



Disasters in Asia: the Case for Legal Preparedness

*As human suffering increases with the
onslaught of 'natural' disaster, stronger
laws are key to turning the tide of misery.*



International Federation
of Red Cross and Red Crescent Societies



Strategy 2020 voices the collective determination of the International Federation of Red Cross and Red Crescent Societies (IFRC) to move forward in tackling the major challenges that confront humanity in the next decade. Informed by the needs and vulnerabilities of the diverse communities with whom we work, as well as the basic rights and freedoms to which all are entitled, this strategy seeks to benefit all who look to Red Cross Red Crescent to help to build a more humane, dignified, and peaceful world.

Over the next ten years, the collective focus of the IFRC will be on achieving the following strategic aims:

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

In 2010, 20 million people were affected by the worst flooding in the country's history in Pakistan. Reuters

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Introduction

Floods. Tropical storms. Earthquakes. Tsunamis. Landslides. Droughts. Disasters are a part of everyday life and they are increasing.

Nowhere are they increasing faster and with greater ferocity than in Asia Pacific, the world's most disaster-prone region where, on average, 40 per cent of the globe's "natural" catastrophe occurs. Witness such events as 2010's Pakistan superflood, 2009's ravaging typhoons in the Philippines, or 2008's Cyclone Nargis and Sichuan earthquake. Nargis killed more than 138,000 people in Myanmar and the earthquake left almost 87,500 dead in China: mind-numbing catastrophes that accounted for 93 per cent of the world's total disaster deaths that year. The Indian Ocean tsunami of 2004 provided a similar statistic: 226,400 deaths in a world total of just over 242,000.

Statistics, meanwhile, tell us only what is recorded. If they tell us that from 2000 to 2009 some 2,159,714,852 people were affected by Asian disasters those are only the ones the statisticians know about. Untold numbers of others suffered as well but their plight was never recorded because many smaller disasters – that nonetheless devastate people's lives – go unnoticed.

But however the numbers are counted, they amount to this: today in Asia Pacific, disaster is a daily occurrence. Often, it is more than daily. In Indonesia, government statistics show that, over a 12-month period, the average has been as high as 2.75 disasters a day, most of which passed largely unnoticed by the international community.

The outlook offers no respite, and governments and societies across Asia Pacific realize new challenges face us in a rapidly changing world. How we responded yesterday will not meet the needs of tomorrow. With climate change and the increasing severity of meteorological events, with the increasing numbers of people living in precarious situations, with irregular migration, urbanization, environmental degradation, large scale displacement, public health crises and ever more complex emergencies – we can be sure of that.

Disasters, however, are rarely natural. Only hazards are. Disasters are failures to cope with them. When a storm or volcanic eruption rains down its fury, the vulnerability of our communities, the fragility of our homes, the exposure of our lands, property and livelihoods determine whether and how much we will suffer. The human factor is the difference between a natural event and a disaster.



A child stands in front of collapsed buildings destroyed in the deadly earthquake that struck the Chinese Province of Sichuan, killing almost 87,500 people



One of the most devastating disasters in recent history was the Indian Ocean tsunami of 2004 that killed over 240,000 people across 13 countries



Ambulances of the Saudi Arabian Red Crescent rush to the scene of an emergency during the annual Hajj in Mecca in 2006

Good legislation is critical

Good laws and legal frameworks are essential to how we reduce the risks, and how we prepare and respond. Presidents and parliaments cannot order the atmosphere to cool down or the earth to stay still but they can do a great deal to reduce the human suffering that growing disasters bring.

Good legislation has the power to help communities become less vulnerable, to strengthen their ability to deal with the hazards they face and to smooth the path of rescue services, humanitarian aid and recovery help when they are needed.

Weak legal frameworks and policies, on the other hand, can put people closer to harm's way, undermine efforts to help them and lead to unfair and unsatisfying results in the aftermath of a disaster.

This is why encouraging stronger, more inclusive, and fairer disaster legislation is so important to the International Federation of Red Cross and Red Crescent Societies (IFRC). As independent auxiliaries to public authorities in the humanitarian field, its member National Societies are responsible for providing governments with the best advice they can gather from their long experience in dealing with disasters.

This report highlights three areas where we know that law can make a key difference in Asia Pacific and where the Red Cross and Red Crescent is supporting governments to tackle the problems.

