



International Federation
of Red Cross and Red Crescent Societies

IDRL ASIA-PACIFIC STUDY

FIJI

**LAWS, POLICIES, PLANNING AND PRACTICES
ON INTERNATIONAL DISASTER RESPONSE**

JULY 2005

About This Report

When disasters strike, there are times when the resources of an affected country are overwhelmed and international assistance is required. In these situations, it is essential that such assistance can be provided quickly, effectively, to the highest possible standards and for the immediate and long term benefit of affected communities.

This report is an examination of national laws and policies, as well as regional and international treaties, declarations and agreements, to determine their current and potential impact on international disaster response operations in Fiji.

In particular it examines the current legal regime applicable to Fiji on issues such as: offers and requests for assistance; the entry and facilitation of foreign relief organizations, personnel, relief goods and equipment; the coordination of assistance; and standards of quality and accountability.

It also seeks to draw on the practical experiences and lessons learned from past international disaster response operations, to understand how the legal regime has, or has not, been applied in practice, and to identify examples of good practice or challenges to be addressed.

The methodology for this report is attached in Annex B.

Context

This report forms part of the IDRL (International Disaster Response Laws, Rules and Principles) Asia-Pacific Study, which was conducted during 2004 and 2005 in:

- Fiji
- Indonesia
- Myanmar
- Nepal

The IDRL Asia-Pacific Study was undertaken as part of the wider IDRL Programme, led by the International Federation of Red Cross and Red Crescent Societies in Geneva. Further information can be found at the following site: www.ifrc.org/what/disasters/idrl

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PART I - COUNTRY BACKGROUND

Social and Political Context¹

Fiji is an archipelago comprised of 322 mostly volcanic islands in the South Pacific with a total land area of 18,727 square kilometres (7,231 square miles). Fiji is located south below the equator between Honolulu, Hawaii and Auckland, New Zealand with its islands spread over 1,290,000 square kilometres (498,000 square miles). The population of Fiji is 845,000. The capital city, Suva, is located on the larger of the two main islands, Viti Levu.

Fiji gained its political independence from Britain in 1970 and has a parliamentary, multi-party system. In 2000, a military coup was staged whereby the indigenous Fijians seized power, placed their own President and Prime Minister as governmental authority and prohibited Indo-Fijian dominance in Parliament and Cabinet seats.

Some uncertainty remains over the future of democratic government in Fiji as well as in future relations with other nations and international aid organizations. However, traditional allies such as Australia, New Zealand, the European Community, France, Japan, the US and Pacific Island neighbours continue to engage closely with the Fiji Government. International aid organizations, including those from the countries listed above plus the UN Office of Coordination of Humanitarian Affairs (OCHA) and International Federation of Red Cross and Red Crescent Societies (International Federation), among others, all have active disaster response programs currently proceeding in-country and regionally within the South Pacific.

Disasters in Fiji

Fiji experiences tropical cyclones and flooding during the summer months of November to April with an average of two cyclones a season. Over the last two years Fiji has requested outside assistance for cyclone, storm and flooding related disasters twice.

Fiji also has experienced landslides, storm surges, and tsunamis. Since the islands are primarily volcanic in origin, the possibility of volcanic activity and earthquakes is ever present but of somewhat lesser concern.

Table 1: Top 10 Natural Disasters in Fiji sorted by numbers of people killed and affected

Disaster	Date	Killed	Disaster	Date	Affected
Wind Storm	16-Feb-1931	200	Drought	4-Sep- 1998	263,455
Wind Storm	9-Dec-1973	59	Flood	12-Apr-1986	215,000
Wind Storm	27-Mar-1979	53	Wind Storm	1-Mar-1983	200,014
Wind Storm	17-Jan-1985	28	Wind Storm	2-Jan-1993	160,003

¹ This information has been compiled primarily from the following sources: Forum Secretary, Pacific Islands Forum, "Fiji Islands" <<http://www.forumsec.org.fj/docs/IG.htm>> (date unknown); SOPAC, "Implementing The Yokohama Strategy and Plan of Action", *Pacific Islands Regional Progress Report 1994-2004*, SOPAC Technical Report 379 (co-sponsored by AusAID and NZAID) (2004); U.S. Central Intelligence Agency, "Fiji", *World Factbook*, <<http://www.cia.gov/cia/publications/factbook/geos/fj.html>>, updated 10 February 2005; and Virtual Information Center, "Fiji Primer", <www.vic-info.org/RegionsTop.nsf/0/f136d07c38f3a0080a256b7c0001f4e9?OpenDocument> Updated 23 August 2004 .

Wind Storm	10-Mar-1997	25
Wind Storm	28-Jan-1952	23
Wind Storm	2-Jan-1993	21
Flood	12-Apr-1986	19
Wind Storm	24-Mar-1980	18
Wind Storm	14-Jan-2003	17

Wind Storm	24-Oct-1972	120,000
Wind Storm	17-Jan-1985	100,000
Wind Storm	27-Mar-1979	35,900
Wind Storm	24-Mar-1980	35,250
Wind Storm	14-Jan-2003	30,000
Drought	1983	31,000

Created on: Jun-7-2005. - Data version: v05.06

Source:"EM-DAT: The OFDA/CRED International Disaster Database, www.em-dat.net - Université catholique de Louvain - Brussels - Belgium

Government authorities and independent analysts have reviewed Fiji's unique disaster management circumstances and have highlighted several factors that will have a significant impact on any disaster relief operations. Those factors include, but are not limited to:

- extreme vulnerability (meteorologically/geologically and types/scope of disasters);
- the extreme distances and difficulties involved in spanning open seas from other islands and countries;
- the physical logistics and financial procedures required in allocation and distribution of equipment, supplies and labour from within and outside of Fiji;
- the ethnologic sensitivities of providing equitable relief to all affected communities; and
- the remoteness of the populations and location on smaller islands which make distribution and access problematic for many.

Government / legislative structure²

Fiji is a republic, with four administrative divisions and one dependency (Rotuma). The head of state is the President and the Prime Minister is the head of government. In addition to the Parliament, described below, there is a Presidential Council which advises the president on matters of national importance, and a Great Council of Chiefs, which elects the president and consists of the highest ranking members of the traditional chief system.

The bicameral Parliament consists of a House of Representatives (71 seats: 23 reserved for ethnic Fijians, 19 reserved for ethnic Indians, three reserved for other ethnic groups, one reserved for the council of Rotuma constituency encompassing the whole of Fiji, and 25 open seats), and a Senate (34 seats: 24 appointed by the President on the advice of the Great Council of Chiefs, nine appointed by the president, and one appointed by the council of Rotuma)

The Constitution was promulgated on 25 July 1990 and amended on 25 July 1997 to allow non-ethnic Fijians a greater say in government and to make multiparty government mandatory. It entered into force on 28 July 1998, and the May 1999 election was the first test of the amended constitution and introduced open, non-racially prescribed voting for the first time at the national level.

Fiji's legal system is based upon British common law, with English as the official national language. Numerous vestiges of tribal law exist, primarily with respect to power sharing within the government, the Council of Chiefs and political subdivisions. The judicial system

² The following information is mainly extracted from the U.S. Central Intelligence Agency, "Fiji", *World Factbook*, <http://www.cia.gov/cia/publications/factbook/geos/fj.html>, updated 17 May 2005.

consists of a Supreme Court, Court of Appeal, High Court and Magistrates' Courts. Judges are appointed by the president.

PART II - OVERVIEW OF RELEVANT LAWS AND POLICIES

International, regional and bilateral instruments and other arrangements

Multinational conventions

Fiji has ratified both the *Convention on the Privileges and Immunities of the United Nations*³ and the *Convention on the Privileges and Immunities of the Specialized Agencies*⁴.

Whilst Fiji is a member of the World Customs Organisation, it is not party to the various Conventions and Annexes relevant to international disaster response such as the *Convention on Temporary Admission (Istanbul Convention)*⁵ or the *International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention)*.⁶

Fiji is not a signatory to the *Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations*⁷, nor has it ratified or acceded to the *Framework Convention on Civil Defence Assistance*.⁸

In 1948, Fiji was included as part of a territorial application in an agreement to waive the duties on relief goods provided by the United States of America⁹, along with 14 other British territories.¹⁰

In 1992, France, Australia and New Zealand formed a partnership to jointly respond to natural disasters within the South Pacific – the *FRANZ Agreement of 1992*. Although Fiji is not a signatory to the agreement it is a beneficiary. The *FRANZ Agreement* allows military and disaster response officials to work efficiently together as the agreement provides procedures

³ *Convention on the Privileges and Immunities of the United Nations*, 13 February 1946, 1 UNTS 15 (entered into force 17 September 1946). Fiji became a party on 17 June 1971.

⁴ *Convention on the Privileges and Immunities of the Specialized Agencies*, 21 November 1947, 33 UNTS 261 (entered into force 2 December 1948). Fiji became a party on 21 June 1971.

⁵ *Convention on Temporary Admission*, 26 June 1990 (entered into force 27 November 1993) (*Istanbul Convention*), in particular Annex B.9 concerning goods imported for humanitarian purposes.

⁶ Fiji has ratified neither the *International Convention on the Simplification and Harmonization of Customs Procedures*, 18 May 1973 (entered into force 25 September 1974) or its annex F.5 concerning urgent consignments, or the *International Convention on the Simplification and Harmonization of Customs Procedures as amended*, 26 June 1999 (not yet in force) or its Annex J Chapter 5 on relief consignments. The Government of Fiji succeeded to and immediately denounced the *International Convention Relating to the Simplification of Customs Formalities* (3 November 1923) on 31 October 1972, 846 UNTS 376 (effective as of 31 October 1973).

⁷ *Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations*, opened for signature 18 June 1998, United Nations depositary notification C.N.608.1998.TREATIES-8 of 4 December 1998 (entered into force 8 January 2005).

⁸ *Framework Convention on Civil Defence Assistance*, opened for signature 22 May 2000, 2172 UNTS 231, (entered into force 23 September 2001) ('*Framework Convention*').

⁹ *Exchange of Notes Constituting an Agreement Between His Majesty's Government in the United Kingdom of Great Britain and Northern Ireland and the United States of America for the Duty-Free Treatment of American Relief Goods Territorial Application*, 1 December 1948, 87 UNTS 400 (entered into force 15 November 1949).

¹⁰ Channel Islands, Barbados, British Honduras, Brunei, Gambia, Gibraltar, Leeward Islands, Federation of Malaya, Malta, Mauritius, Nigeria, North Borneo, Sarawak, Somaliland and Windward Islands.

for information sharing, coordination of activities concerning disaster assessment and joint disaster relief operations. The relevance of the *FRANZ Agreement* to disaster management in Fiji cannot be underestimated. The three FRANZ members have been involved in early stages of past disaster relief to Fiji by providing critical and timely transport (ships, planes, helicopters), medical assistance and supplies.

The African, Caribbean and Pacific Group of States (ACP) is an economic and trade group that has entered into a series of conventions with the European Union (EU). The latest agreement, the *Cotonou Agreement*¹¹ is the successor agreement to the *Lome IV Convention*. Under this agreement, the EU provides disaster relief assistance by funding a SOPAC programme to reduce vulnerability to hazards.

