



IDRL in Haiti

A study on the legal framework for the facilitation and regulation of international disaster response in Haiti

With support from



In cooperation with



www.ifrc.org
Saving lives, changing minds.

 International Federation
of Red Cross and Red Crescent Societies

www.ifrc.org

Saving lives, changing minds.



The International Federation of Red Cross and Red Crescent Society's work is guided by Strategy 2020 which puts forward three strategic aims:

1. Save lives, protect livelihoods, and strengthen recovery from disaster and crises.
2. Enable healthy and safe living.
3. Promote social inclusion and a culture of non-violence and peace.

About this report

This report was commissioned by HumAK, the Norwegian Red Cross, the IFRC and the Haitian Red Cross and was prepared by Isabelle Granger IDRL Programme Coordinator for the Americas. It analyzes the current legal and policy frameworks in Haiti to address common issues related to receiving international assistance for disasters.

About the IDRL Programme

The IFRC's "International Disaster Response Laws, Rules and Principles" (IDRL) Programme seeks to reduce human vulnerability by promoting legal preparedness for disasters. It works in three areas: (1) collaborating with National Red Cross and Red Crescent Societies and other partners to offer technical assistance to governments on disaster law issues; (2) building the capacity of National Societies and other stakeholders on disaster law; and (3) dissemination, advocacy and research.

E-mail: idrl@ifrc.org

Web site: <http://www.ifrc.org/idrl>

© International Federation of Red Cross and Red Crescent Societies, Geneva,

Copies of all or part of this study may be made for noncommercial use, providing the source is acknowledged. The IFRC would appreciate receiving details of its use. Requests for commercial reproduction should be directed to the IFRC at secretariat@ifrc.org.

The opinions and recommendations expressed in this study do not necessarily represent the official policy of the IFRC or of individual National Red Cross or Red Crescent Societies. The designations and maps used do not imply the expression of any opinion on the part of the International Federation or National Societies concerning the legal status of a territory or of its authorities. All photos used in this study are copyright of the IFRC unless otherwise indicated.

P.O. Box 372
CH-1211 Geneva 19
Switzerland
Telephone: +41 22 730 4222
Telefax: +41 22 733 0395
E-mail: secretariat@ifrc.org
Web site: <http://www.ifrc.org>

Cover photo credit: Benoit Matsha-Carpentier /IFRC

Contents

Executive Summary	5
.....	
Summary of the main findings of the study	6
Summary of the main recommendations of the study	9
Acknowledgements	11
.....	
Acronyms and abbreviations	12
.....	
Chapter 1	
Background and Methodology	13
.....	
Background to the study	14
Methodology	15
Chapter 2	
Overview of the legal framework	17
.....	
Overview of relevant international and regional texts applicable to Haiti	18
Overview of Haiti's legal and institutional framework for disaster response	18
Chapter 3	
Findings	20
.....	
Institutional provisions concerning disaster response	21
Role of the Haitian National Red Cross Society	27
Early warning and requests for external assistance and relief	28
Legal status of relief organizations	31
Customs requirements for the entry of relief goods after a disaster	34
Management of foreign personnel in disaster situations	40
Transport after a disaster	44
Quality of aid and coordination	44

Chapter 4	
Conclusion	48
.....	
Annex A - Documents consulted	52
.....	
Annex B - List of people consulted	53
.....	
Annex C - List of media reports consulted	55
.....	

Executive Summary

On 12 January 2010, an earthquake registering 7.3 on the Richter scale struck Haiti, with the capital Port-au-Prince and the surrounding area bearing the brunt of the impact. The disaster claimed over 230,000 lives and led to the displacement of more than two million people.

The devastation wrought on the capital also had severe repercussions for the institutions of this highly centralized country, which were left in a much weakened state.

Although numerous international actors, including the United Nations Stabilization Mission in Haiti, set up in 2004 with a mandate to ensure a stable environment and restore public safety in the country, UN agencies, the International Red Cross and Red Crescent Movement and a large number of NGOs, were already operating in Haiti before the earthquake, their response capacity was also weakened by the disaster.

The vulnerability of governmental and international actors affected by the disaster initially delayed the implementation of a coordinated response. Nevertheless, the massive mobilization of the international community within hours of the disaster resulted in a large-scale international response, with a remarkable deployment of relief supplies and personnel.

The purpose of this technical assistance project in Haiti is to make recommendations to the Haitian Government on the best way to strengthen its legal framework for international disaster response, particularly in the light of the response to the earthquake. The report is based on the 'Guidelines on the domestic facilitation and regulation of international disaster relief and initial recovery assistance' ('IDRL Guidelines') unanimously adopted by the States party to the Geneva Conventions at the 30th International Conference of the Red Cross and Red Crescent held in November 2007.

A consultant engaged by the International Federation of Red Cross and Red Crescent Societies (International Federation) to support the Haitian National Red Cross Society (HRC) carried out research into relevant legal questions and conducted interviews with the actors concerned. Representatives of central and provincial government authorities, international organizations and NGOs involved in the response efforts carried out in Haiti, as well as academic institutions, were consulted.

All the government and international representatives consulted during the project acknowledged the importance of the study for Haiti. They also agreed on the need to draft a bill, taking into account the mechanisms set up during the response to the January 2010 earthquake and based on the IDRL Guidelines and the recommendations made in this report. All those consulted deemed it essential to prepare a law establishing the procedures to be implemented in the event of a disaster and the terms and conditions of application, as the country is frequently affected by natural disasters.

Summary of the main findings of the study

Legal and institutional framework

Haiti is party to several international conventions concerning international disaster response. However, although ratified international conventions are self-executing in Haitian law, in practice, the Haitian State has yet to adopt the administrative, legislative and regulatory measures required to implement them.

Current legislation concerning international disaster response is fragmented across various legal instruments, and numerous legal provisions were adopted in an ad hoc manner in the aftermath of the earthquake.

The National Risk and Disaster Management Plan and the Emergency Response Plan are the main instruments for disaster management in Haiti, although they are not legally binding. They must be considered in conjunction with the State of Emergency Law of April 2010 (repealing the State of Emergency Law of September 2008).

Resource liaison

The National Risk and Disaster Management Plan and the Emergency Response Plan assign the primary role of coordinating disaster response activities carried out by the different ministries, committees and organizations (including disaster preparedness, early warning, response and recovery) to the Civil Defence Department (DPC). The Emergency Response Plan assigns functional areas of responsibility for disaster response, rehabilitation and recovery activities to different ministries. The Ministry of Foreign Affairs, among others, is responsible for communicating information about the disaster to international actors and determining the type of aid to be requested from them.

The Interim Haiti Recovery Commission was created by the State of Emergency Law of April 2010 to ensure effective coordination and use of the financial resources available and the assistance provided by the numerous international actors.

Early warning

Department, commune and local risk and disaster management committees are responsible for early warning systems. The Ministry of the Interior and Regional and Local Development, through the Civil Defence Department, is responsible for analysing and disseminating information about an impending or actual disaster in order to facilitate the overall implementation of the response.

Appeal for international solidarity

Although the State of Emergency Law establishes the government's authority to make an appeal for international solidarity once a state of emergency has been declared, the terms and conditions of a request for external assistance and relief are not defined. The actors consulted in this study observed that a request for international assistance would be automatic once the state of emergency had been declared and signed by the President of the Republic or the Prime Minister. After the earthquake, an oral request for assistance was made.

Executive Summary

Military assistance

The interviews conducted revealed that the Government of Haiti formally requested the assistance of the United States Army through the President of the Republic. Shortly after the earthquake, the US Army therefore took charge of controlling humanitarian air and maritime traffic. In the days following its takeover of air traffic operations at the airport, the US military came under fire for its strategy of refusing to authorize the landing of planes carrying humanitarian aid and giving priority to military flights bringing in military reinforcements. Following the signing of an agreement between the United Nations World Food Programme and the US Army, an air slot system was established by the US Army in consultation with the Government of Haiti, to determine priorities, leading to a significant increase in the arrival of planes transporting humanitarian aid, which were given priority over those bringing in military reinforcements and rescue equipment.

NGO eligibility and registration

In order to be granted domestic legal personality and the related rights and privileges, non-governmental organizations must register with the unit responsible for coordinating the activities of NGOs (UCAONG) at the Ministry of Planning and External Cooperation. The procedure is established in the 1989 decree on international and local NGOs. After the earthquake, international actors were unable to register promptly following the existing procedure, as it is intended for NGOs carrying out long-term development aid activities in the country rather than those responding to a short-term emergency situation. In order to expedite the registration process, which can take up to six months in normal times, the Ministry of Planning and External Cooperation established a procedure provided for in the 1989 decree, which considerably reduced registration times. In spite of this, many NGOs did not apply for registration or complete the registration process and operated outside the established coordination and control mechanisms. The lack of administrative capacity in the months following the earthquake meant that the Haitian authorities were unable to prevent unregistered NGOs from carrying out operations in the country.

Customs provisions

The Customs Code of 5 March 1987 does not establish emergency measures for disasters. However, a new Customs Code is now before the Haitian Parliament. There have been several different phases in terms of customs requirements following the earthquake. Initially, all goods were allowed to enter the country without any controls or charges.

The Customs Department then established special procedures to facilitate customs clearance for items intended for victims of the 12 January 2010 earthquake. These procedures, established for a three-month period, temporarily suspended certain customs formalities for a list of items required for the beneficiaries of international aid.

Once the three months were up, the normal customs clearance procedure was resumed. However, when a cholera epidemic hit the country, special customs measures were once again adopted.

In spite of the special procedures put in place after the earthquake, many organizations were affected by significant delays in the entry of relief supplies into the country. Among other problems, the large number of humanitarian organizations providing assistance after the earthquake and the massive influx of 'non-essential' relief items

contributed to causing delays and bottlenecks at customs. Other factors causing delays included the large amount of undeclared relief goods entering the country after the earthquake, failure to present the proper paperwork for customs clearance and the limited resources of the Customs Department. Items not eligible for clearance by means of the special procedures, particularly vehicles, caused serious problems.

The re-establishment of the normal procedures led to further delays and blockages in the handling of essential humanitarian aid for earthquake victims. The fact that the official working hours of customs officers at the terminals were not extended was a serious constraint hindering the rapid clearance of relief goods through customs.

Entry of humanitarian personnel

Haitian law contains no specific provision for visas for disaster relief and initial recovery personnel. Nationals from almost all countries were allowed to enter the country and stay for a period of 90 days after the earthquake without a visa and without cost, a practice that created potential for abuse. Indeed, any organization, association, religious group or individual was able to enter the country freely and operate outside the established control and coordination mechanisms, outside the existing legal framework and without registering with the government or meeting international standards for humanitarian aid.

Recognition of professional qualifications

The Ministry of Public Health and Population is the authority responsible for the recognition of the credentials of foreign personnel, particularly medical qualifications. However, there is no provision for the recognition of qualifications of foreign personnel after a disaster. Pursuant to the decree of 25 March 1974 concerning the professional association of Haitian engineers and architects, foreign engineers and architects are only authorized to work in Haiti in areas in which there are no or insufficient Haitian professionals. This rule does not seem to have been applied in practice.

Transport in the aftermath of the disaster

After several planes carrying humanitarian aid were turned away from the airport in the first few days after the earthquake, organizations were forced to divert relief goods to the Dominican Republic. This caused significant delays in the delivery of humanitarian aid.

Quality of aid

International assistance as a whole provided in response to the earthquake undoubtedly saved many lives. However, the quality of aid varied greatly. Many organizations, associations, religious groups and individuals arrived in Haiti totally unprepared. Their lack of expertise, experience and self-sufficiency meant that they were a drain on resources that would have been better used to assist the direct victims of the earthquake. Moreover, it seems that most of the aid was delivered by a small number of international actors, the so-called 'professional' international actors with extensive experience in providing international emergency assistance.

Massive, but uncoordinated, donations of relief goods caused the same kind of difficulties and bottlenecks. The arrival of relief supplies in the country which did not correspond to identified needs or meet international quality standards crowded out

Executive Summary

essential good quality aid consistent with international standards and appropriate for emergency relief operations.

Coordination

The lack of coordination among aid providers in Haiti and the massive influx of humanitarian organizations and media representatives also seriously hindered humanitarian efforts. They put a strain on already limited resources, such as water and fuel, and contributed to congestion on the roads and at the airport, delaying the distribution of aid.

Furthermore, many NGOs, religious groups, individuals and even some foreign governments were unfamiliar with the established cluster coordination mechanisms and had no experience of international emergency relief situations, which posed serious challenges and affected the effectiveness and quality of the humanitarian response to the earthquake. The lack of coordination caused problems for the Haitian authorities, who did not always know exactly who was operating in their country. This hampered their leadership role in the emergency response provided by local authorities and also directly affected other international actors trying to perform their work in accordance with the established coordination mechanisms.

Summary of the main recommendations of the study

This study recommends the strengthening of the entire legal and institutional framework for disaster prevention, mitigation, preparedness, relief and initial recovery assistance in areas applicable to international disaster relief. In the meantime, pending the development of this new legal and institutional framework, the study recommends the adoption of interim regulations that can be put into practice immediately, while discussions take place for the adoption of a new law.

The study recommends that the legal and institutional framework be strengthened in the following areas:

- Procedures relating to international disaster relief, the roles and responsibilities of the ministries in disaster response and the coordination of international and national aid should be defined in a legal framework and implemented. For example, the National Risk and Disaster Management Plan and the Emergency Response Plan should be made legally binding.
- Ratified conventions concerning international disaster response should be implemented, giving them domestic legal effect.
- The role and functional areas of responsibility of the Haitian National Red Cross Society in response operations should be made explicit in the country's main disaster management legislation.
- Early warning procedures should be clearly defined and provide for mechanisms for reporting to the United Nations Emergency Relief Coordinator.
- The terms and conditions of requests for external assistance and aid for the commencement of international relief and assistance operations should be clearly defined.
- If military assistance is required in the future for relief operations, the conditions of deployment should be agreed in advance by the States involved.
- A specific NGO registration procedure should be established for disaster situations, granting organizations temporary domestic legal status so that they can commence operations in the country more rapidly and in accordance with Haitian legislation.

- The Customs Code should specify customs practices and procedures applicable in emergency situations and the initial recovery phase, taking into account the recommendations made in this study.
- It is necessary to establish eligibility criteria and the conditions under which assisting humanitarian organizations are granted legal facilities in the country, with a view to preventing abuses. The legal framework should establish procedures adapted to the context of disaster relief and initial recovery operations.
- When a disaster occurs, procedures should be established to control air, road and maritime traffic, giving precedence to the entry of relief goods in accordance with priority humanitarian needs identified in the appeal.
- In order to lessen problems relating to the quality of aid and coordination identified in the study, eligibility criteria should be established for assisting humanitarian organizations before another disaster occurs. Legal facilities should only be granted to humanitarian organizations designated as eligible by the government.

Acknowledgements

The International Federation of Red Cross and Red Crescent Societies (IFRC) would like to acknowledge HumAK and the Norwegian Red Cross for its financial support.

The report was written by Mrs. Isabelle Granger, IDRL Programme Coordinator for the Americas for the IFRC.

IFRC would like to thank Ms. Anne Lardy, a consultant hired by the IFRC who led the legal research and interviews with stakeholders in Haiti, and Dr. Jean-Pierre Guiteau, Executive Director of the Haitian Red Cross, Ms. Audrey Baete, intern at the Legal Department of the IFRC, Ms. Nazli Sannier from the French Red Cross, Mr. Olivier Lockner, Logistics Delegate for the Haiti operation, and Guetson Lamour, from the Haitian Red Cross, for their technical contribution in achieving this report.

The research team also benefited greatly from the legal advice provided by Mr. Joseph Leon St. Louis, representatives of governmental authorities at national and regional level, international organizations and NGOs that contributed to response efforts in Haiti, as well as academic institutions. The IFRC also want to acknowledge their contributions to this report.

Acronyms and abbreviations

AGD	Administration Générale des Douanes (Customs Department)
COU	Centre d'Opérations d'Urgence (Emergency Operations Centre)
DGI	Direction Générale des Impôts (Tax Department)
DPC	Direction de la Protection Civile (Civil Defence Department)
GACI	Groupe d'Appui de la Coopération Internationale (International Cooperation Support Group)
HRC	Haitian National Red Cross Society
IDRL	International Disaster Response Laws, Rules and Principles
IDRL	Guidelines Guidelines on the domestic facilitation and regulation of international disaster relief and initial recovery assistance
IFRC	International Federation of Red Cross and Red Crescent Societies
MAE	Ministry of Foreign Affairs
MEF	Ministry of Economy and Finance
MICT	Ministry of the Interior and Regional and Local Development
MINUSTAH	United Nations Stabilization Mission in Haiti
MPCE	Ministry of Planning and External Cooperation
MSPP	Ministry of Public Health and Population
MTPTC	Ministry of Public Works, Transport and Communication
National Council	Conseil National de Gestion des Risques et des Désastres (National Risk and Disaster Management Council)
NGO	Non-governmental organization
OAVCT	Office Assurance Véhicules Contre Tiers (Third Party Vehicle Insurance Office)
OCHA	Office for the Coordination of Humanitarian Affairs
Permanent Secretariat	Secrétariat Permanent de Gestion des Risques et Désastres (Permanent Secretariat for Risk and Disaster Management)
UCAONG	Unité de Coordination des Activités des Organisations Non Gouvernementales (Unit for the Coordination of NGO Activities)
UNDP	United Nations Development Programme
WFP	World Food Programme

IDRL in Haiti
A study on the legal framework for the facilitation and
regulation of international disaster response in Haiti

Chapter 1

Background and Methodology

Background to the study

The earthquake that shook the western area of Haiti, particularly the capital Port-au-Prince, on 12 January 2010 resulted in the loss of some 230,000 lives and the displacement of over two million people. At the time of writing this report, around a million highly vulnerable people were living in camps.