Legal preparedness for international assistance: easing the way for relief assistance

When natural hazards overwhelm them, even the wealthiest states sometimes need outside assistance. Yet very few governments are adequately prepared for help from abroad. Often their rules and systems are poorly attuned to the needs that arise. Overregulation leads to bureaucratic bottlenecks slowing the entry and distribution of relief. Underregulation permits uncoordinated efforts and consequently poor performance.

Complicating matters, the number of international actors who want to help is increasing, as is the variety of them. For unprepared governments this brings administrative and political headaches, while aid providers are frustrated by avoidable delays and substantially higher costs. The knock-on effect for people whose lives are devastated by disaster can be critical. They need immediate, effective support.

The time to develop new rules and systems for international disaster response is before disaster strikes, not after the event. When relief columns wait at borders, when aid shipments gather dust on airport aprons, when specialists pace offices waiting for visas, when out-of-date medicines are shipped to operations, when aid agencies flock to where the media are rather than to where they are most needed, it isn't shortages of money, expertise or even goodwill that extend the suffering of disaster victims. Often it is lack of regulation. Good legislation can alter that.



Spanish Red Cross emergency response units arriving in West Sumatra after the earthquake in 2009

Over the last nine years, the IFRC and its National Societies have been studying how regulatory frameworks – known as International Disaster Response Laws, Rules and Principles (IDRL) – can facilitate efficient international relief when domestic resources are not enough. The 2004 Indian Ocean tsunami and the challenges it presented to several hard-hit Asian countries, spurred the IFRC to lead consultations with more than 140 governments and 180 relief agencies on the development of a new set of voluntary guidelines.



Villages in the Indian State of Andhra Pradesh received relief supplies from the Indian Red Cross Society when 500,000 people were displaced by the worst floods in nearly 100 years in 2009

The Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (also known as the IDRL Guidelines) are recommendations on how governments can prepare their disaster laws and plans for common regulatory problems that arise in international operations. They advise on minimum quality standards for humanitarian assistance as well as how states should facilitate the work of aid providers to greatest effect. In 2007, the State Parties to the Geneva Conventions unanimously adopted them at the 30th International Conference of the Red Cross and Red Crescent.

Since then, over a dozen governments have begun collaborating with their National Red Cross or Red Crescent Society to use the Guidelines to examine their own legal frameworks for international disaster response. Indonesia has led the way.

Core ideas of the IDRL Guidelines

- *Domestic actors have the primary role. The government of the affected state is responsible for meeting humanitarian needs caused by a disaster within its borders. Other actors play a supporting role and international assistance should be designed to complement domestic efforts, rather than displace them.*
- *International assistance providers have responsibilities and should abide by minimum humanitarian standards such as those in the Code of Conduct of the Red Cross and Red Crescent Movement and NGOs in Disaster Relief, and the Sphere Humanitarian Charter and Minimum Standards in Disaster Relief.*
- *Governments should provide international actors with the legal support to accelerate visa processing and customs clearance, facilitate relief transport, exempt humanitarian organizations from taxes, duties and fees, and simplify the means to operate legally in the country. States are also encouraged to reduce legal barriers to disaster relief originating within or passing through their territories to another country.*

The IDRL Guidelines are available in over a dozen languages at <http://www.ifrc.org/idrl>.

Case study: Indonesian law quickens response in the land of disasters

Some in Asia would debate it but, according to the UN Office for the Coordination of Humanitarian Affairs (OCHA), Indonesia is the world's most disaster-prone country. It has a case. In 2009, it had 469 earthquakes of magnitude five or higher, floods that affected more than five million people, and a litany of other events. The country also suffers landslides, droughts, cyclones and volcanic eruptions on a regular basis.

Nothing, though, can yet compare with the 2004 Indian Ocean tsunami. It changed the landscape of Aceh province at the northern end of Sumatra, literally. Just 150 kilometres from the epicentre of an offshore earthquake, Aceh suffered more than anywhere else. Sweeping inland for up to seven kilometres, the waves remodelled Aceh's coastline and removed whole communities from the face of the earth. Here and on coastal islands close to 170,000 people were killed, more than 570,000 were displaced and 750,000 partially or totally lost their livelihoods.