Legal status agreements with international organisations

Fiji has entered into a number of standard agreements with the United Nations and its agencies for the provision of technical assistance or to establish in-country offices¹² as well as specific agreements with UNICEF¹³ and UNDP¹⁴. Fiji has also concluded a legal status agreement with the International Federation of Red Cross and Red Crescent Societies.¹⁵ These agreements make various provisions for the recognition and legal status of the organisation in the country and grant certain privileges and immunities relating to property and personnel in accordance with the *Convention on the Privileges and Immunities of the United Nations*¹⁶ and the *Convention on the Privileges and Immunities of the Specialized Agencies*¹⁷.

¹¹ *Partnership Agreement Between the Members of the African, Caribbean and Pacific Group of States of the One Part, and the European Community and Its Member States, of the Other Part*, 23 June 2000, ACP/CE/en 1 (entered into force 1 April 2003 (the “Cotonou Agreement”))
<http://www.acpsec.org/InternalSheet.aspx?ArticleFileName=2003/Cotonou_en.html&sessLang=1>.

¹² *Standard Agreement between the United Nations, including the United Nations Industrial Development Organization and the United Nations Conference on Trade and Development, the International Labour Organization, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, International Telecommunication Union, World Meteorological Organization, International Atomic Energy Agency, Universal Postal Union and Inter-Governmental Maritime Consultative Organization and Fiji*, 13 October 1970, 752 UNTS 211 (entered into force 13 October 1970); *Standard Agreement on Operational Assistance between the United Nations, including the United Nations Industrial Development Organization and the United Nations Conference on Trade and Development, the International Labour Organization, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, International Telecommunication Union, World Meteorological Organization, International Atomic Energy Agency, Universal Postal Union and Inter-Governmental Maritime Consultative Organization and Fiji*, 13 October 1970, 752 UNTS 229 (entered into force 13 October 1970).

¹³ *Agreement Concerning the Activities of UNICEF*, United Nations Children’s Fund – Fiji, 2 October 1972, 842 UNTS 3 (entered into force 2 October 1972).

¹⁴ *Agreement Concerning Assistance from the Special Fund*, United Nations Development Programme (Special Fund) – Fiji, 13 October 1970, 752 UNTS 247 (entered into force 13 October 1970); and *Letter Agreement Concerning the UNDP South Pacific Regional Office in Suva, Fiji*, United Nations Development Programme – Fiji, 1 December 1975, 987 UNTS 403 (entered into force 1 December 1975).

¹⁵ *Legal Status of the International Federation in the Republic of the Fiji Islands*, 22 October 1998, Fiji – International Federation of Red Cross and Red Crescent Societies (entered into force 22 October 1998).

¹⁶ *Convention on the Privileges and Immunities of the United Nations*, 13 February 1946, 1 UNTS 15 (entered into force 17 September 1946). Fiji became a party on 17 June 1971.

¹⁷ *Convention on the Privileges and Immunities of the Specialized Agencies*, 21 November 1947, 33 UNTS 261 (entered into force 2 December 1948). Fiji became a party on 21 June 1971.

Bilateral arrangements

Australia

Australia is very actively involved in disaster management with Fiji. One of the most important facets of this cooperation is Fiji/Australia humanitarian aid, including disaster relief planning exercises. The last Fiji/Australia joint exercise took place in October 2004 and was entitled “Exercise LONGREACH”. From Fiji, participants in the exercise included the NDMO, Ministry representatives, the Fiji Police Force and the Fiji Red Cross. Participants from Australia included the Australian Defence Force, Emergency Management Australia (EMA) and AusAID.¹⁸

EMA develops and maintains emergency response plans to guide disaster response activities in the Pacific region including AUSASSISTPLAN. This plan governs Australian assistance to overseas disasters and mobilises and coordinates Australian government agency response. Resources available for international assistance to Fiji include the following when Fiji cannot meet its own needs:

- Australian Defence Force aircraft, ships and personnel, including medical teams, engineers and logistics experts;
- Urban Search and Rescue Teams drawn from emergency response agencies;
- Contribution or funding of personnel for UN Disaster Assessment and Coordination (UNDAC) Teams, Red Cross/Red Crescent Field Assessment and Coordination Teams (FACTs) or Australian agency teams;
- Medical and other specialist teams drawn from various Australian Government, state and territory governments and NGOs; and
- Relief supplies from ready-use stock of low-maintenance shelter and water storage materials or industry sources.

AUSAID also provides support to build Fiji’s disaster management capability especially in the public health sector. The Risk Research Group of Geoscience Australia helps to identify regional hazards and to assess risk to affected areas.

New Zealand

Fully normalised relations resumed between Fiji and New Zealand in December 2003. New Zealand contributes to the maritime surveillance of the Exclusive Economic Zone (EEZ) of the South Pacific which provides a critical dimension of Fiji’s disaster response.

New Zealand’s Ministry of Civil Defence and Emergency Management, the Ministry of Foreign Affairs & Trade (MFAT) and the New Zealand Agency for International Development (NZAID) provides support for Fiji’s disaster management programme. This support includes:

- Disaster response missions;
- Capacity building; and
- Disaster readiness and response training.

¹⁸ Personal interview with Vuli Gauna, Fiji Red Cross with Jennifer Cook, Suva, 29/3/05.

Other regional networks

Asia Foundation

Through its Office of Foreign Disaster Assistance (OFDA), USAID provides funding for training and education in disaster management in Fiji. Through contracts with the Asia Foundation, OFDA provides regional training and education programs for disaster management in countries of the South Pacific.¹⁹

Pacific Islands Forum

Fiji is a member of the Pacific Islands Forum (FORUMSEC), which is a regional agreement between the sixteen countries of the South Pacific, including Australia and New Zealand. Its secretariat is located in Suva, Fiji. The disaster management programmes include the Regional Disaster Relief Fund that provides monetary grants for disaster relief.²⁰

South Pacific Applied Geosciences Commission

Fiji is a member country of the South Pacific Applied Geosciences Commission (SOPAC). SOPAC has a mandate to, *inter alia*, support national authorities in disaster management activities through advice and information. SOPAC's Disaster Management Unit is tasked to provide a range of expertise and training in areas such as community-based disaster management planning.²¹

East-West Center

Pacific Disaster Center Fiji (PDC Fiji) is a member of the East-West Center which oversees the management of the Pacific Disaster Center (PDC). The PDC is a regional organization based in Hawaii that provides technical assistance to provide applied geospatial information (mapping and modelling) for disaster assessments and relief.

National disaster management planning and legal instruments

Development Planning

Major aid and development priorities include disaster management, response and relief. Most disaster planning has been focused on preparedness and response to tropical cyclones and flooding, however, a new program entitled Comprehensive Hazard Assessment and Risk Management (CHARM)²², based upon Australia's and New Zealand's community-based risk programs, has been endorsed by the National Disaster Management Office (NDMO) and is also included as a priority in Fiji's Strategic Development 2003-2005.²³

Natural Disaster Management Act of 1998²⁴

The form and structure of Fiji's national disaster management regime is found in the *Natural Disaster Management Act* (NDMA) of 1998. For the purposes of the Act, "disaster" means:

¹⁹ See <<http://www.asiafoundation.org/>>.

²⁰ See <www.forumsec.org.fj/>.

²¹ See <www.sopac.org>

²² See Joeli Rokovada, "Working Towards Good Governance for Effective Risk Reduction – Fiji Experience", *Presentation to the Thematic Session on National Systems for Disaster Risk Management in the Context of Governance*, World Conference on Disaster Risk Reduction, Kobe, 20 January 2005.

²³ Government of Fiji, *Rebuilding Confidence for Stability and Growth for Peaceful, Prosperous Fiji: Strategic Development Plan 2003-2005*, Parliamentary Paper No 72 of 2002 (November 2002), Section 6.7.

²⁴ *Natural Disaster Management Act 1998* (NDMA).

a natural disaster and includes the occurrence of a major misfortune which disrupts the basic fabric and normal functioning of the society or community, or an event or series of events which give rise to the casualties, and/or damage or loss of property, infra-structure, essential services or means of livelihoods on a scale which is beyond the normal capacity of affected communities to cope with unaided, but does not include man-made disasters.²⁵

The Act establishes a number of different bodies and individuals responsible for various aspects of disaster management.²⁶ The main bodies are as follows:

National Disaster Management Council

The National Disaster Management Council ('the Council') is responsible for disaster management and policies, which makes recommendations to the Cabinet of the Fiji Government.²⁷ It is comprised of the Permanent Secretaries of various Government Ministries, as well as the Fiji Red Cross, and is chaired by the Minister responsible for disaster management.²⁸ The Council also has three Committees, comprising different members of the Council. These are: the Emergency Committee, which has central control during an emergency²⁹; the Preparedness Committee, which is responsible for community awareness activities³⁰; and the Mitigation and Prevention Committee, which coordinates disaster mitigation activities³¹.

National Disaster Controller

The National Disaster Controller is the Permanent Secretary to the Minister responsible for disaster management/Chair of the Council.³² The role of the National Disaster Controller is to coordinate and plan disaster management measures, to advise the Minister/Chair of the Council on disaster management issues and can direct government resources for disaster activities as required.³³ During a disaster, the National Disaster Controller exercises power primarily through the National Disaster Coordinator (described below).³⁴

National Disaster Management Office

The National Disaster Management Office (NDMO) is responsible for the day-to-day operation of disaster management activities and implementation of Council policies³⁵, and is headed by a Director, who is also the National Disaster Coordinator.³⁶ The National Disaster Coordinator coordinates the activities of the NDMO, provides advice to the National Disaster Controller and liaises with the various agencies and NGOs involved in disaster management, under the general direction of the National Disaster Controller.³⁷ The National Disaster

²⁵ NDMA, art 2.

²⁶ Article 2 of the NDMA defines "disaster management" as "all aspects of planning for and responding to disasters, including both pre- and post-disaster activities and includes the management of both the risks and the consequences of disasters".

²⁷ NDMA art 5.

²⁸ NDMA, Schedule 1.

²⁹ NDMA, art 7(1)(a).

³⁰ NDMA, art 7(1)(b).

³¹ NDMA, art 7(1)(c).

³² NDMA, art 10.

³³ NDMA, art 11.

³⁴ NDMA, art 11(3).

³⁵ NDMA, arts 8 (1) and (3).

³⁶ NDMA, arts 13 and 14(1)(b).

³⁷ NDMA, art 14.

Coordinator is also responsible for the development of the National Disaster Management Plan, National Support Plans and related training.³⁸

Emergency Operations Centres

In times of emergency the National Emergency Operations Centre is activated and managed by the NDMO under the supervision of the National Disaster Coordinator and in accordance with standard operating procedures.³⁹ Similarly, relevant Divisional and District Emergency Operations Centres are activated and managed by Divisional and District Commissioners.⁴⁰ Thus the Emergency Operations Centres represent a temporary three tiered, hierarchical structure for operational coordination and command.