The Government of Haiti was also affected by the earthquake. Major infrastructure, such as the port, airport, public buildings¹ (including the Presidential Palace, the Parliament building and the Supreme Court building), communication networks, roads and hospitals, were damaged or destroyed, compromising the capacity of the government to deal with the emergency situation and coordinate the humanitarian response.

International organizations and NGOs already operating in Haiti also suffered serious losses. In the weeks following the disaster, there was a large-scale international response with the intervention of hundreds of organizations and dozens of foreign countries. Although it made an essential contribution to saving lives and ensuring the dignity of thousands of victims, this assistance also posed serious challenges. The question now is what can be done to expedite the entry and distribution of disaster relief and avoid the chaos caused by inappropriate aid and unqualified personnel.

It is precisely questions of this kind that prompted the International Federation of Red Cross and Red Crescent Societies to launch its International Disaster Response Laws, Rules and Principles programme (IDRL programme) in 2001 to examine regulatory issues relating to international disaster relief and initial recovery operations. Since then, the IDRL programme has conducted some twenty national and regional studies and brought together governments, National Red Cross and Red Crescent Societies, NGOs and United Nations agencies to identify common problems that arise in connection with such operations. These studies have highlighted a series of legal problems relating to international relief operations, which can be attributed to a lack of legal preparedness at the national level, creating obstacles to access (difficulties in obtaining visas, delays in granting permits, customs duties and taxes and problems with the recognition of the domestic legal personality of some organizations), or a lack of quality control, coordination and complementary organization in international relief operations, among other factors.

In 2006-2007, the IDRL programme implemented a global consultation process with a view to developing 'Guidelines on the domestic facilitation and regulation of international disaster relief and initial recovery assistance' ('IDRL Guidelines'). These guidelines were developed based on existing standards and provisions in international law, with a view to developing practical solutions to the common problems referred to above. They were unanimously adopted by the States party to the Geneva Conventions, including Haiti, at the 30th International Conference of the Red Cross and Red Crescent held in November 2007. On this occasion, governments were urged to use these guidelines to strengthen their legal frameworks for international disaster response, and both the International Federation and the National Societies were invited to promote and support these efforts.

¹ Between 17 and 20 percent of federal employees were killed or injured, and 27 of 28 federal buildings were destroyed, Dr. Paul Farmer, *Testimony to the Congressional Black Caucus: Focus on Haiti*, 27 July 2010.

It is in this context that the International Federation decided to conduct this study in cooperation with the Haitian National Red Cross Society. The main purpose of the study is to provide the Haitian Government with recommendations consistent with the IDRL Guidelines on areas of the legal framework and procedures applicable to international disaster response that need to be strengthened or developed.

In the context of the massive influx of international aid pouring into the country in the wake of the earthquake that occurred in Haiti on 12 January 2010, this study also aims to provide the Haitian Government with practical recommendations on mechanisms that it could put in place to facilitate the management of international aid at the present time.

Methodology

The study identifies various legal questions and problems arising in connection with the influx of international actors into Haiti in response to the earthquake, using the IDRL Guidelines as the framework for analysis.

The analysis focuses on the following questions in particular:

- problems encountered in connection with the facilitation and regulation of international aid according to different sources, including the media, government actors, international organizations, the International Red Cross and Red Crescent Movement and NGOs;
- mechanisms established for the facilitation and supervision of international aid;
- the domestic legislative framework governing international disaster response currently in force.²

The study was conducted over a period of six weeks and involved individual interviews and the preparation of a final report. Consultant Anne Lardy visited Port-au-Prince from 6 September to 5 October 2010. As part of her research work, the consultant met with representatives of various organizations (OXFAM, Save the Children, OCHA, International Federation, HRC and GOAL Ireland) and with representatives of the Haitian Government (Ministry of Foreign Affairs, Ministry of the Interior and Regional and Local Development, Customs Department, Unit for the Coordination of NGO Activities, Immigration and Emigration Service, among others).³ An intersectoral meeting was also held with the representatives of the Haitian Government mentioned above, the International Federation and the HRC in September 2010. This meeting provided an opportunity to present the objectives of the study and establish essential contacts with a view to conducting individual interviews for the study. At the meeting, the government representatives expressed their interest in setting up an intersectoral commission to discuss and draft a bill, taking into account the recommendations of this study. The support of the International Federation and the HRC was requested for this task.

The legal research work was supplemented by the examination of various different experiences, and a compilation of relevant documents during the interviews made it possible to determine the main legal challenges that the different actors operating in Haiti have encountered or are still facing. Numerous media articles were also consulted.⁴

² Annex A.

³ Annex B.

⁴ Annex C.

It should be noted that the implementation of the study was hindered by difficulties in gaining access to the relevant legal texts, as the national library was destroyed in the earthquake.

It should also be noted that the recommendations made in the report are not intended to be exhaustive, in view of the duration of the study.

IDRL in Haiti
A study on the legal framework for the facilitation and
regulation of international disaster response in Haiti

Chapter 2

Overview of the legal framework

Overview of relevant international and regional texts applicable to Haiti

Haiti is party to various international conventions relevant to the context of this study, including the following:

- Convention on International Civil Aviation (Chicago Convention), Annex 9;⁵
- Convention on the Privileges and Immunities of the United Nations;⁶
- Convention on the Privileges and Immunities of the Specialized Agencies, 21 November 1947;⁷
- International Health Regulations;⁸
- Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (signed but not ratified).⁹

Treaties and conventions are hierarchically superior to domestic law and subordinate to the Constitution in Haiti's legal system. According to the Constitution, 'Once international treaties or agreements are approved and ratified in the manner stipulated by the Constitution, they become part of the legislation of the country and abrogate any laws in conflict with them'.¹⁰

In Haiti's legal system, ratified treaties and conventions are self-executing, which means that once they have been ratified by a decree adopted by both houses in a joint session of Parliament sitting as the National Assembly, they become directly effective in domestic law.¹¹ However, the ratification must be accompanied by promulgation by the Head of State and the publication of the text of the treaty in the Republic's official gazette *Le Moniteur*.

Although the provisions of treaties and conventions are self-executing, they are not always given domestic legal effect, because the Haitian State does not adopt the administrative, legislative or regulatory measures required to implement ratified international agreements.

Overview of Haiti's legal and institutional framework for disaster response

Haitian domestic laws and plans concerned with international disaster response include the following, amongst others:

- Decree of 5 October 1989¹² amending the Act of 13 December 1982 governing NGOs;
- Decree of 25 March 1974 concerning engineers and architects;¹³
- Labour Code;¹⁴
- Decree concerning the registration and circulation of vehicles;¹⁵
- Act amending the law on third party vehicle insurance;¹⁶

⁵ <http://www.unhcr.org/refworld/docid/3dec6bce2.html>

⁶ <http://www.ifrc.org/Docs/idrl/I215EN.pdf>

⁷ <http://www.ifrc.org/Docs/idrl/I295EN.pdf>

⁸ http://whqlibdoc.who.int/publications/2008/9789241580410_eng.pdf

⁹ <http://www.ifrc.org/Docs/idrl/I271EN.pdf>

¹⁰ See 1987 Constitution, article 276-2.

¹¹ *Idem*, article 276-1.

¹² Official Gazette of the Republic of Haiti *Le Moniteur* No. 77, Thursday, 5 October 1989.

¹³ Official Gazette of the Republic of Haiti *Le Moniteur* No. 30, 8 April 1974.

¹⁴ Labour Code, Decree of 24 February 1984 updating the Labour Code of 12 September 1961.

¹⁵ Official Gazette of the Republic of Haiti *Le Moniteur* Special Issue No. 1, Friday, 26 May 2006.

¹⁶ Official Gazette of the Republic of Haiti *Le Moniteur* No. 76, Thursday, 9 October 2003.

Overview of the legal framework

- National Risk and Disaster Management Plan;¹⁷
- Emergency Response Plan.¹⁸

In the aftermath of the 12 January 2010 earthquake, the Government of Haiti established special procedures to deal with the disaster, specifically concerned with international disaster response, including:

- Presidential Order of 16 January 2010¹⁹ declaring a state of emergency;
- procedures to facilitate customs clearance for items intended for victims of the 12 January 2010 earthquake;²⁰
- State of Emergency Law of 15 April 2010²¹ repealing the State of Emergency Law of September 2008;²²
- Order issued by the President of Haiti and the Cabinet on 21 April 2010²³ concerning the organization and functioning of the Interim Haiti Recovery Commission.

It should be noted that the procedures were adopted in an ad hoc manner, and the interviews conducted for this study revealed that international actors involved in the disaster response operations knew little about them.

¹⁷ Ministry of the Interior and Regional and Local Development, Civil Defence Department, February 2001.

¹⁸ National risk management system, updated, September 2009.

¹⁹ Official Gazette of the Republic of Haiti *Le Moniteur* No. 7, 25 January 2010.

²⁰ Ministry of Economy and Finance, Facilitation of customs clearance for items intended for victims of the 12 January 2010 earthquake.

²¹ Official Gazette of the Republic of Haiti *Le Moniteur* No. 29, 19 April 2010.

²² Official Gazette of the Republic of Haiti *Le Moniteur* No. 83, 10 September 2008 .

²³ Presidential Palace, Port-au-Prince, 21 April 2010.

IDRL in Haiti
A study on the legal framework for the facilitation and
regulation of international disaster response in Haiti

Chapter 3

Findings

Institutional provisions concerning disaster response

After Hurricane Georges in 1998, the Government of Haiti undertook to implement a National Risk and Disaster Management Plan²⁴ and a more effective National Response System. The Ministry of the Interior and Regional and Local Development (MICT), through the Civil Defence Department reassigned to this ministry,²⁵ is responsible for implementing the system. An important component of the National Response System is the Emergency Response Plan, which clearly defines the roles and responsibilities of government entities in disaster response.²⁶

According to the Risk and Disaster Management Plan and the Emergency Response Plan, the Civil Defence Department is primarily responsible for coordinating the disaster response activities of the different ministries, committees and organizations²⁷ (including disaster preparedness, early warning, response and recovery). The study was not, however, able to determine whether the Civil Defence Department played the role assigned to it in the aftermath of the earthquake.

The two plans must be considered in conjunction with the State of Emergency Law of April 2010 (repealing the State of Emergency Law of September 2008), which makes several references to them. The State of Emergency Law of September 2008 provided that, on publication, the government should submit the Risk and Disaster Management Plan and the Emergency Response Plan to the Legislature.²⁸ However, this did not happen. The National Risk and Disaster Management Plan and the Emergency Response Plan are not therefore legally binding. They simply provide guidelines on disaster management in the country.

National Risk and Disaster Management Plan

This plan was formulated by the MICT, through the Civil Defence Department, in cooperation with the international community.²⁹ It establishes the National Response System and defines the role, responsibilities and framework for coordination among the main bodies making up the system.³⁰ It also addresses all the phases of an emergency: preparedness, early warning, response and recovery. It provides broad guidelines to be followed, objectives to be met, the organization to be adopted and the actions to be implemented for disaster risk reduction and management.

The plan establishes that the National Risk and Disaster Management Council (National Council) is the supreme body of the National Response System, bringing together top-level State officials and civil society representatives. It is chaired by the MICT and its members include nine ministers and the President of the Haitian National Red Cross Society (HRC). The National Council lays down guidelines on nationwide planning, organization and coordination and disaster risk reduction and management activities. During a disaster, its main duties are to: (1) take decisions on the conduct of emergency response operations, when the scale or nature of the disaster exceeds established plans; (2) supervise activities undertaken by implementing bodies; (3) evaluate the extent of

²⁴ *Op. Cit.* footnote 17.

²⁵ Official Gazette of the Republic of Haiti *Le Moniteur* No. 48; Decree of 17 May 1990 on the organization and functioning of the Ministry of the Interior.

²⁶ *Op. Cit.* footnote 18.

²⁷ *Op. Cit.* footnote 17, Section 1.2 and *Op. Cit.* footnote 18.

²⁸ *Op. Cit.* footnote 21, article 14.

²⁹ *Op. Cit.* footnote 17.

³⁰ *Idem*, section 4.1.

the damage caused and report to the President of the Republic, making appropriate recommendations; (4) and announce the commencement of the recovery phase.³¹ The study was not, however, able to determine whether the National Council performed the duties defined in the Risk and Disaster Management Plan after the earthquake. The Interim Haiti Recovery Commission (Interim Commission) was set up on 21 April 2010 to coordinate and manage international resources after the earthquake.³²

The Risk and Disaster Management Plan establishes that the Permanent Secretariat for Risk and Disaster Management (Permanent Secretariat), chaired by the Director General of the MICT and formed by nine ministers and the President of the HRC, is responsible for providing technical coordination and implementing risk management activities established in the plan. It is interesting to note that the Permanent Secretariat's responsibilities include: (1) analysing the existing legal framework for disaster risk management and submitting proposals to the National Council with a view to implementing the necessary reforms and (2) promoting the effective implementation of existing provisions by the relevant institutions.

The Risk and Disaster Management Plan also provides for the activation of the Emergency Operations Centre when a disaster occurs or when there is an imminent threat of a disaster occurring.³³ It is responsible for promoting, planning and providing the coordination and joint operation of the various institutions involved in emergency and disaster response. It is formed by eight ministries and the HRC. Its main duties include planning, interinstitutional coordination, the control of operations, communications and public information and evaluation (the Risk and Disaster Management Plan assigns responsibility for preparing the declaration of a state of emergency by the President of the Republic to the Emergency Operations Centre). The study was not, however, able to determine whether the Emergency Operations Centre was activated after the earthquake and performed the functions defined in the plan.

The Risk and Disaster Management Plan also provides for the creation of an International Cooperation Support Group (GACI) by the Permanent Secretariat and the participation of a representative of this group in the Secretariat's meetings. However, the group was not created and was not operational during the response to the earthquake. In view of the central role it is intended to play in coordinating offers of foreign aid,³⁴ it would have been useful for it to have been activated at the start of international relief operations in order to support coordination of the offers of assistance received from the international community.

As mentioned above, the legislative framework does not clearly reflect the structure established in the Risk and Disaster Management Plan.

It is interesting to note that the plan recommends, pending the development of a comprehensive regulatory framework for risk and disaster management, that an inventory be made of all the legal texts directly or indirectly concerned with disaster risk management, with a view to adapting and updating them.³⁵

³¹ *Idem*.

³² See also section 3.1.4 on the Interim Haiti Recovery Commission.

³³ *Op. Cit.* footnote 17, Section 4.3.

³⁴ *Op. Cit.* footnote 18.

³⁵ *Idem*, section VIII.

Functional area of responsibility	Lead ministry
Information and planning	Interior and Regional and Local Development (Civil Defence Department)
Public works, transport and communication	Public Works, Transport and Communication
Environmental protection	Environment
Donations and voluntary service	Foreign Affairs
Safety, search and rescue, evacuation and fire fighting	Justice and Public Safety
Welfare services	Social Affairs
Health services	Public Health and Population
Recovery and rehabilitation	Planning and External Cooperation
Logistic support	Interior and Regional and Local Development

National Emergency Response Plan

While the National Risk and Disaster Management Plan establishes the various bodies forming the National Response System, the Emergency Response Plan defines the Haitian Government's emergency response process, nationwide emergency response activities and the role and functions of government institutions involved in disaster response.³⁶

The Emergency Response Plan defines disaster response, rehabilitation and recovery activities in nine functional areas of responsibility. The plan appoints a 'lead ministry' to head emergency response in each of these areas, and the other ministries are charged with supporting that ministry in carrying out its functions, as shown in the table below. The study was not, however, able to determine whether this system of functional areas of responsibility for response activities was put into operation during the response to the earthquake.

With regard to international aid, the Emergency Response Plan provides for the implementation of a national system to manage and control donations of goods and services under the primary responsibility of the Ministry of Foreign Affairs (MAE). The main responsibilities of the MAE include reporting information on disasters (in coordination with the Civil Defence Department) to international actors, identifying locally available resources, carrying out short-term activities relating to donations, identifying the needs of department and local authorities, identifying the type of aid to be requested from international actors, implementing aid request mechanisms, processing requests for information from donors and liaising with the Ministry of Public Works, Transport and Communication (MTPTC) and the Ministry of Economy and Finance (MEF).³⁷ The Emergency Response Plan also provides for the development and implementation of an emergency management unit by the MAE. Such a unit was not activated after the earthquake.

The Emergency Response Plan establishes that the MTPTC, the MEF, the Ministry of Public Health and Population (MSPP) and the HRC are charged with supporting the MAE. The MTPTC and the MEF support the MAE in ensuring the rapid entry of supplies at borders, ports and airports, while the MSPP and the HRC provide support in identifying the goods and services needed from abroad.³⁸

³⁶ Op. Cit. footnote 17, p. 4.

