Consultative meeting on Law and Disasters in Preparation for the 32nd International Conference of the Red Cross and Red Crescent

How to Accelerate Progress in the Facilitation and Regulation of International Disaster Assistance
African Union, Addis Ababa, Ethiopia (30 June and 1 July 2015)
Background

The International Federation of Red Cross and Red Crescent Societies (IFRC) in partnership with the African Union Commission (AUC), held on 30 June and 1 July 2015 a Consultative Meeting on Law and Disasters: How to Accelerate Progress in Improving the Facilitation and Regulation of International Disaster Response. This was part of a global consultation process in preparation for the 32nd International Conference of the Red Cross and Red Crescent (International Conference) in Geneva, in December 2015.

The consultation took place in Addis Ababa at the African Union Commission and gathered representatives from 20 African governments, disaster management agencies, 10 National Red Cross Red Crescent Societies, four African regional economic communities, UN agencies, and academia, to identify legal priorities in the context of disasters, including international response, disaster risk reduction and gender-based violence in emergencies.

Day 1 – 30 June 2015

Welcoming Remarks and Introduction

The participants were firstly welcomed by Wro Frehiwot Worku, Secretary General of the Ethiopian Red Cross Society, who expressed the relevance of having strong legal frameworks for disaster management, highlighting the benefits of having engaged in a Disaster Law Project through the revision of Ethiopia’s disaster risk reduction (DRR) legislation. Mr Reta Alemu, Director General for International Legal Affairs of the Ethiopian Ministry of Foreign Affairs, stated that Africa needs to be prepared to provide effective and timely assistance to victims of disasters, through the implementation of legal mechanisms to facilitate and accelerate international disaster response. He also highlighted the importance of creating a regional mechanism to address international cooperation between National Societies and Governments.

Mr Abdoul Azize Diallo, President of the Senegal Red Cross Society, then encouraged participants to take the opportunity that this forum offers to reflect together and prepare the Africa position to the 32nd International Conference of the Red Cross and Red Crescent (International Conference). Mr Alasan Senghore, IFRC’s Director for Africa, expressed that Africa is an essential actor in the development of the global agenda to position international disaster response law (IDRL) and DRR law at the 32nd International Conference and the World Humanitarian Summit. He also encouraged a fruitful open discussion on Africa’s perspectives on legal facilitation of international response and the developments of efficient DRR laws. Finally, Dr Khabale Matlosa, AUC Director of Political Affairs, noted that disaster preparedness and mitigation are among the strategic objectives of the African Union in the framework of the African Union’s Disaster Management Policy. He stated that this meeting presented an opportunity to prepare the continent for humanitarian action, calling on the development of legal frameworks with defined rights, duties and responsibilities for all actors.

Following an introduction of all participants, Dr Karna Soro, IFRC’s Head of Humanitarian Diplomacy and Permanent Representative to the African Union and International Organisations, presented the agenda and objectives of the consultation meeting.

Session 1: Regulatory challenges in international disaster response

Ill-equipped and unprofessional foreign teams, and provision of inappropriate or expired relief items, are just a few examples of challenges faced by international providers when responding to disasters, stated Mr David Fisher, Global Coordinator of the IFRC Disaster Law Programme.
Since 2001, the IFRC together with Red Cross and Red Crescent National Societies (National Societies), has been working with governments, the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), and other organizations in the promotion of stronger legal frameworks for disaster response, developing the “Guidelines for the Domestic Facilitation of International Disaster Relief and Initial Recovery Assistance” (IDRL Guidelines). Since their adoption at the 30th International Conference in 2007 by States parties to the Geneva Conventions, National Societies, with the technical support of the IFRC, have assisted their governments in domesticating the IDRL Guidelines to better facilitate international disaster response. Moreover, IFRC jointly with UNOCHA and the Inter-Parliamentary Union, developed a Model Act to facilitate the adoption of the IDRL Guidelines into domestic laws.