Process for declaring a natural disaster

If a natural disaster is to be formally declared, the following procedure is outlined in the NDMA:

- A Divisional Commissioner or agency personnel informs the National Disaster Controller and the National Disaster Coordinator.⁴¹
- The National Disaster Controller then convenes a meeting of the National Disaster Council (or if they are unable to meet, the Emergency Committee, a subset of the Council) for referral of a decision to the Cabinet.⁴²
- Upon the Council's advice, the Cabinet declares a natural disaster.⁴³

Declarations must be broadcast on television and radio, and published in the national *Gazette*.⁴⁴ Unless revoked earlier, a declaration remains in force for a maximum of 30 days.⁴⁵

The role of NGOs in disaster response

The NDMA defines a non-government organisation as

a local body in the Fiji Islands whose function is to provide, administer and distribute such material and physical assistance as may be made available from non-government sources both within the Fiji Islands and from overseas, in response to a declared disaster.⁴⁶

The NDMA makes several provisions for the role of NGOs in disaster response. In particular, it states that

the Government and recognized Non-Government Organizations shall provide disaster relief assistance during an emergency situation until the community has restored itself.⁴⁷

The National Disaster Coordinator, under the direction of the National Disaster Controller, is tasked with advising and assisting NGOs on matters relating to disaster management activities.⁴⁸ The NDMA also envisages that some NGOs (or "community organisations") will

³⁸ NDMA, art 14(1)(h).

³⁹ NDMA, arts 9 and 14(2)(a).

⁴⁰ NDMA, art 23.

⁴¹ NDMA, art 17(3).

⁴² NDMA, art 17(3).

⁴³ NDMA, art 17(1).

⁴⁴ NDMA, art 18.

⁴⁵ NDMA, art 19.

⁴⁶ NDMA, art 2.

⁴⁷ NDMA, art 28(3).

⁴⁸ NDMA arts 11(1)(b) and 14(1)(g).

be given a specific role under the *National Disaster Management Plan* (NDMP), discussed further below. In this case, such NGOs are considered to be “agencies” under the NDMA⁴⁹ and as a result are subordinate to the National Disaster Controller⁵⁰ and are also subordinate to the Divisional and District Officers at those respective levels.⁵¹

Further, it is stated that

Disaster relief assistance provided by Non-Government Organisations in a district shall be coordinated by the District Officer to avoid overlap and duplication.⁵²

Fiji Red Cross

The Fiji Red Cross has a special status under the provisions of the NDMA. The Fiji Red Cross is the only NGO to be named a member of the National Disaster Management Council.⁵³ This is extremely significant because the Fiji Red Cross has become, by law, a member of the authority “responsible for disaster management policy and operations.”⁵⁴ The Fiji Red Cross therefore has the ability to provide formal input and advice into Fiji’s disaster management policy and operations as well as in response to specific disasters. Such input and advice could include topics such as the desirability of international assistance for disaster response and the necessity of streamlined and simplified import procedures and immigration to increase the speed of international assistance in response to large-scale emergency operations and declared disasters.

International assistance under the NDMA

The NDMA provides that

The National Disaster Controller may request to the Minister of Foreign Affairs to call for foreign assistance in an emergency situation and the Controller and the Emergency Committee shall co-ordinate all foreign assistance provided as a result.⁵⁵

It also states that “Non-Governmental Organisations may also request international assistance from their respective international organisations”.⁵⁶

In relation to international funding for disaster relief and rehabilitation, the NDMA states:

The Chairman of the Council, after consultation with the Council, shall advise the Cabinet of the funding requirement from overseas aid needed to cover the cost of disaster relief and rehabilitation if it is established that it is beyond the national capabilities to cope or if for any other cause he thinks fit to do so.⁵⁷

Briefings of donors who respond to a request...shall be done by the National Disaster Controller in liaison with the Ministry of Foreign Affairs.⁵⁸

⁴⁹ NDMA, art 2.

⁵⁰ NDMA, art 20(3).

⁵¹ NDMA arts 23(c) and (f).

⁵² NDMA, art 33.

⁵³ NDMA, Schedule 1.

⁵⁴ NDMA, art 2.

⁵⁵ NDMA, art 32(1). (Emphasis added).

⁵⁶ NDMA, art 32(2).

⁵⁷ NDMA, art 37(1).

⁵⁸ NDMA, art 37(2).

Thus the NDMA only briefly addresses international assistance, leaving more specific provisions to the NDMP, as discussed below.

Disaster management regulations

The NDMA also makes provision for the development of further regulations by the Minister “for the better carrying out of the provision of this Act”.⁵⁹

National Disaster Management Plan

Much of the detail on the organisation and conduct of disaster management in Fiji is determined by the NDMP.⁶⁰ It provides the policy framework for:

- Disaster operations/emergency response
- Relief operations
- Rehabilitation / recovery
- Education, awareness and training
- Mitigation⁶¹

Of particular relevance to this study, the NDMP contains an appendix relating to “International Assistance”. The purpose the appendix is to address the

main considerations which apply to international disaster assistance in Fiji. It outlines different types of assistance in relation to disasters, roles and responsibilities within the Government, international appeals for assistance and indicates the mechanisms for interaction between the Government and bilateral and multi-lateral donors.⁶²

Further detail of the principles and procedures for international assistance under the NDMP is discussed in the section on detailed research findings below.

Departmental disaster management planning

Both the NDMA and the NDMP place great significance on the role of Disaster Response Liaison officers. Each ministry and other relevant departments must designate a Liaison Officer to be contact point with the NDMO and to coordinate their agencies’ actions in response to a disaster.⁶³ According to the NDMP each agency has an internal disaster management plan that guides its actions for preparedness, response and development of on-going programs. An example of an agency disaster management plan is the Disaster Management Plan of the Ministry of Health, which was revised in 2002.⁶⁴ The elements of this plan include:

- Background and Current Status
- General Policy
- Ministry of Health Vision re: disaster management
- Mission Statement
- Objectives, Definitions and Organization

⁵⁹ NDMA, art 43.

⁶⁰ *National Disaster Management Plan 1995*, (NDMP).

⁶¹ Joeli Rokovada, “Working Towards Good Governance for Effective Risk Reduction – Fiji Experience”, *Presentation to the Thematic Session on National Systems for Disaster Risk Management in the Context of Governance*, World Conference on Disaster Risk Reduction, Kobe, 20 January 2005.

⁶² NDMP, Appendix F, F-1.

⁶³ NDMA, art 15.

⁶⁴ *Disaster Management Plan*, Ministry of Health of Fiji, with support from Emergency and Humanitarian Action, WHO Western Pacific Regional Office (July 2002).

- Implementation of Plans
- Pre-Disaster
- Disaster Phase
- Post Disaster
- Emergency Operations Centre
- Warning Arrangements
- Survey, Assessment and Reporting
- Emergency Relief Measures
- Review Activities
- Support Measures for other agencies
- Communications
- Human Resources and Training
- Monitoring and Evaluation.

Detailed research findings and other relevant legislation

Requests for international assistance

The NDMP Appendix F on “International Assistance” provides a number of basic principles for international assistance in natural disasters. These are as follows:

1. An appeal for international assistance, either to specific countries or a general appeal, is made by the Prime Minister on the basis of advice by the National Disaster Controller; international assistance will be sought when the impacts of the disaster go beyond the capabilities of the local and national resources to cope.
2. All disaster assistance is based upon a request from the government of Fiji or from a recognized NGO;
3. All government requests for international assistance are made by the National Disaster Controller through the Ministry of Foreign Affairs; Agencies will not directly request international assistance;
4. The disaster controller will be fully informed of international assistance provided to recognized NGOs.⁶⁵

Based upon these principles and the NDMA provisions referred to previously, international assistance following a disaster may be requested in three ways:

The first is from a recognized NGO to their respective international organization, provided that the Controller is notified.⁶⁶ This form of assistance may be financial or in-kind services such as medical supplies, transportation or labour. There appears to be no restriction on the scope of disaster relief, such as supplies, numbers of personnel and cash, which can be provided in this way.

The second type of request is for “operational assistance during emergencies.” This is described by the NDMP as the

⁶⁵ NDMP, Annex F, F-3.

⁶⁶ NDMA, art 32(2) and NDMP, Annex F, Principle 3, F-1.

provision of aircraft support for survey and assessment and relief distribution, aerial photography, or the provision of emergency assistance teams to undertake specialist tasks such as search and rescue and emergency medicare.⁶⁷

This type of assistance can be requested only by the National Disaster Controller through the Ministry of Foreign Affairs, in consultation with the Emergency Committee of the National Disaster Management Council, and is “normally” provided by countries in the region immediately after a disaster.⁶⁸

The third type of request is for “relief assistance”, which can consist of cash or relief supplies.⁶⁹ Relief items are considered to include the following:

materials for temporary shelter, water containers, emergency equipment, food supplies, medical emergency kits and other materials used to provide relief to disaster victims.⁷⁰

All requests for this type of assistance must also be made by the National Disaster Controller, through the Ministry of Foreign Affairs, after consultation with the Emergency Committee.⁷¹

The NDMP specifically states, however, that

international assistance, other than to recognized NGO’s, can not be given unless there is an official appeal for international assistance.⁷²

Rather, the Government may make individual appeals, through diplomatic channels, to “specific countries with which Fiji has a close relation” or it may make a general appeal, which is communicated at a meeting attended by the diplomatic missions, UN agencies and regional organizations which are already present in the country.⁷³

Offers of international assistance

Given the above, the NDMA and NDMP define clearly whose international assistance the Government will accept, and even then, only after a formal request has been made. However, in the news reports and literature covering past disasters in Fiji, potential donors such as the members of the *FRANZ Agreement* do, in fact, spontaneously offer their assistance after a disaster, although they are careful to ask for a formal request for their assistance before providing it. This will be discussed further in Part III of this report on Practice and Experiences.

Legal status of organisations and personnel providing assistance

Most international disaster response activities are primarily conducted through Diplomatic Missions, international organisations (IOs) or NGOs, which are the subject of different legal status, privileges, immunities and obligations.

⁶⁷ NDMP, Annex F, F-3.

⁶⁸ NDMP, Annex F, F-3.

⁶⁹ NDMP, Annex F, F-3.

⁷⁰ NDMP, Annex F, F-3.

⁷¹ NDMP, Annex F, F-3.

⁷² NDMP, Annex F, F-4. Although there is no definition of “recognized NGOs,” these are presumed to be those which are registered as charitable or religious bodies, as will be discussed further in this report.

⁷³ NDMP, Annex F, F-4 - F-5.

