Law* (TMC Asser Press, 2012) pp. 65–66. The UNGA has welcomed and encouraged their use by States, see for example *Strengthening of the coordination of emergency humanitarian assistance of the United Nations*, GA Res 72/133, UN Doc A/RES/72/133 (16 January 2018, adopted 11 December 2017) [29] <<https://undocs.org/en/A/RES/72/133>>; *International cooperation on humanitarian assistance in the field of natural disasters, from relief to development*, GA Res 72/132, UN Doc A/RES/72/132 (15 January 2018, adopted 11 December 2017) [15] <<https://www.un.org/en/ga/72/resolutions.shtml>>.

2.1.2 IDRL Checklist

The IDRL Checklist was developed by the IFRC in 2017 as a supplemental tool to support governments in reviewing their domestic legislation to better implement the Guidelines.

There are ten checklist questions which cover the following topics:

1. establishing a **clear legal framework** for DRM which includes procedures for international disaster assistance;
2. identifying a **focal point** for the coordination of international disaster assistance;
3. setting out the **roles and responsibilities** of different institutions;
4. establishing a process of **requesting/welcoming and terminating** international assistance;
5. provision of **legal facilities** and eligibility for international assistance providers;
6. establishing **quality standards** for international assistance providers;
7. establishing a **specialized unit** for expediting the entry of international assistance;
8. ensuring **transparency, safeguards, and accountability** mechanisms for international assistance;
9. procedures for the **sending and transit** of international assistance; and
10. **additional facilities** for international disaster relief.

These Checklist questions have been used as the framework for the comparative analysis included in this report. However, as the IDRL Checklist represents a consolidated version of the IDRL Guidelines, this report refers to the IDRL Guidelines when referring to these standards.

2.2 Regional Cooperation Bodies and Frameworks

2.2.1 SAARC and its Regional Cooperation Agreement on Rapid Response to Natural Disasters

SAARC is a regional intragovernmental cooperation organization, established on 8 December 1985 when its eight member countries signed its Charter.⁸ Its objectives are to, amongst other things: promote the welfare of the peoples of South Asia; promote and strengthen collective self-reliance among South Asian Countries; and promote active collaboration and mutual assistance in the economic, social, cultural, technical and scientific fields.⁹

With respect to DRM, SAARC has a Disaster Management Centre¹⁰ and in 2016 all SAARC Member States (i.e., the Eight Countries) ratified the SAARC Agreement on Rapid Response to Natural Disasters at the 17th SAARC summit (SAARNND).

8 'About SAARC' SAARC (Webpage, 12 July 2020) <<https://www.saarc-sec.org/index.php/about-saarc/about-saarc>>.

9 'SAARC Charter' SAARC (Webpage, 12 July 2020) <<https://www.saarc-sec.org/index.php/about-saarc/saarc-charter>>.

10 Ibid.

The Agreement's core objective is to:

*provide effective regional mechanisms for rapid response to disasters to achieve substantial reduction of disaster losses in lives and in the social, economic and environmental assets of the Parties, and to jointly respond to disaster emergencies through concerted national efforts and intensified regional cooperation based on the Principles.*¹¹

The SAARND is the most comprehensive regional cooperation agreement in South Asia dealing with DRM. Its key provisions are discussed below in Chapter 4 with reference to the IDRL Guidelines.

2.2.2 Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation

The Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation (**BIMSTEC**) is a regional intragovernmental organization with seven member States across South and Southeast Asia, including five of the Eight Countries, namely: Bangladesh, Bhutan, India, Nepal and Sri Lanka.¹² It was established in 1997 by the Bangkok Declaration for the purposes of harnessing shared and accelerated growth of its members 'through cooperation in different areas of common interests by mitigating the onslaught of globalization and by utilizing regional resources and geographical advantages.'¹³

BIMSTEC has a number of priority areas for cooperation, including climate change and environment and disaster management and institutional mechanisms, including annual ministerial meetings, a Senior Officials Committee, a Working Group, and various Specialized Task Forces as deemed necessary by Senior Officials.¹⁴

Relevantly, following the 2004 Indian Ocean Tsunami, BIMSTEC established its Centre for Weather and Climate (**BCWC**) for the purposes of:

- (i) promoting and encouraging cooperation between BIMSTEC member countries in identified areas of fundamental and applied scientific research in weather prediction and climate modeling;
- (ii) promoting scientific capacity building in weather and climate research; and
- (iii) encouraging and assisting with publishing important research obtained by the Centre.¹⁵

While BIMSTEC does not have a DRM agreement between its members, it is very active in this space. **Table 1** on the following page summarises BIMSTEC's key developments with respect to collaboration on DRM in the past five years.

11 SAARND, art. 30.

12 'About BIMSTEC' *BIMSTEC* (Webpage, 2021) <https://bimstec.org/?page_id=189>.

13 Ibid.

14 'Environment & Disaster Management' *BIMSTEC* (Webpage, 2021) <https://bimstec.org/?page_id=280>.

15 Ibid.

Recent developments in Disaster Management under BIMSTEC		
Year	Event	Agenda
2017	First Annual Disaster Management Exercise	Field Training Exercises on Earthquake and Flood and an After-Action Review conducted.
	15th Ministerial Meeting	Recorded the need for closer cooperation in disaster management and agreed to establish an Expert Group on Disaster Management within BIMSTEC.
2018	Inaugural Governing Board and Scientific Advisory Council Meeting of the Centre for Weather and Climate	Held four years after the establishment of the Centre in 2014. A Workshop entitled 'Severe Weather/Climate Disaster warning for BIMSTEC Region' was held in New Delhi.
	16th Ministerial Meeting	Decided to establish an Inter-governmental Expert Group to develop a plan of action on improving preparedness and coordination for responding to natural disasters.
	Fourth Summit Declaration	Noted specific areas requiring development within disaster management such as adoption of preventive measures, rehabilitation and capacity building.
	BIMSTEC think tank dialogue on regional security	Deliberated on activation of inter-governmental mechanisms to utilize regional resources, and institutionalise cooperation in disaster management.
2020	Second Disaster Management Exercise	Evaluated existing capabilities, strengthened regional response mechanism and conducted risk assessment of cultural heritage sites in the context of flood disaster due to cyclones.

Table 1 Recent developments in Disaster Management under BIMSTEC. Source: S. Bose. *BIMSTEC and Disaster Management: Prospects for Regional Cooperation* (BIMSTEC, ORF Issue Brief No. 383, July 2020) <https://www.orfonline.org/wp-content/uploads/2020/07/ORF_IssueBrief_383_BIMSTEC-Disasters.pdf>

2.3 The SAARND and the IDRL Guidelines

As indicated in **Sub-Chapter 2.2** above, the SAARND is the most comprehensive regional agreement in the region dealing with DRM. It is noted that the scope of the SAARND is strictly limited to provision and acceptance of State parties to the agreement and does not cover other international actors, such as international humanitarian organizations like the IFRC.

An analysis of the Agreement against the IDRL Guidelines (see **Annex B – SAARND and IDRL Checklist & Guidelines Comparative Table**) reveals that the SAARND does not conflict in any way with the Checklist and Guidelines and incorporates many of the salient internationally accepted principles and legal standards for international disaster assistance. In particular, the SAARND is congruent with the IDRL Guidelines on the following:

- (i) **legal frameworks** – States shall take legislative, administrative and other measures necessary to implement their obligations with respect to DRM within their respective legal frameworks;
- (ii) **national focal points** – each State will designate a national focus point for DRM;
- (iii) **accepting and terminating international assistance** – States will have legal mechanisms for accepting and terminating international disaster assistance;
- (iv) **legal facilities** – States requesting international disaster assistance shall provide local facilities and services for the proper administration of international disaster assistance, including exemption from taxation, duties and other charges with respect to equipment such as vehicles and telecommunications and other materials, and freedom of movement;
- (v) **quality standards for assisting States** – States shall exercise direction, coordination and supervisions of assistance within its territory and relief goods and materials provided by assisting States should meet quality and validity requirements. Assisting States shall also respect national laws and regulations;
- (vi) **eligibility requirements for assisting States** – members of the assistance operation must have the relevant authority from the State accepting assistance, and personal identity cards provided to assisting personnel;
- (vii) **transparency, safeguards, and accountability mechanisms** – the assisting and requesting parties will co-ordinate with one another regarding claims with respect to damage, loss and/or destruction of the others' property and/or injury or death to personnel of both parties;
- (viii) **procedures for international disaster assistance sent to and from States** – with the agreement solely pertaining the provision of international disaster assistance between States, each provision of the SAARND with respect to procedures can be viewed as facilitating international disaster assistance to and from countries. In terms of assistance sent to other States, on a voluntary basis, each State party shall earmark assets and capacities available for disaster relief and emergency response.

While there are many points of convergence, the IDRL Guidelines are more comprehensive and wider in scope. One issue on which the SAARND is silent is States establishing specialized national units for expediting international disaster assistance. Against this background, the IDRL Checklist is used for the purposes of comparing the Eight Countries' national laws with respect to disaster assistance in the following Chapter.

3 Comparative Analysis of National Laws Pertaining to International Disaster Assistance

The national reports prepared for each of the Eight Countries address the issues raised in the ten IDRL Checklist questions (see **Sub-Chapter 2.1.2** above). This section of the Report makes observations with respect to key trends across the region with respect to each of these questions.

3.1 Question 1: Do the Legal Frameworks for DRM Address International Disaster Assistance?

The IDRL Guidelines recommend that States adopt comprehensive legal, policy, and institutional frameworks for DRM which should, amongst other things, address the management of international disaster assistance and specify a procedure to report to other governments/regional organizations/the United Nations about emergency hazards that could lead to disasters in the State or neighboring States.¹⁶

Each of the Eight Countries have dedicated DRM legislation for facilitating domestic responses to disasters. After the devastating impacts of the 2004 Indian Ocean Tsunami, India and Sri Lanka were the first of the Eight Countries to implement DRM legislation in 2005, followed by Pakistan (2010), Bangladesh and Afghanistan (2012), Bhutan (2013), Maldives (2015), and Nepal (2017).