Today, the tsunami is changing the landscape of Indonesian disaster management. What the country has learned in the aftermath of that horrific event, it is attempting to put into practice. It isn't easy. It will take time but new legislation is helping.

Palang Merah Indonesia (PMI), the Indonesian Red Cross, began to raise the importance of IDRL well before the tsunami. Drawing on the IFRC's global research and consultations, it first discussed it with the government in 2003 but the issue was not immediately taken up. Indonesia was used to disaster. It happened often, steps had been taken to manage it and the need for international assistance had been limited. The tsunami turned that on its head.

"Disaster on this scale had never been seen in our country," says Arifin Hadi, PMI's head of disaster management. "Now, suddenly, the government's mind and eyes were open. They could see what we'd been talking about."

Any country would need help with such a catastrophe and help flooded in. The tsunami revealed, however, that Indonesia's approach to disaster management was reactive. It was weak in contingency planning, unprepared to coordinate – particularly foreign assistance – and unclear in response procedures. Many laws and regulations related to the entry of foreign organizations did not support a relief operation and were either overwhelmed or ignored completely.

The government saw the shortcomings quickly, introduced ad hoc legislation, created new institutions, amended policy, and modified disaster response mechanisms to better support both local and international humanitarian efforts. It recognized, however, that the system needed more than patching.

Despite officials' best efforts, numerous regulatory hurdles hampered relief, including taxes and duties, lengthy procedures for customs clearance, inconsistency and confusion surrounding visas and work permits. Moreover, many of these issues were determined on a case by case basis rather than through a clear and transparent system that applied to everyone.

Relief organizations were not blameless. Some aggravated poor coordination and ignored government efforts to keep track of what was happening. Along with the pressure of time, earmarked funding and the number and range of foreign actors, this led to a shortage of aid in places and an over-supply of it elsewhere. A massive relief effort was mobilised.

A disregard among some for basic humanitarian principles, quality and accountability was also evident. It reduced overall effectiveness and in many instances inappropriate and unsolicited relief contributed to bottlenecks.



Aceh bore the worst of the Indian Ocean tsunami. More than 170,000 people were killed on December 26, 2004



With roads washed away, helicopters were the only method of reaching remote communities in Aceh with relief supplies

The legal lessons to be learned were enormous and in the tsunami's wake PMI and a coalition of Indonesian NGOs opened discussions with the government on the need for new legislation. "The government was open and committed," says Arifin Hadi. "There was acceptance of a role for international organizations when the impact of disaster was greater than the country could cope with. So, we asked, how do you regulate that? How can we do better in the next disaster? Agencies had come from all over the world and had so much to contribute but roles and responsibilities had to be clear in any future operation. And there had to be less overlap and duplication."

PMI was involved in many consultations and revision processes before a comprehensive disaster management law (Law No. 24, 2007), found its way onto the statute books. The outcome would go beyond relief. Crucially, it established a National Disaster Management Agency (BNPB) tasked with coordinating risk reduction as well as strengthening response and leading emergency operations. In addition to more general advice based on its experience in community-based disaster management, PMI had collaborated with the IFRC to provide specific suggestions about IDRL for the new law. As a result, the final product did include some provisions on international relief. However, it was clear that additional elaboration and guidance would be needed.

The first step was the development of an implementing regulation on this topic. When the IDRL Guidelines were formally adopted at the International Conference of the Red Cross and Red Crescent in November 2007, PMI brought them to the attention of policymakers to assist in this task. "They helped us in providing the main issues that we should consider", notes Dewina Nasution, Head of Law and Cooperation at BNPB. In 2008, President H. Susilo Bambang Yudhoyono promulgated Regulation 23 on the "Participation of International Institutions and Foreign Nongovernmental Institutions in Disaster Management."

BNPB's approach to facilitating international relief was now much more comprehensive, whereas before it was dispersed across numerous bodies. Arifin Hadi cites a national IDRL workshop facilitated by PMI, the IFRC and the UN Office for the Coordination of Humanitarian Affairs (OCHA) to illustrate. Hosted by the agency, its goal was to ensure an effective transition to what he describes as a new paradigm.

"Every ministry and government department concerned in disasters was present," he says, "and they agreed to develop specific practical guidelines on the regulation of international assistance. The Health Department will provide them on donations of drugs and medical equipment, the Ministry of Foreign Affairs on the registration of foreign NGOs."