Non-governmental organizations

The NDMA specifically recognizes that NGOs have a role to play in Fiji's national relief effort.⁷⁴ Legally, NGOs are considered corporate bodies under Fiji law, and are usually registered in accordance with the *Charitable Trusts Act*⁷⁵ or *Religious Bodies Registration Act*.⁷⁶

To register as a charitable trust, an organization must have a mission consistent with one of four "charitable purposes", which includes "[t]he relief of distress caused by any disaster affecting the whole or any part of the community".⁷⁷ That certificate registers the trustees of the charity as a corporate body⁷⁸ and therefore entitles the board of trustees to various property and contractual rights.⁷⁹

Religious NGOs can also potentially register through the *Charitable Trusts Act* provided they meet the relevant criteria⁸⁰, but they can also register in accordance with the *Religious Bodies Registration Act*, which similarly enables them, through their trustees, to have recognised legal status and hold land.⁸¹ Registration must be made by the head of the organisation and at least two ministers or priests resident in Fiji (or if there are no ministers or priests in Fiji, then by two members), and these persons are recognised as the legal trustees of the organisation.⁸²

Notably absent in the list of criteria for a charitable trust is the furtherance of political aims. In fact, the Government of Fiji has deregistered one charitable trust since 2000 because of its political stance and has stated that it will review the *Charitable Trusts Act* and the *Religious Bodies Registration Act* in the Law Reform Council for future amendment.⁸³

Although the measures outlined above are primarily intended for NGOs seeking to set up permanently in Fiji, it appears that the same requirements would also apply to NGOs only wishing to enter Fiji on a temporary basis for a specific emergency operation. However, in personal interviews with Fiji officials, there was a general belief that in the event of a large natural disaster, some or all of the requirements for temporary delegations could be waived upon application to the appropriate Ministers.

Foreign relief workers of NGOs have no special security arrangements with the Fiji Government nor do they enjoy the many blanket privileges and immunities as do IOs and Diplomatic Missions. However, they do receive limited immunity from certain liabilities under NDMA, which provides that

[a] person performing a role or discharging a responsibility in accordance with the National Disaster Management Plan, Agency Support Plan or any regulations which apply during an

⁷⁴ NDMA, art 28(3).

⁷⁵ *Charitable Trusts Act of 1945*, Cap. 67, Laws of Fiji (1975).

⁷⁶ *Religious Bodies Registration Act of 1881*, Cap. 68, Laws of Fiji (1978).

⁷⁷ *Charitable Trusts Act of 1945*, s 2(4), Cap. 67, Laws of Fiji (1975).

⁷⁸ *Charitable Trusts Act of 1945*, s 3, Cap. 67, Laws of Fiji (1975).

⁷⁹ *Charitable Trusts Act of 1945*, ss 8-12, Cap. 67, Laws of Fiji (1975).

⁸⁰ The Act also recognises "the provision of religious instruction, either general or denominational, for the people" - *Charitable Trusts Act of 1945*, s 2(6), Cap. 67, Laws of Fiji (1975).

⁸¹ *Religious Bodies Registration Act of 1881*, s 3, Cap. 68, Laws of Fiji (1978).

⁸² *Religious Bodies Registration Act of 1881*, s 3, Cap. 68, Laws of Fiji (1978).

⁸³ "Fiji: PM Wants Political NGOs De-registered", *Pacific Magazine and Islands Business*, March 14, 2005, <<http://www.pacificislands.cc/pina/pinadefault.php?urlpinaid=17466>>; Fiji Government Online Portal, Press Releases and News Briefs, "Cabinet approves Law Reform Commission's work programme", 2/2/05 <www.fiji.gov.fj/publish/page_4025.shtml>.

emergency situation shall not be liable for an injury or loss sustained by any other person, *unless such loss or injury is caused by or arises from negligence or wilful default.*⁸⁴

It has not been examined whether this immunity has been tested or how widely it will be interpreted by a court.

Diplomatic Missions

Fiji has extended to each of the Governments represented in Fiji⁸⁵ diplomatic privileges and immunities as provided under the *Diplomatic Privileges and Immunities Act*.⁸⁶ The privileges and immunities afforded are those of the *Vienna Convention on Diplomatic Relations of 1961*, and include:

- immunity from suit and legal process;
- inviolability of official premises and archives;
- immunity in relation to property and assets, wherever located or by whomsoever held from search, requisition, confiscation, expropriation, or any form of interference;
- exemption from taxes and rates as is accorded to the Government of Fiji of any foreign state;
- exemption from taxes on the importation of goods directly imported by the organisation for its official use in Fiji or for exportation; and
- exemption from prohibitions and restrictions on importation or exportation of telegraphic communications sent by it for broadcasting or the press at reduced rates as is accorded to press telegrams.⁸⁷

This Act also provides various privileges and immunities to various levels of diplomatic personnel and their families, as determined by Fiji's Prime Minister and declared in a formal order. Each class receives a slightly different group of privileges and immunities, and these are detailed in the various schedules which form part of the Act.⁸⁸ Such privileges and immunities include aspects such as:

- immunity from suit and legal process in respect of things done or omitted to be done in the course of the performance of official duties;⁸⁹
- exemption from taxes on the importation of furniture and effects imported at the time of first taking up post in Fiji;⁹⁰
- exemption from taxes on the importation of professional and technical equipment;⁹¹ and
- exemption from taxes on the importation of a motor vehicle.⁹²

⁸⁴ NDMA, art 24. (Emphasis added).

⁸⁵ These include: Australia; People's Republic China; European Union; Federated States of Micronesia; France; India; Japan; Republic of Kiribati; Republic of Korea; Malaysia; Marshall Islands; Nauru; New Zealand; Papua New Guinea; Tuvalu; United Kingdom; and United States of America.

⁸⁶ *Diplomatic Privileges and Immunities Act of 1971 (as amended 1977)*, Cap. 8, Laws of Fiji (1978).

⁸⁷ *Diplomatic Privileges and Immunities Act of 1971 (as amended 1977)*, First Schedule, Cap. 8, Laws of Fiji (1978).

⁸⁸ See for example: "Privileges and Immunities of Representatives, Members of Committees, High Officers, and Persons on Mission", *Diplomatic Privileges and Immunities Act of 1971 (as amended 1977)*, Third Schedule, Cap. 8, Laws of Fiji (1978); and "Privileges and Immunities of Official Staffs and of High Officers' Families", *Diplomatic Privileges and Immunities Act of 1971 (as amended 1977)*, Fifth Schedule, Cap. 8, Laws of Fiji (1978).

⁸⁹ *Diplomatic Privileges and Immunities Act of 1971 (as amended 1977)*, Fourth Schedule, art 1, Cap. 8, Laws of Fiji (1978).

⁹⁰ *Diplomatic Privileges and Immunities Act of 1971 (as amended 1977)*, Fourth Schedule, art 3, Cap. 8, Laws of Fiji (1978).

⁹¹ *Diplomatic Privileges and Immunities Act of 1971 (as amended 1977)*, Eighth Schedule, art 2, Cap. 8, Laws of Fiji (1978).

The extent that these provisions are available for temporary disaster relief personnel, may need to be clarified by the relevant Minister in advance. However, all personnel providing disaster relief under the NDMA will have the minimum immunities under the NDMA, as described above. Additionally, temporary relief personnel of foreign governments could also benefit from the *Special Missions Privileges Immunities Act of 1972*⁹³, which provides the similar privileges and immunities for permanent missions to

a temporary mission, representing the State, which is send by one State to another State with the consent of the latter for the purpose of dealing with it on specific questions or of performing in relation to a specific task.⁹⁴

International Organizations

Permanent delegations of international organisations are treated in a similar way to those of Governments. Under the *Diplomatic Privileges and Immunities Act*, organisations which receive a Ministerial declaration stating that it is an “organization of which two or more States or the Governments thereof are members,” are recognised as being an international organisation with corporate legal status.⁹⁵ As such they are entitled to benefit from the privileges and immunities outlined in the various schedules of the Act, as described above.⁹⁶

According to the Government of Fiji, there are currently thirteen international and regional organizations accredited to Fiji. These organizations include:

- UNDP
- UN Disaster Management Programme
- UN Population Fund
- UN Children’s Fund
- International Labour Organization
- World Health Organization
- Food and Agricultural Organisation
- Pacific Island Forum Secretariat
- Secretariat of the Pacific Community
- SOPAC
- South Pacific Tourism Organisation
- International Federation of Red Cross and Red Crescent Societies
- International Committee of the Red Cross.⁹⁷

Interestingly, at least in the case of the last two organisations, they are not governmental organisations and therefore would not meet the criteria of having one or more government members as required by the *Diplomatic Privileges and Immunities Act*.⁹⁸ However, they have concluded their own legal status agreements with the Government of Fiji, for example the

⁹² *Diplomatic Privileges and Immunities Act of 1971 (as amended 1977)*, Eighth Schedule, art 2, Cap. 8, Laws of Fiji (1978).

⁹³ *Special Missions Privileges and Immunities Act of 1972*, Cap. 10, Laws of Fiji (1978).

⁹⁴ *Special Missions Privileges and Immunities Act of 1972*, Schedule, art 1(a), Cap. 10, Laws of Fiji (1978).

⁹⁵ *Diplomatic Privileges and Immunities Act of 1971 (as amended 1977)*, ss 6(1) and (2)(a), Cap. 8, Laws of Fiji (1978).

⁹⁶ In particular Schedules 2, 3, 4 and 5 of the *Diplomatic Privileges and Immunities Act of 1971 (as amended 1977)*, s 6, Cap. 8, Laws of Fiji (1978).

⁹⁷ Fiji’s Ministry of Foreign Affairs and External Trade, “International and Regional Organizations Accredited to Fiji”, <http://www.foreignaffairs.gov.fj/resmiss_int_regional.html>.

⁹⁸ *Diplomatic Privileges and Immunities Act of 1971 (as amended 1977)*, s 6(1), Cap. 8, Laws of Fiji (1978).

agreement with the International Federation of Red Cross and Red Crescent Societies⁹⁹, which contains the same or similar privileges, immunities and facilities as are found in the *Convention on the Privileges and Immunities of the Specialised Agencies*¹⁰⁰. Similarly, the various UN bodies also benefit from the agreements established soon after Fiji became a member of the United Nations.¹⁰¹

Entry of foreign relief personnel

In general, the conditions for entry of persons into Fiji are determined by the *Immigration Act of 1971*¹⁰² and the *Passports Act of 1971*.¹⁰³ These Acts require that all persons entering or leaving Fiji:

- shall appear before an immigration officer and furnish them with the information they require¹⁰⁴
- possess a valid passport¹⁰⁵
- possess a valid permit¹⁰⁶
- possess a valid and current visa (required for entry only)¹⁰⁷

For the purposes of this study, the difference between a “visa” and “permit” was not determined, however both of these requirements carry exceptions which may impact on disaster relief personnel.

The requirement for possession of a valid permit is waived for

Any person to whom immunities and privileges have been extended in Fiji under any written law for the time being in force relating to diplomatic or consular immunities and privileges, any person who is on the official staff or in the household of any person to whom such immunities and privileges have been extended.¹⁰⁸

Thus for government missions, and possibly also international organisations which have been granted the same or similar privileges and immunities, a permit is not required.

For other organisations, such as NGOs, they would *prima facie* be required to possess a valid permit to work or reside in Fiji.¹⁰⁹ In particular, a number of religious organisations are

⁹⁹ *Legal Status of the International Federation in the Republic of the Fiji Islands*, 22 October 1998, Fiji – International Federation of Red Cross and Red Crescent Societies (entered into force 22 October 1998).

¹⁰⁰ *Convention on the Privileges and Immunities of the Specialized Agencies*, 21 November 1947, 33 UNTS 261 (entered into force 2 December 1948).