³⁷ Op. Cit. footnote 18, pg. 28.

³⁸ *Idem*, p. 28.

State of Emergency Law of April 2010

The State of Emergency Law of April 2010, repealing the State of Emergency Law of 2008, grants the government the power to act pursuant to the instrument establishing the state of emergency.³⁹ The law defines a state of emergency as a ‘Situation in which certain fundamental freedoms are restricted and the Executive is granted exceptional powers, justified by an actual or imminent natural disaster requiring the adoption of emergency measures.’⁴⁰

The President of the Republic can establish a state of emergency in all or part of the national territory by virtue of an order issued in a cabinet meeting.⁴¹ If the situation prevents the cabinet from meeting, the President may take the decision on his own. Likewise, if the President is unable to discharge his functions, the Prime Minister may establish a state of emergency under similar conditions.

The State of Emergency Law of April 2010 extends the time the state of emergency can remain in effect. According to the 2010 law, the state of emergency can remain in effect for a maximum of one month renewable once for a further one month period. After two months, the state of emergency can be renewed with the authorization of the Legislative for a period determined by the extent of the disaster. After the earthquake, President Préval established a state of emergency on 16 January 2010 for a period of 15 days as provided for in the September 2008 State of Emergency Law and renewed it on 31 January 2010. The state of emergency was then renewed for a further 18 months pursuant to the State of Emergency Law passed in April 2010.⁴²

The State of Emergency Law of April 2010 also provides for the creation of the Interim Haiti Recovery Commission.

Interim Haiti Recovery Commission

Pursuant to the State of Emergency Law of April 2010, the government has the authority to create and organize ‘any ad hoc body with the powers necessary to ensure the efficient management of the emergency situation’.⁴³ By virtue of these powers, the Interim Commission was created by presidential order on 21 April 2010,⁴⁴ with a view to taking specific measures to assist the population affected by the disaster effectively and implement the Development Plan for Haiti.

In view of the large number of international actors operating in the country and the wide range of financial resources available, it was deemed necessary to set up the Interim Commission to ensure the effective coordination and allocation of resources and support. The Commission was created for a period of 18 months and is formed by Haitian figures and members of the international community. The Commission is co-chaired by the Prime Minister of Haiti, Jean-Max Bellerive, and a prominent foreign figure involved in the recovery effort, former president Bill Clinton.⁴⁵ The voting members of the Interim Commission are Haitian figures and representatives of the

³⁹ Op. Cit. footnote 21. On this subject, see section 3.3.1 on requests for external assistance and resources.

⁴⁰ State of Emergency Law, article 3.

⁴¹ *Idem*, article 5.

⁴² *Idem*, article 16.

⁴³ *Idem*, article 7.17.

⁴⁴ Op. Cit. footnote 23.

⁴⁵ At 3 February 2011.

international community.⁴⁶ It meets at least twice a month to establish programmes and priorities, and resolutions are adopted by a simple majority vote.

It should be noted that in spite of the role assigned to the MAE in the Emergency Response Plan, this ministry is not involved in the Interim Commission's decision-making process. Unlike the other ministries, the MAE has appointed no staff members to work on the Commission.

Mission

The Interim Commission is a legal entity, and its mission is to 'seek the coordinated, effective and efficient planning and implementation of priorities, plans and projects in support of Haiti's recovery and development in the wake of the 12 January 2010 earthquake'.⁴⁷ It is tasked with continuously developing and refining development plans for Haiti, assessing needs and gaps and establishing investment priorities. It approves project proposals based on their consistency with the Haiti Action Plan. It also decides on the eligibility of external submissions.

Mandate

The Interim Commission is vested with the powers necessary to conduct its activities. 'The Interim Commission ensures the expeditious implementation of development projects and priorities, including facilitating the issuance of permits, licenses, property titles and other necessary approvals for economic development projects, including the construction of hospitals, power generation systems, ports and other infrastructure'.⁴⁸ The Interim Commission has the authority to approve or reject projects financed by bilateral and multilateral donors, NGOs and the business sector, subject to and as further described in the Bylaws of the Interim Commission.

The decisions of the Interim Commission on significant priorities and major projects must be endorsed by the President of Haiti before they can be implemented. Any decision that is not vetoed by the President within ten business days of receipt of formal notice from the Commission is deemed confirmed.

Purpose

The purpose of the Interim Commission is to take any and all actions and exercise all power and authority as may be necessary or advisable to carry out its mission and perform its mandate. The objectives of the Interim Commission include the following:⁴⁹

- a. Strategic planning: conduct strategic planning, establish investment priorities and sequence implementation of plans and projects.
- b. Coordination: provide the transparent, efficient and effective coordination, on behalf of the Government of Haiti, of donors, non-governmental organizations, private sector and other actors seeking to provide support, projects or planning for Haiti's recovery and development.
- c. Project development: continuously develop and refine the Action Plan for National Recovery and Development of Haiti, assess needs and gaps,

⁴⁶ Bylaws of the Interim Haiti Recovery Commission, Official Gazette of the Republic of Haiti *Le Moniteur* No. 34, Thursday, 6 May 2010 in effect from 17 June 2010

⁴⁷ *Idem*.

⁴⁸ *Idem*, article 4.

⁴⁹ *Idem*, article 5.

- solicit projects that are consistent with the priorities of the Action Plan for National Recovery and Development of Haiti and determine the admissibility and eligibility of external submissions.
- d. Project approval: approve or reject project proposals, which will be evaluated by the Interim Commission in light of their conformity, consistency and coordination with the Action Plan for National Recovery and Development of Haiti.
 - e. Effective and expeditious implementation: ensure effective implementation of resources from bilateral and multilateral donors, non-governmental organizations and the business sector, with all necessary transparency and accountability; ensure expeditious implementation of development projects and priorities, including facilitating the issuance of permits, licenses, property titles and other necessary approvals for economic development projects, including the construction of hospitals, power generation systems, ports, and other infrastructure.
 - f. Use of resources: ensure that resources are used for the purpose for which they are intended, and with the highest levels of governance, control, monitoring and oversight.
 - g. Optimization of investments and contributions: optimize the investments and contributions of bilateral and multilateral donors, non-governmental organizations and the business sector.
 - h. Technical assistance: provide relevant ministries of the Government of Haiti with the international technical assistance necessary so that they may strengthen their capacities to fulfil their mandate in relation to development priorities and projects effectively and promptly.

Projects

Projects worth over USD 1,600 million were approved at Interim Commission Board meetings on 17 August and 6 October 2010. These projects are aimed at various sectors, including agriculture, health, water and sanitation, energy, education, debris removal, infrastructure, shelter, finance and investment and job creation. The implementers of these projects include a Haitian ministry, a foreign government, a consortium of UN agencies, the Red Cross and NGOs.

Recommendations

The National Risk and Disaster Management Plan and the Emergency Response Plan

As mentioned above, the interviews conducted for the study did not determine whether the Civil Defence Department, the Emergency Operations Centre, the National Council and the ministries performed the roles and functions assigned to them in the National Risk and Disaster Management Plan and the Emergency Response Plan in accordance with their functional area of responsibility during the response to the earthquake. It is therefore recommended that the government first ensure that the provisions established in the Risk and Disaster Management Plan and the Emergency Response Plan are consistent with the disaster response system in place in the country. This will ensure

that the roles and responsibilities assigned to the different entities in these plans are aligned with the disaster response activities that they undertake in practice.

Legal framework

The procedures applicable to international assistance and the roles and responsibilities of the ministries in matters relating to disaster relief and the coordination of international and national aid⁵⁰ should be defined in a legal framework and implemented. Among other things, the government should take the measures required to make the Risk and Disaster Management Plan and the Emergency Response Plan legally binding.

In accordance with the recommendation made in the Risk and Disaster Management Plan, pending the development of a comprehensive regulatory framework for disaster risk management, it would be useful to supplement this study with an inventory of all the legal texts directly or indirectly concerned with disaster risk management, with a view to adapting and updating them.

State of Emergency Law

Although there is no question about the importance of the Interim Commission in the context of the response to the earthquake, with a view to future disaster response operations, it would be desirable for the government to vest the National Response System bodies and the government institutions concerned with emergency response (as established in the Risk and Disaster Management Plan and the Emergency Response Plan) with the powers and authority necessary to conduct the activities required.

Role of the Haitian National Red Cross Society

The Haitian National Red Cross Society (HRC) was created in May 1932⁵¹ and is officially recognized by the Government of the Republic of Haiti as an ‘auxiliary to the public authorities, particularly in the area of health services’.⁵² Part of its mission is to ‘prepare and organize emergency relief services for the victims of disasters of any kind’.⁵³

The HRC serves on the National Risk and Disaster Management Council (CNGR) and the Permanent Secretariat for Risk and Disaster Management (SPGR) and is one of the Emergency Operations Centre representatives. With regard to the functional areas of responsibility in emergency response, the Emergency Response Plan defines the support functions and responsibilities assumed by the HRC, which are to: (1) identify goods and services from abroad after a disaster⁵⁴ (in support of the MAE); (2) support search and rescue efforts, providing medical assistance, first aid, transport and ambulances (in support of the Ministry of Justice and Public Safety); (3) set up shelters and food stations and provide emergency first aid (in support of the Ministry of Social Affairs); (4) provide first aid and health care for the sick and injured and counselling, psychosocial care and health services for families (in support of the MSPP).

Through the HRC, the International Federation and numerous sister National Red Cross and Red Crescent Societies have provided 40 percent of essential humanitarian aid

⁵⁰ Paragraph 8 of the IDRL Guidelines, Annex D.

⁵¹ Official Gazette of the Republic of Haiti *Le Moniteur* No. 65, Monday, 5 August 1935. Order of 20 July 1932.

⁵² Official Gazette of the Republic of Haiti *Le Moniteur* No. 34, Order of 5 May 2005.

⁵³ *Idem*, article 5.

⁵⁴ *Op. Cit.* footnote 18.

in the wake of the 12 January 2010 earthquake. Since the earthquake occurred, the International Red Cross and Red Crescent Movement has engaged in the most extensive relief operation ever implemented in a single country.

By 30 September 2010, the International Red Cross and Red Crescent Movement as a whole had spent 273.1 million Swiss francs, about a quarter of the 1.118 billion Swiss francs donated.

Recommendations

The role and functional areas of responsibility of the HRC in emergency response, which are currently defined in the Emergency Response Plan, should also be established in the country's main disaster management legislation. This would strengthen the role of the HRC as auxiliary to the public authorities for disaster risk reduction and management activities, as well as for public health, development and social support activities.

Early warning and requests for external assistance and relief

The Emergency Response Plan and the State of Emergency Law both provide a definition of natural disaster.

According to the Emergency Response Plan, the term 'disaster' means:

'Impact on or serious disruption of the functioning of a community or society, when human, material, economic and environmental losses must be addressed using resources originally intended for development. A disaster is the materialization of a risk. It results from the convoluted (sic) combination of hazards and the manifestation of vulnerability, when capacities and preventive measures are insufficient to reduce the negative consequences of risk.'

According to the State of Emergency Law, the term 'natural disaster' means:

'Damage caused by any natural phenomenon (including hurricanes, tornados, storms, tidal waves, floods, tsunamis, earthquakes, volcanic eruptions, forest fires, landslides, epidemics, epizootics, agricultural plagues and drought), which affects people, infrastructure and the productive sectors of economic activity with such severity and magnitude that it exceeds local coping capacities and requires the intervention of central government in order to supplement the efforts and resources available, thereby reducing damage and losses.'

The definition provided in the State of Emergency Law suggests that its provisions only apply to natural disasters and not to all kinds of disasters, which are covered by the definition provided in the Emergency Response Plan. In other words, it seems that the State of Emergency Law does not apply to manmade events, such as technological disasters.

Early warning

Early warning systems are the responsibility of department, commune and local risk and disaster management committees,⁵⁵ which form part of the National Council. However, it is the MICT that is responsible for declaring a red alert and recommending that the head of the executive branch of government declare a national state of

⁵⁵ Op. Cit. footnote 17, section 4.

emergency.⁵⁶ This ministry, through the Civil Defence Department, is also responsible for analysing and disseminating information on impending or actual disasters in order to facilitate overall assistance operations.⁵⁷ The Emergency Operations Centre is activated by the Civil Defence Department in accordance with the conditions of the alert and the characteristics of the emergency or disaster.

The procedures established by the National Risk and Disaster Management Plan for early warning do not make provision for mechanisms for reporting to the United Nations Emergency Relief Coordinator.

Appeal for international solidarity

The State of Emergency Law provides that, once the state of emergency has been established, the government can make an appeal for international aid, in which case the law establishes that 'interventions shall be carried out in accordance with the rules of international law and domestic legislation'.⁵⁸ However, the terms and conditions governing requests for external assistance and relief are not defined. According to the interviews conducted, a request for international assistance would be automatically made once the state of emergency has been declared and signed by the President or Prime Minister of Haiti. However, no specific reference is made to this subject in the State of Emergency Law.

Those interviewed confirmed that, after the earthquake, an oral request was made for international assistance. In view of the scale and extent of the disaster, the international response was immediate.

Military assistance

The interviews conducted for the study revealed that the Haitian Government made a formal and official request for military assistance from the United States Army through the President of Haiti. According to those interviewed, the agreement between the two States was concluded orally; it is therefore difficult to know what conditions of deployment were agreed by the governments of Haiti and the US. The question of the duration of US military presence in the country was established by the two States, and it was agreed that Haiti would be able to end the foreign military presence whenever it considered that the conditions for such a departure had been met. According to those interviewed, an agreement concluded between the governments of Haiti and the United States before the earthquake allowed US soldiers present in Haitian territory to go armed and wear their national uniform. Unfortunately, we were unable to consult a copy of this agreement, and the ministry officials we talked to were unable to locate it in their files. The US Army was in charge of the airport and port from 13 January to the beginning of March, when the Haitian Government resumed control.

The US Army was therefore initially responsible for controlling humanitarian air and maritime traffic. It should be noted that, as the port was severely damaged by the earthquake, most of the humanitarian aid had to be brought into the country by other means when the international response first got underway. This explains why organizations

⁵⁶ *Idem*, section B, p. 23.

⁵⁷ *Op. Cit.* footnote 18, p. 13.

⁵⁸ *Op. Cit.* footnotes 21 and 22. Provision of the State of Emergency Law of September 2008, incorporated into the State of Emergency Law of April 2010 as article 6.

opted mainly to airlift international aid into Haiti. This is how the US Army came to play a key role in regulating air traffic.

In the days after the US Army took control of air traffic operations at the airport, much criticism was levelled at the US for its strategy of refusing to authorize the landing of planes carrying humanitarian aid and giving priority to military flights to increase the number of troops in the country from 5,000 to 10,000. For a 72-hour period, humanitarian organizations were obliged to divert their planes to Santo Domingo and then transport the supplies by road, a 200-mile journey that delayed the delivery of essential humanitarian aid by 48 hours to a week.⁵⁹

On 18 January 2010, The United Nations World Food Programme reached an agreement with the US military controlling Haiti's only airport, where only one runway was functioning, to prioritise the passage of planes carrying humanitarian aid over those transporting military reinforcements and rescue equipment.⁶⁰

An air slot system was established by the US Army in consultation with the Government of Haiti, determining priorities: top priority was given to planes carrying food supplies, then those carrying water, followed by those carrying medical supplies, and finally those carrying other non-food items. These priorities were revised on a daily basis in order to meet the needs of the population as effectively as possible. The organizations consulted seemed satisfied with the action taken by the US Army after the agreement was reached on 18 January. The number of planes landing at the airport increased from 13 a day in normal times to 200 a day after 21 January 2010.⁶¹

Recommendations

State of Emergency Law

First, the mechanisms provided for in the State of Emergency Law should apply to manmade disasters as well as to natural disasters.

Early warning

As the early warning procedures are defined in the National Risk and Disaster Management Plan, which is not legally binding, they should also be specified in the relevant legislation. Furthermore, these procedures should take into account the mechanisms for reporting to the United Nations Emergency Relief Coordinator. The mechanisms established in the legal framework should be implemented at the community and institutional level, with a view to ensuring that they work effectively and efficiently communicate information about impending disasters and the state of alert.

⁵⁹ Elizabeth Landau, 'Medical help on hold as groups await transportation to Haiti', CNN, 21 January 2010

http://articles.cnn.com/2010-01-20/health/haiti.medical.aid.volunteers_1_haiti-medical-team-volunteers?_s=PM:HEALTH
See also section 3.7 on Transport after a disaster.

