



# International Disaster Response Laws (IDRL) in Sierra Leone

Legal preparedness study for strengthening the legal and policy framework for foreign disaster response

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## About this report

This report was commissioned by the IFRC and the Sierra Leone Red Cross Society and prepared by Cosmotina Jarrett. It analyses Sierra Leone's current legal and policy frameworks for addressing the common issue areas related to receiving international disaster assistance.

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## 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

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# Executive summary

In February 2009, the International Federation of Red Cross and Red Crescent Societies and the Sierra Leone Red Cross Society initiated an International Disaster Response Laws, Rules and Principles (IDRL) project in Sierra Leone with the aim of assisting the Government of Sierra Leone to evaluate its legal preparedness for international disaster response.

This report looks closely at existing laws in Sierra Leone relevant to international disaster response in light of global practice and the “Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance” (“IDRL Guidelines”), which were adopted by the State Parties to the Geneva Conventions at the 30<sup>th</sup> International Conference of the Red Cross and Red Crescent in 2007. Through desk research and consultations with key ministries and disaster response actors, it sought to gain an understanding of how existing Sierra Leone law addresses common problem areas in international disaster operations.

Sierra Leone has signed several international instruments relevant to the subject and already has some relevant national legislation and policy. Nevertheless, several gaps have been identified. Some of the aforementioned international instruments remain unimplemented and the key plans and policies remain in the draft stage. Other gaps in the law include the lack of expedited procedures for the entry of disaster relief personnel and goods, the lack of a system for expedited registration of foreign non-governmental organizations (NGOs) and cumbersome procedures with regards to duty waivers and duty free concessions for relief consignments. This study therefore concludes that what is required is a consolidation or further codification of disaster laws.

# Acknowledgements

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The research for this report was undertaken by Ms. Cosmotina Jarrett, private attorney and Legal Adviser to the Sierra Leone Red Cross Society. Oversight and technical guidance for the project were provided by Mr. Eilif Torma, Ms. Sanne Boswijk and Mr. David Fisher of the IFRC.

At the national level, the research team worked under the supervision of the National Task Force for the project, chaired by Mr. John Rogers of the Office of National Security and the active participation of SLRCS Secretary General, Mr. Emanuel Hindovei-Tommy. We would like to thank all members of that Task Force and the participants at the projects workshops and interviews for their valuable assistance.

# Acronyms

AU	African Union
DRR	Disaster Risk Reduction
ECOWAS	Economic Community of West African States
ECOMOG	Economic Community of West African States Monitoring Group
GOSL	Government of Sierra Leone
IDRL	International Disaster Response Laws, Rules and Principles
IEC	Information, Education and Communication
IFRC	The International Federation of Red Cross and Red Crescent Societies
MOHS	Ministry of Health and Sanitation
MOFED	Ministry of Finance and Economic Development
MRU MANO	River Union
MSWGCA	Ministry of Social Welfare, Gender and Children's Affairs
NACSA	National Commission for Social Action
NASSIT	National Society Security and Insurance Trust
NGO	Non-governmental Organisations
NRA	National Revenue Authority,
ONS	Office of National Security
SLRCS	Sierra Leone Red Cross Society
SOPS	Standard Operating Procedures
UN	United Nations
UNCCD	United Nations Convention to Combat Desertification
UNDP	United Nations Development Programme
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
WAQP	West African Quality Programme
WHO	World Health Organization

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# Chapter 1

## What is IDRL?

Research indicates that disasters are on the rise all over the world. For example, in a recent report, the Red Cross and Red Crescent Climate Centre concludes that weather related disasters are on the increase, which is directly related to climate change.<sup>1</sup> Depending on the scale of a disaster, any State may find its capacities overwhelmed by a major catastrophe. In such circumstances, international assistance may be critical to save lives and ensure the dignity of affected communities. It is therefore important that States – even those without recent experience receiving outside assistance – be prepared to address the need for outside assistance.

For the last ten years, the International Federation of Red Cross and Red Crescent Societies (IFRC) and its member National Societies have spearheaded research and consultations on the regulatory issues related to international relief, through the “International Disaster Response Laws, Rules and Principles” (IDRL) Programme. At the national level, they have found that legislation often does not facilitate international disaster response. This gap in domestic legislation may result in unnecessary delays at the border of the State in need of assistance, unnecessary expenses and slow or even failed aid distribution. In practice, international disaster response operations regularly suffer from bureaucracy caused by domestic legislation and procedures. Although there are several international legal instruments relating to disaster response, their application is often limited by region, type of disaster or type of actor. In addition, treaties relating to disaster response are not always widely signed, ratified or implemented. On the other hand, simply dropping all controls on incoming assistance has not proven to be a viable solution; uncoordinated and sometimes inappropriate behaviour on the part of assisting actors can also lead to a failure to deliver efficient and high-quality disaster relief. It is therefore of the utmost importance that legal and bureaucratic bottlenecks be minimized as much as possible, while adequate controls and coordination are maintained by domestic authorities.

The “Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance” (also known as the “IDRL-Guidelines”) are a set of recommendations meant for national governments. They are a practical tool for the preparation of policy and laws for the facilitation of international disaster response, based on existing international legal and policy documents. The essence of the IDRL Guidelines is to remove unnecessary bureaucratic obstacles and stimulate adequate coordination of disaster operations, in order to bring about more efficient and a higher quality of disaster response, while reaffirming the government of the affected State as the primary authority in disaster response operations in its territory.

Regulatory issues the IDRL Guidelines aim to address are, amongst others, related to:

- Customs procedures
- Taxation
- Obtaining visa and work permits
- Recognition of certificates of specialized personnel (in particular, medical personnel)
- Quality of relief items and services

In November 2007, during the 30th International Conference of the Red Cross and Red Crescent Societies, the IDRL Guidelines were formally adopted by all States party to the Geneva Conventions, including Sierra Leone. The Guidelines are attached to this report in Annex 1 and may also be found at <http://www.ifrc.org/idrl>.

<sup>1</sup> Red Cross Red Crescent Climate Guide pp. 14 – 17, available at <http://www.ifrc.org/Page-Files/41203/introduction-guidelines-en.pdf>.

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# Chapter 2

## Methodology

This study was commissioned by the International Federation of Red Cross and Red Crescent Societies (IFRC) and the Sierra Leone Red Cross Society (SLRCS). The project was endorsed by the Government of Sierra Leone, which provided its cooperation to the researcher of this report during the procedure by chairing an IDRL Taskforce..

The study examined the legal and policy framework in Sierra Leone as well as regional and international instruments to determine their likely impact on international disaster response operations. The research included a desk study of relevant laws, procedures, policies and practice. During this desk study, relevant documents were analysed, including, but not limited to, the following:

- Policies and legislation specific to disaster situations, emerging diseases, and disaster contingency plans in Sierra Leone;
- Rules applicable to foreign and local Non-Governmental Organisations and International Organisations with regard to registration requirements, privileges and immunities, standards of quality and accountability;
- Customs, tax, import and export requirements for relief goods, medicines, vehicles and equipment;
- Airport / shipping port regulations and procedures for relief flights/shipments;
- Bilateral or multilateral treaties to which Sierra Leone is a party.

The majority of the documents reviewed did not focus specifically on disasters or disaster response but rather contained side reference to disasters and its related issues. It is evident that more work is needed in the area of disaster response as several of the national policies are still in the draft stage.

This desk study was complemented by interviews with relevant domestic stakeholders in disaster management. These included, amongst others, representatives from the Office of National Security, the Ministry of Finance and Economic Development, the Ministry of Health and Sanitation and the Ministry of Foreign Affairs. A total number of 14 key stakeholders from various organisations and government institutions were interviewed.<sup>2</sup>

Moreover, two stakeholder workshops were convened in Freetown on 9 July and 4 December 2009, respectively, in which representatives of the SLRCS, the Government of Sierra Leone, as well as stakeholders from humanitarian organizations evaluated the regulatory issues Sierra Leone faces. Participants included Mr. Emanuel Hindovei-Tommy, Secretary General of the Sierra Leone Red Cross Society, Mr. John Rogers of the Office of National Security and Chairman of the IDRL Taskforce in Sierra Leone, Ms. Mary Mye-Kamara, Director of the Disaster Management Department in the Office of National Security and Mariatu Swarray, representative of the UNDP Country Director.

This report was originally circulated in December 2009 and republished in its present form in 2012.

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<sup>2</sup> See Annex 3.

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# Chapter 3

## Country risk profile

Several reports, studies and evaluations, including the National Hazards Assessment Profile, identify the most likely scenarios involving large scale disasters that may require international assistance in Sierra Leone. On this basis, we can indicate several scenarios that may cause disasters of a scale that might require assistance from abroad, be it from neighbouring countries or from overseas.<sup>3</sup>

Sierra Leone has certainly known calamity, in particular due to the ten-year civil war, from which it is still recovering. When it comes to disasters, the negative interactions between man and his environment potentially create recipes for natural and man-made disasters outside of the context of armed conflict. A common example in Sierra Leone is deforestation, which has the potential to exacerbate water shortages, landslides, rock falls and land degradation. The climatic condition of the country is another contributing factor. During the dry season, fire disasters are prevalent, especially in the *harmattan* period (December to February). In the rainy season, due to heavy torrential rains, the rivers overflow their banks, which gives rise to the annual occurrence of flooding.

According to the National Disaster Preparedness and Response Plan (Draft) the disasters to which Sierra Leone is prone include:

i. Natural hazards, which include:

- a. weather and climatic hazards: draughts, water shortage, tropical storms, and lightning
- b. geological hazard: coastal and upland erosion, mud and land slides, rock falls
- c. ecological hazards: bush fire, deforestation and pollution
- d. pest hazards: insect, and animal pest and livestock diseases
- e. epidemic hazards: HIV/AIDS, cholera, malaria, typhoid, lassa fever, tuberculosis and yellow fever.

ii. Man-made hazards, which include:

- a. population movement
- b. waste
- c. drug abuse
- d. civil strife
- e. dilapidated building
- f. terrorism
- g. accidents.

Key legal issues arising from these scenarios were identified using the IDRL Guidelines as a framework for analysis. The legal issues identified include: customs duties, delays and restrictions on goods and equipment, facilitation of services for international relief actors (i.e. entry fees and visa for personnel, obtaining legal status for relief providers and their organizations, recognition of professional qualifications, quality of goods and accountability to beneficiaries) and, last but not least, coordination between relief providers to avert duplication.