¹⁰¹ See for example *Standard Agreement between the United Nations, including the United Nations Industrial Development Organization and the United Nations Conference on Trade and Development, the International Labour Organization, the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization, International Telecommunication Union, World Meteorological Organization, International Atomic Energy Agency, Universal Postal Union and Inter-Governmental Maritime Consultative Organization and Fiji*, 13 October 1970, 752 UNTS 211 (entered into force 13 October 1970).

¹⁰² *Immigration Act of 1971*, Cap. 88, Laws of Fiji (1972).

¹⁰³ *Passports Act of 1971*, Cap 89, Laws of Fiji (1972).

¹⁰⁴ *Immigration Act of 1971*, s 5(2), Cap. 88, Laws of Fiji (1972).

¹⁰⁵ *Passports Act of 1971*, ss 10 (1) and (2), Cap 89, Laws of Fiji (1972). Under s 8(3), the Minister of Immigration has the discretion to waive the requirement of a passport either conditionally or unconditionally as he may think fit to impose.

¹⁰⁶ *Immigration Act of 1971*, s 6(1), Cap. 88, Laws of Fiji (1972).

¹⁰⁷ *Passports Act of 1971*, s 12(1), Cap 89, Laws of Fiji (1972).

¹⁰⁸ *Immigration Act of 1971*, s 7(1)(3), Cap. 88, Laws of Fiji (1972).

¹⁰⁹ *Immigration Directions of 1971* (as amended in 1984), ss 4(1) and 7, Cap. 88, Laws of Fiji.

designated as being entitled to receive permits to reside or work in Fiji¹¹⁰, including World Vision International¹¹¹, and members of any Anglican or Roman Catholic religious order who are under religious vows to undertake nursing, teaching, charitable or social work in Fiji.¹¹² However, the *Immigration Directions* also state that

Any person temporarily or periodically employed by charitable organisations approved by the Permanent Secretary shall be entitled to work in Fiji without having obtained a permit under the Act to do so¹¹³

The above also applies to persons who are recommended by a charitable organisation, provided that both the person and organisation are approved by the Permanent Secretary,¹¹⁴ as well as any person “employed on specific work approved by the Permanent Secretary” for a period of less than 14 days.¹¹⁵

In the case of visas, the *Passports Act* states that

The Minister may by order published in the *Gazette* specify countries, the nationals or citizens of which shall be exempted from obtaining a visa before entering Fiji.

Thus, relief personnel of these nationalities would also be exempted from visa requirements.

Insurance

There appears to be no prohibition on providing medical, life and motor vehicle insurance for foreign relief workers. Fiji regulates in-country insurance companies under the *Insurance Act of 1998*. It regulates motor vehicle insurance under the *Motor Vehicles (Third Party Insurance) Act*.¹¹⁶

Recognition of professional qualifications of foreign relief workers

Minimum qualifications of education and experience are required for various professionals including medical doctors, dentists, nurses, midwives and nurse practitioners, engineers, architects and legal practitioners.

Doctors and dentists must be registered and meet standards contained in the *Medical and Dental Practitioners Act*.¹¹⁷ Non-citizen doctors or dentists that wish to practice temporarily in Fiji may receive a temporary certificate of permission for three months if they have practiced in any country for one year or in any Commonwealth country. Registration is not available for any doctor or dentist that has been convicted of an offence punishable by two years or more or who is not of “good fame or character”.

Nurses, midwives and nurse practitioners must be registered under the *Nurses and Midwives Practitioners Act of 1982* and the *Nurses, Midwives and Nurse Practitioners Rules of 1999*. Minimum requirements include completing a course of training approved or prescribed by the

¹¹⁰ *Immigration Directions of 1971* (as amended in 1984), s 4(1)(1), Cap. 88, Laws of Fiji.

¹¹¹ *Immigration Directions of 1971* (as amended in 1984), Schedule Part A, Item 25, Cap. 88, Laws of Fiji.

¹¹² *Immigration Directions of 1971* (as amended in 1984), s 4(1)(2), Cap. 88, Laws of Fiji. (Note that this is subject to other conditions).

¹¹³ *Immigration Directions of 1971* (as amended in 1984), s 7(4), Cap. 88, Laws of Fiji.

¹¹⁴ *Immigration Directions of 1971* (as amended in 1984), ss 7(5) and (6), Cap. 88, Laws of Fiji.

¹¹⁵ *Immigration Directions of 1971* (as amended in 1984), s 5(3), Cap. 88, Laws of Fiji.

¹¹⁶ *Motor Vehicles (Third Party Insurance) Act*, Cap. 177, Laws of Fiji.

¹¹⁷ *Medical and Dental Practitioners Act*, Cap 255, Laws of Fiji.

Nurses and Midwives Board, or being or having been registered as a nurse or midwife in a country where the standard of training and examination is not lower than that required under the Act, or possessing such special qualifications as in the opinion of the Board justify the admission” to the appropriate part of the Register.

Registered nurse practitioners must be registered by the Nurse and Midwives Board after demonstrating registration on both the register of nurses and the register of midwives. A nurse practitioner must also have undertaken additional training as approved by the Board and have demonstrated a level of knowledge, skill and competence that qualifies the person to carry out an expanded primary care role.¹¹⁸

To the extent that medical doctors, dentists, nurses, midwives and nurse practitioners can be identified as potential relief workers, such credentials needed to satisfy the registration requirements should be collected in a form easily transmitted to the Fiji Medical Council and the Nurse and Midwives Board.

Customs and taxation requirements for relief goods, medicines and equipment

In the absence of special arrangements with the Government of Fiji on customs and tax exemptions, import and export policy is made by the Department of Commerce and Industry, Ministry of Foreign Affairs and Trade. Imports may trigger tariff measures, import restrictions and quota arrangements. In the case of disaster relief, no prohibition or restrictions appear in the customs requirements for NGOs to import or export relief goods. Indeed, Section 10(1-3) of the *Customs Tariff (Amendment) Act of 2001*, provides:

(1) The Minister may after receiving recommendation to do so from the Controller and subject to such conditions as the Minister may consider necessary, reduce or refund the whole or part of fiscal duty paid or payable by a person or organisation in respect of goods imported into Fiji, if the Minister is satisfied that -

(a) the goods being imported or being imported as a relief in the event of a disaster declared by the Government as a national disaster;

(b) the importer of the goods is a person or organisation covered under any International Agreement or Convention between the respective Governments or Parties;

(c) the importer of the goods is a registered religious or charitable organisation and that any reduction or refund of such duty is, in the circumstances, justifiable having regard to the purpose for which the organisation was established;

(d) the reduction or refund of fiscal duty will contribute an identifiable benefit to the country.

(2) Unless otherwise indicated by the Minister, the reduction or refund approved under Sec. (1)(d) shall remain in force for a period of 12 months after approval.

(3) For the purposes of subsection (1)(d), the applicant for a concession must:

- make application in writing to the Controller;
- set out in the application the detail of the concession sought and its fiscal duty value;
- and
- outline the benefit to the country that the concession sought and its fiscal duty value.

As a result, any organisation that has been certified as a charitable organisation, religious organisation or IO may apply to the Controller for a reduction or removal of customs duty. As

¹¹⁸ *Nurses, Midwives and Nurse Practitioners Rules of 1999*, Sec. 3(1).

long as the applicant can detail the concession sought, its value, and demonstrate a benefit to the country, customs duties will not be imposed.

Export of disaster relief goods will generally not trigger export taxes. Export taxes are generally imposed upon manufactured goods under an export-licensing scheme.

In the case of the importation of medicine, the Ministry of Health representative stated that medicines that may be required for disaster response and relief cannot be imported into Fiji without previous consultation with the World Health Organisation, which makes a determination of the medicines required and coordinates their shipment. So, while there may not be customs restrictions on the importation of medicine, there is a different consultation, screening and logistics process that must be followed prior to importation of medicines.¹¹⁹

Value added tax

For locally purchased goods, Fiji has a Value Added Tax (VAT) that applies an indirect tax of 12.5% on all goods and services. It appears that there are no relevant exemptions for the VAT.

However, some organisations have made individual arrangements with the Government, such as the International Federation which has negotiated for VAT remission or return for “important purchases for official use of property or relief supplies on which such duties and taxes have been charged or are chargeable”.¹²⁰

Income tax for foreign relief personnel

Personnel who do not fall under the exemptions of Fiji’s taxation scheme for diplomatic or international organizations, may be citizens of countries that have “double taxation relief” agreements with Fiji. Countries that have double taxation relief treaties with Fiji include:

- Australia;
- New Zealand;
- United Kingdom;
- Malaysia;
- Republic of Korea;
- Papua New Guinea; and
- Japan.¹²¹

The extent of relief under the double taxation agreements is contained in Sections 102 and 103 of the *Income Tax of 1974*¹²² and the *Income Tax (Amended) Act of 2004*.

Under Section 17(5), those individuals not exempt from the *Income Tax Act of 1974* will be liable for income tax on total income less personal allowance. Non-resident income tax starts

¹¹⁹ Personal interview with Dr. (Mrs.) Timaima Bakani Tuiketeti, Deputy Director, Public Health, 29/3/05.

¹²⁰ *Legal Status of the International Federation in the Republic of the Fiji Islands*, 22 October 1998, Fiji – International Federation of Red Cross and Red Crescent Societies, art 11(2), (entered into force 22 October 1998).

¹²¹ See, for example, *Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income Agreement between Australia and Fiji*, 15 October 1990, [1990] PITS 3.

¹²² *Income Tax of 1974*, Cap 201, Laws of Fiji.

at 20% for income of US\$2,300 per annum and then rises in three levels up to 35% for any income over US\$7,800 per annum.¹²³

Access to and costs of facilities

No prohibitions or restrictions on access to facilities such as office space, warehousing, telecommunications networks, banking and vehicle registration appear to exist, nor do there appear to be differences in pricing for IOs and NGOs involved in disaster relief activities. Vehicle registration must be paid by all workers with the exception of diplomats and is FD \$35. A driver's license from another country is valid for six months. After that a Fiji Drivers License must be obtained. A learner's permit can be obtained for a small fee.¹²⁴

With regards to telecommunications, it should be noted that telecommunication systems run by any foreign vessel or aircraft are specifically exempt from the Governmental licensing provisions of Section 6(2)(c), *Posts and Telecommunications Decree of 1989*.

Transport and movement of personnel and relief goods/equipment within Fiji

There appear to be no restrictions on the transport and transit of personnel and/or relief goods and equipment related to disaster relief into and around Fiji by NGOs, IOs and Diplomatic Missions. Under the *Fiji Fundamental Rights and Freedoms Decree No. 7 of 2000*, citizens and non-residents have access to all parts of the country without restriction, however there are limited exceptions that are based upon the exigencies of public safety and emergencies.

As noted previously, IOs and Diplomatic Missions are able to directly import goods that are used for official missions and are exempt most from prohibitions and restrictions. However, there does not appear to be any statutory authority that gives priority to disaster relief organisations that may need to purchase and/or utilise equipment already in-country. Government personnel state that assistance will be provided to groups involved in disaster relief.