Broadly speaking, these laws demonstrate two main approaches to DRM laws/systems across outlined in **Table 2** on the following page.

It should be noted that prior to adopting their respective laws, the many of the Eight Countries had various other sectoral laws relevant to or expressly addressing elements of DRM, such as laws with respect to agriculture, building and construction, customs, environmental assessments, forestry, health, immigration, tax, and water (e.g., Bangladesh, Nepal), and/or had policy instruments relating to DRM (e.g., Afghanistan, Bhutan).

It is also noted that prior to enacting their general DRM legislation, some of the Counties had cause to develop legislation dedicated to large-scale emergencies which exceeded their then national coping capacities (e.g., Nepal enacted a number of legal and policy instruments specific to the 2015 Nepal Earthquakes).¹⁷ Despite each country now having DRM legislation, additional legal, regulatory and policy instruments may be required to supplement these laws in the future to respond to some disasters, depending on their nature and scale.

¹⁶ IDRL Checklist, Item 1 (pp. 7–8); IDRL Guidelines, [8] (pp. 16–17).

¹⁷ See generally: B. Dahal, N. Adhikari and S. Kafle, *International Disaster Response Law (IDRL) in Nepal: A Study on strengthening legal preparedness for international disaster response* (Nepal Red Cross Society and IFRC, 2011) <<https://www.ifrc.org/PageFiles/93552/1213100-Nepal%20Red%20Cross-IDRL%20Report-EN-LR04.pdf>>.

Main Types of DRM Laws/Systems in South Asia		
DRM System Type	Law/Systems Description	Countries
Broad DRM System Law	<p>Covers the full spectrum of DRM: some elements of DRR, prevention, preparedness, early warning, mitigation, emergency management/ response and early recovery. Establishes specialist national institutions for DRM co-ordination, and at least some local structures or roles.</p> <p>Globally, this is the most common type of DRM law found among countries with medium to high exposure to hazards.</p>	Afghanistan, India, Pakistan, Sri Lanka
DRR Priority Law (High Detail)	<p>Broad DRM focus, with permanent DRM system, but gives DRR a high priority. Such laws aim to establish a “whole-of-society” approach to disaster risk governance, using the DRM system as the main vehicle. Has a high degree of detail and a broad DRR mandate for the DRM institutions, across sectors, with subnational governments, civil society and the private sector.</p> <p>These types of laws will typically post-date the 2004 Indian Ocean Tsunami and the 2005 Hyogo Framework for Action. They tend to be found in medium- and high-exposure countries that have not had a long tradition of disaster risk governance through sectoral laws and local government. When seeking a major shift towards risk reduction, these laws are used as the primary vehicle for both awareness-raising and change implementation.</p>	Bangladesh, Bhutan, Maldives, Nepal

Table 2 Main Types of DRM Laws/Systems in South Asia

This is most readily demonstrated in the COVID-19 context, which has required each of the Eight Countries, like most countries across the globe,¹⁸ to develop specific laws given COVID-19's scale and severity. When this occurs, it is ideal for countries, as part of their recovery process, to evaluate their existing DRM frameworks to futureproof them, to the extent possible, for similar disasters. **Sub-Chapter 3.11** further address COVID-19 as well as PHEs more generally.

3.1.1 International Disaster Assistance

The majority of the Eight Countries' DRM frameworks (Afghanistan, Bangladesh, Bhutan, Maldives, Nepal, and Pakistan) explicitly address the coordination and facilitation of international disaster assistance, with some variation in detail and approach (see further **Questions 2 and 3** below).

India's and Sri Lanka's laws, while referencing international assistance in their respective DRM laws, take slightly alternative approaches to their counterparts. India's DRM framework provides for collaboration and coordination with international organizations on disaster response, but this appears to be largely within the context of assisting other countries. On the other hand, Sri Lanka's DRM legislation appears to recognize the need for international assistance within its borders, but does not expressly assign coordinating and facilitating international assistance to any specific institutional actors; and its National Operations Emergency Plan requires government departments and ministries to develop operating procedures for international assistance, but these do not appear to have been developed as yet.

3.1.2 Reporting Emergency Hazards

At the regional level, SAARNND expressly requires Member States to: "Immediately respond to a disaster occurring within their territories and share information if the disaster is likely to impact other Members State(s), with a view to minimizing the consequences" (see **Annex A** below). However, on the information available, only Bangladesh under its Meteorology Act, 2018, requires an institutional actor, i.e., its Meteorology Department, to exchange relevant information with international organizations. Given the Department's defined role, responsibility only extends to information exchange regarding weather, and so does not include other critical types of information in the disaster context, such as outbreaks of disease. The Act also appears silent on the procedure for this information exchange.



RECOMMENDATION

It is recommended that all Eight Countries review their respective DRM Framework to ensure, that in line with the IDRL Guidelines, it comprehensively and expressly provides for initiating, facilitating, and regulating international disaster assistance, and clearly outlines the institutional actor responsible for, and procedures relating to, sharing information with neighboring countries and intragovernmental organizations about emergency hazards which could lead to disasters. It is recommended that the Countries develop and/or coordinate these measures at the regional level.

¹⁸ See generally: S. Whitbourn, Law and Public Health Emergency Preparedness and Response: Lessons from the COVID-19 pandemic (IFRC, 2021) (**Law & PHE Report**) (pre-publication copy provided to author).

3.2 Question 2: Are there Clear Focal Points for Coordinating International Disaster Assistance?

A fundamental principle underpinning the IDRL Guidelines is that states have the sovereign right and responsibility to coordinate and monitor international disaster assistance provided by outside actors. To this end the IDRL Guidelines provide that States should establish a national focal point to coordinate international disaster assistance, with the focal point facilitating communication and cooperation between government agencies and the government and assisting international actors.¹⁹

Under the majority of the Eight Countries' DRM frameworks, there are one or more institutional actors assigned to coordinate international disaster assistance. However, under several of the frameworks (Afghanistan, Bangladesh, Maldives, Pakistan), there are a number of actors with overlapping roles with respect to international assistance and so no clear focal point.

India's and Sri Lanka's respective approaches, albeit somewhat similar to one another, are not closely reflected in any of the other Countries' jurisdictions. Under India's DRM framework, there is a clear institutional actor responsible for DRM generally, the National Disaster Management Authority (**NDMA**), but by virtue of India's DRM framework only addressing international assistance in the context of India providing assistance (see **Question 1** above), coordinating and monitoring international assistance within India's jurisdiction is unassigned. In Sri Lanka, the Disaster Management Centre (**DMC**) appears to have a broad disaster management coordination role but no clear mandate with respect to international assistance. That said, it appears that there may be some initiatives around focal points for coordinating international assistance in practice that have yet to be codified.

The approaches taken in Bhutan's and Nepal's respective DRM frameworks are the most streamlined, with Nepal's Framework considered best practice. Nepal's National Disaster Risk Reduction Management Act, 2017 (**NDRRM Act**) designates the National Disaster Risk Reduction Management Authority (**NDRRMA**) as the statutory authority responsible for facilitating and coordinating international disaster assistance at the national level, with a Chief Executive Officer (**CEO**) in charge of its operations. Additionally, the Act assigns DRM responsibilities to dedicated bodies at the provincial, district and local levels. Under Bhutan's Disaster Management Act, 2013 and its subordinate regulations, the Department of Disaster Management (**DDM**) is the focal point for DRM. It is authorized to liaise international assisting actors and facilitate and coordinate international disaster assistance.



RECOMMENDATION

With reference to art. 12 of the Model Act, it is recommended that each of the Eight Countries amend its respective DRM framework to the extent necessary in order to have a clear focal point for the coordination of international disaster assistance.

¹⁹ IDRL Checklist, Item 2 (pp. 8–9); IDRL Guidelines, [3], [8] (pp. 15–17).

3.3 Question 3: Do Laws and Regulations Outline the Roles and Responsibilities of Different Institutions Relating to International Disaster Assistance?

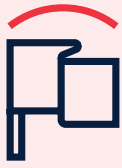
The IDRL Guidelines recommend that States' laws and regulations clearly outline the roles and responsibilities of different institutions with respect to international disaster assistance.²⁰

Within the region, Nepal's DRM framework is the most comprehensive with respect to different actors' different roles and responsibilities regarding international disaster assistance and is considered best practice. With respect to government entities, along with the assignment of relevant responsibilities across the national and sub-national levels (see **Question 2** above), Nepal's DRM framework also designates 54 people in DRM-related roles across its Ministries and Departments, to manage disaster management with respect to their relevant portfolio/sector, including supporting the coordination of the international assistance at the request of the NDRRMA's CEO. In addition, Nepal's framework contemplates the roles of international humanitarian actors including the United Nations Disaster and Assessment Coordination (**UNDAC**) teams and the IFRC, as well as the utilization of international disaster assistance resources, including UNDAC's On-Site Operations Coordination Center (**OSOCC**).

As discussed in **Question 2** above, under several of the Countries' DRM frameworks, there are a number of actors with what appear to be overlapping roles with respect to international disaster assistance (Afghanistan, Bangladesh, Maldives, Pakistan). These same frameworks, as well as Bhutan's, only partially contemplate, or provided limited detail around, the role of international humanitarian actors during disasters. However, Bhutan's DRM framework clearly outlines distinct roles for its institutional actors for the coordination of international disaster assistance, particularly the DDM, the National Disaster Management Authority (**NDMA**), and the Ministry of Foreign Affairs (**MoFA**).