<sup>3</sup> See also: <http://www.preventionweb.net/english/countries/statistics/index.php?cid=154>.

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## **Chapter 4**

Overview of legal and  
policy instruments relating  
to disaster management

In Sierra Leone, a number of legal provisions relating to disaster management are in place, however, they are scattered amongst general laws. In addition, two new policies relating to disaster management are being drafted. The government has pledged its commitment to international co-operation by signing international and regional agreements relating to disaster risk reduction, climate change and international disaster response related treaties. However, the majority of these instruments have not been incorporated into national legislation.<sup>4</sup> This chapter provides an overview of these international and national instruments. The analysis of these will be addressed in the following chapters.

## 4.1 International instruments

In this report, we have divided international instruments into two categories: (1) international instruments of a global nature and (2) regional instruments pertaining to Africa in particular, like those signed in the context of the African Union (AU), or the Economic Community of West African States (ECOWAS).

Sierra Leone is a signatory to several international instruments dealing with disasters, as well as the major human rights treaties, which contain clauses relevant to disaster response. The list below is not exhaustive but contains the major instruments dealing with disasters and the dates that these instruments and conventions were signed or ratified by Sierra Leone.

### Disaster risk reduction instruments

- Vienna Convention for the Protection of the Ozone Layer 1985. Signed on 27 November 2001.
- Montreal Protocol on Substances that Deplete the Ozone Layer 1987. Acceded to on 29 August 2001.
- United Nations Framework Convention on Climate Change (UNFCCC), 1992. Ratified on 22 June 1995.
- The Kyoto Protocol as a result of the UN Framework Convention on Climate Change. Signed on 11 February 1993 and ratified on 7 June 2005.
- Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD). Signed on the 11 November 1994 and ratified on 25 September 1997.
- Hyogo Framework for Action 2005 – 2015: Building the Resilience of Nations and Communities to Disasters. Adopted by the World Conference on Disaster Reduction, meeting from 18-22 January 2005 in Kobe City, Japan. Sierra Leone has submitted a progress report on its implementation of the Framework in October 2010.<sup>5</sup> It is this Framework that inspired the development of the Draft Disaster Management Policy.

### IDRL treaties

- Convention on the Privileges and Immunities of the United Nations. Succession 13<sup>th</sup> March 1962.
- Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations and its Annexes. Succession 13<sup>th</sup> March 1962.

<sup>4</sup> The Ministry of Foreign Affairs of Sierra Leone was the key institution contacted to establish the number of IDRL bilateral or multilateral treaties, agreements and conventions that Sierra Leone has signed and ratified.

<sup>5</sup> [http://www.preventionweb.net/files/16241\\_sle\\_NationalHFAPprogress\\_2009-11.pdf](http://www.preventionweb.net/files/16241_sle_NationalHFAPprogress_2009-11.pdf).

- International Telecommunication Convention (with annexes, final protocols, additional protocols, recommendations and options). Ratified on the 25<sup>th</sup> November 1976.
- The Convention on International Civil Aviation, also known as the Chicago Convention, established the International Civil Aviation Organization (ICAO), a specialized agency of the United Nations charged with coordinating and regulating international air travel. The Convention establishes rules of airspace, aircraft registration and safety, and details the rights of the signatories in relation to air travel.
- International Health Regulations. Notification on 1 January 1971.

#### International instruments signed but not ratified:

- Convention on Facilitation of International Maritime Traffic (FAL), acceded 10 March 2008. The Convention's main objectives are to prevent unnecessary delays in maritime traffic, to aid co-operation between Governments, and to secure the highest practicable degree of uniformity in formalities and other procedures. Several specific provisions of the convention address disaster relief arriving by sea.
- Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency of 1986, signed 25 March 1987. This Convention sets out an international framework for co-operation among States Parties and with the International Atomic Energy Agency to facilitate prompt assistance and support in the event of nuclear accidents or radiological emergencies.

## 4.2 Regional instruments

- Sierra Leone was the 43<sup>rd</sup> state to sign the Constitutive Act of the African Union (AU) adopted by the thirty-sixth ordinary session of the Assembly of Heads of State and Governments on the 11<sup>th</sup> of July, 2000 in Lome, Togo. It is worth noting that one of the objectives of the AU is to work with relevant international partners for the eradication of preventable diseases and the promotion of good health on the continent.<sup>6</sup> Of utmost importance is Article 13, which states that the Executive Council shall coordinate and take decisions on policies in areas of common interest to the Member States, including environmental protection, humanitarian action and disaster response and relief.
- The Protocol relating to the ECOWAS Mechanism for Conflict Prevention, Management, Resolution Peace-Keeping and Security dated December 1999, deals with disasters, disaster relief and related issues. It provides for intervention in support of humanitarian disasters<sup>7</sup> and a sub-regional and zonal observation system for early warnings. There are four zones with the zonal capitals at Banjul (Gambia), Ouagadougou (Burkina Faso), Monrovia (Liberia), and Cotonou (Benin).
- ECOWAS Disaster Risk Reduction Policy of 2006. This policy is not legally binding. It focuses on reducing disaster risk through development interventions, amongst others by the establishment of National Disaster Risk Reduction (DRR) Platforms in ECOWAS member states. An ECOMOG stand-by force is responsible for rendering assistance during humanitarian disasters. Assistance can be initiated at the request of a member state or a civilian department of the ECOWAS standby force which is responsible for humanitarian interventions.

<sup>6</sup> Consultative Act of the African Union 2000 Art. 3.

<sup>7</sup> Article 22(c) of the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security.

- Mano River Union Agreement. Sierra Leone hosted a two-day meeting of Mano River (MRU) countries on Lassa Fever from the 13 -14th of September 2004, which resulted in a final declaration on Lassa Fever. Member states agreed to:
  - Implement the adopted “Sub-Regional Strategic Plan of Action for Lassa Fever Prevention and Control, 2004-2008”
  - Collaborate in the area of patient management. This would include, among other things, having common treatment guidelines, logistics, management and support for emergency preparedness
  - Set up strategically placed Lassa treatment centres within each country of the sub-region
  - Establish a sub-regional expert panel and an epidemic response team and collaborate in the area of laboratory analysis
  - Carry out activities that will enhance information, education and communication between states.

### 4.3 Legislation and policy at the national level

#### Disaster law

The most specific legal instrument dealing with disaster management is the National Security and Central Intelligence Act No. 10 of 2002, in which the Office of National Security (ONS) was established. The ONS serves as the central coordinating body for the security sector and intelligence organ of the state at the policy level. The Disaster Management Department is one of seven departments within the ONS created by this act and this department has the mandate to coordinate all issues related to both natural and man-made disasters. It also brings together all stakeholders from governments, NGOs, United Nations specialized agencies, community based organisations, the private sector, media and local communities on disasters. In other words, it is the central agency responsible for disaster management.

Other national legal instruments do not directly relate to disasters but include regulations that influence the operations of international humanitarian actors, such as procedures at customs, recognition of foreign qualifications and taxation of humanitarian organisations. These include, but are not limited to:

- The Customs (Amendment) Regulations Act No. 10 of 1992
- The Control of Goods Act No. 6 of 1962
- The Diplomatic Privileges and Immunities Act No. 35 of 1961
- The Pharmacy and Drugs Act 2001
- The Republic of Sierra Leone Visa Regulations of 1998
- The Income Tax Amendment Act of 2006
- The Medical Practitioners and Dental Surgeons (Amendment) Act of 2008
- The Police Act No. 7 of 1964
- The Sierra Leone Red Cross Act No. 9 of 1962
- The Finance Act No 7 of 2008.

A full list of legislation consulted for this study is attached to this report in Annex 2.

#### Disaster management policies

Sierra Leone is currently developing its policies for disaster management. At the time of writing, neither of these policies had been adopted by parliament, and they were

therefore not yet effective. Notably, there are at this stage no standard operating procedures (SOPs), which could be crucial to effective coordination during disasters.

The National Disaster Management Policy (Draft) gives strategic directives to the government on steps to be taken before, during and after disasters. The objectives of the Draft Disaster Management Policy are to:

- Ensure the integration of disaster risk management into sustainable development programmes and policies to ensure a holistic approach to disaster management
- Ensure priority and requisite institutional capacities for disaster risk reduction at all levels
- Enhance the use of knowledge, education, training, innovation and information sharing to build safe and resilient societies
- Improve the identification, assessment, monitoring and early warning of risks.

The Policy recognises that disaster management and risk reduction are a multidisciplinary endeavour, and while it indicates the ONS as the lead agency in this process, it stipulates that this Office is to collaborate with the decentralised government institutions, the public and private sector, UN agencies and NGOs. Importantly, the Policy states that the Government of Sierra Leone will enact national legislation on disaster risk management, and calls for flexible procedures to be put in place to ensure that bureaucracies associated with the disbursement of funds, deployment of personnel, logistics and other resources are reduced.

The National Disaster Preparedness and Response Plan (Draft) gives directions to all stakeholder institutions and maps out the roles and responsibilities of stakeholders and the government in the event of a disaster.<sup>8</sup>

The SLRCS, as an auxiliary to the Government in humanitarian matters, employs its own set of policies, including:

- The Sierra Leone Red Cross Society Disaster Management Policy
- The SLRCS Guidelines For Responding To Disasters At Branch Level
- The Well Prepared National Societies Assessment Tool
- The Contingency Plans For Responding To Political And Elections Related Violence
- The Contingency Plan Dealing With Cross Border Movement
- The SLRCS Policy For Volunteers
- The SLRCS First Aid Policy (Draft)
- The SLRCS Health Policy Covering All Epidemics, Diseases And Disease Related Issues And;
- The SLRCS Disaster Management Strategy.

### Other related laws and policies

There are several national rules, policies, contingency plans and laws that are not disaster specific but deal with protection of the environment to reduce the risk of national disasters occurring.

The Mines and Minerals Act No. 5 of 1994 is one such example. It makes provision for the protection of the environment as well as requiring an environmental impact assessment prior to the granting of a mining lease (with the exception of leases for building and industrial minerals).<sup>9</sup> There are also provisions for protection of the

<sup>8</sup> The National Disaster Preparedness and Response Plan (Draft) is the most widely known document on disaster management in Sierra Leone as it was submitted to each stakeholder institution as they all worked on the finalization of the draft.