To date, 19 countries have adopted laws or procedures drawing on the IDRL Guidelines, four of which are in Africa. As the vast majority of countries lack clear laws for disaster response, the main obstacle to developing such laws is the slow evolution from interest to adoption, and there is a tendency to postpone legal developments of concrete details to subsequent instruments. In 2015, the IFRC’s Disaster Law Programme is focusing on accelerating the progress on IDRL, and is preparing a resolution on the topic for discussion at the 32nd International Conference.

Mr. Abdoulaye Diallo, IDRL Project Manager/RRC- representing the Senegalese Red Cross Society (SRCS) interjected explaining the genesis of the IDRL project in Senegal and the activities SRCS has undertaken so far. A workshop was organized in February 2015 which saw the participation of key disaster management stakeholders and partners. Mr. Abdoulaye stressed the advantages available to the NS including, the support and guidance of the Senegalese government as evidenced by the presence of the Director of Civil Protection of the Senegalese government at the meeting.

Mr. Fisher’s presentation was followed by a panel comprised of Ms Emebet Negussie, IFRC Disaster Law Programme Officer for Africa; Prof. Yarga Larba, Legal Advisor of the Burkinabe Red Cross Society, Mr Ahmed Idris, Head of Policy and Advocacy of the Kenya Red Cross Society and Mr Roy Nibourette from the Seychelles Red Cross Society, who provided an update on the IDRL processes that have been undertaken in their respective countries to strengthen disaster laws at domestic level.

Subsequently, participants were divided into four groups to discuss the legal challenges in international disaster response.

Working group session 1: Sharing experiences: Legal challenges in international disaster response

The questions and key points from the discussions are set out below.

1) What are the most common/important regulatory problems today/ in the future for international disaster response?

- Quantity and diversity of actors (military, private sector, individuals), and especially the role of the military in relief operations.
- Lack of coordination between national authorities and international responders, and within national authorities.
- Lack of accountability by State and international actors, as well as lack of consultation with communities.
- Inappropriate relief goods.
- Bureaucracy/ slow process in passing legislation.
- Invasion of states’ sovereignty, where states fall victims of response actors.
- Inability of laws to give answers to all disaster issues (too much credit being given to the law)
- Lack of knowledge of disaster law issues, including regulation of international disaster response

2) **What priority should we place on resolving these problems?**
- High priority should be placed on effective leadership and coordination.
- Putting the respect of the population in need first.
- The community should be trained to be the first responder.

3) **How can we accelerate the adoption and implementation of comprehensive national procedures on international disaster response?**
- Through a regional treaty promoted by the regional organizations, then cascaded to state level.
- Bringing more politicians on board, and having more inclusive discussion with them so that they are aware of the issues and are cautious in passing political decisions.
- Through IDRL projects carried out by the National Societies with the assistance of the IFRC.
- Respect for states’ sovereignty
- Setting standards on international assistance
- Advocacy and better resource allocation
- Response and mitigation should be comprehensively addressed (emergency preparedness is very much related to risk reduction)
- Strengthen partnership with other stakeholders.

**Session 2: The role of regional and international law**

Chaired by Mr. David Fisher, the panel discussion on regional developments was initiated by **Mr Olabisi Dare**, Head of Humanitarian Affairs, Refugees and Displaced Persons, Department of Political Affairs at the AUC, who highlighted that the implementation of the AU Disaster Management Policy will be a strategic process. It will largely depend on the regional economic communities (RECs) and member states to carry forward their respective operational and tactical processes to deal with disasters. Mr. Dare identified as a next step the need to harmonize the various international regulatory frameworks, to address the existing domestic contradictions currently subsisting in AU Member States, within the framework of a continental instrument.

**Mr Mourad Ben Dhiab**, Secretary to the African Union Commission on International Law, shared the progress on the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), which sets out a framework for the cooperation among States with regards to internally displaced persons (IDPs) in Africa, either as consequence of conflicts or disasters. Mr. Ben Dhiab stressed the importance for states to adopt the Kampala Convention in their national laws, using the forthcoming model act, and thus guaranteeing the respect and protection of IDP’s rights.