As discussed above, India's and Sri Lanka's respective DRM frameworks only partially address international disaster assistance. While this may not be the case in practice, these frameworks provide very little detail around the role of international humanitarian actors with respect to disaster assistance.

20 IDRL Checklist, Item 3 (pp. 8–9); IDRL Guidelines, [3], [8(2)] (pp. 15–17).



RECOMMENDATION

It is recommended that each of the Eight Countries review and amend its respective DRM framework to the extent necessary so that the responsibility of coordinating international disaster assistance is explicitly assigned to authorities across national and sub-national levels, ensuring that the roles of each authority are separate and distinct. Specifically, with reference to the IDRL Guidelines and Checklist, it is recommended that there are government authorities responsible for:

- (a) being a focal point for coordinating international disaster assistance;
- (b) policy decisions regarding international assistance;
- (c) making executive decisions regarding international disaster assistance, including whether it is required;
- (d) requesting, accepting and terminating disaster assistance;
- (e) assessing international actors' eligibility for legal facilities;
- (f) facilitating international actors' entry to, and operations within, the jurisdiction; and
- (g) monitoring international actors' assistance operations.



Bangladesh, Notun Para, in Cox's Bazar, 29 August 2015. Tropical Cyclone Komen affected 1.5 million people in Cox's Bazar, Chittagong and Bandarban and destroyed about 30,000 homes. The Bangladesh Red Crescent distributed water, tarpaulins, ORS, cash and other emergency aid. Image © Marium Kawser/IFRC.

3.4 Question 4: Do Laws and Regulations Outline a Processes for Requesting, Accepting and Terminating International Disaster Assistance?

Another core principle of the IDRL Guidelines is that States should seek international and/or regional assistance when they do not have the capacity to cope with disasters. However, in line the principle that states have the sovereign right to coordinate international disaster assistance within their territories, the IDRL Guidelines provide that international disaster assistance must only be actioned with the consent of the affected State. To this end, it is critical that national laws and regulations clearly designate the responsibility of, and processes for, requesting, accepting, and terminating international disaster assistance.²¹

The majority of the Eight Countries' DRM frameworks delegate the responsibility of requesting, accepting and terminating international disaster assistance to government actors, with the detail and clarity of this delegation varying between frameworks (Bangladesh, Bhutan, Maldives, Nepal, Pakistan). However, only three of the frameworks (Bhutan, Nepal, Pakistan) outline a clear process for requesting, accepting and terminating international assistance.

Sri Lanka's DRM framework does not appear to address these issues and as a matter of policy, the Government of India does not make appeals for international assistance but may accept it on a case-by-case basis. However, it is noted that international organizations already operating within India's borders at the time of disaster are permitted to remain within the jurisdiction.



RECOMMENDATION

It is recommended that each of the Eight Countries review and amend its respective DRM framework to the extent necessary so that it authorizes one or more government agencies to accept, request and terminate international disaster assistance and clearly outlines the processes for the same.

3.5 Question 5: Do Laws and Regulations provide the Necessary Legal Facilities to be Provided to International Assisting Actors?

The IDRL Guidelines and Checklist recommend that States' laws and regulations should grant eligible international assisting humanitarian organizations the necessary legal facilities to enable them to carry out their humanitarian work.²² The Guidelines and Checklist discuss eight key types of facilities, namely: (i) landing rights and general customs arrangements; (ii) customs arrangements for specialized goods and equipment; (iii) immigration; (iv) registration of international assisting actors; (v) recognition of professional qualifications; (vi) tax and currency exchange; (vii) freedom of movement for international assisting actors; (viii) safety and security of international assisting actors.

²¹ IDRL Checklist, Item 4 (p. 11); IDRL Guidelines, [10]-[12] (pp. 17–18).

²² IDRL Checklist, Item 5 (pp. 12–14); IDRL Guidelines, [16]-[24] (pp. 18–22).

While the approach to legal facilities differs as between the Eight Countries, one key commonality is that in many cases, legal facilities are addressed within sectoral laws (e.g., aviation, immigration and tax laws) as opposed to national DRM legal frameworks.

3.5.1 Landing Rights and General Customs Arrangements

Landing Rights

All Eight Countries' legal systems provide legal facilities to international assisting actors with respect to landing rights to some extent, with Afghanistan, Maldives and Nepal expressly incorporating this into their respective DRM frameworks. Bhutan, Pakistan and Sri Lanka appear to provide these legal facilities by way of honouring some of their international obligations, particularly under the Convention on International Civil Aviation (1944) (**Chicago Convention**) (see further **Annex A**).²³ Annex 9 of the Chicago Convention includes provisions and recommended practices with respect to facilitating international emergency assistance and implementing public health and quarantine measures at airports. Based upon the current research, Bangladesh's and India's respective aviation laws appear empower authorities to provide landing facilities to international humanitarian actors on a discretionary basis.

General Customs Arrangements

Similarly, most countries' legal frameworks, to at least some extent but with varying levels of detail, appear to provide legal facilities in the way of general customs arrangements (Afghanistan, Bangladesh, Bhutan, Maldives, Nepal, Sri Lanka and Pakistan). However, based on the present research, it is unclear how this is accommodated in India's laws. Nepal's Customs Clearance Procedure for Relief Materials, 2017 (**Customs Clearance Procedure**) is the most rigorous approach to customs across the legal systems studied in this report. Amongst other things, the Procedure explicitly defines critical terms such as 'relief materials' and outlines clear, expedited customs procedures. Afghanistan and Pakistan appear to have incorporated general customs arrangements within their respective dedicated DRM laws, however such provisions appear to have relatively low detail. The remaining Countries have incorporated customs facilities in their sectoral customs law (Bangladesh, Bhutan, Maldives, Sri Lanka). However, in two of these jurisdictions (Bangladesh, Bhutan) such facilities are only extended to specific, pre-determined international. In Bhutan's case, such privileges are exclusively provided to the IFRC, whereas in Bangladesh these facilities are extended to the IFRC as well as other organizations which enjoy diplomatic privileges. It is also noted that in Sri Lanka, while the Minister of Finance may make executive orders to the effect that international humanitarian actors may be exempt from the standard customs procedures, such orders will only come into effect once approved by Parliament and so raises issues with respect to expediency.

²³ *Convention on International Civil Aviation*, opened for signature 7 December 1944, 15 UNTS 295 (entered into force 4 April 1947) <https://treaties.un.org/Pages/showDetails.aspx?objid=0800000280163d69&clang=_en>.

3.5.2 Customs Arrangements for Specialized Goods and Equipment

The IDRL Checklist identifies three key categories of specialized goods and equipment which are typically critical in humanitarian relief efforts: communications equipment; food, medicine and rescue dogs; and motor vehicles. The approach to providing legal facilities to these categories of goods and equipment is somewhat chequered across the Eight Countries. In half of the Countries (Bangladesh, Bhutan, Maldives, Pakistan), legal facilities for these specialized goods and equipment are not provided beyond the general customs procedures and general sectoral laws which do not expressly contemplate the disaster context. The approach in Afghanistan is the same save for the fact that two of its relevant sectoral laws (i.e., the Law for Regulating Telecommunications Services, 2005 and the Law on Quality Food Control, 2012) contemplate legal facilities in the disaster context, albeit in limited detail. In India and Sri Lanka, the goods and equipment are not addressed, with both countries appearing to have limited or no provisions for legal facilities and customs, generally. However, Sri Lanka's Customs Department is reportedly investigating the possibility of signing the UN's Customs Model Agreement for the importation of relief consignments of relief personnel in the event of disasters and emergencies.²⁴

Nepal's approach to providing legal facilities for these categories of specialized goods and equipment under its **Customs Clearance Procedure** (see above) stands out as best practice in the region, covering each of these three categories as well as many others.

Kathmandu, Nepal,
2nd June 2015. Vital
IFRC aid supplies arrive
at Kathmandu airport
on a daily basis. It
is vital that as much
stock as possible is
brought in and sent
out to the earthquake
affected districts
before the monsoons
start and the roads
become impassable.
The shipments include
hygiene kits, blankets
and food. A Basic
Health Care Unit – or
field hospital – also
arrived. It will be set
up to treat people in
Sinduli, Dolakha. Image
© Lucy Keating/IFRC.



24 UN OCHA, *Model Agreement on customs facilitation in international emergency humanitarian assistance* (UN OCHA, 1996) <<https://digitallibrary.un.org/record/230021?ln=en>>.

3.5.3 Immigration

The IDRL Guidelines emphasize the importance of States' laws and regulations addressing immigration, in particular: expedited processes or waivers for visas for international disaster relief personnel; expedited procedures for recognizing foreign/international drivers' licenses; simplified procedures regarding the migration status of international humanitarian assistance staff; and procedures for recognizing privileges and immunities for diplomats and consular officials consistent with the Vienna Convention on Diplomatic Relations of 1961 (**Vienna Convention**).²⁵

Most of the Eight Countries' DRM laws do not appear to expressly provide special or expedited visa procedures for international disaster relief personnel, instead requiring such personnel to obtain visas through the respective country's usual immigration channels (India, Nepal, Sri Lanka). Three of the Countries (Afghanistan, Bangladesh, Pakistan) assign the responsibility of expediting visas for disaster relief personnel to government agencies but without any codified procedures in place. In contrast, Bhutan's dedicated DRM laws and regulations provide for timely entry and exit visas for humanitarian actors during disaster, although it is unknown if there are any detailed procedures in place. The Maldives also reportedly provides special visas and waivers for the same; however, it is unclear whether these facilities are codified or only exist in practice.

None of the Countries appear to have special procedures for diplomats and consular officials during times of disaster. However, at least two of the countries have specific immigration laws which provide for diplomatic immunity (Bangladesh, Maldives). Additionally, Pakistan has ratified the Vienna Convention, although it does not appear to have actioned this within its domestic legal framework; and Afghanistan has signed the Convention but is yet to ratify it.