<sup>9</sup> Mines and Minerals Act NO 5 of 1994 Part XIII Section 92.

environment in the Fisheries (Management and Development Decree) Act No. 19 of 1994, the Environmental Protection Act No. 2 of 2002 and the Forestry Act No. 7 of 1988.

Recently, supported by the Disaster Risk Reduction (DRR) Division of the Department of Humanitarian Affairs of ECOWAS, Sierra Leone has opted for the establishment of a National Platform on DRR, whose purpose is to mainstream disaster risk reduction into development.<sup>10</sup> This process is currently ongoing.

This chapter introduces the key themes of the IDRL Guidelines and assesses the degree to which existing law and policy in Sierra Leone address them.

<sup>10</sup> [www.preventionweb.net/.../12709\\_ECOWASDRRPoARev\\_FINALreformatted.doc](http://www.preventionweb.net/.../12709_ECOWASDRRPoARev_FINALreformatted.doc).

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## **Chapter 5**

Sierra Leone's regulatory  
framework in light of  
the IDRL Guidelines

## 5.1 Core responsibilities

### Responsibilities of affected states

Affected states have the primary responsibility to ensure the implementation of disaster risk reduction, disaster relief and recovery assistance in their territory. Hence, the affected state has the authority over any disaster relief activities on its territory. National Red Cross and Red Crescent Societies, as auxiliaries to the state in the humanitarian field, and domestic civil society actors play a key supporting role at the domestic level. Should an affected state determine that a disaster situation exceeds national coping capacities, it should seek international and/or regional assistance to address the needs of affected persons.<sup>11</sup>

As an essential precondition to implement this prime responsibility, all states should prepare their legal, policy, and institutional frameworks for disaster situations. Ideally, each state should have a comprehensive disaster management law in place, which clearly outlines which government institutions are responsible for the different phases of disaster management, and outlines regulations for all the themes of the IDRL Guidelines, as they are outlined below. The law should also adequately address the initiation, facilitation, transit and regulation of international disaster relief and initial recovery assistance consistent with these Guidelines. It should allow for effective coordination of international disaster relief and initial recovery assistance, taking into account the role of the United Nations Emergency Relief Coordinator as central focal point with states and assisting humanitarian organizations concerning United Nations emergency relief operations.<sup>12</sup>

### Findings

In line with the above, the Government of Sierra Leone accepts that the core responsibility for disaster response rests with the affected state. This responsibility includes disaster risk reduction, which becomes apparent by the several disaster risk reduction instruments it is a party to, although, as was mentioned in the above, many of these international instruments are yet to be implemented in the domestic legal framework.

The Draft National Disaster Management Policy gives strategic directives to government on steps to be taken before, during and after disasters. It contains a procedure for declaration of a state of disaster and the responsibilities for the management of disasters at different levels. Under 3.1 it states that the “Government of Sierra Leone shall have the prerogative to define the occurrence of disaster and define the boundaries of the disaster affected site. This shall be followed by a disaster declaration by the National Security Coordinator. The declaration shall be made in consultation with the National Security Council Coordinating Group (NSCCG) on disasters.”

The Draft National Disaster Preparedness and Response Plan contains clauses addressing all stakeholder institutions in disaster response and maps out the roles and responsibilities of stakeholders and the government in the event of a disaster. Coordination of activities between stakeholders and the government at national level is well structured as per the Draft National Disaster Preparedness and Response Plan. There is a “national focal point” with the sole responsibility of managing, coordinating and monitoring disaster response in Sierra Leone. The Office of National Security (ONS)

<sup>11</sup> IDRL Guideline 3.

<sup>12</sup> IDRL Guideline 8.

serves as the central coordinating body for the security sector and as the key intelligence organ of the state at the policy level. The Disaster Management Department is one of seven departments in the ONS. It has the mandate of coordinating all issues related to both natural and man-made disasters and bringing all stakeholders together from Governments, NGOs, United Nations specialized agencies, Community Based Organisations, the private sector, media and local communities on disasters. However, both the Policy and the Plan are, as of yet, in the draft stage, and therefore do not have official status. Hence, it is crucial for the parliament of Sierra Leone to adopt them. In addition, no comprehensive policy or legal framework exists for the facilitation of international disaster response operations, i.e. foreign disaster response operations assisting the government and population of Sierra Leone should the capacities of the government not suffice. It is highly advisable that the government adopt such a policy or law.

Stakeholders indicated that activities are not properly coordinated due to the lack of standard operating procedures. They suggested that more needs to be done to enhance understanding and exchange of information between relevant actors so as to maximize the cooperation between them.

### **Responsibilities of assisting actors**

Assisting actors may include the Red Cross and Red Crescent Movement, NGOs like Oxfam and Médecins sans Frontières, UN agencies and assisting states. These actors should respect the laws and regulations of the country in which they come to operate. They should deliver assistance of sufficient quality and coordinate their operations with all stakeholders involved, including the government of the affected State. They should deliver humanitarian relief on the basis of the principles of humanity, neutrality and impartiality.<sup>13</sup>

### **Responsibilities of all states involved in disaster relief**

Affected states should take up a monitoring role within their own territory, with the aim of ensuring that all actors involved in disaster relief adhere to the responsibilities of assisting actors. In other words, the IDRL Guidelines recommend that the state takes up its primary responsibility also in the sense that it should manage quality control and coordination over international humanitarian actors operating in their country.<sup>14</sup> In addition, all states, be they affected or in their role of assisting state, should cooperate with all actors involved to combat diversion, fraud and misappropriation of relief goods and funding.<sup>15</sup>

## **Findings**

With respect to the accountability of assisting actors, there is no proper mechanism in place in Sierra Leone. The closest effort was a code of conduct introduced by the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) during the civil war. However, it is not now in use as UNOCHA no longer operates in Sierra Leone.

On the other hand, Sierra Leone does prohibit corrupt acquisition of wealth, corruption of public officers and misappropriation of both public and donor funds under Part IV of

<sup>13</sup> IDRL Guideline 4.

<sup>14</sup> IDRL Guideline 5.

<sup>15</sup> IDRL Guideline 6.

the Anti-Corruption Act of 2000,<sup>16</sup> and actively pursues violators of the Act through the Anti Corruption Commission.<sup>17</sup> With respect to fraud and misappropriation of funds, it is worth noting that there is a requirement under the Anti-Money Laundering Act No. 5 of 2005, that a person who wants to enter or leave Sierra Leone with more than USD 10,000 in cash or negotiable bearer security must declare or make a report to the authority at the border, airport or any point of entry. Failure to declare the aforementioned is an offence by virtue of Section 20 of the act.

## 5.2 Early warning and preparedness

### Early warning

The IDRL guidelines urge states to have early warning mechanisms in place to facilitate the expeditious sharing of information with other states about emerging hazards and disasters. This is aimed at minimizing trans-boundary impacts and maximizing the effectiveness of any international assistance that may be required.<sup>18</sup>

### Findings

Regionally, there is an ECOWAS early warning system in place called ECOWARN. This system aims to observe and monitor sub-regional peace and security, including humanitarian and political issues, within the framework of conflict prevention.<sup>19</sup> Hence it is not explicitly aimed at early warning related to disasters.

With regard to weather-related disasters, the Meteorological Department of Sierra Leone makes weather observations and predictions and give warning in cases of extreme weather conditions. However, meteorological stations were vandalized during the armed conflict of 1991 – 2002, and there is no recent climate data available. In addition, the Department is understaffed and lacks modern equipment to monitor and forecast weather conditions. Therefore, at this point in time there is no working mechanism in place to give early warnings, although the government is currently in the process of re-establishing 11 of the meteorological stations across the nation.

There is nonetheless a close collaboration between Sierra Leone and the neighbouring states of Guinea and Liberia when it comes to information sharing and communication as a means of warning neighbours of imminent disasters, as was the case with the army worms that affected Liberia some time ago. There was a cross-border meeting in Guinea which helped contain the imminent disaster in the West African region.

## 5.3 Initiation and termination

### Initiation and termination: beginning and end of an appeal for international assistance

Disaster relief or initial recovery assistance should be initiated only with the consent of the affected state. The affected state is advised to have a system in place to decide as soon as possible after a disaster whether or not to make an appeal for international disaster assistance. To be able to do this, the state should assess the needs of the affected population. This may for instance be done by a joint needs assessment in

<sup>16</sup> [http://www.anticorruption.sl/acc\\_act\\_2000.htm](http://www.anticorruption.sl/acc_act_2000.htm).

<sup>17</sup> <http://www.anticorruption.gov.sl/>

<sup>18</sup> IDRL Guideline 7.

<sup>19</sup> [http://www.comm.ecowas.int/dept/stand.php?id=h\\_h2\\_brief&lang=en](http://www.comm.ecowas.int/dept/stand.php?id=h_h2_brief&lang=en).

cooperation with the United Nations and other humanitarian organisations. Once the affected state launches an appeal, it should ideally be as specific as possible on what type of assistance is required.<sup>20</sup> Finally, when the affected state should want to terminate the international assistance, it should notify the assisting actor and consult with the assisting actor about an exit strategy.<sup>21</sup>

## Findings

Stakeholders interviewed for this report felt that in Sierra Leone, should a disaster situation exceed national coping capacity, the ONS and other stakeholders at different levels have the authority to seek international assistance to address the needs of affected persons. The SLRCS also has the authority to appeal internationally. An example of this was the use of the IFRC's Disaster Relief Emergency Fund (DREF), which was accessed on two occasions by the SLRCS during the Pujehun floods in August 2005, and the cholera outbreak in Kambia in 2007.

### 5.4 Eligibility for legal facilities

As was outlined above, the IDRL Guidelines recommended that a state prepare itself legally for international assistance. When it comes to other states and other humanitarian actors who may want to assist, the affected state should also have arrangements in place to facilitate and coordinate their operations.<sup>22</sup>

#### Registration of eligible humanitarian organisations

When it comes to humanitarian organisations, a state should have a system in place to determine which assisting humanitarian organisations will be eligible to receive legal facilities necessary to operate on its territory. However, it is important that this system is as simple and expeditious as possible, so that it will not result in unnecessary burdens on those attempting to provide humanitarian assistance. The rules should be clearly described and easily available. Ideally, determination of eligibility should be possible even before a disaster strikes.<sup>23</sup>

## Findings

NGOs offering assistance in Sierra Leone must acquire NGO status. Firstly, the NGO must be registered with the Sierra Leone Association of Non Governmental Organizations (SLANGO). After that registration, the NGO should further register with the Ministry of Finance and Economic Development (MOFED). For the latter registration to take place, the following documents must be presented:

- A letter of authorization from the NGO headquarters where applicable
- Letter of request for NGO status
- Evidence of membership with SLANGO
- Proof of funding from donors
- Copy of the constitution or memorandum
- Articles of Association
- Copy of Organigram

<sup>20</sup> IDRL Guideline 10.