Representatives from the RECs shared their progress on the topic and encouraged States to put in place mechanisms for humanitarian response. For instance, ECOWAS, IGAD and ECCAS mentioned the need to establish a regional mechanism for disaster response and coordination, drawn from best practices. Moreover, the adoption of treaties at national level once ratified is crucial, since this remains to be a gap faced by some African states.
Ms Nadia Khoury, IFRC Disaster Law Programme Coordinator for Africa, discussed the state of play in the international regulation of disaster response. Ms. Khoury highlighted the work of the International Law Commission in producing the “Draft articles on the protection of persons in the event of disasters”, which focus mostly on international assistance. In mid-2015, the International Law Commission was still receiving comments on the proposed articles. In 2016, this instrument may be proposed as a draft treaty for consideration by the United Nations General Assembly.

Working group session 2: Reflecting on the relevance of strengthening the regulation of international disaster response

The questions and key points from the discussions are set out below.

1) *Would a global “flagship treaty” on disaster cooperation add value? Would a regional treaty add value?*
   - A global treaty would enable uniformity in understanding and greater awareness on issues of international disaster response.
   - A global treaty will strengthen accountability and will increase the principle of reciprocity and cross-border assistance.
   - A global treaty would encourage the practice of the principle of reciprocity among states.
   - A global treaty would promote the effectiveness of emergency response teams in cross border assistance.
   - A global treaty would take too much time. It is advisable to work on a regional treaty instead, that could address problem and context-specific issues.
   - A regional treaty would be the best way to address international disaster response, as it would tackle common regional problems, and cascade to the national level.
   - A global non-binding instrument on disaster cooperation should be developed, and cascaded down to the regional and national levels.

2) *If it would be a desirable solution, is it politically possible to achieve? How might it be done?*
   - States need to be obligated to seek outside humanitarian assistance where a disaster is beyond their domestic capacity.
   - Through the RECs, by promoting a regional consultation and eventually a binding instrument.
   - Progressive introduction of the treaty idea for better gain of political will.
   - Cement the approach not only on the imposition of obligations on states but also, by stipulating benefits that can be drawn from having international regulations in place.
   - Integrating IDRL in AUC’s Humanitarian Policy Framework and in other regional frameworks.
   - Getting the community involved for stronger support through:
     - The formation of civil society coalition
     - Interest groups
     - Court decisions (develop the jurisprudence)
     - Make use of upcoming global forums (such as African Working Group meeting in Yaoundé, WHS, SSD, IC on Climate change, International Conference of the Red Cross and Red Crescent, etc.) to raise awareness and build solidarity on the proposition

3) *If alternative or additional solutions should be implemented, how do we achieve them?*
• Following the Ebola emergency this is the right time for Africa to work on a binding document that addresses emergency response.
• Make use of existing guidelines, policies, and frameworks.
• Share lessons learned and share best practices.
• Enforce monitoring and evaluation—led by African state champions, who are in favour of a treaty.
• Build the capacity of NSs for better advocacy.

Day 2 – 1 July 2015
Session 2 (cont.)

Following the recap on the main discussions held on the previous day, participants were invited by Mr David Fisher to continue the discussion on the role of regional and international law in plenary. The questions and key points from the discussions are set out below.

1) How would you recommend that the 32nd International Conference of the Red Cross and Red Crescent (12/2015), and the World Humanitarian Summit (5/2016) address IDRL issues?
   • Need for a global treaty or resolution to cascade down to the national level. Legal preparedness for disasters needs to be part of the effectiveness pillar at the Humanitarian Summit, so all States would feel empowered to develop an instrument.
   • Through the formulation of appropriate language for receiving and sending states, in order to be widely accepted.
   • National Societies should bring to the attention of the States the need of a binding instrument for disaster response
   • Determine who should be in charge of supporting State parties to develop this instrument and who should they report to.