3.5.4 Registration of International Assisting Actors

The IDRL Guidelines outline the importance of States' laws and regulations providing clear and simplified procedures for the registration of international assisting actors, including eligibility requirements.²⁶

Most of the Eight Countries' laws and regulations do not appear to incorporate special registration requirements and procedures for international assisting, instead requiring such actors to register via the standard processes and channels (Afghanistan, Bangladesh, India, Sri Lanka). Pakistan's DRM specific laws provide a special registration channel for international assisting actors, allowing assisting actors to be exempt from its usual terms of registration and restrictions for up to six months from the date of registration. Based on the available research, the Maldives' and Nepal's legal systems do not appear to expressly address registration of international assisting.

25 IDRL Checklist, Item 5(A)(iii) (p. 13) citing *Vienna Convention on Diplomatic Relations*, opened for signature 18 April 1961, 500 UNTS 95 (entered into force 24 April 1964) <https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf>; IDRL Guidelines, [16] (p. 19).

26 IDRL Checklist, Item 5(A)(iv), p. 13.

3.5.5 Recognition of Professional Qualifications of Foreign Personnel

The IDRL Guidelines recommend that States' laws and regulations have simplified procedures for the speedy accreditation of foreign qualifications for international relief personnel, e.g., physicians, nurses, paramedics, engineers, and architects.²⁷

At present, there is limited research on this particular aspect of each of the Eight Countries' laws. However, based on the available information, it appears that while most of the Countries' laws have general procedures for recognizing foreign qualifications, only two have some procedures which are operational during emergencies. Pakistan has some limited procedures for recognizing medical and engineering qualifications during emergencies and the Maldives has a mechanism for expediting recognition of medical qualifications during emergencies, requiring original academic transcripts, professional references, and identification documents as part of this process.

3.5.6 Tax and Currency Exchange

The IDRL Guidelines emphasize that affected States' laws and regulations should provide exemptions for international assisting organizations and personnel from value-added and other taxes or duties directly associated with disaster assistance and enable the same to bring necessary funds and currencies into or out of the affected State.²⁸

Based on the available information, it appears that tax and currency exchange facilities are only accommodated in some of the Eight Countries' respective laws and regulations. Tax exemptions appear to be provided to eligible international humanitarian actors through legislative and regulatory procedures in three of the jurisdictions (Afghanistan, India, Sri Lanka) and in one jurisdiction through ministerial discretion (Pakistan). None of the Countries' laws appear to address foreign currency exchange.

3.5.7 Freedom of Movement of International Assisting Actors

It is not uncommon for disaster affected States to impose restrictions around movement and travel within their borders during and post-disaster, including with respect to international assisting actors.²⁹ Against this background, the IDRL Guidelines recommend that States' laws and regulations ensure freedom of movement of international assisting for the effective provision of disaster relief.³⁰ Based on the information available, this legal facility does not appear to be explicitly addressed in any of the Eight Countries' laws and regulations.

27 IDRL Checklist, Item 5(A)(v) (p. 13); IDRL Guidelines, [16(c)] (p. 19).

28 IDRL Checklist, Item 5(A)(vi) (p. 14); IDRL Guidelines, [20(c)] (pp. 21–22).

29 See generally: IFRC. *Law and Legal Issues in International Disaster Response: A Desk Study* (2007).

30 IDRL Checklist, Item 5(A)(vii) (p. 14); IDRL Guidelines, [16(d)] (p. 19).

3.5.8 Safety and Security of International Assisting Actors

The IDRL Guidelines recommend that States' laws and regulations account for the safety and security of international assisting actors. In particular, it is recommended that States clearly outline the domestic institutions responsible for the safety and security of relief personnel, equipment and goods.³¹ Based on the available information, this legal facility is only addressed in three of the Countries' laws. Specifically: in Afghanistan, police are responsible for the protection of the assets of local and foreign organizations; in the Maldives, police are responsible for the security of disaster volunteers; and under Bangladesh's dedicated DRM laws, international assisting organizations can request government assistance with respect to safety concerns.



RECOMMENDATION

With reference to the IDRL Checklist, Guidelines and Model Act, it is recommended that each of the Eight Countries review and amend its respective DRM frameworks to the extent necessary to provide international assisting actors the necessary legal facilities to safety and effectively provide disaster assistance. In particular, the laws should clearly outline the scope and processes for the provision of each legal facility.



Chautara, Sindupolchowk, Nepal, 03/05/15:
Search and rescue teams from Norway clear debris through main road to allow emergency aid access. The teams are working alongside the Red Cross as they transport mobile field hospital. The Nepal Red Cross has been distributing tarpaulins across Kathmandu to provide families with emergency shelter. Image © Palani Mohan/IFRC.

31 IDRL Checklist, Item 5A(vii) (p. 14); IDRL Guidelines, [16(d)] (p. 19).

3.6 Question 6: Do Laws and Regulations Set Out Quality Standards for International Assisting Actors?

When disasters require large international response operations, issues can arise with the respect of the quality of aid provided to affected countries, notwithstanding that it is well-intentioned.³² The quality of aid is often particularly problematic with respect to spontaneous aid providers arriving in post-disaster settings without the necessary expertise, experience in emergency relief situations, and/or knowledge of the respective country's or region's established coordination mechanisms.³³ These issues can greatly impact the overall efficacy of relief operations. It is for these reasons that the IDRL Guidelines recommend that quality standards be set out for international assisting actors. Specifically, it is recommended that States' laws and regulations should require international assisting actors to abide by the country's domestic laws and minimum standards in relief and recovery activities, with these standards being in line with international quality standards,³⁴ e.g., the Code of Conduct of Red Cross and Red Crescent Movement and NGOs in Disaster Relief, and the Sphere Humanitarian Charter and Minimum Standards in Humanitarian Response.³⁵

The majority of legal and regulatory DRM frameworks in the Eight Countries appear to require international assisting actors to comply with their relevant domestic laws, regulations and policies (Afghanistan, Bangladesh, Maldives, Nepal, Pakistan and Sri Lanka), with half of the Countries' frameworks contemplating or providing authority for creating of minimum standards (Bhutan, India, Maldives, Nepal). However, it appears that only Nepal's DRM framework, as set out in its Disaster Risk Reduction National Strategic Plan of Action (2018–2030), expressly contemplates that international assisting actors abide by minimum standards consonant with international quality standards.

At the regional level, the SAARND requires signatories providing disaster assistance to take all appropriate measures to ensure all national laws and regulations of the disaster affected country are observed (see **Annex 1**). However, SAARND does not address quality standards for international assisting actors, such as intergovernmental organizations or INGOs.



RECOMMENDATION

It is recommended that all Eight Countries have legislative and/or regulatory provisions within their DRM frameworks expressly requiring international assisting actors to comply with their respective domestic legal and regulatory frameworks, as well as a set of minimum standards consonant with international quality standards.³⁶ It is also recommended that the Eight Countries develop and/or coordinate these measures between another at the regional level; this will help create consistent minimum standards, which will ultimately assist in facilitating good quality international disaster assistance across the region.

32 IDRL Checklist, p. 15.

33 IDRL Checklist, p. 15.

34 IDRL Checklist, Item 6 (pp. 15–16); IDRL Guidelines, pp. 15–16.

35 Sphere Association, *Sphere Standards Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response* (Sphere Association, 2018) <<https://reliefweb.int/sites/reliefweb.int/files/resources/Sphere-Handbook-2018-EN.pdf>>.

36 Model Act, arts. 2(c)(i), 18.

3.7 Question 7: Do Laws and Regulations Set Out Eligibility Requirements for International Assisting Actors to Receive Legal Facilities?

The IDRL Guidelines recommend that States' laws and regulations set out eligibility requirements for international assisting actors to receive legal facilities, with eligibility depending on competence and experience, and compliance with domestic laws and international quality standards.³⁷ It should be noted that eligibility for legal facilities is not a prerequisite to providing assistance within an affected state but is a prerequisite to accessing the legal facilities discussed in **Question 5** (above).³⁸

Based on the information available, it appears that only two of the Eight Countries' DRM frameworks expressly contemplate eligibility requirements for legal facilities. Specifically:

- (i) Bhutan's Disaster Management Rules and Regulations, 2014 requires that foreign governments, international organizations, NGOs and businesses to enter into a binding agreement with the Government covering logistics, finance, relief materials, insurance, and health and safety of the agents of the assisting actors, prior to rendering humanitarian assistance;³⁹ and
- (ii) Nepal's Customs Clearance Procedure for Relief Materials, 2017 provides a list of agencies eligible to import relief items.⁴⁰



RECOMMENDATION

It is recommended that all Eight Countries, with reference to Articles 20 to 24 of the Model Act,⁴¹ review and amend their laws and regulations to include eligibility requirements for legal facilities for international assisting actors, which are clear and narrowly defined in order to avoid unnecessary administrative obstacles. It is also recommended that such eligibility requirements be formulated in a way that avoids unnecessarily restricting or impinging on the independence of humanitarian organizations.

37 IDRL Checklist, Item 7 (pp. 15–16); IDRL Guidelines, [4], [13]–[15] (pp. 15–16, 18).

38 See IDRL Checklist, p. 16; Model Act, p. 84.

39 Disaster Management Rules and Regulations, 2014 (Bhutan) art. 270.

40 Customs Clearance Procedure for Relief Materials, 2017 (Nepal) art. 7.

41 See IDRL Checklist, p. 16; Model Act, arts. 20–24 (pp. 30–32, see also pp. 84–88)

3.8 Question 8: Do Laws and Regulations Establish a Specialized National Unit for Expediting the Entry of International Disaster Assistance?