⁶⁰ Nick Collins, 'Haiti: Humanitarian aid prioritised at airport', *The Telegraph*, 18 January 2010, <http://www.telegraph.co.uk/news/worldnews/centralamericaandthecaribbean/haiti/7020388/Haiti-Humanitarian-aid-prioritised-at-airport.html>

⁶¹ Alan Butterfield, Ronaldo Reario & Robert Dolan, 'The United Nations Humanitarian Civil-Military Coordination (UN-CMCoord) response to the Haiti earthquake'; Humanitarian Exchange Magazine, Issue 48, Octobre 2010, <http://www.odihpn.org/report.asp?id=3133>

Appeal for international solidarity

With regard to the commencement of international assistance and relief operations, it is strongly recommended that the legal framework specify the terms and conditions governing requests for external assistance and relief. Needs identified in the appeal should also be defined as clearly and accurately as possible. Once the appeal has been made, the affected State should inform international actors of the laws, regulations and policies governing disaster relief operations and initial recovery assistance and, in particular, provide them with detailed information about the entry of humanitarian supplies and personnel into the country, so that international organizations, NGOs and foreign governments are better prepared from the time of their arrival in the affected country.⁶²

Military assistance

With a view to future situations in which the assistance of the US Army or any other army may be required in a relief operation, terms and conditions should be agreed in advance between the affected and assisting States. An agreement between the two should mention key elements, such as whether the troops may wear their national uniforms, whether they may be armed, the duration of deployment and the type of cooperation envisaged with civilian actors.⁶³ Through such an agreement, the government should ensure that humanitarian actors have access to disaster victims and the most vulnerable sectors of the population, for example, by ensuring that planes carrying humanitarian supplies are given priority for landing.

Legal status of relief organizations

Eligibility and registration of NGOs

Pursuant to the 1989 decree on international and local NGOs,⁶⁴ such organizations must first be registered in order to be granted domestic legal personality, allowing them to enjoy certain rights and privileges, such as opening bank accounts, entering into contracts, hiring local personnel, etc.⁶⁵ NGOs are also bound to comply with Haitian legislation.⁶⁶ For example, all employers are required to pay social security tax so that employees are insured for accidents at work, sickness and maternity.⁶⁷

In order to be granted domestic legal personality, NGOs must register with the Unit for the Coordination of NGO Activities (UCAONG) of the Ministry of Planning and External Cooperation. The registration procedure is established in the 1989 decree on international and local NGOs.⁶⁸

In normal times, the UCAONG forwards the application submitted⁶⁹ by the NGO to the relevant sectoral ministry to determine whether the NGO's project falls within its purview. For example, an application submitted by an organization operating in the health sector is sent to the MSPP, while an application submitted by an organization engaged in educational projects is examined by the Ministry of Education. Once the application has been examined and the project approved, the organization is granted

⁶² See article 10 of the IDRL Guidelines, Annex D.

⁶³ See article 11 of the IDRL Guidelines, Annex D.

⁶⁴ *Op. Cit.*, footnote 12.

⁶⁵ *Idem*, article 3.

⁶⁶ *Idem*, article 28 a.

⁶⁷ Social Security Act of 28 August 1967, articles 24, 31 and 32.

⁶⁸ *Op. Cit.* footnote 12, article 6.

⁶⁹ *Idem*, article 8.

official NGO status. A joint statement is then issued by the ministries MPCE, MICT and MAE and published in the Official Gazette *Le Moniteur* and sent to the NGO, whereupon it is officially registered.⁷⁰

The interviews conducted revealed that, after the earthquake, when new NGOs poured into the country, international actors were unable to register promptly according to the existing procedures. The system is intended primarily for NGOs carrying out long-term development aid activities in Haiti, rather than those arriving in response to a short-term emergency situation.⁷¹

The UCAONG was well aware of the need to strengthen the legal framework and establish emergency mechanisms to speed up the NGO registration process and resolve the problems encountered by unregistered organizations, such as clearing relief supplies through customs.⁷² The question of granting temporary domestic legal status to NGOs was raised after the earthquake, but the UCAONG preferred to focus efforts on expediting the registration process to the maximum extent possible. According to those interviewed, several meetings were held with representatives of the UCAONG, various NGOs, the MEF and the Customs Department.

In order to speed up the registration process, which can take up to six months in normal times, the MPCE set up a network of focal points in the sectoral ministries. A MPCE official followed up on applications as they passed from the UCAONG to the relevant sectoral ministry. The procedure, provided for in the 1989 decree,⁷³ had never been implemented before. It reduced registration time from the normal six months to less than two months, while the decree establishes a maximum time of three months.⁷⁴

However, in view of the extent and urgency of humanitarian needs, this delay of over a month was still too long. Moreover, the weakened administrative capacity of the Haitian authorities in the first few months after the earthquake meant that they were unable to prevent unregistered NGOs from conducting operations. In order to put a stop to this, a few months after the earthquake, the UCAONG, through the MPCE, began to take action to raise the awareness of donors about the problem, urging them to refuse to provide funding to unregistered NGOs.

The UCAONG estimated that there were between 150 and 200 registered NGOs present in Haiti in October 2010. This figure tallies with the number of annual reports (which registered NGOs are required to submit) received by the UCAONG in 2010. This suggests that these registered NGOs were already operating in Haiti before the earthquake.

By early October 2010, only seven or eight NGOs had completed the registration process after their arrival in the country in response to the earthquake. On the other hand, around 550 NGOs had made themselves known to OCHA by this date. It would seem, then, that a very large number of NGOs had not initiated or completed the registration process.

There were also other organizations, associations and religious groups operating outside the established coordination and control mechanisms, which did not register with the Haitian Government or OCHA. As observed by one of the people interviewed for

⁷⁰ *Idem*, article 6.

⁷¹ *Idem*, article 6 and 8 d.

⁷² See also section 3.5 on customs requirements for the entry of relief goods after a disaster.

⁷³ *Op. Cit.* footnote 12, article 14.

⁷⁴ *Idem*, article 10.

this study, unregistered NGOs are less likely to comply with legal provisions in force in the country, such as requirements associated with the employment of local personnel.

This situation also highlights the limited ability of the government to control the organizations entering and operating in Haiti. The difficulties in coordinating NGOs arriving in Haiti can be attributed to several factors. First, it is important to note that the UCAONG was severely affected by the earthquake, as 70 percent of its employees died in the earthquake, and the ministry buildings were destroyed. The UCAONG was therefore out of operation at the start of the response efforts. Furthermore, many NGOs, aware of how difficult it was to register, simply did not apply for registration, arguing that it took too long and that they would only be in the country for a short time.

Eligibility and registration of international organizations

The Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations of 21 November 1947 establishes the legal capacity of specialized United Nations agencies. They operate in Haiti in accordance with agreements duly established with the government.

It should be noted that the International Federation is holding talks with the Haitian Government with a view to concluding a headquarters agreement, which would enable it to operate in the country by virtue of the privileges and immunities deriving from its international legal personality. The Federation has already signed such agreements with over 70 other countries.

Recommendations

NGO registration

In order to ensure greater transparency and more effective control over the operations of organizations in its territory, the Haitian Government should regulate the entry of humanitarian organizations.

The government should develop a specific registration procedure for disaster situations, which would ensure that organizations are granted recognition more quickly, enabling them to carry out their activities in the country in compliance with Haitian law. It is essential to grant organizations temporary domestic legal status in a much shorter time.⁷⁵

The government should determine, on the basis of established eligibility criteria, which organizations meet the conditions required for registration and the granting of temporary authorization to operate in the country.⁷⁶

The legal framework could provide for the creation of a crisis unit that would enable organizations arriving in response to a disaster to apply to the authorities and be registered on the spot if they met the established requirements, upon presentation of certain documents, such as their statutes, reports on the activities that they intend to carry out in the country and any other guarantees attesting to their professionalism in the specific area of disaster response. A special desk could be set up at the airport in order to expedite the procedure for the granting of temporary domestic legal status to organizations that arrive in response to a short-term emergency situation and do

⁷⁵ Paragraph 20, IDRL Guidelines, Annex D.

⁷⁶ *Idem.* Paragraph 14, see also section 3.10 on the quality of aid and coordination.

not intend to remain in the country once the emergency is over. Those organizations intending to stay beyond the initial recovery period would have to apply for registration through the normal channels, although in the meantime, the temporary domestic legal status granted to them would allow them to operate legally in the country.

The legal framework should require organizations to be registered before they are granted legal facilities, enabling them to open bank accounts, employ local personnel, obtain visas, benefit from tax exemptions, clear relief goods through customs, etc.

Registration of international organizations

The government should facilitate the signing of a headquarters agreement with the International Federation to enable it to operate in the country by virtue of the privileges and immunities deriving from its international legal personality.

Customs requirements for the entry of relief goods after a disaster

General customs requirements

The Customs Code of 5 March 1987 makes no provision for emergency measures in the event of a disaster. However, a new code is currently before the Haitian Parliament.

There have been several different phases in terms of customs requirements following the earthquake. Initially, all goods were allowed to enter the country without any controls or charges. The Customs Department then established special procedures to facilitate customs clearance for items intended for victims of the earthquake. After the established period of time, the normal customs clearance procedure was resumed. However, when a cholera epidemic hit the country, special customs measures were once again adopted.

12 January to 7 February 2010

As the customs authorities were also severely affected by the earthquake, the normal customs clearance procedure was suspended. Although there were some customs officials manning the borders, goods did not have to be declared and all supplies entered the country freely upon an oral request for customs clearance. A copy of the manifest was required for each shipment.

8 February to 30 April 2010

On 8 February 2010, the Haitian Government adopted procedures to facilitate customs clearance for items intended for victims of the 12 January 2010 earthquake.⁷⁷ These procedures were implemented from this time at the Malpasse land border. However, they did not come into full effect at the port or airport until the United States Army had left, which was about six weeks after the earthquake.

These procedures, established for an initial three-month period, provisionally suspended certain formalities, such as the requirement to apply for an exemption from taxes and duties for list of items needed for the beneficiaries of international humanitarian aid. According to these new procedures, a customs unit specialized in humanitarian aid management and formed by officials from the MPCE, the MEF and the customs department, was also set up at each customs office. This enabled registered

⁷⁷ Op. Cit. footnote 20.

NGOs to have the listed goods cleared directly through customs.⁷⁸ It should be noted that this procedure sought to guard against abuse, such as businesses trying to take advantage of the customs benefits granted to NGOs to get goods in tax free under the guise of relief supplies.⁷⁹

The creation of a one-stop shop involving the three relevant ministries considerably speeded up customs clearance for relief goods. These facilitation procedures concerned two distinct groups: governments, international organizations and registered NGOs on the one hand, and individuals and unregistered organizations not eligible for customs exemptions on the other. Under this procedure, both registered and unregistered NGOs benefited from customs exemptions for a three month period, although under different conditions.

For items included on the duty-free list, governments, registered NGOs and international organizations were required to submit a customs declaration to the customs office's special unit, along with the manifest and bill of lading. Following a brief check, the unit then released the goods.⁸⁰ According to the humanitarian actors interviewed, this procedure was efficient and prevented blockages at the Malpasse land border and at the port and airport. For items not on the list, they had to follow the normal procedure, which involved providing proof of their eligibility for customs clearance and tax exemptions.

Individuals and unregistered NGOs also benefited from the suspension of duties and taxes on relief goods included in the list for three months. Under this arrangement, the Civil Defence Department was the authority responsible for customs clearance and the distribution of goods, which had to be signed over to it. In practice, individuals and unregistered NGOs also had various other options, such as teaming up with a local NGO and bringing in relief goods under its name,⁸¹ requesting assistance from WFP, which facilitated the entry of supplies from the Dominican Republic, or registering with the authorities. It is worth noting that WFP played a key role as lead of the Logistics Cluster and, therefore, as a service provider of last resort. It offered its services to registered and unregistered NGOs, international organizations and foreign governments for the transportation of goods from Santo Domingo to Port-au-Prince and for customs clearance.⁸² WFP therefore facilitated the entry of relief supplies, by putting its stamp on them.

In spite of these expedited procedures, the media reported significant delays in the entry of essential relief goods into the country, affecting many organizations. The media also drew attention to several cases of abuses by customs officials charging a donations tax on relief items.⁸³

⁷⁸ Op. Cit. footnote 20, page 4.

⁷⁹ Soledad O'Brien & Rose Arce, 'Red tape, bad traffic, no power: 'That's Haiti'', CNN, 25 February 2010, <http://bit.ly/dnjKlG>

⁸⁰ Op. Cit. footnote 20.

⁸¹ Anonymous, 'No taxes on humanitarian supplies, Haiti says'; Miami Herald, 17 February 2010.

⁸² According to the cluster system, WFP is responsible for providing these services if necessary (transport, storage, customs clearance, etc.), when local enterprises do not have the necessary resources or capacity, hence the term 'provider of last resort'.

⁸³ Anonymous, 'No taxes on humanitarian supplies, Haiti says'; Miami Herald, 17 February 2010; Anonymous, 'Customs stalling aid efforts in Haiti', Miami Herald, 18 March 2010; Rachel Revehl, 'Group says agents want fees before releasing Haiti aid', The Fort Myers, Fla. News-Press, http://www.usatoday.com/news/world/2010-02-07-haiti-aid_N.htm; Jessica Desvarieux, 'In Port-au-Prince, the Smell of Death, the Odor of Corruption', Time.com, 6 February 2010, <http://www.time.com/time/world/article/0,8599,1959114,00.html?iid=sphere-inline-sidebar#ixzz0fKAtytHq>; Anonymous, 'Haiti aid bottlenecks fuel frustration, protests', Associated Press (Denver Post), 4 February 2010 (Haiti), <http://bit.ly/9rgTQU>; Anonymous, 'Desperation as bureaucracy slows aid effort in Haiti', Ireland Online, 3 February 2010 (Haiti), <http://www.breakingnews.ie/world/eyeyegbmhnh/>

When customs activities were restarted at the beginning of February 2010, all undeclared goods that had arrived before this date had to be declared. This caused significant delays and bottlenecks because an enormous amount of goods had entered the country between 12 January and 8 February, organizations often did not have the paperwork required for customs clearance and the Customs Department was operating on limited resources. Considerable problems were also caused by goods not eligible to enter under special procedures, particularly vehicles.

The large number of assisting humanitarian organizations in Haiti after the earthquake and the non-essential humanitarian goods that poured into the country also contributed to causing customs delays and bottlenecks.⁸⁴

1 May to November 2010

After three months, the government reinstated the normal procedure for controlling the arrival of aid. In this context, a special unit was set up at the MEF to facilitate faster customs clearance. The unit remained in operation until 31 December 2010.

The resumption of the normal procedure caused serious complications, delays and blockages in the handling of essential humanitarian aid for the earthquake victims and fuelled frustration particularly among NGOs not familiar with the rules and procedures or lacking the resources to follow them. The restoration of the normal procedure also led to considerable additional costs for organizations. For example, lorries stuck at the border for several days waiting for a release slip to be issued generated additional demurrage and storage costs.

The normal procedure could be wholly carried out by a customs broker or by the organization itself (except the customs declaration).⁸⁵ In practice, it took 3-4 days to get relief goods, except vehicles, through⁸⁶ if the following three conditions were met: (1) the customs broker or organization had the application for exemption from customs duties and taxes in its possession; (2) customs officials were present; (3) there were no problems with the paperwork. The process took longer if a document was missing or the procedures had not been followed correctly.

From the beginning of May onwards, WFP continued to offer transportation services, but only to registered NGOs, while previously, it had made customs declarations on behalf of registered and unregistered NGOs, international organizations and governments. In practice, when the normal procedure some restored, some unregistered NGOs used the customs exemption of other NGOs. All the information on customs procedures was available on the Logistics Cluster website, and WFP also provided guidance for NGOs seeking to obtain exemptions and customs clearance.

Customs officials at the terminals work from 09:00 to 16:00 Monday to Friday and from 09:00 to 12:00 on Saturday. These relatively short working hours seriously hindered the rapid clearance of relief goods through customs. In addition, infrastructure-related problems, such as the lack of space and the lack of container management equipment at the port led to serious problems of congestion and additional costs. Poor management of supply lines by some international actors also contributed to congestion at the port. For example, some international actors lacked the capacity to promptly recover the large number of containers delivered to the port.

⁸⁴ See also section 3.10 on the quality of aid and coordination.

⁸⁵ Customs Code established by decree of 5 March 1987, amended on several occasions.

⁸⁶ On this subject, see section 3.5.5 on vehicles.

November 2010 to the time of writing

When the cholera outbreak hit Haiti, new simplified procedures were established to facilitate customs clearance for relief goods. These simplified procedures were established by oral authorization, which means that there is no copy of the procedures available for consultation, and the exact date on which they were introduced is not known. These new procedures lifted some of the formalities, such as the need to submit an exemption form in advance for a list of items needed for the beneficiaries of international humanitarian aid. Once the customs declaration has been made and the goods inspected at the port or airport terminal where they arrive, the Customs Director (at the port or airport) is authorized to directly approve customs clearance and the delivery of relief goods pursuant to the delegation of powers by the MEF to the Customs Department. All customs clearance paperwork for relief goods, as required under the normal procedure, must subsequently be submitted in due form, including the exemption form.

Telecommunication resources

The law imposes no restrictions or limitations on telecommunication resources. The decree of 12 October 1977, which grants the State a monopoly on telecommunication services, does not, however, provide for expedited procedures to obtain a satellite frequency.⁸⁷ In practice, many NGOs operating in the country before the earthquake already had a radio frequency assigned. Many other NGOs used the radio frequencies assigned to the United Nations.

The Haitian Government has signed the Tampere Convention⁸⁸ on the provision of telecommunication resources in emergency situations, although it has not yet ratified it. This convention contains specific provisions on telecommunication issues during international relief operations with regard to legal facilities to import and export equipment, the use of specific radio frequency spectrums, etc.