<sup>21</sup> IDRL Guideline 12.

<sup>22</sup> IDRL Guideline 13.

<sup>23</sup> IDRL Guideline 14.

- Project proposal for the next two years
- Tax clearance certificate for the year, based on the project proposal
- Address of registered office
- List of membership of board of trustees
- Policy making body and contact addresses
- Mission statement
- Details of work and residential permits of expatriate personnel
- Attestation from sectoral line ministries
- The Applicable fee

After this, the application will be submitted to the NGO National Supervisory Committee for consideration.<sup>24</sup> Stakeholders complained that the overall process for NGO status is cumbersome and protracted.

## 5. 5 Legal facilities for entry and operations

### 5.5.1 Personnel

With regard to the personnel of assisting states and eligible humanitarian organizations, affected states should provide expedited procedures for visas, work permits and temporary recognition of professional qualifications. If such an expedited procedure is not available, the state could consider temporarily waiving the provision of visas and work permits for personnel operating in international disaster relief operations.<sup>25</sup>

### Findings

#### Visas

Sierra Leone has expedited visa procedures in place, but it is not clear if these apply in practice to personnel of assisting actors during disaster relief operations. However, in the Visa Regulations of 1998, provision is made for different types of visas. It provides for diplomatic visas that are free of charge for governmental dignitaries as well as representatives and officials of the United Nations and other international organizations travelling in their official capacity on the official business of the organization.<sup>26</sup> A definition of “international organisation” is not provided. There are also reciprocal<sup>27</sup> bilateral agreements between Sierra Leone and eighteen countries for issuance of visas free of charge to citizens of the signatory parties. These countries are Bermuda, Botswana, Ethiopia, Fiji, Jamaica, Kenya, Lesotho, Malawi, Malaysia, Mauritius, Singapore, Sri Lanka, Swaziland, Tanzania, Trinidad, Uganda, Zambia and Zimbabwe.

It is the practice for the Ministry of Foreign Affairs in collaboration with the Immigration Department, to facilitate entry visas for diplomats and foreign government officials visiting Sierra Leone.

#### Work permits

Possession of a work permit in Sierra Leone is compulsory for everyone who works in and the application procedure is regulated in detail. Foreign NGOs must obtain work

<sup>24</sup> [http://www.icnl.org/knowledge/ngolawmonitor/sierra\\_leone.htm](http://www.icnl.org/knowledge/ngolawmonitor/sierra_leone.htm).

<sup>25</sup> IDRL Guideline 16.

<sup>26</sup> Visa Regulations of the Republic of Sierra Leone of 1998. Chapter 2 at pages 4 and 5.

<sup>27</sup> Ibid. Chapter VI, Page 18.

permits for international staff through the Ministry of Employment and Social Security. In order to obtain such permits, amongst others the following requirements must be met:

- Forwarding letter from employing organization
- Income tax clearance of employing organization
- Evidence of bank account of employing organization
- Letter from the National Social Security and Insurance Trust confirming registration and up-to-date payment and contribution for all workers (Sierra Leoneans and non-Sierra Leoneans alike)

An interview will be conducted. An annual fee is to be paid by bank draft or crossed cheque in the name of the Ministry of Employment, Labour and Social Security. The bank draft must be accompanied by a forwarding letter addressed to the Permanent Secretary in the Ministry of Employment and Social Security, and should contain the name of the bearer, the bank draft number, face value of draft, date of payment and person(s) on whose behalf the draft is made. Payments should be made before work permit documents are accepted and processed.

In addition, the General Law Business Start Up Amendment Act of 2007 regulates the employment of foreigners both in the private sector and NGOs. Section 34(c) of the Act provides that an employer intending to employ a non-citizen should apply to the Work Permits Committee for a work permit for that employer for not less than six months from the intended date of the arrival of the person for whom the permit is applied for. Failure to obtain this permit is an offence under section 34(i) of the Act.

### Recognition of foreign professional qualifications

The Medical and Dental Council of Sierra Leone<sup>28</sup> is the body responsible for the registering and licensing of medical practitioners. Applications to practise in Sierra Leone are to be made in writing to the Council, and failure to register may result in a fine or a term of imprisonment not exceeding two years. No specific regulation was found concerning the recognition of foreign medical qualifications in case of an emergency.<sup>29</sup>

### 5.5.2 Goods and Equipment

To avoid unnecessary delays at customs and expenses on the part of assisting actors, the IDRL Guidelines recommend that disaster relief goods be exempt from all customs duties, taxes, tariffs and governmental fees and other export, transit, and import restrictions. In addition, documentation and inspection requirements should be waived or at least reduced.<sup>30</sup>

## Findings

### Documentation and inspection requirements

Sierra Leone has no expedited inspection and documentation procedures in place to facilitate the rapid entry of goods and equipment intended for international disaster

<sup>28</sup> [http://mdcsierraleone.org/index.php?option=com\\_content&view=category&layout=blog&id=1&Itemid=2](http://mdcsierraleone.org/index.php?option=com_content&view=category&layout=blog&id=1&Itemid=2).

<sup>29</sup> Medical Practitioners and Dental Surgeons (Amendment) Act of 2008 Arts. 3, 6 and 10 – 11.

<sup>30</sup> IDRL Guideline 17.

response operations. All goods imported into Sierra Leone are subjected to pre-shipment or destination inspections, which are, in turn, subject to a fee.<sup>31</sup>

### Transport

As noted above, Sierra Leone is a party to several bilateral and multilateral agreements for the facilitation of transport and transit of goods. It is a party to the Convention on International Civil Aviation (the Chicago Convention) and the Convention on Facilitation of International Maritime Traffic, which facilitate the transport of goods via air and sea respectively. Both contain specific provisions about facilitating disaster relief shipments<sup>32</sup>. As for maritime traffic, the Merchant Shipping Act determines that “[n]o humanitarian cargoes donated by a state shall be subject to seizure, arrest or detention, where such state had agreed to pay for salvage services rendered in respect of such humanitarian cargoes.”<sup>33</sup> When it comes to emergency situations, it is stated in art 304 of the act that the executive director may relieve foreign ships from the safety inspection requirements should the situation call for it. Such exceptions do not exist for inspections relating to load lines, should a foreign ship not be able to produce a Load Line Certificate.<sup>34</sup>

Examples of good practice exist. For instance, during the Liberian war, goods were transported to Sierra Leone as a transit country for onward transportation to the Liberia Red Cross Society. However, whether this was due to the implementation of these two treaties is unclear.

### Tax waivers

Duty free concessions and waivers are accorded for the importation of relief items. The National Revenue Authority (NRA) is responsible for the administration of duty waivers while the Minister of Finance is responsible for policy guidelines in respect of waivers.<sup>35</sup> There are a number of requirements to be fulfilled by those eligible for duty waivers. The first is that, at the start of each financial year, entities eligible for duty waivers must prepare and submit to the NRA an exhaustive list of goods for which they will be applying for duty waivers.

Should there be any ambiguity in the request, an applicant may be required to pay duty up-front but refunded if the applicant can prove satisfactorily that they are entitled to a waiver.<sup>36</sup> Also, entities entitled to waivers would pay a non refundable fee of 500,000 Leones (approximately 115 US Dollars at the time of writing) per consignment to the NRA as administrative costs for processing duty waiver applications.<sup>37</sup>

A practical example given by a stakeholder referred to the process for an entity to be granted a renewal certificate as an NGO (after the expiration of a previous certificate of registration), and for it to be entitled to waivers or duty free concessions (see above). In this regard, several documents had to be presented to the Ministry of Finance and Economic Development (MOFED). These include but are not limited to:

<sup>31</sup> Section 2 of the Finance Act No 7 of 2008.

<sup>32</sup> International Standards and Recommended Practices- Annex 9 to the Convention on International Civil Aviation (12<sup>th</sup> ed. 2005) sections 8.8-8.9; Convention on Facilitation of International Maritime Traffic of 1965, Annex I, sections 5.11-5.12

<sup>33</sup> Art. 404, Merchant Shipping Act of 2003.

<sup>34</sup> Art. 326, Merchant Shipping Act of 2003.

<sup>35</sup> Section 3 (1) of the Finance Act No 7 of 2006.

<sup>36</sup> Section 3(4) of the Finance Act No 7 of 2006.

<sup>37</sup> Section 5 (2) of the Finance Act No 22 of 2007.

- The most recent audit report of an organization
- Project proposal for the following year and the financial and narrative report of the previous year
- Proof of funding from respective donors
- List of assets of the organization including number of vehicles
- Total number of staff
- Number of registered offices
- Respective addresses and contact persons.

The renewal certificate as well as all other shipping documents should be attached to a duty free entry form which is provided by the Government for NGOs. This should be sent to the Customs Department under the NRA for verification and then sent back to MOFED for approval.

The permanent secretaries and heads of divisions in the two different government institutions have to sign the documents at every level. It is only after all these processes that the goods will be cleared. In some cases, it has been so protracted that they accumulate demurrage and the goods are abandoned at the quay.

An exception to the waiver of duties exists for the importation of used clothing, for which 100% duty is levied, even if it is donated as relief items. A practical experience given by one of the stakeholders interviewed was that used clothing was initially a relief item that was exempt from customs duties. However, during the war, business people used their influence in certain NGOs to import their consignment of used clothing, thereby not paying duty on it. It came to the notice of government that this was the practice and it was therefore decided that 100% duty should be levied on used clothing.

### 5.5.3 Special goods and equipment

The Guidelines recommend that special care be taken to remove common entry barriers to several special types of relief goods and equipment that tend to be highly regulated.<sup>38</sup> For example, when it comes to vehicles, temporary recognition of foreign registration and plates should be quickly available. Secondly, the use, import and export of telecommunications and information technology equipment should also be facilitated, without discrimination against or negative impact on domestic relief actors. Affected states should grant priority access to bandwidth, frequencies and satellite use for telecommunications and data transfer associated with disaster relief operations. Thirdly, the exportation, transit, importation and re-exportation of medications and medical equipment by assisting states and eligible assisting humanitarian organizations should be facilitated to the extent consistent with public safety and international law. Finally, it should be assessed whether normal requirements regarding prohibitions and restrictions on food imports and exports in disaster relief operations can be modified or reduced.