For the purposes of improving coordination and facilitation of international disaster assistance, the IDRL Guidelines recommend that States' laws and regulations establish a specialized unit (or a 'One Stop Shop') for expediting the entry of international disaster assistance.⁴² The Checklist and Guidelines envisage these specialized units as being part of a larger institutional body responsible for coordinating disaster assistance and being responsible for:

- (i) ensuring complete processing and management of international humanitarian assistance;
- (ii) advising and supporting state agencies responsible for airports, seaports and land-border crossing points, coordination or facilitation of international cooperation;
- (iii) consolidating and expediting the entry of incoming international personnel, goods and equipment (see **Question 5** above); and
- (iv) applying the relevant control mechanisms for selecting eligible assisting actors (see **Question 7** above).⁴³

The SAARNND does not include any articles or references with respect to any kind of specialized unit within States' DRM infrastructure.

Despite all Eight Countries' DRM legal and/or regulatory frameworks nominating or providing for a government agency or agencies to coordinate and facilitate international disaster assistance, none appear to expressly adopt a 'One Stop Shop' approach. However, it is noted that Bangladesh's Standing Operating Procedures for the Multi-National Coordination Centre contemplate a 'One-Stop Coordination Cell' in relation to disaster response activities within the context of military operations. It is also noted that while none of the Eight Countries' formal legal mechanisms adopt this approach, it is possible that such expedited procedures exist in practice. For example, in Nepal, there are established practices around allowing international assisting actors entry into the jurisdiction without registration during emergencies.⁴⁴



RECOMMENDATION

It is recommended that each of the Eight Countries contemplate how a specialized unit responsible for expediting the entry of assisting international actors could be established within its institutional infrastructure. Further, to the extent that such procedures exist in practice, it is recommended that these be codified in way that affords the relevant government actors flexibility to the extent necessary without compromising relevant quality standards (see **Question 6** above), transparency, safeguards and accountability mechanisms (see **Question 9** below), and eligibility requirements for legal facilities (see **Question 7** above).

⁴² IDRL Checklist, Item 8 (pp. 17–18); IDRL Guidelines, [4], [6] (pp. 15–16).

⁴³ Ibid.

⁴⁴ Model Act, p. 108.

3.9 Question 9: Do Laws and Regulations Provide Adequate Transparency, Safeguards, and Accountability Mechanisms for Disaster Relief and Initial Recovery Assistance?

The IDRL Guidelines posit that States' laws and regulations should provide adequate transparency, safeguards and accountability mechanisms governing international disaster relief and initial recovery assistance. To this end, the Checklist and Guidelines recommend that States' legal and regulatory frameworks provide for:

- (i) specific procedures guarding against diversion, misappropriation or fraud concerning funds;
- (ii) a clear domestic legal authority to receive, disburse and monitor international donations; and
- (iii) a mechanism to remove international actors' eligibility for legal facilities where relevant quality standards are violated.⁴⁵

The majority of the Eight Countries' DRM frameworks contemplate transparency, safeguarding and accountability to some degree. Based on the information available, it appears that the legal frameworks typically address these issues using one of three approaches:

- (i) a strong emphasis on penalties for the purposes of safeguarding, with minimal reporting obligations (Nepal, Bangladesh); or
- (ii) including few penalties but allowing for government oversight of relief operations and/or creating reporting obligations (Afghanistan); or
- (iii) having some reporting obligations as well as having a limited number of offences (Bhutan, India, Pakistan).



RECOMMENDATION

It is recommended that all Eight Countries review their DRM laws and regulations for the purposes of either implementing or strengthening provisions to ensure adequate transparency, safeguards and accountability mechanisms governing international disaster relief and initial recovery assistance, including:

- (a) specific procedures guarding against diversion, misappropriation or fraud concerning funds;
- (b) a clear domestic legal authority to receive, disburse and monitor international donations; and
- (c) a mechanism to remove international actors' eligibility for legal facilities where relevant quality standards are violated.

45 IDRL Checklist, Item 9 (pp. 18–19); IDRL Guidelines, [6] (p. 16).

3.10 Question 10: Do Laws and Regulations Outline Procedures for International Disaster Assistance Sent From, and Transiting Through, the Country?

The IDRL Guidelines posit that States' laws and regulations should outline procedures for international disaster assistance sent from, and transiting through, their jurisdiction. In particular, the Checklist and Guidelines recommend that these laws provide for the reduction of:

- (i) restrictions on the transit for relief personnel;
- (ii) import/export restrictions, duties or fees on relief goods and equipment; and
- (iii) inspection requirements for transiting goods and equipment.⁴⁶

Based on the information available, it appears that very few of the Eight Countries' general laws contain provisions with respect to the transit and export of relief goods and transit visas (e.g., Afghanistan and Pakistan), with at least two of the Countries, namely, India and Pakistan, addressing these issues through bilateral agreements. It also appears that with the exception of Bhutan, none of the Eight Countries' address transit arrangements within the context of international disaster assistance.



RECOMMENDATION

It is recommended that each of the Eight Countries include in their DRM laws and/or regulations, procedures for: expediting exit, transit and entry visas for international assisting personnel; exempting goods and equipment in the disaster context from export and transit restrictions; and re-exporting equipment and unused goods by international assisting actors.

3.11 COVID-19 and International Disaster Assistance

COVID-19 is a disaster which each of the Eight Countries are currently managing. Based on the available information, it appears that there are three main legal and policy approaches across the Eight Countries in responding to COVID:

- (i) utilizing current DRM frameworks (India);
- (ii) utilizing existing public health laws, often along with COVID-specific policies and procedures (Bangladesh, India, Nepal); and
- (iii) implementing COVID-specific laws, policies and procedures (Afghanistan, Bhutan, Maldives and Pakistan).

⁴⁶ IDRL Checklist, Item 10 (pp. 19–20); IDRL Guidelines, [16(2)], [17(1)(b)], [17(1)(c)], [19(2)] (pp. 19–21).

As intimated in the recently prepared IFRC report on Law and PHE, *Law and Public Health Emergency Preparedness and Response*, while there is a 'need for improved integration and enhanced cohesion between PHE risk management and DRM...there is not yet an identified, common approach as to exactly how this can be achieved.'⁴⁷ Notwithstanding this, as posited by the IFRC in the PHE Report:

*whatever type of framework is adopted, integration requires an absence of gaps, conflict, inconsistency or unnecessary duplication between the powers, roles, responsibilities and other arrangements created by PHE and DRM instruments.*⁴⁸



RECOMMENDATION

Against the background of COVID-19 and with reference to the IFRC's Law and PHE Report, and the IDRL Guidelines, the Eight Countries review its respective approaches to PHE risk management and DRM frameworks with a view to addressing clear processes with respect to international humanitarian assistance and PHEs, resolving any relevant gaps, conflict, inconsistency or unnecessary duplication between powers, roles and responsibilities and other arrangements created by PHE and DRM instruments.

Bhutan, October 2020: As part of COVID-19 activities, Red Cross volunteers in Zhemgang continue to reach out to people living in far flung areas, distributing essential food items to the communities of Shingkhar and Bardo. Image © Bhutan Red Cross.



⁴⁷ Law & PHE Report, p. 18.

⁴⁸ Ibid.

4 Conclusions and Recommendations

4.1 Conclusions

There is a clear commitment to DRM across the region, exemplified by the activities of regional cooperation organizations such as SAARC and BIMSTEC and each of the Eight Countries development of dedicated DRM legal frameworks, with the majority of these frameworks explicitly addressing the coordination and facilitation of international disaster assistance. While there are a number of best practice examples across the region with respect to various aspects of international disaster assistance, the approaches to international assistance vary greatly across the region, both in terms of the content and detail.

Most of the Countries' DRM laws and regulations outline the relevant government institutions for coordinating international disaster assistance and have processes for requesting, accepting and terminating assistance. However, it appears that very few of the Countries' legal systems appear to contemplate: a number of legal facilities, particularly registration of international assisting actors, recognition of foreign qualifications, currency exchange, freedom of movement, and safety for international assisting actors; eligibility requirements for legal facilities; eligibility requirements and quality standards for international assisting actors; transparency, safeguards and accountability mechanisms for international disaster assistance; and procedures for international disaster assistance sent from, and transiting through, their respective jurisdictions.

The comparative analysis (see **Chapter 3** above) reveals a number of opportunities for further developing and strengthening existing DRM laws and codifying existing best practices. The analysis also underscores the importance of regional collaboration. As intimated in the analysis, there are several procedures with respect to international disaster assistance which would benefit from a uniformed approach across the region. To this end, a number of recommendations for the Eight Countries are outlined below.