There is no legal restriction on those who may engage in shipping or who may use a shipping service or ferry. Regular commercial shipping is limited to the main routes and shipment to the outer islands is on an intermittent basis. However, there has been an increase in the number of private commercial ferry operators, and this has pushed commercial shipping rates down prompting claims from the shipping industry that the Government should regulate the number of ships and/or the prices of carriage.¹²⁵

The Fiji Government Shipping Service (GSS) has only four ships available for transport of relief personnel and goods to the outer islands of Fiji. As foreign vessels and planes are often requested during the worst of disasters, the Government has acknowledged that it has insufficient numbers of vessels and the working conditions for officers and crew on Government vessels are poor.¹²⁶ As a short-term solution, the Cabinet has approved a

¹²³ A brief description of Fiji's tax regime can be found in documents prepared by the Pacific Islands Forum, < <http://www.forumsec.org.fj/docs/IG/P6.htm> > p. 7.

¹²⁴ US Department of State, "Taxes, Exchange and Sale of Property", Fiji Post Report (2004) < http://foia.state.gov/MMS/postrpt/pr_view_all.asp?CntryID=52 > p. 23.

¹²⁵ See Pareti, S., "Shipping War: Ferry operators want tide turn on free market" (2004) < http://www.islandsbusiness.com/fiji_business/index_dynamic/ >.

¹²⁶ Fiji Government Online Portal, Press Releases and News Briefs, "Improvement to Government transport services to the maritime provinces", 23/4/04 < www.fiji.gov.fj/publish/page_2139.shtml >.

programme to upgrade seventeen Government vessels to acceptable operational standards over three years and to purchase a new general cargo vessel and a landing barge.¹²⁷

Quality and accountability standards for international disaster relief

There are no direct quality and accountability standards or requirements specifically referring to international disaster relief operations in Fiji. Although not reviewed in detail for this study, there are sector specific standards that would apply in any normal working operations in Fiji such as:

- *Food Security and Safety Act;*
- *Water Supply Act;*
- *Road Safety Act;*
- *Public Health Act (including the Building Code);*
- *Health and Safety at Work Act;*
- *Land Transport; and*
- *Marine Act.*

Insofar as the Fiji Red Cross is a member of the Natural Disaster Management Council and is a first-line responder, its standards of quality and accountability provide an important example in Fiji. The Fiji Red Cross and other members of the International Red Cross and Red Crescent Movement endeavour to apply the Sphere Project's *Minimum Standards for Disaster Relief*, the *Principles and Rules for Red Cross and Red Crescent Disaster Relief*¹²⁸ and the *Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations (NGOs) in Disaster Relief* of 1994.

Volunteers

The Fiji Cabinet has recently approved the establishment of an Emergency Management Volunteer Service (EMVS).¹²⁹ The EMVS is envisioned to enhance the Government's capabilities to deal with disasters and also to provide the community with an opportunity to develop a sense of national pride. EMVS personnel would participate in activities that include:

- public education and awareness of natural and man-made hazard, in particular, hazard and risk management;
- removing debris after a hazard;
- assisting local communities in determining priorities of work for immediate relief;
- assisting the management of evacuation centres;
- assisting the distribution of relief supplies;
- assisting authorities with aspects of search and rescue;
- supporting initial disaster assessment immediately following a disaster;
- assisting rehabilitation work, particularly with housing; and
- providing support for exercises and training.

¹²⁷ Fiji Government Online Portal, Press Releases and News Briefs, "Improvement to Government transport services to the maritime provinces", 23/4/04 < www.fiji.gov.fj/publish/page_2139.shtml >.

¹²⁸ First approved by the XXIst International Conference of the Red Cross (Istanbul, 1969) and with the subsequent revisions and additions, the most recent being the XXVI International Conference (Geneva, 1995).

¹²⁹ Fiji Government Online Portal, Press Releases and News Briefs, "Cabinet approves establishment of an Emergency Management Service", 18/2/05 < www.fiji.gov.fj/publish/page_4134.shtml >.

The Government states that EMVS personnel will only be required to assist in areas in which they have received training. Also, the Government states that a volunteer will be required to sign a Memorandum of Agreement outlining the terms and conditions of service. Interestingly, the policy would also spell out liabilities and obligations. Presumably, that policy will coordinate with the immunity from liability provided to individuals according to the NDMA and NDMP.

Information Sharing

Under the NDMA, information is critical as it is the vehicle which engages the disaster management process and moves it forward. With increased information, the process is able to be engaged sooner, preparations can be carried out earlier and mitigation activities become more of an option. In a macro view, information sharing is (a) obtaining early warning information of hazards; (b) sharing that information with the Council members; (c) engaging their own internal processes; and (d) making timely decisions to request international assistance, if required.

The NDMA requires that the NDMO and the National Emergency Operations Centre be able to access any information that it needs during disaster response. Part of that process is bringing the information before the Emergency Committee and the Council and recommending an option to the Controller and the Cabinet. This process ensures that the various Government sectors including the Fiji Red Cross are notified. They can then begin to engage their own internal disaster management procedures and become part of the overall decision-making process. Further, Fiji is working on implementing a policy on Information Technology that allows for updating their telecommunications systems and integrating information sharing into their government processes.

Preparedness and training

There are numerous on-going and planned programmes involving preparedness and training in the South Pacific countries including Fiji. Preparedness is one of the main aspects of Fiji's disaster management scheme and is also one of the main aspects of the emergency response exercises between Fiji and both Australia and New Zealand, as described above.

Generally however, the overall focus of disaster management training in the region has shifted from disaster response to disaster risk assessment, prevention and mitigation. The focus has also shifted towards an all-hazard, holistic treatment of disaster and hazard reduction. As part of this holistic treatment, there has also been a shift towards more community involvement in disaster preparedness and mitigation. While preparedness and response are still important, it is becoming viewed as being reactive instead of proactive.

The Pacific Emergency Management Training Advisory Group (PEMTAG) was created in 2002 to coordinate disaster management training in the region.¹³⁰ PEMTAG is made up of representatives from: SOPAC; the International Federation of Red Cross and Red Crescent Societies; the OCHA Regional Disaster Response advisor; and OFDA. The primary goals of PEMTAG are to provide disaster management training, to develop country trainers and core training materials for use in the region, as well as other regional education and technical assistance.

¹³⁰ SOPAC, "Implementing the Yokohama Strategy and Plan of Action: The Pacific Islands Regional Progress Report (1994-2004), SOPAC Technical Report 379, <www.sopac.org>.

Significant meteorological and hazard warning training is supported by SOPAC, the South Pacific Regional Economic Programme (SPREP), PDC and the South Pacific Community (SPC). At an international level, the World Meteorological Organization (WMO) is a key partner for technical assistance and training.

ACP training started in 2002 and focused on several key areas: hazard mitigation and risk assessment, availability of aggregates for construction and water resources and sanitation. The ACP training is also focused on developing appropriate policies, management plans and regulatory frameworks for these areas.

Future policy and legislative directions¹³¹

The NDMA and the NDMP are currently undergoing significant review and potential revision. The NDMO has convened a series of Stakeholders Consultation Workshops in 2004. The review is based upon a number of policy objectives including:

- Yokohama Strategy and Plan of Action;
- UN Millenium Development Goals;
- Plan of Implementation on Sustainable Development, Johannesburg, 2003;
- Pacific Position Paper for the WCDR, 2005;
- CHARM Guidelines; and
- Disaster Risk Management Review outcome.

The revision of the NDMA and NDMP will incorporate response to all kinds of disasters, man-made as well as natural. It will also seek to incorporate the all-risk, whole-of country approach as embodied in the CHARM Guidelines.

Much of what will be included in a revision of the NDMA is as a result of the Suva Earthquake Risk Management Pilot Project (SERMP) that applied the CHARM Guidelines to a simulated earthquake in 1995-1997. An important feature is that SERMP was able to apply new project implementation, management and scientific techniques to disaster management. It also provided for collaborative and multi-agency project management and implementation strategies. Importantly, it also allowed an opportunity to involve local, regional and international organisations. In total the project involved 46 agencies and resulted in 90 recommendations that are currently being implemented and will form the basis for the NDMA and NDMP revisions.

PART III – PRACTICE AND EXPERIENCES

Two recent natural disasters in Fiji in January 2003 and April 2004 prompted requests for international assistance after national disaster declarations were issued. They are useful as illustrations of the practical application of systems supporting international assistance.

¹³¹ This section is based on Joeli Rokovada, “Working Towards Good Governance for Effective Risk Reduction – Fiji Experience”, *Presentation to the Thematic Session on National Systems for Disaster Risk Management in the Context of Governance*, World Conference on Disaster Risk Reduction, Kobe, 20 January 2005.

Tropical Cyclone AMI of 2003¹³²

Tropical Cyclone AMI was a Category 1 to 2 storm, which raged over the eastern tip of Vanua Levu (Fiji's second largest island), the Natewa Peninsula, Tavenui (Fiji's third largest island) and the small islands of the Lau Group on 14 January 2003. In the affected areas nineteen deaths were reported with two missing. The cyclone caused extensive flooding, loss of electrical power, loss of radio and telecommunications, landslides, bridge and road closures, and jetty damage. In addition, the water supply and sanitation systems were rendered inoperable and some hospitals and health stations were destroyed. Twenty-six classrooms were damaged, delaying the school term. The affected areas sustained housing and building damage, agricultural crop losses from inundation, high winds and saltwater intrusion, and food supplies were required.

A formal declaration of a national disaster for Tropical Cyclone AMI was issued by the Prime Minister on 14 January 2003. An Orion aircraft from New Zealand conducted aerial reconnaissance on 15 January 2003. The Government sent multidisciplinary assessment teams to the affected areas on 16 January 2003. The Cabinet met and endorsed the declaration of national disaster on 22 January 2003 and decided to seek technical and financial assistance from the international community. International assistance was formally requested on 23 January 2003 after the first assessment teams returned. Hence, some donors had to wait nearly ten days for detailed information on the areas and extent of the damage. Pursuant to discussions between the Government and donors, no overseas food was supplied in order to guard against imported pests and so it would not interrupt local diets. The latter may also have been complicated by agreements which require that most, if not all, food products be obtained from Commonwealth member countries.

As of 24 February 2003, the following donors provided financial and technical support, labour, supplies, equipment and transportation: Australia, China, Cook Islands, France, Japan, New Zealand, Norway through OCHA, United Kingdom, USA, European Union, International Federation, UNICEF, WHO, OCHA grant, Pacific Islands Forum, and SOPAC. The Tropical Cyclone AMI international donors worked through their diplomatic missions, OCHA, the International Federation, regional agencies or local offices of nongovernmental organizations. The Prime Minister appealed for financial contributions to a disaster fund as did the International Federation. Apparently, the money from the Prime Minister's disaster fund reached 250,000 Fiji Dollars. As noted by some international donors during meetings, monies in the Prime Minister's disaster fund have not been spent.¹³³ OCHA formally declared it was prepared to be a channel for cash contributions for immediate relief assistance, to coordinate and consult with other organizations within the UN and to provide donors with written confirmations and details concerning the use of donated funds.