2) What key IDRL issues would you like to see addressed within the Africa region?
   • We need to look into the African context as we are planning to work with African member states. Africa’s perspective on humanitarian policy making and legislation is different from the western approach.
   • Greater coordination in disasters. The WHS is a good venue to discuss how we develop a proposal.
   • Greater responsibility and commitment from states in protecting their own citizens.

3) What next steps would you like to see on these issues (and those discussed earlier in this workshop) in the Africa region?
   • WHS regional consultations have included legal preparedness in its agenda.
   • The International Conference is an opportunity to gather the Red Cross and Red Crescent components and governments, and determine the main rights and duties.
   • Following Cameroon’s example when approaching different sectors to form a taskforce to advance the improvement of disaster management issues.
   • Politicians should involve the technicians. National Societies need to create synergies with their States to work on these issues under the national plan.
   • Identify a focal point within the states.

Session 3: Disaster risk reduction legislation and other disaster law issues
Mr Aliou M. Dia, Africa Regional Team Leader, Climate Change - DRR – Energy, at the United Nations Development Programme (UNDP), shared the findings of the IFRC/UNDP Multi-Country Report on Law and Disaster Risk Reduction. The report concluded that legislation is a key element for strengthening disaster risk governance. Moreover, policy frameworks can set direction for legal reforms, provide details and implementation mechanisms for new disaster risk management (DRM) laws and enhance the content of existing or outdated laws. However, challenges in the implementation of DRM laws remain, due to unclear legal provisions, insufficient resources for DRR and weak mechanisms for monitoring and oversight, amongst others.

Ms Nadia Khoury then provided an overview of the tool: “Checklist on Law and Disaster Risk Reduction”, based on the conclusions of the Multy Country Report on Effective Law and Regulation for DRR, together with the opinions and experiences of stakeholders gathered through ten consultations around the world. The Checklist provides 10 primary questions, as well as guiding questions to help governments identify the strengths and gaps in their domestic legislation on DRR. A pilot version of the Checklist was launched at the World Conference on Disaster Risk Reduction (WCDRR) in Sendai. Several countries will “pilot” it over the next few months and a final version of the Checklist will be presented for its adoption at the 32nd International Conference.

Over 0.9 billion people globally and over 175 million in Africa were affected by droughts during 2000 to 2014, stated Mr. Mathewos Hunde, Head of Sub-Office of UNISDR. He noted that 185 UN member State, along with various humanitarian actors, endorsed the Sendai Framework for DRR 2015-2030 (Sendai Framework) at the WCDRR 2015. Comprised of seven targets and thirteen guiding principles, the main goal of the framework is the prevention and reduction of risk to build resilience. It also focuses on preventing new risks, and call for coherence in policies and programmes across sustainable development. Africa is the only continent with specific mention in the Sendai Framework for: increasing domestic resources, enhancing implementation capacity and capability, and strengthening of international cooperation and partnerships at the regional and international levels.

Mr Fanja Nantenaina Ratsimbazafy, Secretary General of the Malagasy Red Cross Society shared the experience of his country, which is annually affected by the consequences of tropical storms and cyclones. The National Society, exercising its auxiliary role, developed a case study project analyzing current national DRR legislation and its implementation at all levels. As a consequence of the findings of the study, a taskforce was formed to consider the introduction of a framework on DRR in the country. The national policy and strategy are currently under revision using the findings of the study as a benchmark.