A manual on international disaster response is also being developed, providing detailed guidance on issues from entry points, types of assistance, clearance procedures for personnel and goods and equipment, to relief distribution, security, and monitoring and evaluation.

As well as supporting the guidelines, the manual will help integrate new and existing regulation. Explains Dewina Nasution, "Established ministries were working and supporting disaster management prior to our creation. They brought in all manner of rules and regulations. We must ensure we avoid overlapping and incompatible regulation."

Having played a central role pushing the discussion of disaster management, PMI itself has learned much about legislative advocacy, Arifin Hadi says. "Being an auxiliary to government in humanitarian matters is a natural role and one that will



Collaboration between PMI, the IFRC and the Indonesian authorities has gone beyond strengthening emergency response after disasters



In the five years since the tsunami struck Aceh, new regulations have brought government agencies together in their planning for future disasters

grow only bigger. We have become a reference point on IDRL and we intend to stay involved in ensuring a consistent application of the new legislation. It is why we now have our own legal bureau to strengthen our support to the government in developing regulation.”

This willingness to help has not gone unnoticed. “PMI has been a significant player in disaster management,” notes Dewina Nasution of BNPB, “when we develop legal products we will need to work with PMI so they can enrich us with their field experience.”

Indonesia has come a long way, Arifin Hadi concludes, but he does not play down the challenges. “Ours is a big country with so many places that are far away from Jakarta. The law is one thing but it will be useless unless it can be translated into practical action.”

Building regional commitment

Soon after the 2004 Indian Ocean tsunami, the Association of Southeast Asian Nations (ASEAN) adopted its pioneering ASEAN Agreement on Disaster Management and Emergency Response (known as “AADMER”), which entered into force at the end of 2009. In joint exercises under AADMER, ASEAN members have drawn on the IDRL Guidelines to elaborate the practical ways in which the agreement can be implemented.

AADMER covers disaster risk identification, monitoring and early warning, prevention and mitigation, preparedness and response, rehabilitation, technical cooperation and research, mechanisms for coordination, and simplified customs and immigration procedures. The spirit of the pact is to share information and expertise to improve preparedness for any kind of humanitarian emergency, says Adelina Kamal, head of ASEAN’s disaster management and humanitarian assistance division.

National Red Cross and Red Crescent Societies are eager to support governments in implementing the agreement, and the Indonesian and Thai societies are focal points in discussions with ASEAN. “I would like to strongly emphasize,” notes Arifin Hadi of PMI, “that the IDRL Guidelines can serve as a basic tool for implementation of AADMER. Commitment to implement both the IDRL Guidelines and AADMER among ASEAN countries will strengthen our cooperation, cooperation and resource mobilization in all aspects.”

Securing shelter: overcoming the housing hurdles

People have rights as well as needs in the wake of a disaster but legal barriers can hamper recovery, particularly for those living in poor temporary shelter long after the headlines have faded.

Conflicting claims to property, lack of formal title to it, preferential treatment for owners over renters, incomplete land registers, discrimination against women and land grabbing have stood in the way of adequate housing for millions of disaster victims in Asia Pacific. As both the frequency and scale of disasters increase, so does the number of challenges facing the Red Cross and Red Crescent – with its global leadership role in the shelter sector – and other humanitarian actors.

Often, the brunt of displacement and property damage from disasters is felt in unplanned, informal or customary settlements of the poorest segments of society. It is estimated that up to a sixth of humanity already lives in this environment, generally without clear ownership or formal rights of occupation. As slums expand apace around the burgeoning cities of the developing world, disproportionate suffering will continue to fall where official regulation is missing.

The World Disasters Report 2010 warns that an “urban underclass” of almost one billion people is growing by 10 million a year, and IFRC Secretary-General Bekele Geleta comments, “Slum life can be nasty, brutal and short for many inhabitants as they lose out in a Darwinian struggle for survival against disease, malnutrition, illiteracy, crime and natural disasters.”