Food

Food items specified in the customs facilitation procedure could enter the country very easily during the three months when the special procedure was in effect, that is, from 8 February to 30 April 2010. For other products, the normal procedure had to be followed. For seeds and plants, a phytosanitary certificate had to be submitted with the application.⁸⁹

Medications

The procedure for medications was similar to that established for food items: pharmaceutical items specified in the facilitation procedures could enter the country easily. In addition to the required documents, a certificate of origin was also needed. For other types of medications, the normal customs clearance procedure took longer. The study was not able to determine, however, which particular legal provision or regulation refers specifically to this matter.

⁸⁷ Presidential Palace, 12 October 1977.

⁸⁸ <http://www.ifrc.org/Docs/idrl/I271EN.pdf>

⁸⁹ Order of 24 July 1937 on phytosanitary requirements for the entry of seeds, plants or plant parts into the country.

Vehicles

The procedure applicable to vehicles is the same as for other relief items, except that the exemption application must be accepted and validated by the MEF before the vehicle registration process can be set in motion. It can take up to two months to obtain the exemption.

Immediately after the earthquake, when customs facilities were not fully operational, governments, international organizations and NGOs brought vehicles into the country without receiving clearance and used them, circulating with foreign registration plates and without local insurance. This was in breach of Haitian law, as foreign plates are not recognized in Haiti.

When customs activities restarted on 8 February 2010, the normal procedures for clearing vehicles, taking out insurance and acquiring local registration plates or plates reserved for international organizations, were reintroduced retroactively. This led to numerous problems for the clearance of vehicles and long delays. Many organizations or their carriers had mislaid or neglected to complete the required paperwork, making it very complicated to process applications, which contributed to causing bottlenecks.

Many organizations therefore had to use the services of car hire agencies until their vehicles were cleared and they could take out insurance and obtain registration plates. For many of them, hired vehicles accounted (still account, in some cases) for 50 percent or more of their fleets. The cost of hiring a car is up to USD 4,000 per month per vehicle.

Insurance

All vehicles must be registered with the Third Party Vehicle Insurance Office (OAVCT) before a registration plate can be obtained from the Tax Department. The OAVCT is an independent public institution operating under the supervision of the MEF. Once it has the customs certificate and the document issued by the Customs Department, the organization applies to the OAVCT for insurance for the vehicle. At the request of the organization, the OAVCT then makes an appraisal of the vehicle and registers it.

Vehicle registration

The issuance of the registration number is the last step in the customs clearance process for vehicles. The temporary registration plates are sent to the NGO or international organization until national plates are issued. The Tax Department delivers these national plates on presentation of the customs certificate, a copy of the exemption letter sent by the MEF to customs, the appraisal and the insurance provided by the OAVCT.

In addition to the time it took for the exemption to be granted, further delays were caused by the fact that the service was overstretched and there was a shortage of registration plates at certain times.

International organizations

Once they have proof of insurance from the OAVCT, they must send a letter to the MAE, which assigns registration numbers and delivers the plates directly to the Tax Department, indicating the specifics of the vehicle.

Re-exportation of vehicles

Haitian legislation makes no provision for the re-exportation of the vehicles imported by NGOs for humanitarian purposes once they have entered the country. Although

not impossible, it is very difficult to re-export vehicles and the prior consent of the government is required.

Animals

According to those interviewed, applicable regulations require animals to be quarantined.⁹⁰ These rules were not, however, applied to the rescue dogs that arrived in the first few days after the earthquake.

Recommendations

Customs Code

It would be useful for a detailed description of customs practices and procedures applicable in emergency situations and during the initial recovery phase to be provided in the Customs Code, taking into consideration the recommendations made in this study. The ad hoc procedures adopted after the earthquake could be incorporated into the existing legislative framework. The updating of the Customs Code provides a good opportunity for these inclusions to be made.

Special customs procedures

In view of the extent of the disaster and the scale of international response, it would have advisable, in this case, to extend the special procedures to facilitate customs clearance for items intended for victims of the 12 January 2010 earthquake beyond 30 April 2010. The arrangements established for the inspection of relief goods directly at the terminals of arrival, re-established when the cholera epidemic occurred, should have been maintained throughout the state of emergency, which remains in effect, and the initial recovery period.

It would also be useful to make provision for customs controls and clearance to be carried out outside normal business hours throughout the state of emergency and initial recovery period in order to expedite the customs clearance process for relief goods.⁹¹

It is also recommended that other items required by international actors to carry out their operations, such as computers, be included on the list of essential international relief items, so that they can benefit from customs duty exemptions and an expedited delivery order for rapid customs clearance.

A control mechanism should have been in place to ensure that goods sent to Haiti corresponded to the humanitarian needs identified in the appeal and met international standards. It is therefore recommended that the government establish a system to ensure that there are appropriate procedures and legislation in effect before relief goods begin to enter the country.

It would be advisable to simplify and minimize documentation requirements for exportation and authorize the re-exportation of all goods and equipment, including vehicles.⁹²

⁹⁰ Decree of 30 September 1987 on the Ministry of Agriculture, Natural Resources and Rural Development (MARNDR), articles 40 and 41.

⁹¹ Paragraph 23 of the IDRL Guidelines, Annex D.

⁹² *Idem*, paragraphs 17 and 18.

Vehicles

In view of the delays affecting the importation of vehicles into the country, it is recommended that the registration of vehicles be permitted on the strength of the exemption documents and the expedited delivery order, which would speed up the process considerably.

Additionally, as missing importation documents cannot now be produced, it is recommended that documentation requirements for vehicles arriving during the initial emergency period, before 8 February 2010, be relaxed so that they can be released from customs.

Special equipment

With regard to telecommunication resources, it is recommended that the Haitian State ratify the Tampere Convention and give domestic legal effect to the provisions it contains on legal facilities for importing and exporting equipment.

With regard to medications and food supplies, the legislative framework should establish procedures to reduce legal and administrative barriers to the importation, transit and exportation of these items during the emergency relief and initial recovery periods to the extent consistent with public safety and international law. It is also recommended that the Haitian Government adopt the measures required to give domestic legal effect to the International Health Regulations, ratified by the Haitian State in 1971.

With regard to animals, the legislative framework should establish an exception allowing rescue dogs to enter the country after a disaster has occurred.

Responsibility of international actors

In many cases, delays in the entry of international disaster relief were caused by a lack of expertise on the part of international actors and failure to comply with the customs procedures established by Haitian law. Failure to present the required paperwork caused customs bottlenecks. This problem could have been avoided by providing international actors with a document explaining the procedures at the start of the international response to enable them to comply with applicable legal provisions.⁹³

International actors have an obligation to comply with legislation and procedures in force in Haiti. They should ensure that they have competent, trained personnel who are familiar with customs requirements. International teams should ensure that the customs procedures in place are followed from the outset and for the entire duration of their international response activities. This will minimize problems caused by incomplete applications and missing documents, thereby reducing bottlenecks and delays.

Management of foreign personnel in disaster situations

Entry of humanitarian personnel

Haitian law makes no specific provision concerning visas for disaster relief and initial recovery personnel. Nationals from all countries, except Cuba, Colombia, Panama, the Dominican Republic and China, were able to enter the country without a visa and without cost after the earthquake (the nationals of these five countries have to apply to Haitian consulates or embassies in the country of departure). Passports are

⁹³ *Idem*, paragraph 14.3.

marked with an entry stamp on arrival at the border, entitling the holder to remain in the country for 90 days. This regulation applies to all foreign nationals, regardless of whether they are humanitarian workers or not. Issuance of the entry stamp is not therefore conditional on registration of the NGO under Haitian law.

In principle, when the 90-day period expires, humanitarian personnel must apply for a visa. In practice, few such applications are made, as humanitarian personnel seldom remain in the country for more than 90 consecutive days. When they return from leave, they are given a new entry stamp, entitling them to a further 90 days in the country. This practice has potential for abuse, as any organization, association, religious group or individual can enter the country freely and work outside the established control and coordination mechanisms, outside the existing legal framework, without, for example, registering with the government or complying with international standards for disaster relief. There are various references to this subject in press articles, reporting problems relating to the quality of the aid delivered and unqualified personnel working in some organizations and associations.⁹⁴

The time taken to issue a visa is another reason why such applications were not made. The process normally takes around two weeks and requires the passport to be submitted to the Haitian authorities. In view of the unstable situation in Haiti, humanitarian personnel are reluctant to be without their passport for this amount of time, in case they are evacuated from the country and need their passport urgently.

A residence permit must be applied for after six consecutive months in Haiti. However, according to the people interviewed, very few NGO employees had applied for one, as their contracts were generally for a short period. The NGO country representative interviewed had applied for a residence permit. It took about two months and cost HTG 2,500.⁹⁵ Residence permits are usually issued for one year and are renewable. It entitles the holder to obtain a local driving licence and work permit. The following documents are required to obtain a work permit:⁹⁶

- immigrant or resident visa (for nationals of Cuba, Panama, Dominican Republic and China);
- letter addressed to the Immigration and Emigration Department;
- photocopy of the first three pages of passport;
- criminal records certificate from country of origin;
- medical certificate;
- bank certificate;
- copy of landing card;
- birth certificate;
- two colour passport photos;
- HTG 5,000⁹⁷ payable to the Public Treasury;
- completed form;
- fingerprints;
- letter from employer.

It should be noted that the obligation to obtain a work permit was not waived after the earthquake. According to article 313 of the Labour Code,⁹⁸ work permits are only issued to foreign professionals when there is no Haitian professional available with

⁹⁴ See also section 3.8 on the quality of aid and coordination.

⁹⁵ About USD 62.

⁹⁶ Op. Cit. footnote 14, Article 313.

⁹⁷ About USD 124.

⁹⁸ Op. Cit. footnote 14.

the expertise or training required to perform the intended activity. This regulation remained in effect during the response to the earthquake and the cholera epidemic, although it does not seem to have been enforced.

Recognition of the professional qualifications of foreign personnel

The provision of medical assistance by clearly unqualified personnel, such as spiritual healers, in the aftermath of the earthquake was criticized.⁹⁹ The MSPP is the authority responsible for granting recognition of the credentials of foreign personnel, particularly medical credentials. The decree of 17 November 2005 concerning the organization and functioning of the MSPP establishes, in article 3, paragraph 12, that the duties of the MSPP include ‘recording and monitoring the qualifications of medical and paramedical personnel and ensuring consistency with the requirements of health-related professions and activities’.¹⁰⁰ This provision must be considered in conjunction with paragraphs 17 and 19, which establish that the responsibilities of the MSPP also include ‘maintaining relations with national and international organizations in the field of health and population’¹⁰¹ and ‘coordinating national and foreign operations carried out in the field of health in the country’.¹⁰² According to those interviewed, foreign medical personnel are required to register with the MSPP. However, there is no provision for the recognition of the credentials of foreign personnel in the aftermath of a disaster.

Pursuant to the decree of 25 March 1974 concerning the professional association of Haitian engineers and architects,¹⁰³ foreign engineers and architects are only authorized to work in Haiti in areas where there are no or insufficient Haitian professionals available.

Driving licence

It is advisable to have a Haitian or international driving licence to drive a vehicle in Haiti.¹⁰⁴ International driving licence holders are permitted to drive in Haiti for one year. After this time, they must obtain a local driving licence¹⁰⁵ and can face penalties if they fail to do so.¹⁰⁶

Holders of a national driving licence issued by a foreign country that has ratified the Convention on Road Traffic are permitted to drive for three months on this licence. After this time, they must apply for a Haitian licence. As mentioned above, a Haitian driving licence can only be obtained once a residence permit has been granted.¹⁰⁷

It should be noted that all the NGOs interviewed have their own internal regulations. They do not allow their personnel to drive themselves and prefer to hire local drivers.

The employees of international organizations, such as United Nations agencies, are issued an international driving licence through the MAE.

⁹⁹ Robert MacKey, ‘Questions for Baptists, Praise for Scientologists in Haiti’, *New York Times*, 3 February 2010 (Haiti), <http://bit.ly/9uWBa2>. See also section 3.8.1 on the quality of aid.

¹⁰⁰ Official Gazette of the Republic of Haiti *Le Moniteur* No. 1, Thursday, 5 January 2006, article 3, paragraph 12.

¹⁰¹ *Idem*, paragraph 17.

¹⁰² *Idem*, paragraph 19.

¹⁰³ *Op. Cit.* footnote 13.

¹⁰⁴ *Op. Cit.* footnote 15, articles 64 and 65.

¹⁰⁵ *Idem*, article 74.

¹⁰⁶ *Idem*, article 76, 273 and 279.

¹⁰⁷ *Idem*.

Recommendations

Entry of humanitarian personnel

Haiti's legislative framework should regulate and control the entry of humanitarian personnel into the country in order to guard against abuse. The government should establish eligibility criteria and requirements for assisting humanitarian actors, so that they can benefit from legal facilities in the country.¹⁰⁸ It is recommended that these criteria include the fulfilment of specific responsibilities, such as complying with the country's legal framework, respecting the established coordination mechanisms and meeting internationally recognized standards.

The procedures in place for obtaining visas and residence permits (entitling holders to obtain a driving licence or work permit) are designed to meet the needs of NGOs carrying out long-term development aid activities in Haiti. They are not appropriate for NGOs arriving in the country in response to a short-term emergency situation. Some of the formalities are too stiff and difficult to fulfil in the context of emergency response and initial recovery operations (for example, the submission of a criminal records certificate from the country of origin, a bank certificate and a birth certificate, etc.). They do not take into account that humanitarian personnel come and go and seldom stay in the country for more than 90 consecutive days. Current legislation does not exempt foreign personnel from the obligation to obtain a work permit, although this regulation is not currently being enforced.

It is therefore recommended that the Haitian legal framework establish procedures adapted to the context of disaster relief and initial recovery operations. It is also recommended that the Haitian Government consider lifting the obligation to obtain a visa and work permit in a disaster setting for eligible humanitarian organizations or at least make the procedure much quicker.

Recognition of professional qualifications of foreign personnel

Procedures in place for the recognition of credentials are not adapted to the circumstances of NGOs arriving in response to a short-term emergency situation. If they were enforced, international actors would be unable to perform their disaster relief or initial recovery activities. On the other hand, the government has the responsibility to take measures to ensure that assistance, particularly medical assistance, is not provided by people who are not qualified to do so, such as spiritual healers. The legal framework should therefore provide for the temporary recognition of the credentials of foreign medical personnel, architects and engineers working with organizations that are considered reliable for the time that they are carrying out disaster relief or initial recovery operations.

Driving licence

The same is true for the recognition of foreign driving licences. Having a residence permit should not be a requirement for obtaining a driving licence. This requirement made it almost impossible to get a Haitian driving licence in the post-earthquake period for the reasons explained above. The legal framework should establish expedited procedures for the recognition of foreign driving licences for the duration of disaster relief and initial recovery activities.

¹⁰⁸ See also section 3.4.3 on recommendations concerning NGO registration.

Transport after a disaster

As mentioned above, in the days following the earthquake, the US Army was in charge of air traffic. Organizations and governments had to coordinate with the Miami-based US Southern Command, the only body authorized to allocate landing slots. Several planes carrying medical equipment and supplies were turned away from Port-au-Prince to Santo Domingo between 14 and 19 January.¹⁰⁹ The mobilization of vehicles, traffic congestion on the only road between Santo Domingo and Port-au-Prince and the poor condition of the road lengthened the journey from two days to around a week. The long delays were caused by various factors, including the time it took to clear the goods through customs in the Dominican Republic and mobilize the appropriate handling equipment, the poor condition of roads and heavy traffic congestion (all the organizations were obliged to reroute their relief goods through the neighbouring country). These delays led to additional costs.

Port-au-Prince port was not operational for the first four weeks after the earthquake, which meant that most of the aid had to be brought in by road from Santo Domingo.

The lack of personnel to unload planes and the lack of handling and navigation equipment caused serious problems, delaying the delivery of aid too long in view of the urgency of the situation after the earthquake. The large number of humanitarian actors and the sheer amount of humanitarian aid pouring into the island further complicated the situation and lengthened delays.¹¹⁰

Recommendations

As established in Annex 9 of the Chicago Convention on International Civil Aviation, ratified by Haiti, aircraft carrying relief supplies should be given permission to land as rapidly as possible to avoid any unnecessary delay and facilitate the delivery of humanitarian aid to disaster victims and vulnerable people. It is recommended that the Haitian Government adopt the measures required to give domestic legal effect to the provisions of the Chicago Convention.

In order to avoid the heavy traffic congestion caused by the large number of actors arriving in response to a disaster, it is recommended that control procedures be established to ensure that the relief goods entering the country are consistent with the humanitarian priorities identified in the appeal. A monitoring unit could be set up at road border crossings to control the goods entering the country. It is recommended that the goods of eligible humanitarian organizations be given priority over those of non-eligible ones.¹¹¹ This unit could also be in charge of ensuring the fluid flow of road traffic. Controlling the entry of goods at the border would also have the advantage of avoiding bottlenecks at the warehouses at the destination and the ensuing delays.

Quality of aid and coordination

Quality

International assistance as a whole provided in response to the earthquake undoubtedly saved many lives. However, the quality of aid varied greatly. Many well-intentioned

¹⁰⁹ See also section 3.3.3 on military assistance.

¹¹⁰ See also section 3.8 on the quality of aid and coordination.