## Findings

### Vehicles

Throughout the research, no specific regulation or legislation dealing with import, transit or re-exportation of vehicles intended for disaster relief operations was found.

<sup>38</sup> IDRL Guideline 18.

In Sierra Leone, the Road Transport Authority is responsible for the regulation and development of the road transport industry, including the regulation and licensing of vehicles, the licensing of drivers, the prescription of routes for passenger and goods transportation and for other matters connected with the foregoing.<sup>39</sup> According to the Road Traffic Act of 2007, it is illegal to own or drive a motor vehicle without registration. Failing such registration, the individual in question may be fined or sentenced to serve a prison sentence of up to 12 months. Registration is only possible during working hours and is subject to a fee.<sup>40</sup> Foreign driver's licences may be recognized but must be converted into a driving licence issued under the Road Traffic Act, and under such conditions as the Licensing Authority prescribes.<sup>41</sup> At the time of writing this report, there were no exemptions or waivers of requirements during disaster response operations, but the Road Transport Authority has the competence to establish such regulations.<sup>42</sup>

### Telecommunications

Under the Telecommunications Act of 2007, there is an obligation to acquire a licence to operate any telecommunications network in Sierra Leone. The National Telecommunications Commission may, after consultation with the Minister, make exemptions to this requirement.<sup>43</sup> At this point in time, no special exemption procedure is granted to international relief operators. The Commission allocates the frequencies required for the operation of any telecommunications network, and any applications to use them must be addressed to the Commission.<sup>44</sup> In allocating the frequencies, the Commission takes availability and fairness into account, but emergency situations are not mentioned.<sup>45</sup> A license is also required for the use of a radio transmitter.<sup>46</sup> A special arrangement is available for diplomatic missions, but not for disaster response actors.<sup>47</sup> Activities in breach of these regulations may lead to a fine or a prison sentence of up to two years.<sup>48</sup>

### Medicines

Distribution of medicines is regulated in Sierra Leone by the Pharmacy and Drugs Act of 2001 and the National Drugs Control Act of 2008. The first of these Acts establishes the Pharmacy Board and its Drugs and Quality Assurance Committee, which advises the Pharmacy Board on the classification of drugs.<sup>49</sup> The classification of types of drugs determines who may sell or dispense them.<sup>50</sup> This research did not find any special regulations or procedures for the import and distribution of medicines by foreign relief actors.

### Food items

In accordance with the Standards Act of 1996, the Sierra Leone Standards Bureau is responsible for the testing of food items to ensure that they meet the minimum required standards. These standards are developed by the National Standards Council,

<sup>39</sup> Road Transport Authority Act of 1996.

<sup>40</sup> Road Traffic Act of 2007, Arts. 1 – 5.

<sup>41</sup> Ibid. Art. 19.

<sup>42</sup> Ibid Art. 143.

<sup>43</sup> Telecommunications Act of 2006, Arts. 20 - 24.

<sup>44</sup> Ibid Art. 64 (1).

<sup>45</sup> Ibid Art. 64 (3).

<sup>46</sup> Ibid Art. 65.

<sup>47</sup> Ibid art. 68.

<sup>48</sup> Ibid Part IX.

<sup>49</sup> Pharmacy and Drugs Act of 2001, Part II.

<sup>50</sup> Ibid Art. 1.

which is established by the same act.<sup>51</sup> This Council has the authority to develop policies, standards and necessary measures for quality control of materials, products, processes with the purpose of certification of trade and industry.<sup>52</sup>

The Standards Bureau is limited in its capacity, as it does not have the mechanism in place to carry out tests and the conformity assessment systems are not fully constituted. Plans are underway to establish four major laboratories for microbiology, chemical, meteorology and petroleum testing through the support of the West African quality program. In addition, the Bureau has planned to sign a memorandum of understanding (MoU) with the British Standards Institution, Ghana and Nigeria, to assist in developing its capacity and capability to carry out tests and certification of products as required by international standard institutions.

#### 5.5.4 Temporary domestic legal status

Affected states should grant relevant entities of assisting States and eligible assisting humanitarian organizations, upon entry or as soon as possible thereafter, at least a temporary authorization to legally operate on their territory so as to enjoy certain rights, inter alia, to open bank accounts, enter into contracts and leases, acquire and dispose of property and instigate legal proceedings, for the purpose of providing disaster relief and initial recovery assistance.<sup>53</sup>

#### 5.5.5 Taxation

Affected States should provide exemptions to assisting states and eligible assisting humanitarian organizations from value-added and other taxes or duties directly associated with disaster relief and initial recovery assistance.<sup>54</sup>

### Findings

There are provisions in the laws of Sierra Leone for the exemption from income tax for public international organizations, if they are exempted under international law or pursuant to an agreement with the Government of Sierra Leone.<sup>55</sup> The exemption is extended to diplomats and non-citizens whose income is subject to income tax in their country and who are employees of a public international organization exempted from taxation under international law or an agreement with the government.<sup>56</sup>

When it comes to goods and services, there is an exemption in the third schedule of the Goods and Services Act of 2009 for the import of goods for relief and rehabilitation work following a disaster, subject to the approval of the Minister of Finance and Economic Development. In addition, an exemption of Goods and Services Tax is granted to international agencies, but only if there is an agreement with the government explicitly waiving the agency in question and, in addition, this agreement is ratified by parliament.<sup>57</sup>

<sup>51</sup> Standards Act of 1996, Section 5.

<sup>52</sup> Standards Act of 1996, Section 6.

<sup>53</sup> IDRL Guideline 20.

<sup>54</sup> IDRL Guideline 21.

<sup>55</sup> Income Tax Act No 8 of 2000 Section 8.

<sup>56</sup> Income Tax Act No 8 of 2000 Section 26.

<sup>57</sup> Goods and Services Tax Act of 2009.

### 5.5.6 Security

Affected states should take appropriate measures to address the safety and security of personnel of assisting states and eligible assisting humanitarian organizations. The same security should be provided for the premises, facilities, means of transport, equipment and goods used in connection with their disaster relief or initial recovery assistance.<sup>58</sup>

#### Findings

The Sierra Leone police force is charged with providing protection generally according to its mandate, including during disaster situations.<sup>59</sup>

### 5.5.7 Extended hours

Affected states should endeavour to ensure, when necessary, that state-operated offices and services essential to the timely delivery of international disaster relief function outside of normal business hours.<sup>60</sup>

#### Findings

No provisions exist in the laws of Sierra Leone concerning either extended hours of work or provision of services at reduced or no cost to relief providers and assisting states during a disaster.

### 5.5.8 Reducing the cost of disaster relief operations

Affected States should consider, when it is in their power and to the extent possible under the circumstances, providing certain services at reduced or no cost to assisting States and eligible assisting humanitarian organizations, which may include:

- In-country transport, including by national airlines;
- Use of buildings and land for office and warehouse space; and
- Use of cargo handling equipment and logistic support

#### Findings

This research did not find such practice in Sierra Leone.

<sup>58</sup> IDRL Guideline 22.

<sup>59</sup> The Police Act No 7 of 1964.

<sup>60</sup> IDRL Guideline 23.

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# Chapter 6

## Conclusion and recommendations

From the review of laws and policy in Sierra Leone, it is clear that this country is on its way to develop a comprehensive framework for disaster management, but there is much room for growth. International and regional agreements have been signed, although many of those are not yet implemented in domestic legislation. The study shows that government institutions take the important issues of disaster risk reduction and disaster management seriously. This is evidenced by the disaster management policies that have been developed by different organisations and government institutions. However, there remains a great deal to be done. These policies and plans are still in the draft stage and need to be formally adopted. There are several piecemeal provisions under the general laws that are not disaster-specific but which nevertheless address disaster situations. At the same time, there are still gaps in the laws and in areas where the law is adequate, the process is at points protracted and cumbersome.

On the basis of the findings of this study, the following recommendations could significantly enhance the process of developing the facilitation of international disaster relief in Sierra Leone.

### **Adoption and implementation**

To reap the benefits of the careful drafting process, the National Disaster Management Policy and the National Disaster Preparedness and Response Plan should be formally adopted. The Sierra Leone Red Cross and the IFRC have had the opportunity to provide some input during the drafting process of the Policy, advising to include legal preparedness for disasters as an integral part of the objectives and making this the responsibility of the Government. The ONS is currently developing a Disaster Management Strategy, and it is recommended that the IDRL Guidelines be taken into account during this process, in particular with respect to the issues highlighted below. In addition, this study shows that effective disaster management would benefit from the development of standard operating procedures, which serve to enhance coordination during operations. Finally, international and regional agreements that have been ratified should be implemented in domestic legislation.

Ideally, Sierra Leone should develop and adopt a comprehensive Disaster Management law regulating disaster prevention, mitigation, preparedness, relief and recovery. In the absence of such a Disaster Management law. At the time of writing, the different rules relating to disasters are scattered throughout law and policy, such as the Finance Act, the Road Transport Authority Act and the Pharmacy and Drugs Act. The Government of Sierra Leone may consider the possibility of implementing a comprehensive disaster management law, in which these clauses relating to disaster response may be clustered under one Act. In such an Act, the responsibilities of the relevant authorities, as outlined in the Draft National Disaster Management Policy, could be established by law. The proposed legislation should take into consideration the generally applicable laws in Sierra Leone. Certain exceptions to the general rules are necessary considering the exigencies of disasters and the response thereto. Consideration should also be made of the vulnerable nature of the affected persons and targeted beneficiaries. If such a comprehensive disaster management law is not feasible, the existing laws could be amended so as to achieve the same result.

In addition, facilitation of incoming international disaster response is hardly regulated in Sierra Leone. This under-regulation may eventually result in serious delays or even failure of delivery of international assistance to the affected population. At an ECOWAS co-hosted Conference on Disaster Risk Reduction, held in Freetown in March 2011, it

## Conclusion and recommendations

was recommended that the Government of Sierra Leone adopt an IDRL-specific instrument to address this issue. It is recommended that the government of Sierra Leone take note of the IDRL Model Act for the Facilitation and Regulation of International Disaster relief and Initial Recovery Assistance, developed by the International Federation of Red Cross and Red Crescent Societies. Either way, be it in Policy or in legislation, the following issues should be addressed in Sierra Leone's regulatory framework:

### **Initiation of international disaster relief**

The ONS and other stakeholders at different levels, have the legal endorsement to seek international assistance to address the needs of affected persons. The government may consider appointing one agency to avoid confusion.