In Sri Lanka, the long running civil war coupled with the affects of the 2004 tsunami caused massive population displacement



More than 40,000 temporary shelters were built after the tsunami caused widespread devastation along much of Sri Lanka’s coastline



New homes in Batticaloa – The Red Cross helped to build over 30,000 houses during the five year tsunami recovery operation



Hundreds of new settlements were built on land provided by the Government of Sri Lanka

Yet, he says, urbanization can be a strong bulwark against natural hazards. “Where there is good urban governance, you find economies of scale in terms of risk reduction and response capacities. Where there is good urban governance, you will also find citizens who are empowered and active in their communities because they have security of tenure and their housing, land and property rights are respected.”

Whether urban or rural, security of tenure is essential for sustainable relief and recovery. Without it, and where rights are not respected, vulnerability to disaster increases.

Housing, land and property rights are international human rights and enshrined within global standards, and though the issues may be country-specific, the essence of the challenge is common.

Case study: Rebuilding lives in Sri Lanka

Finding solutions for Sri Lanka’s landless farmers and homeless urban poor has weighed on the authorities for decades. Man-made and natural disasters have only increased the challenge. First, the long running conflict in the north and east displaced 800,000 people. Then, in December 2004, the Indian Ocean tsunami displaced another half million. Many of those the tsunami made homeless had already been displaced by the conflict, some of them more than once.

Legal issues compounded the complexity. In the wake of the tsunami, the Sri Lanka Red Cross Society (SLRCS) and its Red Cross and Red Crescent partners pledged to construct more than 33,000 permanent houses and reach almost two million people with livelihoods, health and other programmes. But regulatory hurdles confronted them.

SLRCS acting secretary-general, Tissa Abeywickrama, explains, “Rules and regulations are different in different parts of the country and the conflict confused many matters. We had to face issues not directly tsunami-related. We would start to help people who had originally fled the conflict and settled on host land, for example. They were homeless again and we wanted to provide them with shelter. But then we would hear from the authorities that their residency was elsewhere.”

Going home wasn’t always straightforward, even if conflict had ceased in certain areas. Many displaced people did not own the land they had abandoned and did not want to return there anyway. Those who did sometimes found their property occupied, by people themselves displaced from other lands.

“We would often have to mediate. Housing, land and property rights have been something we’ve dealt with a lot,” says the SLRCS secretary-general.

Sri Lanka’s buffer zones provide an example. Less than six weeks after the tsunami, the government announced that no new construction would be allowed within 100 metres of the sea on the southwest coast and 200 on the northeast one. It was a swift response to the disaster from a government determined to protect the population, extending zones that already prevented building within 35 to 50 metres of the sea.

The safety concerns were understood, but for the SLRCS and other humanitarian organizations the new rules went further than necessary. Scientific study suggested that a tsunami on this scale occurred only once in a thousand years and the impact of the zones on tens of thousands of tsunami survivors would be enormous. Uprooted from where they had lived all their lives, from land and locations they depended

upon, and unable to reconstruct homes there, they would suffer more than they would gain from the measures.

The enlarged zones had been defined but not enforced by pre-tsunami legislation. They were part of a coastal conservation plan but, in the dramatically altered situation, aid agencies saw them as a major threat to recovery and reconstruction.

Many questions arose. The government's plan was to provide a new home for every affected house owner, and as close to their old ones as possible. But where was the land and was it suitable for people who had depended on coastal locations? How would livelihoods be affected?

Along with UN and other organizations, the SLRCS presented its concerns, and when the authorities weighed the evidence, they decided to rescind the extensions.

Other solutions were harder to find in the midst of an operation. According to data from Sri Lanka's Department of Census and Statistics, about 70 per cent of houses damaged by the tsunami were owned by their occupiers. Nevertheless, a large proportion of people the Red Cross assisted could not produce proof of ownership.

"We discovered so many cases where housing had been dealt with informally," Abeywickrama explains. "A father owns a parcel of land, for example, on which he has a house. He invites his son and daughter to build their own homes on the property. But no one thinks about legal ownership, or about deeds and registration. When a tsunami sweeps those homes away, you find you have a legal problem."

Squatters have suffered considerably, the SLRCS secretary-general says, and some have fallen through gaps in the safety nets. "There is no doubt," he says, "that people have lost out because they were not considered eligible."

"Under Sri Lankan law, if you occupy a place for many years you are considered to have a vested interest. But you do not have land rights and, should someone else lay claim to the land, you would have to go to court."