¹¹¹ *Idem*, with regard to eligible humanitarian organizations.

individuals arrived in Haiti totally unprepared, often without resources, shelter or food, and ended up having to ask NGOs and international organizations already operating in Haiti for assistance. Some even required emergency assistance themselves. Their lack of expertise, experience and self-sufficiency meant that they were a drain on resources that would have been better used to assist the direct victims of the earthquake.¹¹² It is also worth noting that, in most cases, those most able to provide quality aid, with the necessary experience and a command of Haitian Creole and French, were already operating in Haiti before the earthquake. Moreover, it seems that most of the aid was delivered by a minority of international actors, the so-called 'professional' international actors with extensive experience in providing international emergency assistance.

Massive, but uncoordinated, donations of relief goods caused the same kind of difficulties and bottlenecks. Donations of used clothes, canned food, bottled water and outdated prescriptions accumulated at entry points. The flood of relief goods which did not meet identified priority needs or international quality standards hindered the delivery of essential, quality aid consistent with international standards for emergency relief operations. For example, while anaesthetics for amputations and other medical supplies were having trouble getting into Haiti, 600 solar-powered talking Bibles were distributed on the island by missionaries.¹¹³

The quality of aid provided by some actors was called into question. One example is the case of the ten American missionaries accused of kidnapping by the Haitian legal authorities after trying to cross the border into the Dominican Republic illegally with 33 Haitian children, ignoring legislation on international adoption in force in Haiti.¹¹⁴ They had not been given permission to take the children, who were not orphans as the group had claimed. Haitian legislation establishes an adoption procedure that normally takes around three years to complete.¹¹⁵ The behaviour of these US missionaries has harmed other international actors and earthquake victims.¹¹⁶ For example, private medical evacuations of seriously injured Haitian children were largely suspended, because humanitarian workers, doctors and officials feared being accused of kidnapping if they transported children out of the country without all the necessary paperwork, which took a long time to complete or was unavailable.¹¹⁷

¹¹² JoNel Aleccia, 'Disaster do-gooders can actually hinder help', MSNBC, 21 January 2010 (Haiti), <http://bit.ly/8UAzkV>

¹¹³ Anonymous, 'Solar-powered Bibles sent to Haiti', Reuters, 20 January 2010, <http://www.abc.net.au/news/stories/2010/01/19/2796032.htm>

¹¹⁴ Elizabeth Lee, '10 American Missionaries In Haiti Charged with Kidnapping and Criminal Association', Voice of America, 4 February 2010 (Haiti), <http://bit.ly/bTMvSg>; Anonymous, 'Haiti prosecutors seek 6 months in prison for US woman who tried to remove kids after quake', Associated Press, 13 May 2010, <http://bit.ly/9bG29w>; Melissa Gray & Richard Greene, 'Haitian orphans rushed to new homes abroad', CNN, 18 January 2010 (USA and Netherlands), <http://bit.ly/4piY2v>; David Gauthier-Villars, Miriam Jordan & Joel Millman, 'Earthquake Exposes Haiti's Faulty Adoption System', The Wall Street Journal, 27 February 2010, http://online.wsj.com/article/SB10001424052748704625004575089521195349384.html?mod=WSJ_topics_obama

¹¹⁵ There are some 200 orphanages in Haiti, but not all of them are legitimate, according to United Nations officials; some of them serve as a front for traffickers who buy children and resell them to foreign couples.

¹¹⁶ James C. McKinley Jr. & Sean D. Hamill, '53 Haitian Orphans Are Airlifted to U.S.', *The New York Times*, 19 January 2010, <http://www.nytimes.com/2010/01/20/world/americas/20orphans.html>

¹¹⁷ Ian Urbina, 'Paperwork Hinders Airlifts of Ill Haitian Children', *The New York Times*, 8 February 2010, www.nytimes.com/2010/02/09/world/americas/09airlift.html

Coordination

Many experts have criticized the lack of coordination among aid providers in Haiti. The great number of humanitarian organizations and news reporters pouring into the island, vying to be the first to arrive on the scene of the earthquake, posed a major obstacle to the humanitarian effort. They also put a strain on limited resources, such as water and fuel, and contributed to clogging up major road arteries and the airport, delaying the distribution of aid. Media organizations from all over the world sent reporters to Haiti, putting a drain on already overstretched resources.¹¹⁸

The cluster system was quickly put in place after the earthquake, in spite of the challenges posed by the lack of electricity and space and having to work under tents. New organizations were able to register with OCHA and, as mentioned above,¹¹⁹ 550 organizations did so. However, many other organizations, associations and religious groups arriving in the country after the earthquake did not register with OCHA or the Haitian Government.¹²⁰ Only 150 to 200 NGOs present in the country before the earthquake were registered with the government, and only a very small number registered after the disaster.

Furthermore, numerous NGOs, religious groups and individuals and even some foreign governments were unfamiliar with the established coordination mechanisms and had no experience of international emergency relief situations, which posed significant challenges and impaired the effectiveness and quality of the humanitarian response to the earthquake. This lack of coordination caused problems for the Haitian authorities, who did not always know who was operating in their country. The failure of organizations to act in a coordinated way hampered efforts to strengthen the capacities of local authorities and their ability to play a leadership role in disaster response.

The lack of coordination also directly affected other international actors trying to perform their work in accordance with the established coordination mechanisms. The distribution of relief goods not consistent with international standards led to confusion among beneficiaries and sometimes even protests that others were receiving better aid. Beneficiaries flocked to particular camps in response to rumours that the goods being distributed there were of better quality. Some organizations focused their efforts on the distribution of a particular type of goods, failing to liaise and coordinate with other organizations, using the established mechanisms, to ensure that all the humanitarian needs of victims were met. It is not easy for those in need of aid to distinguish between effective humanitarian actors providing quality aid and actors ineptly doing their best to make themselves useful.

It is worth noting that some coordination problems were caused by foreign governments that did not coordinate with the established cluster system, either because they were unfamiliar with the system or because they wished to provide direct bilateral aid. This affected the quality of humanitarian response, because some of the items they sent did not correspond to the identified needs or were already abundantly available in

¹¹⁸ Olesya Dmitracova, 'Is rivalry among relief and media groups hampering aid flow to Haiti?', Reuters, 25 January 2010, <http://www.trust.org/alertnet/blogs/alertnet-news-blog/is-rivalry-among-relief-and-media-groups-hampering-aid-flow-to-haiti/>

¹¹⁹ See also section 3.4 on the legal status of relief organizations.

¹²⁰ There are up to 12,000 non-governmental organizations present in Haiti: Eric Dales, 'Haiti marks one year anniversary of devastating earthquake', South-South News, 13 January 2011, <http://bit.ly/fyIY2d>

the country because other international actors (governments, international organizations or NGOs) had already provided them.

Recommendations

Eligibility of humanitarian organizations

It is crucial to establish eligibility criteria for assisting humanitarian organizations in order to remedy the problems identified in connection with the quality of aid and coordination. It is up to the Haitian Government to decide which humanitarian organizations are eligible to operate in the country. Paragraph 4 of the IDRL Guidelines provides and recommends a list of the responsibilities that assisting actors have, which could prove very useful to the Haitian Government in establishing a list of criteria for humanitarian organizations seeking eligibility. These criteria should include a showing by the organization of its willingness and capacity to act in accordance with the responsibilities described in paragraph 4 of the IDRL Guidelines.¹²¹ These responsibilities include: (1) abiding by the laws of Haiti, international law and applicable international standards; (2) respecting the coordination mechanisms established, including the coordination of activities with the domestic authorities to complement their response capacity; (3) carrying out operations in accordance with the principles of humanity, neutrality and impartiality; (4) ensuring that aid is consistent with identified needs; (5) sending qualified teams with relevant experience in disaster relief and initial recovery operations, who are fully prepared to support operations and undertake other responsibilities; (6) carrying out disaster relief and initial recovery operations so as to minimize negative impacts on the local community, economy, job markets, development objectives, the environment, etc.

When a disaster occurs, the Haitian Government could, for example, assign the crisis unit (referred to above in section 3.4.3¹²²) the task of determining whether international actors meet the established eligibility criteria when they enter the country. Haitian ambassadors in the country of origin could also play a part in determining eligibility.

It is also recommended that the government determine the eligibility of humanitarian organizations in advance of a disaster. Measures to do this might include developing a national roster featuring preselected organizations, which could be used by the crisis unit to verify eligibility. Furthermore, the preselection of humanitarian organizations eligible to operate in Haiti would prevent organizations from operating in the country without the knowledge of the authorities.

Legal facilities (right to open a bank account, hire local personnel, obtain a visa, benefit from tax exemptions, clear relief goods through customs, etc.) should only be granted by the Haitian Government to humanitarian organizations that it determines to be eligible.

Finally, the procedures could provide a quick and simple mechanism to allow suppliers of aid be accountable to the authorities for the quality and quantity of the aid they provide and therefore improve the coordination and the resumption of the leading role that such authorities have in disaster response. This hampered their leadership role in the emergency response provided by local authorities

¹²¹ Annex D.

¹²² See section 3.4.3 concerning recommendations on NGO registration.

IDRL in Haiti

A study on the legal framework for the facilitation and
regulation of international disaster response in Haiti

Chapter 4

Conclusion

This study enabled the International Federation and the HRC to identify various legal issues and problems arising in connection with the influx of international actors into Haiti in response to the earthquake that struck the country on 12 January 2010, using the IDRL Guidelines as the framework for analysis. The study provides recommendations for the Haitian Government, consistent with the IDRL Guidelines, on how to develop or strengthen certain areas of the legal framework and procedures applicable to international disaster relief.

The main problems identified and recommendations made in the study are as follows:

- Current legislation concerning international disaster response applicable in Haiti is fragmented across various legal instruments. Numerous legal provisions were adopted in an ad hoc manner in the aftermath of the earthquake. The Haitian Government should therefore develop a comprehensive legal and institutional framework for disaster prevention, mitigation, preparedness, relief and initial recovery assistance. In the meantime, pending the development of this comprehensive legal and institutional framework, the government should also establish interim regulations that could be implemented immediately, while discussions take place for the adoption of a new law.
- Although Haiti is party to several international conventions concerning international disaster response, in practice, it has yet to adopt the administrative, legislative and regulatory measures required to implement them. It is therefore recommended that the Haitian Government adopt the necessary measures to give domestic legal effect to ratified international conventions.
- The National Risk and Disaster Management Plan and the Emergency Response Plan, together with the State of Emergency Law, are the instruments relevant to disaster management in the country. These plans establish the roles and responsibilities of government entities in disaster response. However, the study was not able to determine whether the government entities did in fact assume the roles assigned to them in these plans in the aftermath of the earthquake. These plans do not have legal effect; the government should therefore take the appropriate measures to make them legally binding. The government is also recommended to ensure that the provisions established in these plans are consistent with the disaster response system in place in the country and that the roles and responsibilities of government entities defined in these plans are consistent with the emergency response activities they undertake in practice when a disaster occurs.
- The scope of application of the State of Emergency Law seems to be limited to natural disasters. Ideally, the mechanisms established in the State of Emergency Law should be applicable to all types of disasters and emergencies. Although the State of Emergency Law establishes the government's authority to make an appeal for international solidarity, the terms and conditions of such a request for external assistance and relief are not defined in Haitian law. The study therefore recommends that such terms and conditions be specified in Haiti's legal framework.
- The role and functional areas of responsibility of the HRC in disaster response are currently defined in the Emergency Response Plan. The study recommends that the role of the HRC as auxiliary to the public authorities in the areas of risk reduction and disaster management, public health, development and social support be firmly established in the country's main disaster management legislation.

Conclusion

- The US Army took charge of the airport and port in the days following the earthquake and continued to run them until the beginning of March. In the days following its takeover of air traffic operations at the airport, the US military came under fire for its strategy of refusing to authorize the landing of planes carrying humanitarian aid and giving priority to military flights bringing in military reinforcements. For situations in the future when the assistance of foreign armed forces may be required for a disaster relief operation, the conditions of deployment should be agreed in advance between the States involved. The Haitian Government should ensure that aircraft carrying relief goods be given permission to land as quickly as possible to avoid unnecessary delays and facilitate the prompt delivery of humanitarian aid to the disaster victims and vulnerable sectors of the population.
- Existing legal procedures do not permit the timely registration of international actors arriving in the country to respond to a short-term emergency situation, as they are intended for NGOs carrying out long-term development aid operations in the country. Registration procedures for international actors in disaster settings need to be much faster, so that assisting actors can be granted the domestic legal personality required to carry out their activities in compliance with Haitian law.
- The Customs Code does not establish emergency measures for disaster situations. After the earthquake, the Customs Department established a special customs clearance procedure for certain items intended for the earthquake victims. From May 2010, ordinary procedures were restored for the aid arriving in the country. With the outbreak of cholera in November 2010, new simplified procedures were introduced. Despite these special procedures, the media reported long delays in the entry of essential disaster relief into the country affecting many organizations. Moreover, the large number of humanitarian organizations providing assistance after the earthquake and the massive influx of non-essential relief goods which did not correspond to the needs identified in the appeal, also contributed to causing customs delays and bottlenecks. The study recommends specifying special customs practices and procedures applicable in emergency situations and initial recovery periods in the Customs Code. It also recommends reviewing the procedures that apply in such situations and formulating specific recommendations in this regard. For example, provision should be made to carry out customs controls and clearance outside the normal business hours of government offices. The study also recommends that specific legal provisions be adopted to reduce legal and administrative barriers to the importation, transit and re-exportation of special equipment, such as telecommunication resources, vehicles, medications, food and rescue dogs.
- The study revealed that Haitian legislation contains no specific provisions concerning visas for disaster relief and initial recovery personnel. On arrival in Haiti, the nationals of almost all countries are granted permission to remain in the country for 90 days. After this time, humanitarian personnel are required, in principle, to apply for a visa and, after 6 months in the country, they are required to apply for a residence permit. In practice, however, these procedures are seldom followed by international actors, and numerous organizations, associations, religious groups and individuals were able to enter the country and work outside the established control and coordination mechanisms, outside the legal framework in place, and without registering with the government or complying with international standards for humanitarian aid. The study therefore recommends that the Haitian legislative framework regulate and control the entry of humanitarian personnel into the country to guard against abuse. The government should also establish the criteria and conditions required for assisting humanitarian organizations to be eligible to

receive legal facilities in the country (right to open a bank account, hire local personnel, obtain a visa, benefit from tax exemptions, clear relief goods through customs, etc.). For international actors eligible to receive legal facilities, the formalities for obtaining visas and residence permits should be adapted to the context of disaster relief and initial recovery operations. For example, faster procedures should be established for granting visas and residence permits.

- The procedures in place for the recognition of professional credentials after a disaster are not adapted to the circumstances of international actors arriving in the country to respond to a short-term emergency situation. If they were enforced, international actors would not be able to carry out their disaster relief or initial recovery work. It is therefore recommended that legal provision be made to grant temporary recognition of professional qualifications in disaster settings, in the case of organizations that are considered reliable.
- It is recommended that the legal framework establish expedited procedures for the recognition of foreign driving licences for the time that disaster relief or initial recovery activities are being implemented.
- In order to avoid heavy road congestion caused by the large number of actors carrying out operations after a disaster, it is recommended that control procedures be established to give precedence to the entry of relief goods corresponding to priority humanitarian needs identified in the appeal. The study also recommends that eligible humanitarian organizations be given priority over non-eligible ones.
- Although international assistance as a whole undoubtedly saved many lives after the earthquake, the quality of aid provided by different international actors varied greatly. Many organizations, religious groups, associations and individuals arrived in Haiti without experience and totally unprepared, which meant that they were a drain on already overstretched resources. The quality of the aid provided by some actors was brought into question, as it did not comply with international standards for disaster relief and initial recovery operations. Additionally, many international actors, including some foreign governments, were not familiar with or did not respect the established coordination mechanisms, a fact that posed a major obstacle to the humanitarian effort. The study therefore recommends that the Haitian Government establish eligibility criteria for assisting humanitarian actors before another disaster occurs.
- Lastly, the study recommends that the Haitian Government draw up a document detailing the procedures applicable to international disaster relief and initial recovery operations in Haiti to be made available to international actors, so that they can carry out their activities in compliance with Haitian law.