### **Early warning**

It is recommended that the government continues its efforts to improve the facilities of the Meteorological Department to enhance early warning in case of weather related disasters. Ideally, a special agency should be constituted to communicate early warnings both to the population in Sierra Leone and to neighbouring states, with the aim of preventing a natural occurrence to turn into a humanitarian disaster.

### **Registration and monitoring of humanitarian organisations**

The system for registration of NGOs is currently a complicated and lengthy procedure. To ensure the speedy delivery of high quality disaster relief by these NGOs, the procedure must be simplified for disaster settings. As a matter of course, the government should require registered NGOs to operate in line with IDRL Guideline 4 (e.g. they should operate in accordance with the principles of humanity, neutrality and impartiality) and should provide openly and clearly information on these criteria and on how to register. This procedure should ideally be free of charge and humanitarian organisations should be enabled to register at any time, both during disaster operations as before such operations.

There should be an effective monitoring system put in place by the government that will monitor the activities of relief agencies during disasters e.g. monitoring and evaluating relief items supplied such as food items and drugs, but this monitoring system must not impede the delivery of necessary and high quality disaster relief.

### **Visa**

The ONS, responsible for the visa procedure, should consider developing an expedited visa procedure for disaster relief personnel, in particular for personnel from registered humanitarian organisations and other assisting actors. In addition, the requirement to obtain a work permit should ideally be simplified or waived for temporary disaster relief personnel. For example, the ONS could represent the government as host and accept the responsibility of writing letters requesting emergency visa should be sent to the Sierra Leone Immigration Department with the aid of the Ministry of Foreign Affairs and International Co-operation. The emergency visas should ideally be granted for free or for a minimal fee, and the visa should be renewable without leaving Sierra Leone's territory.

### **Goods and equipment**

To ensure speedy import of necessary disaster relief goods and equipment, Sierra Leone should have expedited inspection and documentation procedures in place to facilitate the entry of goods and equipment intended for international disaster response operations.

For instance, pre-shipment or destination inspections for relief consignments could be waived and ideally be performed free of charge for both goods and equipment. This should be subject to the condition that these consignments are from eligible actors and are appropriately packed, classified and marked as disaster relief goods, and must include detailed manifests with each shipment.

### **Duty and other tax waivers**

To reduce the cost of international relief operations, which are normally funded by voluntary donations by states and/or the international community, the NRA, in consultation with the Ministry of Finance and Economic Development, should consider developing an expedited procedure for duty waiver for the import, transit and export of disaster goods and equipment. Ideally, applying for a duty waiver should be free of charge for international relief providers.

The Ministry of Finance and Economic Development may consider providing general exemptions to assisting States and eligible assisting humanitarian organizations from goods and services taxation and other taxes or duties directly associated with disaster relief and initial recovery assistance.

### **Vehicles for disaster relief**

Throughout the research, no specific agreement or legislation dealing with import, transit or re-exportation of vehicles was found. It is recommended that the Road Transport Authority develop an expedited procedure for the registration and licensing of vehicles intended for disaster relief, as well as the licensing of foreign drivers engaged in disaster relief operations.

### **Telecommunications**

Telecommunications are a crucial element of any disaster operation. However, as in most countries, Sierra Leone has a law in place to regulate the use of telecommunication facilities and radio frequencies. During an emergency situation, obtaining permits may take so long that it may literally cost lives. The National Telecommunications Commission should consider consulting with the Minister of Transport and Communications to develop a procedure to exempt disaster relief actors from the requirement to obtain a telecommunications license. In addition, the Commission should make special arrangement for the use of radio frequencies and equipment by international relief providers, ideally without costs.

### **Medicines**

The import of medicines is subject to regulations in Sierra Leone. The Pharmacy Board should consult with the Ministry of Health and Sanitation to develop clear procedures for the importation and distribution of medicines by foreign relief actors during an emergency, so as to ensure speedy import while at the same time monitoring the quality of the medication. The Pharmacy Board should develop clear and freely available information about the regulations on types and distribution of medicines in Sierra

Leone with the aim of informing foreign relief actors of their rights and duties in this respect under Sierra Leonean law. It is recommended that the WHO model lists on essential medicines are observed in this respect.

### **Food items**

During a disaster, emergency food aid is often part of the operations. It is pertinent that this type of relief good is up to national standards. The Sierra Leone Standards Bureau should liaise with the relevant stakeholders to establish how to regulate the inspection of food items imported by international relief actors. This inspection should be speedy and free of charge. The Bureau should develop clear and freely available information about the regulations on quality standards of food items in Sierra Leone with the aim of informing foreign relief actors of their rights and duties in this respect under Sierra Leonean law.

### **Reducing the cost of disaster relief operations**

The Sierra Leone government may consider providing certain services at reduced or no cost to assisting States and eligible assisting humanitarian organizations to help reduce the cost of their operations, so as to ensure that the funding comes directly to the benefit of the affected population. Examples of these services are: use of national airlines, buildings and logistics support. In the same line, the government may consider insisting that, during emergencies, the necessary governmental institutions, like the ONS, the Ministry of Foreign Affairs and International Co-operation, Immigration and the institutions responsible for quality control and radio frequencies are available to perform their duties outside of office hours. Negotiations should be held with the NRA and MOFED on the one hand and key stakeholders and international organisations on the other hand. In addition, it may consider setting aside a disaster management fund to ensure timely response during disasters.

# Annex A

## References

1. Register of United Nations Instruments to which Sierra Leone is a party
2. Register of Regional Instruments that Sierra Leone is a party
3. United Nations Framework Convention on Climate Change (UNFCCC) of 1992
4. ECOWAS Disaster Reduction Policy and Mechanism 2006
5. ECOMOG – Economic Community of West African States Monitoring Group
6. Convention on the Privileges and Immunities of the United Nations of 1946
7. Convention on the Privileges and Immunities of the Specialized Agencies of the United Nations of 1947 and its Annexes
8. Constitutive Act of the African Union of 2000
9. Mano River Union Declaration on Lassa Fever of 2004
10. International Health Regulations of 2005
11. National Security and Central Intelligence Act No.10 of 2002
12. The Customs Act cap 271 of Laws of Sierra Leone of 1960
13. The Customs ( Amendment) Regulations Act No. 10 of 1992
14. The Control of Goods Act No. 6 of 1962
15. The Diplomatic Privileges and Immunities Act No. 35 of 1961
16. The Pharmacy and Drugs Act 2001, the Excise Act No. 6 of 1982
17. The National Fire Service Act No. 8 of 1980
18. The Bush Fire Prevention Act cap 190 of 1906
19. The Republic of Sierra Leone Visa Regulations of 1998
20. The Income Tax Act of 2000
21. The Income Tax (Amendment)Act of 2004
22. The Income Tax Act of 2005
23. The Income Tax (Amendment)Act of 2006
24. The Medical Practitioners and Dental Surgeons Act of No. 3 of 1966
25. The Medical Practitioners and Dental Surgeons (Decree) Act, Decree No 12 of 1994
26. The Medical Practitioners Act of 2008
27. The Police Act No. 7 of 1964
28. The Sierra Leone Red Cross Act No. 9 of 1962
29. The National Commission for Social Action Act No. 13 of 2001
30. The National Commission for Social Action(Amendment) Act 2008
31. The Finance Act No. 7 of 2006
32. The Finance Act No. 22 of 2007
33. The Finance Act No. 7 of 2008
34. The Anti-Money Laundering Act, Act No. 5 of 2005
35. The Constitution of Sierra Leone Act No. 6 of 1991.
36. General Law Business Start up Amendment Act 2007
37. Sierra Leone Disaster Management Policy
38. Disaster Preparedness and Response Plan (Draft)
39. National Hazards Profile of Sierra Leone
40. National Health Policy

41. Sierra Leone Red Cross Disaster Management Policy
42. SLRCS Disaster Management Policy
43. NACSA- Resettlement Strategy
44. The Customs Act cap 271 of Laws of Sierra Leone of 1960
45. The Customs ( Amendment) Regulations Act No. 10 of 1992
46. The Control of Goods Act No. 6 of 1962
47. The Diplomatic Privileges and Immunities Act No 35 of 1961
48. The Pharmacy and Drugs Act of 2001
49. The Excise Act No. 6 of 1982
50. The National Fire Service Act No. 8 of 1980
51. The Bush Fire Prevention Act cap 190 of 1906
52. The Hospital Boards Act No. 6 of 2003
53. The Republic of Sierra Leone Visa Regulations of 1998
54. The Income Tax Act of 2000, the Income Tax (Amendment) Act of 2004
55. The Income Tax Act of 2005
56. The Income Tax Amendment Act of 2006
57. The Medical Practitioners and Dental Surgeons Act of No. 3 of 1966
58. The Medical Practitioners and Dental Surgeons (Decree) Act, Decree No. 12 of 1994
59. The Medical Practitioners (Amendment) Act of 2008
60. The Police Act No 7 of 1964
61. The Protection from Radiation Act No. 14 of 2001
62. The Sierra Leone Red Cross Act No. 9 of 1962
63. The National Commission for Social Action Act No. 13 of 2001
64. The Sierra Leone Water Company Act No. 6 of 2001
65. The Finance Act No. 7 of 2006
66. The Finance Act No. 22 of 2007
67. The Finance Act No. 7 of 2008
68. The National Commission for Social Action Act of 2001
69. The National Commission for Social Action(Amendment) Act of 2008
70. The Constitution of Sierra Leone Act No. 6 of 1991
71. General Law Business Start up Amendment Act 2007

# Annex B

## Institutions contacted

- OFFICE OF NATIONAL SECURITY
- SIERRA LEONE RED CROSS SOCIETY
- MINISTRY OF FINANCE AND ECONOMIC DEVELOPMENT
- IBID NGO UNIT
- IBID ECOWAS DESK
- MINISTRY OF HEALTH AND SANITATION
- MINISTRY OF FOREIGN AFFAIRS
- MANO RIVER UNION SECRETARIAT FREETOWN
- NATIONAL COMMISSION FOR SOCIAL ACTION
- MINISTRY OF JUSTICE
- SIERRA LEONE STANDARDS BUREAU
- NATIONAL REVENUE AUTHORITY
- UNITED NATIONS DEVELOPMENT PROGRAMME
- MINISTRY OF INTERNAL AFFAIRS (POLICE)
- IMMIGRATION DEPARTMENT
- SIERRA LEONE ASSOCIATION FOR NON-GOVERNMENTAL ORGANISATIONS
- UNDP