Courts did not seem able to help landless renters in places like Galle, on the island's southwest coast. They simply failed to appear on beneficiary lists, which effectively denied them any kind of assistance. As late as 2008, the IFRC estimated that up to 20,000 households — 100,000 people — had received no direct support to repair or rebuild homes the tsunami had damaged.

As noted by Abeywickrama, "people have come knocking on our door saying: 'You have assisted many others with housing. Why not us?' We've had a whole community turn up, some 16 families of whom only three or four had been told by the authorities they were entitled to housing."

"These are poor people," Abeywickrama insists. "They have a low living standard, and perhaps a few planks for some temporary structure. They don't have the means to prove their rights."

He is also concerned how women are treated in certain parts of the country. Custom in some places does not guarantee their right to land and property. If a man dies, his rights may not pass to his wife but to his parents or their family. In tsunami-related disputes, advocacy by the SLRCS and other organizations has ensured more equitable results for women. Still, the Red Cross is advocating for stronger institutional solutions.

Sri Lanka is certainly not alone in facing issues of this type. Property is a complex legal and social issue in most countries, and the advent of a major disaster adds an additional level of stress. However, guidance is starting to develop at the international level and many are starting to see the need for becoming more prepared for these kinds of dilemma in advance of disasters.

In Sri Lanka, momentum is starting to build to address these kinds of questions for future disasters. For his part, Tissa Abeywickrama is unequivocal. "I strongly believe there should be wider discussion on these issues. They need to be reviewed and a process begun that could lead to new legislation."



Proving ownership of land proved almost impossible for the thousands of squatters who lost homes during the 2004 tsunami

Housing, land and property rights in the wake of a disaster

Even in the wake of a disaster, everyone enjoys basic human rights related to their housing, whether their homes have been damaged, destroyed or occupied by others.

According to the UN's Guiding Principles on Internal Displacement (1998), the "competent authorities have the primary duty and responsibility to establish conditions, as well as to provide the means, which allow internally displaced persons to return voluntarily in safety and with dignity to their homes or places of habitual residence, or to resettle voluntarily in another part of the country."

In carrying out this duty, the UN's "Operational Guidelines on Human Rights and Natural Disasters" (2008) recommend that:

- *"The return of persons or communities displaced by the natural disaster to their property and possessions should be facilitated as soon as possible.*
- *Owners, whose land deeds or property documents have been lost or damaged during the natural disaster or whose land boundaries have been destroyed, should be provided with accessible procedures to re-claim ownership of their original land and property without undue delay.*
- *Legal procedures should be put in place to consider competing claims to land and property with due process guarantees and without delay. Access to an independent court or tribunal should be guaranteed if the decision is not accepted by both parties.*
- *Specific arrangements should be made to enable women, particularly widows, as well as orphaned children to (re-) claim housing, land or property and to acquire housing or land title deeds in their own name.*
- *Specific arrangements should be made to enable and facilitate recognition of claims to land title and ownership based on prolonged possession, in the absence of formal land titles, especially for indigenous peoples."*

Reducing risk: law can ensure community action

When natural hazards threaten, people's options are limited. They can run. They can wait in despair for the worst to happen. Or they can try to reduce the impact of what is likely to come, as National Red Cross and Red Crescent Societies continue to show them.

Take the case of the low-lying, flood-prone northern plains of Bangladesh. Already, monsoon rains bring heavy floods and they could become bigger and more frequent as climate changes. But lifting the doom and gloom, Red Crescent volunteers are telling villagers: no matter where you are and how huge the hazards, there are always ways to diminish their menace.

This is why trees are planted along river banks and roadsides as part of preparedness programmes. They help check the force of the flooding, help improve the environment, and help communities not only survive but develop. It may be a modest intervention but the root spread stabilizes the earth, helps prevent the erosion of topsoil, and trees provide sustainable income. When mature, they are felled and replaced by saplings, the wood being sold for community benefit. As a result, villages are less open to disaster, more resilient, better able to cope with adversity.

Empowering communities to enhance their own safety and resilience is an essential element of risk reduction, and the integration of community and civil society into disaster management makes it far more effective. Legislation can ensure this participation, as new disaster law in the Philippines shows.