Annex A - Documents consulted

- Order recognizing the Haitian National Red Cross Society as an auxiliary to the Health Service, authorizing it, together with the National Hygiene Service, to use the name and emblem of the Red Cross of Geneva and approving its Statutes, Official Gazette of the Republic of Haiti *Le Moniteur* No. 65, 5 August 1935.
- Labour Code, Decree of 24 February 1984 updating the Labour Code of 12 September 1961.
- Decree of 25 March 1974 concerning engineers and architects, Official Gazette of the Republic of Haiti *Le Moniteur* No. 30, 8 April 1974.
- Presidential Decree granting the State a monopoly on telecommunications services, Presidential Palace, 12 October 1977.
- Decree amending the Law of 13 December 1982 governing NGOs, Official Gazette of the Republic of Haiti *Le Moniteur* No. 77, Thursday, 5 October 1989.
- Decree on the organization and functioning of the Ministry of the Interior, Official Gazette of the Republic of Haiti *Le Moniteur* No. 48, 31 May 1990.
- National Risk and Disaster Management Plan, Ministry of the Interior and Regional and Local Development, Civil Defence Department, February 2001.
- Law revising the law on third-party vehicle insurance, Official Gazette of the Republic of Haiti *Le Moniteur* No. 76, Thursday, 9 October 2003.
- Order concerning the new Statutes of the Haitian National Red Cross Society, Official Gazette of the Republic of Haiti *Le Moniteur* No. 34, 5 May 2005.
- Presidential decree concerning the organization and functioning of the Ministry of Public Health and Population, Official Gazette of the Republic of Haiti *Le Moniteur* No. 1, 5 January 2006.
- Decree concerning the registration and circulation of vehicles, Official Gazette of the Republic of Haiti *Le Moniteur*, Special Issue No. 1, Friday, 26 May 2006.
- State of Emergency Law of September 2008, Official Gazette of the Republic of Haiti *Le Moniteur* No. 83, 10 September 2008.
- National Emergency Response Plan (working document), update, September 2009.
- Presidential Order of 16 January 2010 declaring a state of emergency, Official Gazette of the Republic of Haiti *Le Moniteur* No. 7, 25 January 2010.
- Procedures to facilitate customs clearance for items intended for victims of the 12 January 2010 earthquake, Ministry of Economy and Finance, 8 February 2010.
- Law amending the State of Emergency Law of 9 September 2008, Official Gazette of the Republic of Haiti *Le Moniteur* No. 29, 19 April 2010.
- Presidential Order of 21 April on the organization and functioning of the Interim Haiti Recovery Commission. Official Gazette of the Republic of Haiti *Le Moniteur* No. 34, 6 May 2010.
- Bylaws of the Interim Haiti Recovery Commission, 17 June 2010.



Annex B - List of people consulted

Government

Ministry of Foreign Affairs

- Mr Belfort, Director, International Institutions, Congresses and Conferences
- Mr Fortuné Dorléan, Director, Legal Affairs
- Mr Delan Joseph, Director, Economic Affairs
- Mr Perrault, Director, Protocol

Ministry of the Interior, Civil Defence Department

- Alba Jean-Baptiste, Director, Civil Defence
- Abel Nazaire, Assistant Coordinator, Permanent Secretariat for Risk and Disaster Management
- Rose Luce Cadot, Disaster Risk Reduction Legal Advisor
- Roosevelt Prospère, Director, Prevention (agronomist)

Customs Department

- Jean-Gesnel Volcimus, Assistant Director

Ministry of Planning and External Cooperation

- Bernice Kavanagh, Head, UCAONG
- Robès Pierre, Head, External Cooperation Department

Ministry of the Interior and Regional and Local Development

- Katline Marcial, Department of Political Affairs
- Roland J.B. Chavannes, Director, Immigration Service

Haitian National Red Cross Society

- Doctor Michaële Amédée Gédéon, President Haitian Red Cross
- Doctor Guiteau Jean-Pierre, Executif Director
- Leonel Cadet, Lawyer
- Jean Baptiste Brown, Lawyer

International organizations and NGOs

OCHA

- Catherine Huck, Deputy Head of Office
- Gérard Gomez, Head of Office, OCHA Regional Office for Latin America and the Caribbean

OXFAM

- Roland Van Hauwermeiren, Country Director

World Vision

- Ton Van Zutphen, Country Director

Catholic Relief Services (CRS)

- Scott Campbell, Country Representative

GOAL Ireland

- Sarah Murphy, Head, Warehousing and Imports

Norwegian Church Aid

- Sylvia Raulo, Country Director

Save the Children

- Gary Shaye, Country Representative

World Food Programme

- Edmondo Perrone, Head, Logistics

MINUSTAH

- Habib Dahdouh, Deputy Chief, Justice Section

International Federation

- Brigitte Gaillis, Movement Coordinator
- Harry Jacques, Head, Shipments
- Rosemary Parnell, Logistics Coordinator in Haiti
- Jorge Zequeira, Coordinator, Pan American Disaster Response Unit
- Ilir Causjah, Logistics Coordinator for the Americas
- Saint Louis, External Lawyer



Annex C - List of media reports consulted

January 2010

JoNel Aleccia, Disaster do-gooders can actually hinder help, MSNBC; 21 January 2010 (Haiti), <http://bgit.ly/8UAzkV>

Reporting that untrained and unprepared volunteers are beginning to appear in Haiti as well as inappropriate and unrequested types of in-kind assistance.

Anonymous, Aid groups urge halt to new Haiti adoptions, CNN, 21 January 2010 (Haiti), <http://bit.ly/6YbtPD>

Reporting that Save the Children, World Vision and the British Red Cross called Thursday for an immediate halt to any new adoptions of Haitian children after last week's earthquake. "Any hasty new adoptions would risk permanently breaking up families, causing long-term damage to already vulnerable children, and could distract from aid efforts in Haiti," the agencies said in a joint statement.

Anonymous, Clinton plays down Haiti aid controversy, AFP, 25 January 2010 (USA), <http://bit.ly/9r51oj>

Reporting on statements by US Secretary of State Hilary Clinton in response to criticism of US management of international humanitarian access to Haiti. "The international community must ensure we are working in sync. Aid coordination has long been a challenge in Haiti, even before the earthquake," Clinton said at a donors' meeting in Montreal. Clinton responded by calling on all donor nations to evaluate the progress of relief efforts honestly and to have the courage to change strategies in Haiti if necessary.

Anonymous, Desperation as bureaucracy slows aid effort in Haiti, Ireland Online, 3 February 2010 (Haiti), <http://www.breakingnews.ie/world/eyeyeygbmhmh/>

Reporting on complaints of increased paperwork and delay in the disbursement of supplies as Haitian authorities began regaining control over in-coming aid.

Anonymous, Haiti aid bottlenecks fuel frustration, protests, Associated Press (Denver Post), 4 February 2010 (Haiti), <http://bit.ly/9rgTQU>

Reporting that aid workers say that food and other supplies are flowing into the country three weeks after the Jan. 12 quake, but red tape, fear of ambush, transportation bottlenecks and corruption are keeping it from many people who need it.

Anonymous, Many Haitians can't cross border, Miami Herald, 21 January 2010 (Dominican Republic)

Reporting that many Haitians are attempting to flee desperate conditions by crossing the border with the Dominican Republic, but immigration authorities allow only the seriously injured, students, legal workers and missionaries to go through.

Anonymous, UNICEF warns of sex traffickers exploiting Haiti disaster, Ireland Online, 21 January 2010 (Haiti), <http://www.breakingnews.ie/world/eyeycwidmhau/>

Reporting that UNICEF Ireland has warned against expedited adoptions from Haiti. "It is too premature for the adoption of children that have been affected by the earthquake to take place. As was UNICEF's experience during the Indian Tsunami, every effort must first be taken to ascertain that these children are truly orphaned.

Anonymous, US will turn back Haitian boat people: Clinton, AFP News, 22 January 2010 (USA), <http://bit.ly/6DrAeY>

Reporting that US Secretary of State Hillary Clinton has stated that the United States will enforce its own laws and repatriate any Haitians who illegally enter US territory while fleeing quake-hit Haiti.

Nick Collins, **Haiti: Humanitarian aid prioritised at airport**, The Telegraph, 18 janvier 2010, <http://www.telegraph.co.uk/news/worldnews/centralamericaandthecaribbean/haiti/7020388/Haiti-Humanitarian-aid-prioritised-at-airport.html>

Reporting on differences in priorities of U.S. military and foreign governments in use of airport.

Melissa Dribben, At Haiti airport, piles of goodwill, no system, Philly.com, 22 January 2010 (Haiti), <http://bit.ly/5JolBT>

Reporting on the difficulties encountered by one volunteer medical worker attempting to collect a shipment of medical supplies from the Port-au-Prince airport.

Yesica Fisch & Martha Mendoza, Haiti government gets 1 penny of each US earthquake aid dollar, AP says, Huffington Post, 27 January 2010 (USA), http://www.huffingtonpost.com/2010/01/27/haiti-government-gets-1-p_n_438938.html

Reporting that less than a penny of each dollar the U.S. is spending on earthquake relief in Haiti is going in the form of cash to the Haitian government, according to an Associated Press review of relief efforts. The article states that each American dollar roughly breaks down to: 42 cents for disaster assistance, 33 cents for U.S. military aid, nine cents for food, nine cents to transport the food, five cents for paying Haitian survivors for recovery efforts, just less than one cent to the Haitian government, and about half a cent to the Dominican Republic.

Tim Funk & Franco Ordoñez, Graham charity hits Haiti at a run, NewsObserver.com, 24 January 2010 (USA), <http://bit.ly/bWHkTY>

Reporting on the speed and the open intentions to proselytize in American NGO Samaritan's Purse response to the Haiti earthquake.

Melissa Gray & Richard Greene, Haitian orphans rushed to new homes abroad, CNN, 18 January 2010 (USA and Netherlands), <http://bit.ly/4piY2v>

Reporting that officials in the US and Netherlands are dramatically reducing oversight and paperwork to speed the entry of Haitian orphans being adopted by their citizens.

Elizabeth Landau, **Medical help on hold as groups await transportation to Haiti**, CNN, 21 janvier, 2010

http://articles.cnn.com/2010-01-20/health/haiti.medical.aid.volunteers_1_haiti-medical-team-volunteers?_s=PM:HEALTH

Reporting on transportation and communication obstacles faced by medical aid in accessing Haiti.

Elizabeth Lee, 10 American Missionaries In Haiti Charged with Kidnapping and Criminal Association, Voice of America, 4 February 2010 (Haiti), <http://bit.ly/bTMvSg>

Reporting that Haitian authorities have charged 10 American missionaries with child kidnapping and criminal association for allegedly trying to take 33 Haitian children out of the country illegally. Haiti's government has suggested the case could be transferred to the United States but, for the moment, the ten have been returned to a jail in the capital Port-au-Prince where they have been held since their arrest last Friday.

Robert MacKey, Questions for Baptists, Praise for Scientologists in Haiti, The New York Times, 3 February 2010 (Haiti), <http://bit.ly/9uWBa2>

Reporting on the arrest of American missionaries seeking to move Haitian children out of the country and also on the positive reception provided to teams of "touch healing" scientologists working in Haiti. The article reports that the Scientologists have stated that "We got the U.S. Government to include us as part of the 'Joint Command' of U.S. and U.N. Military working with the 5 approved NGOs under the U.S. Southern Command. This entitled us to land and operate a Command Post out of the airport in Port-au-Prince".

James C. McKinley Jr. & Sean D. Hamill, 53 Haitian Orphans Are Airlifted to U.S., The New York Times, 19 janvier 2010, <http://www.nytimes.com/2010/01/20/world/americas/20orphans.html>

Reporting that U.S. government officials expedite adoption process of Haitian orphans.

Tim Padgett & Bobby Ghosh, Human Predators Stalk Haiti's Vulnerable Kids, Time, 27 January 2010 (Haiti), <http://bit.ly/cb2eWb>

Reporting on increasing concerns by the UN, Red Cross and NGOs about trafficking of children in the aftermath of the Haiti earthquake.

Ray Reyes, Haitians illegally in U.S. get amnesty, Tampa Bay Online, 21 January 2010 (USA), <http://bit.ly/8vT8P1>

Reporting that Haitian nationals illegally living in the United States before or on the day of the recent earthquake can stay and work for 18 more months without fear of deportation.

Stephanie Strom, Teaching Americans What Haiti Needs: Money, New York Times, 20 January 2010 (USA), <http://bit.ly/77PDlj>

Reporting on efforts by aid professionals to encourage Americans to donate cash and not used goods to the relief efforts in Haiti.

Bryan Walsh, After the Destruction: What Will It Take to Rebuild Haiti?, Time, 16 January 2010 (Haiti), <http://bit.ly/651QaK>

Reporting that lack of building code enforcement is considered to be a primary cause of the damage and death from the earthquake in Haiti.

February 2010

Anonymous, Architects say Haiti disaster shows need for building code, Jamaica Observer, 14 February 2010, <http://bit.ly/akBVog>

Reporting on renewed interest in a national building code for Jamaica in the light of the consequences of the earthquake in Haiti. It mentions the call from the Jamaican institute of Architects to raise earthquake awareness and preparedness through implementing proper laws on how to build earthquake-resistant buildings.

Anonymous, Dem lawmakers clear the way to much-needed medicine for Haiti, Press release from the Colorado House Democrats, 15 February 2010, <http://bit.ly/cmcyxD>

Reporting on the passing of a Bill by the Colorado Senate eliminating red tape to allow medical facilities to donate unused medications to non-profit organisations working with disaster relief.

Anonymous, DomRep Border with Haiti on Epidemiological Alert, Prensa Latina, 1 February 2010 (Dominican Republic), <http://bit.ly/cNiThT>

Reporting that an epidemiological alert is prevailing on Monday at the western Dominican border with Haiti, after an evangelical minister that stayed several days in the neighboring country died of meningococcal fever.

Anonymous, Haiti: Disaster fuels migration, diaspora fuels economy, IRIN, 21 February 2010, <http://bit.ly/9eviR0>

Reporting that hundreds of thousands more Haitians emigrate, not only to escape the impact of the latest disaster, but also to avoid the next one - as well as political strife and poverty. Haitians applying for Temporary Protected Status in the US would receive a work permit for 18 months, on the basis that their personal safety would be endangered by returning to Port-au-Prince. According to the article, UNHCR urged governments to suspend all involuntary returns and grant interim protection to Haitians regardless of their legal status on the basis of the emergency. The technical definition of refugees, according to the 1951 Refugee Convention, includes people fleeing persecution but not those fleeing natural disasters.

Anonymous, No taxes on humanitarian supplies, Haiti says, Miami Herald, 17 February 2010

Reporting on the confirmation, by Haiti's minister of Finance that humanitarian aid workers should not be paying taxes on relief supplies.

Anonymous, Trinidad & Tobago learning from Haiti quake, Trinidadexpress, 25 February 2010

Reporting on the country's disaster preparedness plans. According to the report, Prime Minister Patrick Manning announced his administration will be looking at Chile's disaster preparedness systems to better prepare for an earthquake as both countries are paying close attention to Haiti's recovery from the devastating 7.0-magnitude quake.

Katherine Baldwin, Transparency International targets corruption in Haiti aid effort and beyond, Alertnet, 1 February 2010 (Haiti), <http://bit.ly/dyCeEm>

Reporting that Transparency International, an NGO specialized in combating corruption, is working on setting up an aid monitoring project for Haiti to prevent corruption in the relief effort. The group has also just released a new handbook for humanitarian organizations on avoiding relief in their operations.



Jessica Desvarieux, **In Port-au-Prince, the Smell of Death, the Odor of Corruption**, Time.com, 6 February 2010, <http://www.time.com/time/world/article/0,8599,1959114,00.html?iid=sphere-inline-sidebar#ixzz0fKAtytHq>

Reporting on corruption in distribution of food aid and tents.

David Gauthier-Villars, Miriam Jordan & Joel Millman, **Earthquake Exposes Haiti's Faulty Adoption System**, The Wall Street Journal, 27 February 2010, http://online.wsj.com/article/SB10001424052748704625004575089521195349384.html?mod=WSJ_topics_obama

Reporting on the status of the adoption process and laws before and after the earthquake where most "orphan" have in fact relatives, even parents, that try to have them adopted by wealthy families in order to escape from poverty in Haiti. The situation is worsening say NGOs and UNICEF in the field.

Michelle Faul, Haiti to take land for camps, Associated Press (The Columbus Dispatch), 20 February 2010, <http://bit.ly/a0hJp6>

Reporting on the decision of the Haitian government to appropriate land to build temporary camps for earthquake victims. A minimum of 1,112 acres of flat land not in a flood plain is needed to settle 100,000 displaced people. Haitian law allows the government to seize land as long as it is in the public interest and the owners are fairly compensated.

Soledad O'Brien & Rose Arce, Red tape, bad traffic, no power: 'That's Haiti', CNN, 26 February 2010, <http://bit.ly/dnjKLG>

Reporting on the order from the Haitian Ministry of Economy and Finance outlining a new procedure for getting supplies into the country. Organizations now have to sign over the goods to the Haitian Department of Civil Protection which will review their request to get a tax exemption before releasing the goods.

Rachel Revehl, **Group says agents want fees before releasing Haiti aid**, The Fort Myers, Fla. News-Press, 2 February 2010, http://www.usatoday.com/news/world/2010-02-07-haiti-aid_N.htm

Reporting on irregular fees on entry of supplies charged by customs agents at Cap-Haitien airport.

Mica Rosenberg & Tom Brown, U.S. To Resume Haiti Medevac Flights, Reuters, 1 February 2010 (USA), <http://www.reuters.com/article/2010/02/01/us-quake-haiti-idUSTRE60R7FZ20100201>

Reporting that the U.S. government has indicated that it would resume military evacuation flights to the United States for badly injured Haitian earthquake victims after a four-day suspension over cost and treatment questions.

Mary Beth Sheridan, Aid groups fear Haitian relief diverts funds from other needs, The Washington Post, 12 February 2010, <http://bit.ly/aJpZvv>

Reporting on concerns being raised among humanitarian groups that programs for the needy in countries such as Sudan or Somalia could face cuts due to the fact that the U.S. government's assistance program has already committed more than half its annual budget to help earthquake-ravaged Haiti.