4.2 Recommendations

Based on the comparative analysis in **Chapter 3** above, it is recommended the Eight Countries:

1. review their respective DRM Framework to ensure, that in line with the IDRL Guidelines, it comprehensively and expressly provides for initiating, facilitating, and regulating international disaster assistance, and clearly outlines the institutional actor responsible for, and procedures relating to, sharing information with neighboring countries and intragovernmental organizations about emergency hazards which could lead to disasters. It is recommended that the Countries develop and/or coordinate these measures at the regional level;
2. with reference to art 12 of the Model Act, review and amend its respective DRM framework to the extent necessary in order to have a clear focal point for the coordination of international disaster assistance;

3. review and amend its respective DRM framework to the extent necessary so that the responsibility of coordinating international disaster assistance is explicitly assigned to authorities across national and sub-national levels, ensuring that the roles of each authority are separate and distinct. Specifically, with reference to the IDRL Guidelines and Checklist, it is recommended that there are government authorities responsible for:
 - (a) being a focal point for coordinating international disaster assistance;
 - (b) policy decisions regarding international assistance;
 - (c) making executive decisions regarding international disaster assistance, including whether it is required;
 - (d) requesting, accepting and terminating disaster assistance;
 - (e) assessing international actors' eligibility for legal facilities;
 - (f) facilitating international actors' entry to, and operations within, the jurisdiction; and
 - (g) monitoring international actors' assistance operations.
4. review and amend its respective DRM framework to the extent necessary so that it authorizes one or more government agencies to accept, request and terminate international disaster assistance and clearly outline the processes for the same;
5. with reference to the IDRL Checklist, Guidelines and Model Act, review and amend its respective DRM frameworks to the extent necessary to provide international assisting actors the necessary legal facilities to safety and effectively provide disaster assistance. In particular, the laws should clearly outline the scope and processes for the provision of each legal facility;
6. have legislative and/or regulatory provisions within their DRM frameworks expressly requiring international assisting actors to comply with their respective domestic legal and regulatory frameworks, as well as a set of minimum standards consonant with international quality standards,⁴⁹ and that these measures are developed and/or coordinated at the regional level;
7. with reference to Articles 20 to 24 of the Model Act,⁵⁰ review and amend their laws and regulations to include eligibility requirements for legal facilities for international assisting actors, which are clear and narrowly defined in order to avoid unnecessary administrative obstacles. It is also recommended that such eligibility requirements be formulated in a way that avoids unnecessarily restricting or impinging on the independence of humanitarian organizations;
8. contemplate how a specialized unit responsible for expediting the entry of assisting international actors could be established within its institutional infrastructure. Further, to the extent that such procedures exist in practice, it is recommended that these be codified in way that affords the relevant government actors flexibility to the extent necessary without compromising relevant quality standards, transparency, safeguards and accountability mechanisms, and eligibility requirements for legal facilities;

49 Model Act, arts. 2(c)(i), 18.

50 See IDRL Checklist, p. 16; Model Act, arts. 20-24 (pp. 30-32, see also pp. 84-88).

9. review their DRM laws and regulations for the purposes of either implementing or strengthening provisions to ensure adequate transparency, safeguards and accountability mechanisms governing international disaster relief and initial recovery assistance, including:
 - (a) specific procedures guarding against diversion, misappropriation or fraud concerning funds;
 - (b) a clear domestic legal authority to receive, disburse and monitor international donations; and
 - (c) a mechanism to remove international actors' eligibility for legal facilities where relevant quality standards are violated.
10. include in their DRM laws and/or regulations, procedures for: expediting exit, transit and entry visas for international assisting personnel; exempting goods and equipment in the disaster context from export and transit restrictions; and re-exporting equipment and unused goods by international assisting actors;
11. against the background of COVID-19 and with reference to the IFRC's Law and PHE Report, and the IDRL Guidelines, review its respective approaches to PHE risk management and DRM frameworks with a view to addressing clear processes with respect to international humanitarian assistance and PHEs, resolving any relevant gap, conflict, inconsistency or unnecessary duplication between powers, roles and responsibilities and other arrangements created by PHE and DRM instruments; and
12. with reference to this report, relevant DRM and sectoral laws and practices, consider forming a high-level committee of experts comprised of governmental and civil society stakeholders, for the purposes of reviewing their respective DRM frameworks for facilitating and regulating international disaster assistance, including with reference to this Report.

References

International Legal Instruments and Agreements

Bangkok Principles on the Implementation of the Health Aspects of the Sendai Framework (UNDRR, 2016) (Bangkok Principles) <https://www.who.int/hac/events/2016/Bangkok_Principles.pdf>

Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, opened for signature 26 September 1986, 1457 UNTS 133 (entered into force 26 February 1987) <<https://www.iaea.org/topics/nuclear-safety-conventions/convention-assistance-case-nuclear-accident-or-radiological-emergency>>

Convention on Early Notification of a Nuclear Accident, opened for signature 26 September 1986, 1439 UNTS 275 (entered into force 27 October 1986) <<https://www.iaea.org/topics/nuclear-safety-conventions/convention-early-notification-nuclear-accident>>

Convention on Facilitation of International Maritime Traffic 591 UNTS 265 (entered into force 5 March 1967) <<https://treaties.un.org/Pages/showDetails.aspx?objid=0800000280129d04>>

Convention on International Civil Aviation, opened for signature 7 December 1944, 15 UNTS 295 (entered into force 4 April 1947) <https://treaties.un.org/Pages/showDetails.aspx?objid=0800000280163d69&clang=_en>

Convention relating to temporary admission, 25 May 1993, OJ L 130, pp. 4–75 <<https://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=celex:21993A0527%2801%29>>

Guiding Principles on Internal Displacement, UN ESCOR, 54th sess, Agenda Item 9(d), UN Doc E/CN.4/2098/53/Add.2 (11 February 1998) <<https://www.unhcr.org/43ce1cff2.pdf>>

Human Rights Council, *Promotion and Protection of the Rights of Indigenous Peoples in Disaster Risk Reduction, Prevention and Preparedness Initiatives*, 27th sess, Agenda Item 5, A/HRC/27/66 (7 August 2014) <https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/27/66>

International Convention on the Simplification and Harmonisation of Customs Procedures, OJ L 100 (entered into force 25 September 1974) <http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv.aspx>

International cooperation on humanitarian assistance in the field of natural disasters, from relief to development, GA Res 72/132, UN Doc A/RES/72/132 (15 January 2018, adopted 11 December 2017) <<https://www.un.org/en/ga/72/resolutions.shtml>>

Sendai Framework for Disaster Risk Reduction (2015–2030) (UNDRR, 2015) <<https://www.unisdr.org/we/coordinate/sendai-framework>>

Strengthening of the coordination of emergency humanitarian assistance of the United Nations, GA Res 72/133, UN Doc A/RES/72/133 (16 January 2018, adopted 11 December 2017) <<https://undocs.org/en/A/RES/72/133>>

Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations, opened for signature 18 June 1999 <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXV-4&chapter=25&clang=_en>

UN OCHA, *Model Agreement on customs facilitation in international emergency humanitarian assistance* (UN OCHA, 1996) <<https://digitallibrary.un.org/record/230021?ln=en>>

Vienna Convention on Diplomatic Relations, opened for signature 18 April 1961, 500 UNTS 95 (entered into force 24 April 1964) <https://legal.un.org/ilc/texts/instruments/english/conventions/9_1_1961.pdf>

World Health Organization, *International Health Regulations 2005* (WHO, 2005) <<https://www.who.int/publications/i/item/9789241580496>>

International and Regional Guidelines and Standards

BIMSTEC, *BIMSTEC and Disaster Management: Future Prospects for Regional Cooperation* (BIMSTEC, 2020) <<https://www.orfonline.org/research/bimstec-and-disaster-management/>>

Bose, S., *BIMSTEC and Disaster Management: Prospects for Regional Cooperation* (BIMSTEC, ORF Issue Brief No. 383, July 2020) <https://www.orfonline.org/wp-content/uploads/2020/07/ORF_IssueBrief_383_BIMSTEC-Disasters.pdf>

GFDRR, *Disaster Recovery Guidance Series – Education Sector Recovery* (GFDRR, 2019) <https://www.recoveryplatform.org/assets/publication/Publication2019/Disaster%20recovery%20guidance%20series%20education%20sector%20recovery_2018.pdf>

IASC, *IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters* (IASC, 2011) <https://www.ohchr.org/Documents/Issues/IDPersons/OperationalGuidelines_IDP.pdf>

IFRC, *Introduction to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance* (2007) <<https://disasterlaw.ifrc.org/media/1327%3e>>

IFRC, *The Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance* (2017) <<https://disasterlaw.ifrc.org/media/1325>>

IFRC, OCHA and Inter-Parliamentary Union, *Model Act for the Facilitation and Regulation of International Disaster Relief and Recovery Assistance (with commentary)* (IFRC, OCHA and IPU, 2013) <<https://www.ifrc.org/docs/IDRL/MODEL%20ACT%20ENGLISH.pdf>>

OCHA, UNEP and Swedish Civil Contingencies Agency, *Disaster Waste Management Guidelines* (Joint UNEP/OCHA Environment Unit, 2013) <https://eecentre.org/Modules/EECResources/UploadFile/Attachment/Disaster_Waste_Management_Guidelines.pdf>

Sphere Association, *Sphere Standards Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response* (Sphere Association, 4th ed, 2018) <<https://reliefweb.int/sites/reliefweb.int/files/resources/Sphere-Handbook-2018-EN.pdf>>

Domestic Laws

Customs Clearance Procedure for Relief Materials, 2017 (Nepal)

Disaster Management Act, 2013 (Bhutan)

Disaster Management Rules and Regulations, 2014 (Bhutan)

Meteorology Act, 2018 (Bangladesh)

National Disaster Risk Reduction Management Act, 2017 (Nepal)

Articles, Books and Reports

Chakabart, P.G. Dhar, *Regional Cooperation for Disaster Reduction in South Asia* (SAARC, 2009) <https://www.adrc.asia/acdr/2010kobe/documents/S3_04_SAARC.pdf>

Dahal, B., Adhikari, N., and S. Kafle, *International Disaster Response Law (IDRL) in Nepal: A Study on strengthening legal preparedness for international disaster response* (Nepal Red Cross Society and IFRC, 2011) <<https://www.ifrc.org/PageFiles/93552/1213100-Nepal%20Red%20Cross-IDRL%20Report-EN-LR04.pdf>>

Giustiniani, F.Z, 'The Works of the International Law Commission on "Protection of Persons in the Event of Disasters": A Critical Appraisal' in A. de Guttry, M. Gestri and G. Venturini (eds), *International Disaster Response Law* (TMC Asser Press, 2012)

IFRC, *All Under One Roof – Disability-inclusive shelter and settlements in emergencies* (IFRC, 2015) <https://www.sheltercluster.org/sites/default/files/docs/1285600-all_under_one_roof-en-a5-lr_3.pdf>

Jha, A. et al, *Safer Homes, Stronger Communities: A Handbook for Reconstructing after Natural Disasters* (The World Bank and GFDRR, 2010) <<http://documents.worldbank.org/curated/en/290301468159328458/pdf/528390PUB0safe101Official0Use0Only1.pdf>>

Whitbourn, S., *Law and Public Health Emergency Preparedness and Response: Lessons from the COVID-19 pandemic* (IFRC, 2021) (pre-publication copy provided to author)

Webpages

'About BIMSTEC' BIMSTEC (Webpage, 2021) <https://bimstec.org/?page_id=189>

'About SAARC' SAARC (Webpage, 12 July 2020) <<https://www.saarc-sec.org/index.php/about-saarc/about-saarc>>

'Environment & Disaster Management' BIMSTEC (Webpage, 2021) <https://bimstec.org/?page_id=280>

'SAARC Charter' SAARC (Webpage, 12 July 2020) <<https://www.saarc-sec.org/index.php/about-saarc/saarc-charter>>.