# Annex C

## **Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance ('IDRL Guidelines')**

### **Introduction**

#### **1. Purpose and Scope**

1. These Guidelines are non-binding. While it is hoped that States will make use of them to strengthen their laws, policies and/or procedures related to international disaster response, as appropriate, the Guidelines do not have a direct effect on any existing rights or obligations under domestic law.
2. They draw from many existing international instruments, including United Nations General Assembly Resolutions 46/182 of 1991 and 57/150 of 2002, the Measures to Expedite International Relief of 1977 and the Hyogo Framework for Action of 2005.
3. Their purpose is to contribute to national legal preparedness by providing guidance to States interested in improving their domestic legal, policy and institutional frameworks concerning international disaster relief and initial recovery assistance. While affirming the principal role of domestic authorities and actors, they recommend minimum legal facilities to be provided to assisting States and to assisting humanitarian organizations that are willing and able to comply with minimum standards of coordination, quality and accountability. It is hoped that the use of these Guidelines will enhance the quality and efficiency of international disaster relief and initial recovery assistance in order to better serve disaster-affected communities.
4. These Guidelines are not intended to apply to situations of armed conflict or disasters that occur during armed conflicts, or to imply changes in any rules governing relief in those contexts. They are also not intended to recommend any changes to, or affect the meaning or implementation of, any existing international law or agreements, including but not limited to:
  - (a) International humanitarian, human rights and refugee law;
  - (b) The legal personality and status of States, inter-governmental organizations, the International Federation of Red Cross and Red Crescent Societies and the International Committee of the Red Cross;
  - (c) International law related to privileges and immunities;
  - (d) The Statutes and regulations of the International Red Cross and Red Crescent Movement and existing legal arrangements between the individual components of the Movement and States; and
  - (e) Existing agreements between States or between States and assisting actors.

## 2. Definitions

For the purposes of these Guidelines,

1. **“Disaster”** means a serious disruption of the functioning of society, which poses a significant, widespread threat to human life, health, property or the environment, whether arising from accident, nature or human activity, whether developing suddenly or as the result of long-term processes, but excluding armed conflict.
2. **“Disaster relief”** means goods and services provided to meet the immediate needs of disaster-affected communities.
3. **“Initial recovery assistance”** means goods and services intended to restore or improve the pre-disaster living conditions of disaster-affected communities, including initiatives to increase resilience and reduce risk, provided for an initial period of time, as determined by the affected State, after the immediate needs of disaster-affected communities have been met.
4. **“Goods”** means the supplies intended to be provided to disaster-affected communities for their relief or initial recovery.
5. **“Services”** means activities (such as rescue and medical care) undertaken by disaster relief and initial recovery personnel to assist disaster-affected communities.
6. **“Equipment”** means physical items, other than goods, that are necessary for disaster relief or initial recovery assistance, such as vehicles and radios.
7. **“Personnel”** means the staff and volunteers providing disaster relief or initial recovery assistance.
8. **“Affected State”** means the State upon whose territory persons or property are affected by a disaster.
9. **“Assisting State”** means a State providing disaster relief or initial recovery assistance, whether through civil or military components.
10. **“Originating State”** means the State from which disaster relief and initial recovery personnel, goods and equipment begin travel to the affected State.
11. **“Transit State”** means the State through whose territorial jurisdiction disaster relief or initial recovery assistance has received permission to pass on its way to or from the affected State in connection with disaster relief or initial recovery assistance.
12. **“Assisting humanitarian organization”** means a foreign, regional, intergovernmental or international non-profit entity whose mandate and activities are primarily focused on humanitarian relief, recovery or development.
13. **“Eligible assisting humanitarian organization”** means an assisting humanitarian organization determined to be eligible to receive legal facilities pursuant to Part V by the originating, transit or affected State, as applicable.
14. **“Assisting actor”** means any assisting humanitarian organization, assisting State, foreign individual, foreign private company providing charitable relief or other foreign entity responding to a disaster on the territory of the affected State or sending in-kind or cash donations.

## Part I: Core Responsibilities

### 3. Responsibilities of Affected States

1. Affected States have the primary responsibility to ensure disaster risk reduction, relief and recovery assistance in their territory. National Red Cross and Red Crescent Societies, as auxiliaries to the public authorities in the humanitarian field, and domestic civil society actors play a key supporting role at the domestic level.
2. If an affected State determines that a disaster situation exceeds national coping capacities, it should seek international and/or regional assistance to address the needs of affected persons.
3. Affected States have the sovereign right to coordinate, regulate and monitor, disaster relief and recovery assistance provided by assisting actors on their territory, consistent with international law.

### 4. Responsibilities of Assisting Actors

1. Assisting actors and their personnel should abide by the laws of the affected State and applicable international law, coordinate with domestic authorities, and respect the human dignity of disaster-affected persons at all times.
2. Assisting actors should ensure that their disaster relief and initial recovery assistance is provided in accordance with the principles of humanity, neutrality and impartiality, and in particular:
  - (a) Aid priorities are calculated on the basis of need alone;
  - (b) Provided without any adverse distinction (such as in regards to nationality, race, ethnicity, religious beliefs, class, gender, disability, age and political opinions) to disaster-affected persons;
  - (c) Provided without seeking to further a particular political or religious standpoint, intervene in the internal affairs of the affected State, or obtain commercial gain from charitable assistance;
  - (d) Not used as a means to gather sensitive information of a political, economic or military nature that is irrelevant to disaster relief or initial recovery assistance.
3. To the greatest extent practicable, their disaster relief and initial recovery assistance should also be:
  - (a) Responsive to the special needs, if any, of women and particularly vulnerable groups, which may include children, displaced persons, the elderly, persons with disabilities, and persons living with HIV and other debilitating illnesses;
  - (b) Adequate for the needs of affected persons and consistent with any applicable international standards of quality;
  - (c) Coordinated with other relevant domestic and assisting actors;
  - (d) Provided and conducted in a manner that is sensitive to cultural, social and religious customs and traditions;
  - (e) Carried out with adequate involvement of affected persons, including women, youth and the elderly, in their design, implementation, monitoring and evaluation;

- (f) Provided by competent and adequately trained personnel;
- (g) Commensurate with their organisational capacities;
- (h) Building upon and conducted in a manner that strengthens local disaster risk reduction, relief and recovery capacities and reduces future vulnerabilities to disasters;
- (i) Carried out so as to minimize negative impacts on the local community, economy, job markets, development objectives and the environment; and
- (j) Provided in a transparent manner, sharing appropriate information on activities and funding.

### **5. Additional Responsibilities of All States**

1. States providing funding to other assisting actors should encourage them to act in a manner consistent with the provisions of paragraph 4.
2. All States should actively encourage members of the public interested in contributing to international disaster relief or initial recovery to make financial donations where possible or otherwise donate only those types of relief goods expressly requested by the affected State.

### **6. Responsibilities Concerning Diversion and the Intended Use of Resources**

1. States and assisting humanitarian organizations should cooperate to prevent unlawful diversion, misappropriation, or fraud concerning disaster relief or initial recovery goods, equipment or resources and initiate proceedings as appropriate.
2. Affected States should use funds and relief goods donated to them, and which they have accepted in relation to a disaster, in a manner consistent with the expressed intent with which they were given.

## **Part II: Early Warning and Preparedness**

### **7. Early Warning**

In order to minimize transboundary impacts and maximize the effectiveness of any international assistance that might be required, all States should have procedures in place to facilitate the expeditious sharing of information about disasters, including emerging hazards that are likely to cause disasters, with other States and assisting humanitarian organizations as appropriate, including the United Nations' Emergency Relief Coordinator.

### **8. Legal, Policy and Institutional Frameworks**

1. As an essential element of a larger disaster risk reduction programme, States should adopt comprehensive legal, policy, and institutional frameworks and planning for disaster prevention, mitigation, preparedness, relief and recovery which take full account of the auxiliary role of their National Red Cross or Red Crescent Society, are inclusive of domestic civil society, and empower communities to enhance their own safety and resilience. States, with the support, as appropriate, of relevant regional and international organizations, should devote adequate resources to ensure the effectiveness of these frameworks.
2. These frameworks should also adequately address the initiation, facilitation, transit and regulation of international disaster relief and initial recovery assistance consistent

with these Guidelines. They should allow for effective coordination of international disaster relief and initial recovery assistance, taking into account the role of the United Nations Emergency Relief Coordinator as central focal point with States and assisting humanitarian organizations concerning United Nations emergency relief operations. They should also clearly designate domestic governmental entities with responsibility and authority in these areas. Consideration should be given to establishing a national focal point to liaise between international and government actors at all levels.

3. Where necessary and appropriate, national governments should encourage other domestic actors with authority over areas of law or policy pertinent to international disaster relief or initial recovery assistance, such as provincial or local governments and private regulatory bodies, to take the necessary steps at their level to implement the Guidelines.

### **9. Regional and International Support for Domestic Capacity**

1. With a view to increasing resilience and reducing the need for international disaster relief and initial recovery assistance, the international community, including donors, regional and other relevant actors, should support developing States, domestic civil society actors and National Red Cross and Red Crescent Societies to build their capacities to prevent, mitigate, prepare for and respond to disasters domestically.

2. The international community should also support developing States to build the capacity to adequately implement legal, policy and institutional frameworks to facilitate international relief and initial recovery assistance. This support should be provided to States in a coordinated manner among the relevant actors.

## **Part III: Initiation and Termination of International Disaster Relief and Initial Recovery Assistance**

### **10. Initiation**

1. Disaster relief or initial recovery assistance should be initiated only with the consent of the affected State and in principle, on the basis of an appeal. The affected State should decide in a timely manner whether or not to request disaster relief or initial recovery assistance and communicate its decision promptly. In order to make this decision, the affected State should promptly assess needs. Consideration should be given to undertaking joint needs assessments with the United Nations and other assisting humanitarian organisations.

2. Requests and offers for assistance should be as specific as possible as to the types and amounts of goods as well as the services and expertise available or required, respectively. Affected States may also wish to indicate particular types of goods and services likely to be offered that are not needed.

3. Affected States should make available to assisting actors adequate information about domestic laws and regulations of particular relevance to the entry and operation of disaster relief or initial recovery assistance.