Ian Urbina, Paperwork Hinders Airlifts of Ill Haitian Children, The New York Times, 8 février 2010, www.nytimes.com/2010/02/09/world/americas/09airlift.html

Reporting that private medical evacuations of children to U.S. slowed due to fears of accusations of kidnapping due to difficulties in obtaining identity documentation.

March 2010

Bob Allen, Legal expert says remaining Baptist jailed in Haiti likely to be set free, Associated Baptist Press, 10 March 2010, <http://bit.ly/a8gp3t>

Reporting that unless new charges are filed, the last of 10 Southern Baptist mission volunteers jailed in Haiti on suspicion of child kidnapping will have to be released. Haitian Judge Bernard Saint-Vil told reporters that he was holding the remaining detainee to investigate what he viewed as inconsistencies in her testimony.

Anonymous, Haiti: Women at risk in the camps, IRIN, 9 March 2010, <http://www.irin-news.org/report.aspx?reportid=88360>

Reporting that given the overcrowding and meagre security, women living in Haitian camps are exposed to the risk of attack or rape. According to the report, the failure to meet established minimum disaster relief standards is creating serious security, privacy and dignity concerns.

Anonymous, Haitian president drops the ball on addressing corruption concerns, The Washington Post, 11 March 2010, <http://bit.ly/b62ke7>

Reporting on corruption concerns addressed during the Haitian President visit to Washington. Haiti has a long history of wasted and purloined foreign aid. Shattered institutions, an anaemic state, a history of graft and the sudden deluge of aid money make Haiti a perfect storm for corruption risk.

Katherine Baldwin, Haiti's most desperate reach for temporary U.S. lifeline, AlertNet, 26 March 2010, <http://bit.ly/bTJ00x>

Reporting on an initiative, from an U.S. lawyer, to help some of Haiti's most desperate earthquake survivors to apply for humanitarian parole in the United States. This U.S. Immigration policy allows individuals to enter the country for a year for urgent humanitarian reasons. The lawyer's team mission is thus to identify Haitians living in extreme poverty who have compelling reasons to leave.

Suzanne Bohan, Bay Area quake experts glean insights from Haiti and Chile tremors, Contra Costa Times, 28 March 2010, http://www.contracostatimes.com/news/ci_14770811?source=rss

Reporting on the findings of a team of earthquake experts after their return from Chile where they studied building codes and standards which significantly reduced the impact of the recent Chile earthquake. These lessons learned can provide good insight into whether Californian buildings would be able to resist major earthquakes and allow to implement, if necessary, new standards to strengthen disaster preparedness.

José de Cordoba & Evan Perez, U.S. Aids Arrest of Player in Haiti Abductions, The Wall Street Journal, 20 March 2010, <http://bit.ly/9vqNXz>

Reporting on the arrest of former self-styled legal adviser to a group of U.S. missionaries whose detention on charges of abducting Haitian children after the earthquake caused an uproar.

Olesya Dmitracova, Build well to save lives in disasters, experts urge, Reuters, 22 March 2010, <http://bit.ly/b4X7Sy>

Reporting that Poor construction in Haiti was a major reason why so many people died when a 7.0 magnitude earthquake struck. According to the report, in quake-prone Chile, the government is investigating to what extent rules on fortifying buildings against seismic shocks were followed. Safe construction is not part of international development policies, but there are hopes that it will now be included after Haiti and Chile.

Pascal Fletcher, Food dependency is poverty trap for quake-hit Haiti, Reuters, 26 March 2010, <http://bit.ly/blbbWE>

Reporting that multilateral lenders and aid groups must concentrate on making Haiti economically self-sustainable, especially in food, after the quake. US legislation passed in the past effectively increased the penetration of American rice into Haiti, which decimated that country's own rice production. The U.N. Food and Agriculture Organization (FAO), in collaboration with the Haitian government, has prepared a \$721 million investment blueprint for the agricultural sector aimed at developing rural areas and production and boosting distribution channels and agricultural services.

Pascal Fletcher, UK helping Haiti to restore quake-damaged jails, Reuters, 23 March 2010, http://uk.reuters.com/article/2010/03/23/idUKN23255239._CH_.2420

Reporting that Britain is helping Haiti to rebuild and improve its prisons damaged in the Jan. 12 earthquake as part of overall British assistance to the disaster-struck nation. Apart from helping to rebuild the damaged facilities, Britain would be advising on such areas as human rights and treatment of juvenile offenders, in order to create a better correctional system

Government of Haiti, Action Plan for the Reconstruction and National Development of Haiti, ReliefWeb, 18 March 2010, <http://bit.ly/clAx7Q>

Reporting on the proposed Reconstruction and National Development Action Plan of Haiti. The Action Plan acknowledges that damages and losses are not the outcome of just the force of the tremor. It is the result of excessive population density, a lack of adequate building standards, the catastrophic state of the environment and unregulated land use.

Linda A. Malone, The Responsibility to Protect Haiti, ASIL Insight - American Society of International Law, Volume 14, Issue 7, 10 March 2010, <http://bit.ly/bCOfdb>

Outlining the structures for consensual relief efforts by states and the United Nations, accepted international norms for humanitarian intervention in environmental disasters, and how these norms might be modified by international recognition of the responsibility to protect.

Gautam Naik, Why Bigger Quake Sows Less Damage, The Wall Street Journal, 1 March 2010, <http://bit.ly/cVhNLH>

Reporting on the massive earthquake that hit Chile last weekend and asks why it caused less destruction than the less powerful Jan 12 earthquake in Haiti and makes reference to the importance of having a building code and respecting its standards as "earthquakes don't kill people, buildings kill people" says David Wald of the National Earthquake Information Centre of the USGS .

Nicolai Ouroussoff, A Plan to Spur Growth Away From Haiti's Capital, The New York Times, 30 March 2010, <http://nyti.ms/dpSKPV>

Reporting on the reconstruction guidelines that the Haitian government unveiled at the donor's conference at the United Nations on Wednesday 31 March. This plan, set up by urban planners aims at building better through new standards and at promoting the growth of other cities than the Nation's Capital.

Frances Robles, Customs stalling aid efforts in Haiti, Miami Herald, 18 March 2010.

Reporting that, as millions of dollars in donated aid stream into Haiti, some groups and individuals have complained about being forced to pay custom taxes. According to the report, another encountered problem stalling aid efforts in Haiti is corruption.

Mary Beth Sheridan, In U.S. plan for Haiti, rebuilding government is key, The Washington Post, 31 March 2010, <http://bit.ly/bFcU8C>

Reporting on United States' administration wanting to build up Haiti's fragile government instead of working around as it has been done usually in the past.

April 2010

Anonymous, Haiti: Charges Against 10 Americans Still Pending, The New York Times, 19 April 2010, <http://nyti.ms/9CSqx7>

Reporting that the Haitian judge investigating 10 American missionaries accused of kidnapping for trying to take a busload of children out of the country said that no decision had been made on whether to drop any charges.

Anonymous, Haiti: Dying to get out, IRIN, 8 April 2010, <http://bit.ly/bxgWjV>

Reporting on the granting of humanitarian parole to Haitians recovering from the 12 January earthquake by the United States' government. The US government allows foreign citizens into the US in significant numbers "for urgent humanitarian reasons or significant public benefit". In February, legislation was introduced in both houses of Congress that would extend humanitarian parole to 55,000 Haitians whose immigration applications were approved before the earthquake but who face the prospect of waiting years before gaining entry.

Joseph Guyler Delva, Haiti approves key post-quake reconstruction body, Reuters, 16 April 2010, <http://www.reuters.com/article/2010/04/16/us-quake-haiti-reconstruction-idUSTRE63F39V20100416>

Reporting that Haiti's parliament has approved the creation of a commission that will allow foreign donors to participate in deciding how to rebuild the poor Caribbean nation after its devastating January 12 earthquake.

John P. Huston, Haiti: 'We're not getting the supplies we need', Pioneer Local, 29 April 2010.

Reporting on allegations of corruption among Haiti's local government and customs agents who are stopping supplies donated to the earthquake relief effort from getting into the country by imposing a new "donations tax".

Jennifer Rizzo, 33 Haitian quake survivors freed by immigration officials in Florida, CNN, 2 April 2010, <http://bit.ly/bEdsfB>

Reporting on the thirty-three Haitians, who were released Thursday from immigration detention facilities in Florida, more than two months after they arrived in the United States lacking proper immigration papers in the aftermath of their country's devastating earthquake. According to the report, after the earthquake, the United States extended "temporary protected status" clearance to Haitian nationals, but only to those present in the United States before the earthquake.

May 2010

Anonymous, Canada presses for Haitian elections, The Canadian Press, 21 May 2010, <http://bit.ly/b6Hz5i>

Reporting that the international community is pressuring Haiti to make a firm commitment to holding elections by the end of the year as domestic opposition grows to President René Prével's response to the earthquake. Haiti's constitution stipulates presidential elections be held November 28, ahead of the scheduled end to Prével's five-year term in February 2011.

Anonymous, Haiti president seeks to remain in office if post-quake election for successor is not held, Associated Press (FOXNews), 6 May 2010, <http://bit.ly/9RxP9L>

Reporting on the declaration of the Haitian President Rene Preval that he will stay in office up to three months past the end of his term if his earthquake-ravaged nation does not hold a presidential election as scheduled. The announcement set off an outcry from opposition lawmakers, who called the move unconstitutional and compared Preval to brutal dictators of the past. Electoral officials are struggling to hold the election as scheduled this fall as it copes with the loss of its headquarters and records, destroyed polling places and some 1.6 million displaced or deceased voters.

Anonymous, Haiti prosecutors seek 6 months in prison for US woman who tried to remove kids after quake, Associated Press (FOXNews), 12 May 2010, <http://bit.ly/9bG29w>

Reporting on a U.S. Missionary, who could spend six months in prison for her failed attempt to remove 33 children from Haiti following the Jan. 12 earthquake. The arrest came as the Haitian government was trying to control adoptions to prevent the trafficking of children after the earthquake.

Katie Nguyen, Land issues slow progress on Haiti shelter, ReliefWeb, 19 May 2010, <http://bit.ly/cM76k8>

Reporting that progress in providing more secure shelter for Haiti's earthquake survivors is being bogged down by land issues ahead of the onset of the storm season. According to the report, there wasn't a proper land registry system before the earthquake and this complicates the issue of the government taking land and allocating it for resettlement.

Deborah Sontag, Panel on Haitian Prison Deaths, The New York Times, 26 May 2010, <http://nyti.ms/bpuHu0>

Reporting on the establishment by the Haitian government and the United Nations on a joint commission of inquiry into the January 19 killings of a dozen or more inmates at a prison in Les Cayes, Haiti.

June 2010

Jacqueline Charles, Haiti unprepared for hurricanes, Kansas City Star, 5 June 2010.

Reporting on the official start of the 2010 Atlantic hurricane season. Disaster-prone Haiti is far from ready for what meteorologists predict will be a heightened storm season with at least 15 named storms. Few hurricane-resistant transitional houses have been built as the government and international aid groups continue to wrestle with land issues.

July 2010

International Organization for Migration (IOM), Haiti - Relocation of Vulnerable Community Thwarted by Land Dispute, ReliefWeb, 2 July 2010, <http://ptitlien.com/pwnj1>

Reporting that almost six months after the country was devastated by the quake, daily life is a misery for more than 1.5 million homeless individuals as land issues are not resolved.

September 2010

Jesse Dykstra, Haiti: 230,000 deaths, Canterbury: 0 deaths. Why?, The New Zealand Herald, 8 September 2010 (Haiti/New Zealand), <http://bit.ly/de01aR>

Reporting that learning from past earthquakes (especially the magnitude 7.8 Napier earthquake in 1931), New Zealand has implemented stringent building codes. On the contrary, Haiti has not benefited from stringent building codes so far.

Emily Troutman, In Haiti, Customary Delays at Customs Delay Progress, AolNews, 13 September 2010 (Haiti), <http://bit.ly/cCpS1H>

Reporting on problems organizations face with customs and the importation process in Haiti. More than 100,000 transitional shelters have been funded, but only 13,000 have actually been built.

October 2010

Anonymous, Funding: Unravelling the conundrum of US aid to Haiti, IRIN, 21 October 2010 (USA), <http://bit.ly/dmTpQX>

Reporting that US\$1.15 billion the US promised for Haiti reconstruction at the UN donors' conference in March had not reached the stricken nation because of a US senator's objection to a minor provision in the legislation that authorized the spending.

Alan Butterfield, Ronaldo Reario & Robert Dolan, The United Nations Humanitarian Civil-Military Coordination (UN-CMCoord) response to the Haiti earthquake, Humanitarian Exchange Magazine, Issue 48, October 2010, <http://www.odihpn.org/report.asp?id=3133>

Commenting on the specialized roles of military in disaster response, and the need to coordinate with humanitarian actors to best use resources and time.

November 2010

Anonymous, Cholera prevention activities continue, Jamaica Information Service, 6 November 2010 (Jamaica), <http://bit.ly/bVLgjl>

Reporting on the Ministry of health's decision on the intensification of all priority activities for cholera preparedness, prevention and response to ensure that the country remains cholera-free in light of the recent outbreak in neighbouring Haiti.

UN Office for the Coordination of Humanitarian Affairs, UN launches cholera plan for Haiti, ReliefWeb, 12 November 2010 (New York/Geneva/Haiti), <http://bit.ly/bQDWoq>

Reporting the launching of the Cholera Inter-Sector Response Strategy for Haiti, a plan intended to support the leading response of the Haitian Ministry of Public Health and Population to the current cholera epidemic.

December 2010

Martha Mendoza, Would-be Haitian contractors miss out on aid, The Associated Press (MSNBC), 12 December 2010, http://www.msnbc.msn.com/id/40631064/ns/world_news-haiti/t/would-be-haitian-contractors-miss-out-aid/

Reporting that Haitian firms have successfully won \$1.60 out of every \$100 of U.S. contracts now paid out to rebuild Haiti, even though giving local companies contracts is one of the most important aspects of reconstruction.

January 2011

Rory Carroll, Haiti one year on: suffering, lost opportunities and political paralysis, The Guardian, 6 January 2011, <http://bit.ly/h1vUei>

Reporting on the release of a report by Oxfam, alleging that the scant progress in rebuilding after the Haiti earthquake is related to governmental inaction and mistakes by the international community, in particular donors' failure to coordinate with local authorities.

Eric Dales, Haiti marks one year anniversary of devastating earthquake, South-South News, 13 January 2011, <http://bit.ly/fyIY2d>

Reporting that the Haitian government is "grasping for control of its social services sector, with over 12,000 non-governmental organizations providing most of the country's basic services," and noting that few of them are legally registered.

Franco Ordonez, Samaritan's Purse provides prayer, medicine to Haiti in time of cholera, McClatchy Newspapers, 26 January 2011 (Haiti),

Reporting on the work of American religious NGO Samaritan's Purse in Haiti, including some controversy over its proselytizing activities linked to its humanitarian assistance. The article reports that the NGO's director is "unapologetic" about "ministering to victims spiritually" but that also that Samaritan's Purse recently responded to criticism by asking the chaplains to stop preaching at its cholera clinics funded by the US government. The article also reports on the NGO's complaints about customs clearance and corruptions with regard to relief shipments.

Clarens Renois, Haiti faces NGO quandary, The Montreal Gazette, 8 January 2011, <http://bit.ly/gbzoJe>

Reporting on concerns about the extent to which foreign NGOs are relied upon for basic services in Haiti and the lack of governmental coordination or control over them.

Zuzana Vilikovská, Slovak aid still stuck at Haitian customs after 9 months, Slovak Spectator, 21 January 2011 (Haiti-Slovakia), <http://bit.ly/hq01Nv>

Reporting that the Slovak Interior Ministry has confirmed that a container holding a second shipment of humanitarian aid sent by Slovakia to Haiti following a devastating earthquake there a year ago is still awaiting clearance by Haitian customs after nine months.

The Fundamental Principles of the International Red Cross and Red Crescent Movement

Humanity / The International Red Cross and Red Crescent Movement, born of a desire to bring assistance without discrimination to the wounded on the battlefield, endeavours, in its international and national capacity, to prevent and alleviate human suffering wherever it may be found. Its purpose is to protect life and health and to ensure respect for the human being. It promotes mutual understanding, friendship, cooperation and lasting peace amongst all peoples.

Impartiality / It makes no discrimination as to nationality, race, religious beliefs, class or political opinions. It endeavours to relieve the suffering of individuals, being guided solely by their needs, and to give priority to the most urgent cases of distress.

Neutrality / In order to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.

Independence / The Movement is independent. The National Societies, while auxiliaries in the humanitarian services of their governments and subject to the laws of their respective countries, must always maintain their autonomy so that they may be able at all times to act in accordance with the principles of the Movement.

Voluntary service / It is a voluntary relief movement not prompted in any manner by desire for gain.

Unity / There can be only one Red Cross or Red Crescent Society in any one country. It must be open to all. It must carry on its humanitarian work throughout its territory.

Universality / The International Red Cross and Red Crescent Movement, in which all societies have equal status and share equal responsibilities and duties in helping each other, is worldwide.



International Federation
of Red Cross and Red Crescent Societies
www.ifrc.org **Saving lives, changing minds.**