Table 2: International assistance for Tropical Cyclone AMI - 2003

Country/ Organization	Description of assistance	Value in USD
Australia	Hire of helicopter for assessment and relief deliveries	15,000
	Hire of 2 water purification units	NC
	Hire of office equipment for National Emergency	NC

¹³² This section is based on OCHA, *Situation Report: Fiji – Tropical Cyclone AMI Report 3* (24 January 2003); OCHA, *Situation Report: Fiji – Tropical Cyclone AMI Report 4* (31 January 2003); and OCHA, *Situation Report: Fiji – Report 5: Tropical Cyclone AMI* (25 February 2003).

¹³³ As verbally reported to the author, however, not independently verified with the Government.

	Operations Centre (NEOC)	
	303,264 water purification tablets through Fiji Red Cross	19,660
	Relief assistance through Fiji Red Cross	22,470
	Contribution to radio appeal	2,430
	6840 20-litre water containers airlifted from Sydney	12,000
	Tarps and rope airlifted from Sydney	100,000
	Cotton blankets: 3250 airlifted from Sydney	NC
	6 days hired vessel for Lau Group	
	Australian Red Cross official to assist aid coordination	NC
	Restock medical supplies used in N. & E. Div.s	TBC
	Restock Fiji Red Cross disaster preparedness containers	162,440
	Financial support to Save the Children for families in North for schooling	119,290
China	Cash to Government for relief through embassy	9,700
	Pledged to Government for relief/rehabilitation	242,000
Cook Islands	Cash to Government for relief/rehabilitation	4,900
France through Government of French Polynesia	Hardware, 100 tarps & locally purchased food relief	10,000
	Naval patrol vessel for delivery run to Cicia Island in Lau	609,000
	Aircraft with 300 tarps, 150 blankets, 50 water containers, 5,000 puritabs, plus 2 flights to Labasa	NC
Greece	Donation through Fiji's mission in the UN	80,560
Italy	Donation through OCHA for food relief and 5000L water tanks for school rehabilitation	208,380
Japan	Offer of medium-term school/health centre rehabilitation	TBC
	Donation to Fiji Red Cross for installation of water tanks at schools	64,260
Japan Red Cross	Donation to International Federation appeal	27,600
Korea Red Cross	Donation to International Federation appeal	14,700
New Zealand	Provision of Orion aircraft for aerial reconnaissance	NC
	Contribution to Prime Minister's appeal	18,870
	Aircraft with 1,000 water containers & 600 tarps	NC
	New Zealand Red Cross official to assist assessment	NC
	Available to purchase additional relief or logistic support	15,630
	14 x 2,000 litre water tanks for the Lau Group of islands	TBC
	Transportation of relief goods from expatriate Fijians in New Zealand	TBC
New Zealand Red Cross	Contribution to International Federation appeal	5,460
Norway through OCHA	For relief effort through NDMO to villages in Macuata	15,000
Taiwan	Donation through Suva-based trade mission	10,150
United Kingdom	Relief assistance through Fiji Red Cross	4,850
	Donation to Red Cross appeal	16,400
	Donation to Save the Children Fund	17,100
	Contribution to Prime Minister's Appeal	2,430
USA	Cash to Fiji Red Cross for water purification equipment, tarps, 20 litre water containers and humanitarian relief packs	25,000
European Union	Offered assistance for both relief & rehabilitation	TBC
European Comm. Humanitarian Office		TBC
International Federation	Relief assistance through Fiji Red Cross	1,460
UNICEF	5 x primary health kits (Med. equip. and supplies)	5,430
UNFPA	Reallocate existing project funds for Ministry of Health	TBC
WHO	Offered technical assistance and supplies to Ministry of	TBC

	Health	
	Financial assistance to Ministry of Health	10,000
OCHA Grant	Through NDMO for local purchase of tarps & ropes	15,000
Pacific Islands Forum	Regional natural disaster relief fund—emergency grant	9,710
SOPAC	Post-disaster impact assessment to reduce vulnerability	NC

Reported in OCHA Situation Reports Nos. 3, 4, 5 on Tropical Cyclone AMI.

NC = not costed

TBC=to be costed

Few problems were encountered with the direct provision of services, supplies and equipment from international donors, especially those with local offices in Fiji (e.g., International Federation, OCHA). However, one Red Cross relief worker entering the country was stopped by Fiji Customs and a satellite phone was confiscated. Initially, Customs declined to state a reason for the confiscation. Several communications with the Fiji Government were necessary to have the phone released.

Problems with international relief have been primarily due to the difficulty of reaching remote communities, mobility due to washed out roads and landslides and the lack of government-owned vessels to carry out relief work. Other problems occurred in the allocation and distribution of donated money for specific projects. Funds from donors that went to the Fiji Government were channelled through the Ministry of Finance and then the Department of Government Supplies who followed normal protocol for the tendering of bids for the purchase of supplies and equipment. This procedure has been criticized for the time it has taken for the provision of supplies (to date some relief still has not been provided), despite timely offers of local labour that has now dissipated. Some vocal critics of the Fiji Government assert that some communities were helped more than others, based primarily upon ethnicity. Other problems were noted in Parliament, in particular, the length of time communications were completely cut off from some affected areas.

Floods of 2004¹³⁴

The floods of April 2004 disaster were the result of an unusual tropical depression that was accompanied by 90km per hour wind gusts and heavy rainfall. The storm caused severe flooding and landslides on the two main islands of Viti Levu and Vanua Levu. A subsequent storm caused flooding in areas surrounding Suva. In total, ten people died with ten missing. In affected areas, homes, roads, shops and crops were destroyed or damaged. The Navua Hospital's first floor was flooded and damaged. Communication with some villages was completely cut off. Some villages had no food as crops had been destroyed. The Fiji Red Cross was on the ground in affected areas the same day. Its operation was completed by 12 April 2004.

New Zealand offered assistance on 13 April 2004 conditioned on a specific request for aid by Fiji. Fiji requested international assistance on 21 April 2004 from New Zealand, France and Australia (the *FRANZ Agreement* members). Other international donors included New Zealand AID, Caritas, Australian Foundation for the Peoples of Asia and Pacific (AFAP), and the Pacific Islands Forum.

¹³⁴ This information is based on the material contained in ReliefWeb, "Fiji Floods, April 2004" <www.reliefweb.int> and International Federation of Red Cross and Red Crescent Societies, *Fiji Floods Information Bulletin No. 1* (13 April 2004).

Table 3: International assistance for Fiji Floods – April 2004

Country/ Organization	Description of assistance	Value in USD
Australia	Working with FRANZ partners to provide Emergency Shelter kits, replenish Fiji Red Cross supplies, 400 tarps, collapsible water containers and 200,000 water purification tablets	150,000
France	Sent naval vessel and naval aircraft for search and rescue	NC
New Zealand	Donation for immediate humanitarian relief	50,000
	Donation to Fiji Red Cross to replenish supplies	18,000
	Funded helicopter and plane flights for aerial assessment and food supplies & rehabilitation and equipment replacement for schools	169,000
AFAP	Appeal for financial donations	TBC
Caritas	Provided financial support with CEPAC, its Fijian partner	TBC
Fiji Red Cross	Purification tablets and immediate field relief	47,760
Pacific Islands Forum	Donation from the Regional Natural Disaster Relief Fund	11,500

NC=not costed

TBC=to be costed

Problems with international aid once again focused on the difficulty in reaching communities cut off by washed out roads and landslides. Donors made donations through their embassies, to the Government of Fiji and many made direct contributions to the Fiji Red Cross.

Other operational issues¹³⁵

Offers and requests for assistance and access to affected areas

The timeliness of requests for outside assistance was noted as a challenge for fast and effective international disaster response in Fiji. The lack of standard assessment processes for determining when a disaster requires external assistance has meant that requests have been delayed for long periods. Geographic and infrastructure challenges also had a major part to play in delaying the communication of information about disasters and the needs of the affected populations, with many communities in isolated areas with limited access to telecommunications.

Even when information is available, communication is often delayed by protracted information management, cross-checking and verification of data. Whilst the need to have complete and accurate information was acknowledged, it was felt that in the early stages of a disaster, all available information needs to be transmitted as soon as possible, even if it changes at a later stage. In this regard, the NDMO and other relevant organizations should not feel they will be “judged” by the quality of the information, but rather they would be ensuring that all relevant agencies are notified of the potential need for assistance as soon as possible.

However it was widely acknowledged that one of the strengths of the system was the strong links between major donors. In particular there was said to be good coordination between the Government of Fiji and the permanent missions of the Australian, New Zealand and French governments (supported by the *FRANZ Agreement*). By comparison, in Pacific countries

¹³⁵ These issues were identified during the in-country visit to Fiji in November 2004, in particular during the IDRL workshop. Further details of the in-country visit and workshop can be found in Annex B.

where there were no permanent missions or consulates, responses were reported to have been much slower.

Another strength, which was in fact a result of the isolation of many communities, was the strong resilience and resourcefulness of local populations. Because of the time and distance to reach remote islands affected by disaster, it was felt that greater emphasis could be placed on developing local capacities to enable them to cope in the intervening period before the arrival of assistance.

Relief personnel

It was noted that foreign organizations providing disaster assistance in Fiji had experienced delays in obtaining entry permission and visas for relief personnel. The systems were considered to be ad hoc and inconsistent. The length of time taken to request external assistance by the Fiji Government also resulted in delays for sending relief personnel into the country and to the affected area.

Other challenges included the difference in skills and training of the various national and international relief organizations which has led to inconsistent practices and quality standards. In particular some smaller NGOs and church groups were felt not to have the same standards and levels of professionalism as others when providing disaster relief. As a result it was suggested that there be clearer definitions, standards and accreditation processes to improve the overall standard of relief personnel working in Fiji. Furthermore, it was suggested that external relief personnel should be sourced and trained from within the region in preference to other parts of the world.

In relation to volunteers, it was noted that insurance for volunteers was extremely expensive and therefore made the extensive use of volunteers prohibitive for many organisations.

Coordination

Coordination was considered to be working well in Fiji, particularly between the major relief agencies such as the NDMO, Fiji Red Cross, International Federation, UN OCHA and the major donor governments. The NDMA and NDMP were in place and supported by a budget line, although the budget itself was considered to be inadequate. Furthermore, the NDMP enabled the involvement and tasking of additional civil servants as required.

However, there were still some issues to be addressed, particularly within the national system itself. There needed to be greater clarity about the different roles and responsibilities of the different agencies and other organizations in disaster operations and a more detailed set of procedures for disaster management. In particular, there was seen to be a lack of clear reporting lines and coordinating bodies for specific tasks, such as search and rescue.

Logistics

It was noted that during relief operations there was often a 30-day “fast-tracking” system put in place whereby relief goods could be expedited through customs, however these procedures were not being applied consistently and needed further clarification. Special arrangements were also in place for the arrival of aircraft under the *FRANZ Agreement*, regarded as an important feature which could possibly be extended to other organizations.

Quality standards

The Sphere Standards were considered to be an important tool for improving the quality of disaster response, however there needed to be greater promotion and awareness of them among relief providers, particularly smaller NGOs. There also needed to be greater understanding of World Health Organisation standards and guidelines which impact on how relief providers should be conducting health activities and standards for drugs and equipment.