### **11. Initiation of Military Relief**

Military assets should be deployed for disaster relief or initial recovery assistance only at the request or with the express consent of the affected State, after having considered

comparable civilian alternatives. Prior to any such deployment, terms and conditions (including such issues as the duration of deployment, whether they must be unarmed or may be armed the use of their national uniforms, and mechanisms for cooperation with civilian actors) are to be agreed by the affected and assisting States.

## **12. Termination**

When an affected State or an assisting actor wishes to terminate disaster relief or initial recovery assistance, it should provide appropriate notification. Upon such notification, the affected State and the assisting actor should consult with each other, bearing in mind the impact of such termination on disaster-affected communities.

## **Part IV: Eligibility for Legal Facilities**

### **13. Facilities for Assisting States**

It is recommended that transit and affected States grant, at a minimum, the legal facilities described in Part V to assisting States with respect to their disaster relief or initial recovery assistance.

### **14. Facilities for Assisting Humanitarian Organizations**

1. Subject to existing international law, it is the prerogative of originating, transit and affected States to determine which assisting humanitarian organizations will be eligible to receive the legal facilities described in Part V with respect to their disaster relief or initial recovery assistance.

2. It is recommended that States establish criteria for assisting humanitarian organizations seeking eligibility for legal facilities. 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 these Guidelines.

3. Any additional requirements imposed on assisting humanitarian organizations should not unduly burden the provision of appropriate disaster relief and initial recovery assistance.

4. Determination of eligibility by the State granting the facilities should be possible in advance of a disaster, or as soon as possible after its onset. Applicable procedures and mechanisms should be as simple and expeditious as possible. They should be clearly described and information about them should be made freely available. They might include the use of a national roster, bilateral agreements or reliance upon international or regional systems of accreditation, if available.

5. Retention of the legal facilities in Part V should be made dependent on ongoing compliance with the provisions of subsection 2 of this paragraph. However, entitlement to legal facilities should not be changed arbitrarily, retroactively or without notice appropriate to the circumstances.

### **15. Facilities for Other Assisting Actors**

Affected States may also wish to extend, upon request, some of the legal facilities in Part V to assisting actors other than those covered by paragraphs 13 and 14, such as private companies providing charitable relief, provided this does not negatively affect operations of assisting humanitarian organizations or assisting States. Any actor

receiving such facilities should be required to abide, at a minimum, by the same conditions described in paragraph 14.

## Part V: Legal Facilities for Entry and Operations

*It is recommended that States provide the legal facilities described in paragraphs 16-24 to assisting States and eligible assisting humanitarian organizations. It is understood that the granting of these facilities will be subject to the interests of national security, public order, public and environmental health, and public morals of the concerned affected, originating and transit States. Measures to protect such interests should be tailored to the exigencies of the specific disaster and consistent with the humanitarian imperative of addressing the needs of affected communities.*

*Where specific facilities recommended here are within the competence of authorities other than the national government, the national government should, where possible and appropriate, encourage those authorities to provide the relevant facilities to assisting States and eligible assisting humanitarian organizations.*

### 16. Personnel

1. With regard to disaster relief and initial recovery personnel of assisting States and eligible assisting humanitarian organizations, affected States should:

(a) Grant visas and any necessary work permits, ideally without cost, renewable within their territory, for the time necessary to carry out disaster relief or initial recovery activities;

(b) In disaster relief operations, waive or significantly expedite the provision of such visas and work permits;

(c) Establish expedited procedures for temporary recognition of professional qualifications of foreign medical personnel, architects, and engineers, drivers licences and other types of licenses and certificates that are necessary for the performance of disaster relief or initial recovery functions and that have been certified as genuine by the concerned assisting State or eligible assisting humanitarian organization, for the time necessary to carry out disaster relief or initial recovery activities;

(d) Facilitate freedom of access to and freedom of movement in and from the disaster-affected area, bearing in mind the safety of disaster relief and initial recovery personnel.

2. Upon request, originating and transit States should likewise waive or promptly issue, ideally without cost, exit or transit visas, as appropriate, for the disaster relief and initial recovery personnel of eligible assisting humanitarian organizations.

3. Assisting States and eligible assisting humanitarian organizations should consider to what degree disaster relief and initial recovery objectives can be met through hiring local staff.

### 17. Goods and Equipment

1. With regard to disaster relief and initial recovery goods and equipment exported or imported by, or on behalf of, assisting States and eligible assisting humanitarian organizations, originating, transit and affected States should:

(a) Exempt them from all customs duties, taxes, tariffs or governmental fees;

(b) Exempt them from all export, transit, and import restrictions;

(c) Simplify and minimize documentation requirements for export, transit and import;

(d) Permit re-exportation of any equipment or unused goods which the assisting State or assisting humanitarian organization owns and wishes to retain.

2. With regard to disaster relief goods and equipment only, originating, transit and affected States should additionally:

(a) Waive or reduce inspection requirements. Where waiver is not possible, clear relief goods and equipment rapidly and as a matter of priority, through a “preclearance” process where feasible; and

(b) Arrange for inspection and release outside business hours and/or at a place other than a customs office as necessary to minimize delay, in accordance with the safety regulations of the affected State. Assisting States and eligible assisting humanitarian organizations should respect any routes and delivery points prescribed by the affected State.

3. In order to benefit from the facilities above, assisting States and assisting humanitarian organizations should, in accordance with agreed international standards, appropriately pack, classify and mark disaster relief and initial recovery goods and equipment, and include detailed manifests with each shipment. They should additionally inspect all such goods and equipment to ensure their quality, appropriateness for the needs in the affected State, and conformity with the national law of the affected State and international standards.

4. Assisting States and eligible assisting humanitarian organizations should assume responsibility for removing or disposing of any unwanted and unused relief and initial recovery goods, particularly if they may pose a threat to human health or safety, or the environment.

### **18. Special Goods and Equipment**

In addition to the facilities described in paragraph 17:

1. Affected States should grant temporary recognition to foreign registration and plates with regard to vehicles imported by assisting States and eligible assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance.

2. Affected States should waive or expedite the granting of any applicable licenses and reduce any other barriers to the use, import or export of telecommunications and information technology equipment by assisting States and assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance. Without discrimination against or negative impact to domestic relief actors, affected States should also grant (or where, appropriate, encourage other domestic actors to grant) assisting States and eligible assisting humanitarian organizations priority access to bandwidth, frequencies and satellite use for telecommunications and data transfer associated with disaster relief operations.

3. Originating, transit and affected States should reduce legal and administrative barriers to the exportation, transit, importation and re-exportation of medications and medical equipment by assisting States and eligible assisting humanitarian organizations or on their behalf in disaster relief and initial recovery assistance, to the extent consistent with public safety and international law. Assisting States and eligible assisting humanitarian organizations should take all reasonable steps to ensure the quality, appropriateness and safety of any such medications and equipment and in particular:

- (a) Any medications they import should be approved for use in the originating and affected State;
  - (b) Medications they use in their own operations should be:
    - (i) transported and maintained in appropriate conditions to ensure their quality and;
    - (ii) guarded against misappropriation and abuse.
  - (c) Any medications they donate for use by others in the affected State should be:
    - (i) at least twelve months from their expiration date upon arrival, unless otherwise agreed by receiving authorities;
    - (ii) transported and maintained in appropriate conditions to ensure their quality until they reach the affected State; and
    - (iii) appropriately labelled in a language understood in the affected State with the International Nonproprietary Name or generic name, batch number, dosage form, strength, name of manufacturer, quantity in the container, storage conditions and expiry date.
4. Originating, transit and affected States should consider whether normal requirements regarding fumigation and prohibitions and restrictions on food imports and exports by assisting States and eligible assisting humanitarian organizations in disaster relief operations can be modified or reduced.

### **19. Transport**

1. Originating, transit and affected States should grant, without undue delay, permission for the speedy passage of land, marine and air vehicles operated by an assisting State or eligible assisting humanitarian organization or on its behalf, for the purpose of transporting disaster relief or initial recovery assistance and, ideally, waive applicable fees.
2. In particular, permission should be granted for overflight, landing and departure of aircraft. Such aircraft should also be authorized to operate within the territory of the affected State as required for the delivery of assistance.
3. Any applicable exit, transit and entry visas for the operating personnel of such transport vehicles should be promptly issued.

### **20. Temporary Domestic Legal Status**

1. Affected States should grant relevant entities of assisting States and eligible assisting humanitarian organizations, upon entry or as soon as possible thereafter, at least a temporary authorization to legally operate on their territory so as to enjoy the rights, *inter alia*, to open bank accounts, enter into contracts and leases, acquire and dispose of property and instigate legal proceedings, for the purpose of providing disaster relief and initial recovery assistance.
2. Assisting States and eligible assisting humanitarian organizations should also be granted the right to freely bring the necessary funds and currencies in or out of the country through legal means and to obtain legal exchange rates in connection with their disaster relief or initial recovery assistance.
3. Affected States should allow assisting States and eligible assisting humanitarian organizations to legally hire and terminate the contracts of local personnel.

### **21. Taxation**

Affected States should provide exemptions to assisting States and eligible assisting humanitarian organizations from value-added and other taxes or duties directly associated with disaster relief and initial recovery assistance.

### **22. Security**

Affected States should take appropriate measures to address the safety and security of disaster relief and initial recovery personnel of assisting States and eligible assisting humanitarian organizations and of the premises, facilities, means of transport, equipment and goods used in connection with their disaster relief or initial recovery assistance. Assisting States and assisting humanitarian organizations should also take appropriate steps in their own planning and operations to mitigate security risks.

### **23. Extended Hours**

Affected States should endeavour to ensure, when necessary, that State-operated offices and services essential to the timely delivery of international disaster relief function outside of normal business hours.

### **24. Costs**

1. The costs of providing international disaster relief or initial recovery assistance pursuant to these Guidelines should normally be borne by the assisting State or assisting humanitarian organization. However, assisting States may agree in advance with the affected State for the reimbursement of certain costs and fees, or for the temporary loan of equipment.

2. Affected States should consider, when it is in their power and to the extent possible under the circumstances, providing certain services at reduced or no cost to assisting States and eligible assisting humanitarian organizations, which may include:

- a. In-country transport, including by national airlines;
- b. Use of buildings and land for office and warehouse space; and
- c. Use of cargo handling equipment and logistic support.



# 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.



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