Mr David Fisher introduced the audience to the topic of “Providing supportive legal frameworks for saving lives through first aid”. National Societies have long placed first aid training and practice at the centre of their humanitarian work, training more than 17 million persons in 2010 alone. However, the legal environment for first aid is not as supportive as might be expected. There is significant variability among states as to whether and in what circumstances first aid training is mandated. Particular concern has been raised by gaps in first aid training in schools, including with regard to school personnel and in school curriculum for children. Moreover, few states provide any legal protections to trained first aiders in the event that they are unsuccessful in saving persons in emergencies. Additional consultations will be taking place on these issues, including discussion at the 32nd International Conference.
Ms Anne Christensen, Senior Humanitarian Affairs Delegate from the IFRC Delegation to the UN, presented on the legal aspects of response to and prevention of sexual and gender-based violence (SGBV) in emergencies. In line with the Red Cross and Red Crescent fundamental principles and humanitarian values, the IFRC strives for a world in which gender equality and respect for other forms of diversity are pro-actively embraced. With the aim of considering the legal frameworks and policies to prevent violence in disasters, the IFRC has embarked in a research that has covered ten countries in addition to a mapping exercise. A resolution to be presented at the 32nd International Conference aims to cover SGBV awareness and prevention, provision of support services, and laws and institutions to prevent, investigate, prosecute SGBV in emergencies.

Following the presentations, the audience was divided in groups to discuss on prioritizing DRR legislation and GBV. The questions and key points from the discussions are set out below.

**Working group session 3- Recommendation on prioritizing legislation on DRR and GBV**

1) **How would you recommend that the 32nd International Conference of the Red Cross and Red Crescent (12/2015), and the World Humanitarian Summit (5/2016) address these issues?**
   - Improve community resilience through a DRR policy that address social vulnerabilities of the community. Move from vulnerability to resilience.
   - NSs should approach its government to support the Resolution on DRR law and SGBV at the International Conference, and pledge to work on the DRR, IDRL and SGBV issues.
   - Make the implementation of existing laws a priority.
   - Introduce a parallel meeting at the IC for the discussion of these issues.
   - Implement programmes that protect children in disasters, and build capacity of NS for this
   - Reinforcing institutional mechanisms.
   - The inclusion of men as victims of GBV or sexual violence in the disaster context.

2) **What key DRR and Sexual and Gender Based Violence (SGBV) issues would you like to see addressed in the Africa region?**
   
   **DRR**
   - There are sectoral laws but they are not fully integrated in one instrument. The challenge is to comprehensive integrate and gather these sectorial laws in one place.
   - Strengthening accountability and clarification of roles and responsibilities of the different actors for disaster risk management
   - Funding for DRR activities.
   - Strengthen early warning system capacities that could cascade down to the community level.
   - Empowerment of community.

   **SGBV**
   - Crimes in emergency situations need to be addressed
   - Strengthen rule of law mechanism in emergency situations and prevention of impunity
   - Clarity the definition of GBV
   - Focus on prevention.

3) **What next steps would you like to see on these issues in the Africa region?**
   - Strengthen our relations with our neighbouring countries for IDRL and DRR purposes.
• Strengthen the health early warning system for emergencies.
• Integrate indigenous knowledge with technology.
• Integrate the private sector into DRR strategy.
• Create a focus team/taskforce in each country to work in the mapping and consolidation of the existing laws, enact them, identify their gaps and develop the legislation needed.
• Work on liability issues for authorities.
• More regional consultation for the development of an instrument in Africa.

4) How might we further improve the Checklist on law and DRR?
• Take into consideration ancestral/indigenous knowledge on DRR.
• Include laws dealing with health on emergencies and the special needs of those who are working in epidemics (e.g. protection of health providers)
• Rights of those affected by health emergencies (e.g. discrimination).
• On question 3: add health regulations when considering sectoral laws.
• On question 6: add on checklist assessment of health issues.

Closing

Participants were warmly thanked for their presence and advice throughout the two day consultative meeting, by Mr Olabisi Dare on behalf of the AUC, and Mr David Fisher on behalf of the IFRC. As part of the global preparation for the 32\textsuperscript{nd} International Conference, the participants were reassured that their valuable inputs from the African region will be reflected in the resolutions to be proposed, and the elaboration of strategies to accelerate the progress for the facilitation and regulation of international disaster response.

Participants

See enclosed annex.