The equitable, transparent and responsible distribution of relief supplies was also an issue of concern, with some participants noting that this was not being applied consistently between organizations. Targeting decisions were sometimes subject to outside influences, such as the priorities of donors or driven by media reports, rather based on actual need. Furthermore, relief agencies needed to increase their focus on reducing the vulnerability of communities to disaster rather than simply offering short term relief.

It was also suggested that the quality of relief operations would be improved by having more comprehensive and transparent evaluations of relief operations which involved all stakeholders, organizations and beneficiaries, and which involved proper debriefing for personnel. Again, the feeling of being “judged” would need to be addressed, perhaps by presenting the process in a more positive way.

Donor reporting

Donor reporting was considered to be an issue which needed addressing in order to improve the effectiveness of relief operations. Whilst the importance of accountability both for financial and programming activities was considered essential, it was noted that the different reporting requirements of donors placed a heavy burden on relief agencies and took considerable resources away from the operation. The efforts currently underway by donors to harmonise, and hopefully streamline, their reporting requirements was therefore considered to be an important and positive development.

PART VI - CONCLUSIONS

Overall, the legal and regulatory system in Fiji is responsive to the needs of international relief providers and attempts to create an environment in which international assistance can supplement and support national disaster response systems and structures. This is characterised by:

- Formal recognition of the role of NGOs, IOs and inter-governmental assistance in the disaster management system of Fiji, through the NDMA and the NDMP.
- A prescribed system for requesting international assistance from major donors, which is clear and centralised
- Privileges and immunities for diplomatic missions and international organisations in accordance with international conventions
- Tax, import and export exemptions for relief goods and equipment for recognised NGOs, IOs and governments
- Waiver of certain entry requirements for recognised IOs and diplomatic missions, as well as for charitable NGOs
- Ability for recognised NGOs to freely and independently request assistance, both financial and in-kind, from their international counterparts, regardless of a formal government request for assistance.

However, the system is characterised by a certain degree of duality – the above permissive environment is limited to foreign governments and organisations which are formally recognised/registered in Fiji, whereas other organisations seeking to spontaneously provide assistance in the event of large scale emergency will not necessarily enjoy these same privileges. This creates both advantages and disadvantages for international disaster response operations. The positive features include:

- Enjoyment of a large degree of trust and cooperation between the Fiji Government and recognised organisations and governments
- Development of a close-knit donor community, in particular through initiatives such as the *FRANZ Agreement*, which creates a more efficient system for international assistance, which can be mobilised quickly through both formal and informal channels
- Control over the quality and accountability of disaster relief by restricting international assistance only to those organisations which the Fiji government considers able to adequately support disaster response
- Ensuring that the overall role and responsibility of government for disaster management is maintained and not undermined, by ensuring that international assistance is only provided upon request and only when national capacities are exceeded.

However, whilst it seems that many of the disasters encountered in Fiji have been adequately addressed by recognised foreign donor and relief agencies, there is always the risk that, in the event of a large-scale national disaster, other organisations may be required to provide assistance to ensure that the needs of the affected population are met, or may spontaneously attempt to provide assistance regardless of whether a formal request has been made by government. Under these circumstances, it would appear that the current system would be placed under great strain.

Many of the facilities currently available to recognised NGOs, IO and governments, such as import/export regulations on goods and equipment, tax exemptions, entry permission for personnel and recognition of qualifications, are dependent on the discretion of the relevant government Minister. Currently they are applied generously, because they are generally used only by organisations and governments already recognised by the Government of Fiji. In the event of a situation where many different organisations are requesting exemptions and facilities, there may be bottlenecks or increased controls and restrictions put in place to ensure the quality and standards of organisations and goods entering in the country. Without clearer guidelines on when and how such situations should be handled, there is the potential for such a situation to have a very negative impact on the quality and timeliness of international assistance and compromise the current good will extended to recognised agencies.

Moreover, if processes for controlling the entry of foreign organisations are waived altogether in a large-scale emergency, there is a risk that the quality and accountability standards of the response will be jeopardised by the entry of organisations employing under-qualified staff, importing sub-standard goods or equipment, or engaging in inappropriate activities.

Thus, it would be important to anticipate how such situations could be addressed within the legal and policy framework in Fiji. This could involve the establishment of clearer and more transparent rules and regulations on these issues, as envisaged by the NDMA, which are less discretionary. This would limit the potential for confusion and delays through inconsistent application and would ensure that quality standards could be upheld. In situations where ministerial discretion is considered essential, it would be useful to develop guidelines or

criteria upon which such discretion could be exercised fairly and responsibly, for the greatest benefit to disaster affected populations. It would also be important to ensure that these rules and guidelines are consistent with the various international laws, principles and standards on international disaster response.

Another concerning aspect of the current system is the delay between the onset of a disaster and requests for international assistance. Part of this challenge relates to the ability of assessment teams to communicate with, and physically reach, disaster affected areas in a timely manner. However it is also due to the many layers of communication described in the NDMA before a national disaster is declared, in addition to decisions about international assistance. In fact, in the case of Tropical Cyclone AMI, the Prime Minister both declared a national disaster and sought the assistance of the New Zealand Government over a week before the National Disaster Management Council came to the same conclusions in accordance with NDMA procedures. Thus, a system for streamlining communication channels and making fast decisions about the nature and type of assistance needed must be developed as a matter of urgency.

The major weakness of the current system, however, is that a majority of the laws, rules and principles derived from the NDMA and the NDMP, are limited to situations of natural disaster. Whilst this issue is well known and may be addressed by future revisions of disaster management planning and legislation, it remains an important and serious limitation. Indeed, the developments which were highlighted during the World Conference on Disaster Risk Reduction and which are described in various planning documents are extremely encouraging and will make a positive difference to the effectiveness of disaster management in Fiji.

It is hoped that the findings from this report will also assist and support the work underway to continue to improve disaster management systems in Fiji.

ANNEX A – Acronyms

ACP – African, Caribbean and Pacific Group of States

AFAP – Australian Foundation for the Peoples of Asia and Pacific

AusAID – Australian Government Overseas Aid Programme

CHARM – Comprehensive Hazard Assessment and Risk Management

EEZ – Exclusive Economic Zone

EU – European Union

EMA – Emergency Management Australia

EMVS – Emergency Management Volunteer Service

FACT – Field Assessment and Coordination

FORUMSEC – Pacific Islands Forum

FRANZ – Agreement between France, Australia and New Zealand

GSS – Government Shipping Service

IDRL – International disaster response laws, rules and principles

IO – International organisation

MFAT - Ministry of Foreign Affairs and Trade

NDMA - Natural Disaster Management Act

NDMO – National Disaster Management Office

NDMP – National Disaster Management Plan

NEOC – National Emergency Operations Centre

NGO – Non-governmental organisation

NZAID – New Zealand International Aid and Development Agency

OCHA – United Nations Office for the Coordination of Humanitarian Affairs

OFDA – Office of Foreign Disaster Assistance

PEMTAG – Pacific Emergency Training Advisory Group

PDC – Pacific Disaster Center

PDC Fiji – Pacific Disaster Center Fiji

SOPAC - South Pacific Applied Geoscience Commission

SPREP – South Pacific Regional Economic Programme

UN – United Nations

UNDAC – United Nations Disaster Assessment and Coordination

UNDP – United Nations Development Programme

UNICEF – United Nations Children’s Fund

USAID – United States Agency for International Development

VAT – Value Added Tax

WCDR – World Conference on Disaster Reduction

WMO – World Meteorological Organisation

ANNEX B – RESEARCH METHODOLOGY

Preliminary desk research – Geneva

- Conducted July and August 2005 by Victoria Bannon, IDRL Coordinator
- Consisted of printed and electronic material and consultations with International Federation Asia Pacific Regional department staff

In-country study – Suva

- Conducted November 2005 by Victoria Bannon, IDRL Coordinator
- Itinerary as follows:

Date	Meeting / Workshop	Attendees
1 November 2005	International Federation of Red Cross and Red Crescent Societies	<ul style="list-style-type: none"> ▪ Head of Regional Delegation ▪ Disaster Management Delegate
2 November 2005	IDRL Workshop- 2 hrs	<ul style="list-style-type: none"> ▪ Pacific Regional Delegation, all staff, including several National Society visitors.
	IDRL Survey trial – 2 hrs	<ul style="list-style-type: none"> ▪ Head of Regional Delegation interview
3 November 2005	IDRL Workshop – half-day	<p>Approx 20 participants, Key organisations represented:</p> <ul style="list-style-type: none"> ▪ UNOCHA ▪ Pacific Islands Forum Secretariat ▪ AusAID ▪ New Zealand High Commission ▪ University of the South Pacific ▪ Fiji Red Cross ▪ Fiji Government National Disaster Management Office ▪ SOPAC ▪ Various international NGOs

Legal research – Suva

- Conducted March 20045 – April 2005 by Jennifer Clark, PACRIM Resource Development Inc.
- Consisted of collection and analysis of legal documents
- Interviews with:
 - § NDMO Liason Officers
 - § UNOCHA
 - § Asia Foundation
 - § Fiji Red Cross
 - § Other local NGOs

Supplementary research / consultations – Geneva

- Conducted March – July 2005 by Victoria Bannon, IDRL Coordinator
- Consisted of additional desk top research and targeted follow up questions for legal researchers and other personnel.

ANNEX C – BIBLIOGRAPHY

International / regional treaties and conventions

Agreement Concerning the Activities of UNICEF, United Nations Children’s Fund – Fiji, 2 October 1972, 842 UNTS 3 (entered into force 2 October 1972)

Agreement Concerning Assistance from the Special Fund, United Nations Development Programme (Special Fund) – Fiji, 13 October 1970, 752 UNTS 247 (entered into force 13 October 1970)

Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income Agreement between Australia and Fiji, 15 October 1990, [1990] PITS 3.

Convention on Assistance in the Case of Nuclear Accident or Radiological Emergency, 26 September 1986, 1457 UNTS 133 (entered into force 26 February 1987)

Convention on Early Notification of a Nuclear Accident, 26 September 1986, 1439 UNTS 275 (entered into force 27 October 1986).

Convention on the Privileges and Immunities of the Specialized Agencies, 21 November 1947, 33 UNTS 261 (entered into force 2 December 1948).

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Convention on Temporary Admission, 26 June 1990 (entered into force 27 November 1993) (*Istanbul Convention*)

Exchange of Notes Constituting an Agreement Between His Majesty’s Government in the United Kingdom of Great Britain and Northern Ireland and the United States of America for the Duty-Free Treatment of American Relief Goods Territorial Application, 1 December 1948, 87 UNTS 400 (entered into force 15 November 1949)

Framework Convention on Civil Defence Assistance, opened for signature 22 May 2000, 2172 UNTS 231, (entered into force 23 September 2001) (*‘Framework Convention’*)

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Legal Status of the International Federation in the Republic of the Fiji Islands, 22 October 1998, Fiji – International Federation of Red Cross and Red Crescent Societies (entered into force 22 October 1998)

Letter of Agreement Concerning the UNDP South Pacific Regional Office in Suva, Fiji, United Nations Development Programme – Fiji, 1 December 1975, 987 UNTS 403 (entered into force 1 December 1975)

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