Annex A:

International IDRL Instruments

The following is a summary of key international instruments relevant to international disaster assistance. Many of these informed the development of the IDRL Guidelines.

A.1 International Treaties and Conventions

- (i) Legal facilities for importation of telecommunications equipment and resources
 - *Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations*, opened for signature 18 June 1999 <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXV-4&chapter=25&clang=_en>
- (ii) Facilitation of transport
 - *Convention on International Civil Aviation*, opened for signature 7 December 1944, 15 UNTS 295 (entered into force 4 April 1947) <https://treaties.un.org/Pages/showDetails.aspx?objid=0800000280163d69&clang=_en>
- (iii) Entry and exit of vessels engaged in relief work and entry of persons and cargo for relief work
 - *Convention on Facilitation of International Maritime Traffic* 591 UNTS 265 (entered into force 5 March 1967) <<https://treaties.un.org/Pages/showDetails.aspx?objid=0800000280129d04>>
- (iv) Customs waivers and exemptions for international relief:
 - *Convention relating to temporary admission*, 25 May 1993, OJ L 130, pp. 4-75 <<https://eur-lex.europa.eu/legal-content/EN/AUTO/?uri=celex:21993A0527%2801%29>> (**Istanbul Convention**)
 - *International Convention on the Simplification and Harmonisation of Customs Procedures*, OJ L 100 (entered into force 25 September 1974) Annexures B3, J5 <http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/conventions/pf_revised_kyoto_conv.aspx>
- (v) Public health emergencies
 - World Health Organization, *International Health Regulations 2005* (WHO, 2005) <<https://www.who.int/publications/i/item/9789241580496>> (**IHR**)

The IHR is an international treaty, legally binding on its 196 Member States. The IHRs provide an overarching framework that defines States' rights and obligations in handling public health events and emergencies that have the potential to cross borders. Relevantly, the IHRs impose duties on States to:

- (i) develop, strengthen and maintain core capacities, including the capacity to:
 - (a) detect, assess, notify and report public health events; and

- (b) respond promptly and effectively to public health risks and public emergencies of international concern (PHEICs);
- (ii) designate or establish a National IHR Focal Point;
- (iii) ensure that effective contingency arrangements to deal with an unexpected public health event are maintained; and
- (iv) ensure that competent authorities communicate with the National IHR Focal Point on relevant public health measures taken.
- (vi) Nuclear accidents
 - *Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency*, opened for signature 26 September 1986, 1457 UNTS 133 (entered into force 26 February 1987) <<https://www.iaea.org/topics/nuclear-safety-conventions/convention-assistance-case-nuclear-accident-or-radiological-emergency>>
 - *Convention on Early Notification of a Nuclear Accident*, opened for signature 26 September 1986, 1439 UNTS 275 (entered into force 27 October 1986) <<https://www.iaea.org/topics/nuclear-safety-conventions/convention-early-notification-nuclear-accident>>

A.2 Inter-Governmental Resolutions and Standards

- *Bangkok Principles on the Implementation of the Health Aspects of the Sendai Framework* (UNDRR, 2016) (**Bangkok Principles**) <https://www.who.int/hac/events/2016/Bangkok_Principles.pdf>
- *Guiding Principles on Internal Displacement*, UN ESCOR, 54th sess, Agenda Item 9(d), UN Doc E/CN.4/2098/53/Add.2 (11 February 1998) <<https://www.unhcr.org/43ce1cff2.pdf>>
- Human Rights Council, *Promotion and Protection of the Rights of Indigenous Peoples in Disaster Risk Reduction, Prevention and Preparedness Initiatives*, 27th sess, Agenda Item 5, A/HRC/27/66 (7 August 2014) <https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/27/66>
- *International cooperation on humanitarian assistance in the field of natural disasters, from relief to development*, GA Res 72/132, UN Doc A/RES/72/132 (15 January 2018, adopted 11 December 2017) <<https://digitallibrary.un.org/record/557202?ln=en>>
- *Sendai Framework for Disaster Risk Reduction (2015–2030)* (UNDRR, 2015) <<https://www.unisdr.org/we/coordinate/sendai-framework>>
- *Strengthening of the coordination of emergency humanitarian assistance of the United Nations*, GA Res 72/133, UN Doc A/RES/72/133 (16 January 2018, adopted 11 December 2017) <<https://undocs.org/en/A/RES/72/133>>

A.3 Standards on Specific Sector Issues

The humanitarian and development sectors have developed a number of fundamental guiding principles and accepted practices with respect to international disaster response as articulated in the following key documents. Many of these principles and practices are grounded in internationally accepted standards, applying a human rights-based approach.

- GFDRR, *Disaster Recovery Guidance Series – Education Sector Recovery* (GFDRR, 2019) <https://www.recoveryplatform.org/assets/publication/Publication2019/Disaster%20recovery%20guidance%20series%20education%20sector%20recovery_2018.pdf>
- IASC, *IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters* (IASC, 2011) <https://www.ohchr.org/Documents/Issues/IDPersons/OperationalGuidelines_IDP.pdf>
- IFRC, *All Under One Roof – Disability-inclusive shelter and settlements in emergencies* (IFRC, 2015) <https://www.sheltercluster.org/sites/default/files/docs/1285600-all_under_one_roof-en-a5-lr_3.pdf>
- INEE, *Minimum Standards for Education: Preparedness, Response, Recovery* (INEE, 2018) <<https://inee.org/resources/inee-minimum-standards-2010>>
- Jha, A. et al, *Safer Homes, Stronger Communities: A Handbook for Reconstructing after Natural Disasters* (The World Bank and GFDRR, 2010) <<http://documents.worldbank.org/curated/en/290301468159328458/pdf/528390PUB0safe101Official0Use0Only1.pdf>>
- OCHA, UNEP and Swedish Civil Contingencies Agency, *Disaster Waste Management Guidelines* (Joint UNEP/OCHA Environment Unit, 2013) <https://eecentre.org/Modules/EECResources/UploadFile/Attachment/Disaster_Waste_Management_Guidelines.pdf>
- Sphere Association, *Sphere Standards Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response* (Sphere Association, 4th ed, 2018) <<https://reliefweb.int/sites/reliefweb.int/files/resources/Sphere-Handbook-2018-EN.pdf>>

Annex B:

SAARND and IDRL Checklist and Guidelines Comparative Tables

Topic	Legal Frameworks for DRM
IDRL Checklist and Guidelines	<p>The IDRL Checklist (Item 1) and IDRL Guidelines ([8])</p> <p>States should adopt comprehensive legal, policy and institutional frameworks and planning for disaster prevention, mitigation, preparedness, relief and recovery. These laws should cover managing international disaster assistance and specify a procedure to report to other governments/regional organizations/the United Nations about emergency hazards that could lead to disasters in the State or neighboring States.</p>
SAARND	<p>Article IV(2), (5)</p> <p>States shall:</p> <p>2. Immediately respond to a disaster occurring within their territories and share information if the disaster is likely to impact other Members State(s), with a view to minimizing the consequences;</p> <p>...</p> <p>5. Take legislative, administrative and other measures as necessary to implement their obligations under SAARND within their respective legal frameworks.</p> <p>Article VII</p> <p>Each Party shall ensure according to its national legislation that the necessary measures are taken to mobilize equipment, facilities, materials, human and financial resources required to respond to disasters.</p>

Topic	Coordinating International Disaster Assistance
IDRL Checklist and Guidelines	<p>The IDRL Checklist (Item 2) and IDRL Guidelines ([3(1)], [3(3)], [8(2)])</p> <p>States have the sovereign right to coordinate and monitor international disaster assistance provided by outside actors. States should establish a national focal point to coordinate international disaster assistance. There should be adequate and efficient procedures in place to ensure the coordination of international and domestic efforts among all levels of government and across all government agencies.</p>
SAARND	<p>Article XIV</p> <p>1. Each Party shall designate a National Focal Point and one or more Competent Authorities for the purpose of implementation of this Agreement.</p> <p>2. Each Party shall inform other Parties and the Secretary General, of its National Focal Point and Competent Authorities, and of any subsequent changes in their designations.</p> <p>3. The Secretary General shall regularly and expeditiously provide to the Parties the information referred to in Article XIV, Clause 2.</p>

Topic	Institutions' Roles and Responsibilities vis-à-vis International Assistance
IDRL Checklist and Guidelines	<p>The IDRL Checklist (Item 3) and IDRL Guidelines ([3], [8(2)])</p> <p>States' laws and regulations should clearly outline the roles and responsibilities of different institutions relating to international disaster assistance.</p>
SAARND	[No corresponding provision]

Topic	Accepting and Termination International Assistance
IDRL Checklist and Guidelines	<p>The IDRL Checklist (Item 4) and IDRL Guidelines ([10]–[12])</p> <p>States' laws and regulations should outline a process for requesting/ welcoming offers of international disaster assistance and for terminating international disaster assistance. Amongst other things, it is recommended that there is a specific governmental entity responsible for requesting and accepting international disaster assistance. Disaster relief or initial recovery assistance should only be initiated with the content of the affected State.</p>
SAARND	<p>Article III(1),(2)</p> <p>1. Each affected Party shall have the primary responsibility to respond to disasters occurring within its territory and external assistance shall only be provided upon the request and with the consent of the affected Party</p> <p>2. The Requesting Party shall exercise the overall direction, coordination and supervision of the assistance within its territory.</p> <p>Article VIII</p> <p>3. If a Party needs assistance in the event of a disaster emergency within its territory, it may request such assistance from any Member State, directly under intimation to or through the Secretary General.</p> <p>4. The Requesting Party shall specify the scope and type of assistance required and, where practicable, provide the Assisting Party with such details as may be necessary for that Party to determine the extent to which it is able to meet the request. In the event that it is not practicable for the Requesting Party to specify the scope and type of assistance required, the Requesting Party and Assisting Party shall, in consultation, jointly assess and decide upon the scope and type of assistance required.</p> <p>5. Each Party to which a request for assistance is directed shall promptly decide and notify the Requesting Party, directly or through the Secretary General, whether it is in a position to render the assistance requested, and of the scope and terms of such assistance.</p> <p>6. Each Party to which an offer of assistance is directed shall promptly decide and notify the Assisting Party, directly under intimation to or through the Secretary</p> <p>7. General, whether it is in a position to accept the assistance offered, and of the scope and terms of such assistance.</p>

Topic	Legal Facilities (i.e., special legal rights for disaster responders)
IDRL Checklist and Guidelines	<p>The IDRL Checklist (Item 5); IDRL Guidelines ([16]–[24])</p> <p>States' laws and regulations should provide for necessary legal facilities to be provided to international assisting actors (e.g., landing rights, customs, immigration, registration, recognition of professional qualifications, tax, freedom of movement).</p>
SAARND	<p>Article IX(2)</p> <p>The Requesting Party shall provide, to the extent possible, local facilities and services for the proper and effective administration of the assistance. It shall also ensure the protection of personnel, equipment and materials brought into its territory by or on behalf of the Assisting Party for such purposes. Such personnel shall not carry any type of weapons, explosives, arms, ammunition or surveillance equipment.</p> <p>Article XI</p> <p>In accordance with its national laws and regulations, the Requesting Party shall:</p> <ol style="list-style-type: none"> 1. Accord the Assisting Party exemptions from taxation, duties and other charges of a similar nature on the importation and use of equipment including vehicles and telecommunications, facilities and materials brought into the territory of the Requesting Party for the purpose of the assistance; 2. Facilitate the entry into, stay in and departure from its territory of personnel and of equipment, facilities and materials involved or used in the assistance; and 3. Cooperate with the Secretary General, where appropriate, to facilitate the processing of exemptions and facilities in respect of the provision of assistance. <p>Article XII(1),(3),(4)</p> <ol style="list-style-type: none"> 1. Personnel involved in the assistance operation shall be permitted to wear uniforms with distinctive identification while performing official duties. 3. All modes of transportation used by the personnel of the Assisting Party may use their registration and easily identifiable license plates. 4. All modes of transportation used by the personnel of the Assisting Party into the territories of the concerned Parties shall be according to immigration laws and fulfilling legal/visa formalities. The Requesting Party shall facilitate visa, customs and other formalities. Details of the type of the equipment on board aircraft and vessels shall be shared with all Parties concerned, prior to its entry/landing in the territory of the Requesting Party. The Requesting Party shall reserve the right to inspect equipment/luggage on board aircraft and vessels. <p>Article XIII</p> <ol style="list-style-type: none"> 1. Each Party shall, according to its national legislation, at the request of the Party concerned, facilitate the movement of duly notified personnel, equipment, facilities and materials involved or used only in the humanitarian assistance to the Requesting Party. The Party concerned shall exempt from taxation, duties and other charges of a similar nature for such equipment, facilities and materials. However, such personnel, equipment, facilities and materials may be inspected by the transit Member State concerned to deny any undue exemption or movement. 2. Such request for facilitation of movement may only be for rapid response under this Agreement. The details of the movement shall be decided by the transit Member State. 3. The Secretary General, where possible and appropriate, shall facilitate the processing of movement of personnel, equipment, facilities and materials in respect of the provision of assistance.

Topic	Quality Standards for International Assisting Actors
IDRL Checklist and Guidelines	<p>The IDRL Checklist (Item 6); IDRL Guidelines (Part I)</p> <p>States' laws and regulations should require international assisting actors to abide by the country's domestic laws and minimum standards in relief and recovery activities, with these standards being in line with international quality standards, e.g., the Code of Conduct of Red Cross and Red Crescent Movement⁵¹ and NGOs in Disaster Relief, and the Sphere Humanitarian Charter and Minimum Standards in Humanitarian Response.⁵²</p>
SAARND	<p>Article IX(1), (4)</p> <p>Unless otherwise agreed:</p> <p>1. The Requesting Party shall exercise the overall direction, coordination and supervision of the assistance within its territory. The Assisting Party shall, where the assistance involves personnel, designate in consultation with the Requesting Party, a person who shall be in charge of and retain immediate operational supervision over the personnel and the equipment provided by it. The designated person, referred to as the Head of Assistance Operation, shall exercise such supervision in consultation and cooperation with the appropriate authorities of the Requesting Party.</p> <p>4. The relief goods and materials provided by the Assisting Party should meet the quality and validity requirements of the Parties concerned for consumption and utilization.</p> <p>Article X</p> <p>1. The Members of the assistance operation shall:</p> <p>(a) Refrain from any action or activity incompatible with the nature and objective of this Agreement;</p> <p>(b) Respect and abide by all national laws and regulations of the Requesting Party. The Head of the Assistance Operation shall take all appropriate measures to ensure observance of national laws and regulations;</p> <p>(c) Be sensitive to and respect the local customs and traditions of the Requesting Party; and</p> <p>(d) Be limited in their operation to the disaster affected area, as defined by the Requesting Party</p>

51 ICRC and IFRC. 1994. [Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations \(NGOs\) in Disaster Relief](#). Geneva: ICRC.

52 Sphere Association. 2018. [Sphere Standards Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response](#). Geneva: Sphere Association.

Topic	Eligibility Requirements for International Assisting Actors to Receive Legal Facilities
IDRL Checklist and Guidelines	<p>The IDRL Checklist (Item 7); IDRL Guidelines ([4], [13]-[15])</p> <p>States' laws and regulations should set out eligibility requirements for international assisting actors to receive legal facilities. It is recommended that eligibility depend on competence and experience, and compliance with domestic laws and international quality standards.</p>
SAARND	<p>Article XII(2)</p> <p>For the purpose of entry into and departure from the territory of the Requesting Party, members of the assistance operation shall be required to have:</p> <p>(a) an individual or collective movement order issued by or under the authority of the Head of Assistance Operation or any appropriate authority of the Assisting Party; and</p> <p>(b) a personal identity card issued by the appropriate authorities of the Assisting Party.</p>

Topic	Transparency, Safeguards, and Accountability Mechanisms for Disaster Assistance
IDRL Checklist and Guidelines	<p>The IDRL Checklist (Item 9); IDRL Guidelines ([6])</p> <p>States' laws and regulations should provide adequate transparency, safeguards and accountability mechanisms governing international disaster relief and initial recovery assistance. It is recommended that: there are procedures guarding against diversion, misappropriation or fraud concerning funds; a clear domestic legal authority to receive, disburse and monitor international donations; and a mechanism to remove the international actors' eligibility for legal facilities where relevant quality standards are violated.</p>
SAARND	<p>Article IX(3)</p> <p>The Assisting Party and the Requesting Party shall consult and coordinate with each other with regard to any claims, other than an act of gross negligence or contractual claims against each other, for damage, loss or destruction of the other's property or injury or death to personnel of both Parties arising out of the performance of their official duties</p>

Topic	Specialized National Units for Expediting International Disaster Assistance
IDRL Checklist and Guidelines	<p>The IDRL Checklist (Item 8); IDRL Guidelines ([4], [6])</p> <p>States' laws and regulations should establish a specialized unit for expediting the entry of international disaster assistance. It is recommended that there are procedures in place which provide for a consolidated 'One Stop Shop' approach to international disaster response and provide for the establishment of a disaster preparedness taskforce that considers issues related to international assistance.</p>
SAARND	[No corresponding provision]

Topic	Procedures for International Disaster Assistance Sent to and from Countries
IDRL Checklist and Guidelines	<p>The IDRL Checklist (Item 10) and IDRL Guidelines ([16(2)], [19(2)])</p> <p>States' laws and regulations should outline procedures for international disaster assistance sent from, and transiting through their jurisdiction. It is recommended these laws provide for the reduction of: restrictions on the transit for relief personnel; import/export restrictions, duties or fees on relief goods and equipment; and inspection requirements for transiting goods and equipment.</p>
SAARND	<p>Article VI</p> <p>1. On a voluntary basis, each Party shall earmark assets and capacities, which may be available for the regional standby arrangements for disaster relief and emergency response, such as:</p> <ul style="list-style-type: none"> (a) emergency response/search and rescue directory; (b) emergency stockpiles of disaster relief items; and (c) disaster management expertise and technologies. <p>2. Such earmarked assets and capacities shall be communicated to each Party through the Secretary General and updated as necessary by the Party concerned.</p> <p>3. The Secretary General shall consolidate, update and disseminate the data on such earmarked assets and capacities, and communicate with the Parties for their utilization.</p> <p>4. To facilitate the utilization of assets provided for in Article VI, Clause 1, each Party shall designate entry points for supplies and expertise from Assisting Parties.</p>



*Disaster
Law*