Case study: Winds of change strengthen law in the Philippines

Minds were focused sharply in the Philippines last year by a series of deadly storms which struck in September and October. The worst, Tropical Storm Ketsana, overwhelmed Manila and northern parts of the country and brought the worst flooding for more than 40 years.

Ketsana had come amid the monsoon and more rain fell in six hours than would typically fall in a month. The population – braced for high winds but not for inundation – was caught totally unprepared. The morning after Ketsana hit, most of Metro Manila was under water and media reported that towns to the east had been submerged completely.

People were stranded on rooftops. Manila's airport had closed. Electricity was down in much of the city. A state of calamity was declared, not only for the capital but also for 25 provinces of Luzon, the highly-populated island it sits upon.



The Philippine Red Cross was at the forefront of the humanitarian response to victims of Typhoon Ketsana in September 2009

Months later, the country was still reeling. More than 250 people had died, more than 2.2 million were said to be directly affected, and 736,000 displaced. More than 37,000 hectares of rice fields and commercial plantations were damaged.

If ever an event drove home the perils of climate change, the urgency of greater preparedness and the obligation of disaster risk reduction, it was Ketsana. The issues were not new, the authorities had known they had to reform the country's approach to calamity, but fresh legislation had been bogged down in parliamentary debate. Now, the talking was over. Supported by the Red Cross and partner organizations, a bill to create an "Act Strengthening the Philippine Disaster Risk Reduction and Management System" made fast passage through the legislature. (see box: 'advocating for change')

Catherine Marie Martin, Director of Disaster Management Services at the Philippine Red Cross (PRC), explains, "Delay had been caused by two different bills being introduced to parliament, one in the upper house, one in the lower: a huge debate had enveloped them. The typhoons brought a new momentum, though. Everyone saw an integrated bill was needed as soon as possible."

The old system's shortcomings had been apparent right in the heart of the capital. They had washed up, indeed, on the very steps of the legislature.

The problem was that the old law was reactionary. Catherine Martin explains, "It provided calamity funds to which you had access only after disaster. You needed an official state of calamity before there was money for preparedness. The consequence was that far too little was done at community level."

While the law did not stop the Red Cross and others from working – they acquired their funding elsewhere – it limited their accomplishments. "We have always been involved in preparedness, prevention and recovery," Catherine Martin says. "We've worked on risk reduction since 1994, through integrated community disaster preparedness programmes. But, until now, our main challenge has been the absence of specific local government funds to ensure sustainability."

More frustrating still, the money was there and often went unused for disaster management. All local governments allocated five per cent of their annual state income to the National Calamity Fund but, if no disaster occurred in the course of the year, the old law allowed them to dispense the money to staff, as bonuses and incentives.

No longer. Under the new act, unspent money will remain in the fund and the PRC and other actors will have support to promote risk reduction and disaster preparedness before catastrophe happens. More communities will assess and address the hazards they face, map the dangers, analyse why they are vulnerable to them, and then develop action plans.

"What the law now provides is an enabling environment," says Catherine Martin. "It takes a holistic approach to disaster management."

Preparedness, prevention and recovery are focus areas, climate change has entered the statute book, and the act paves the way for greatly improved early warning.

For the PRC, which promotes climate change adaptation and works on early warning systems, the law could not be more welcome. Catherine Martin provides some perspective. "Our country is hit by an average 18 to 20 typhoons a year and they are increasing. Meteorologists predict that figure could rise to 20 to 25, and whereas on average three of the 20 have been bad ones we have been told to expect five or six."



The Philippine Red Cross has many years of experience in implementing community based disaster risk reduction programmes through its volunteer network



Working with communities on mapping the hazards they face are key elements of disaster preparedness and prevention



Earthquake preparedness training in a school in Palawan is one aspect of the disaster preparedness curricula being taught in schools in the Philippines

But, she points out, extreme weather change is not limited to typhoons. Droughts now follow floods, for example. Rather than the single greatest hazard, the law will turn the spotlight on high-risk areas themselves and the overall threat they face.

Risk reduction education is now mandatory in schools as well, another move applauded by Catherine Martin. The PRC has worked with schools since 2007, training teachers in disaster preparedness and helping them integrate it into their curricula. “The law now ensures the complete buy-in of schools in risk reduction,” the DM director says. “We’re talking with partners and the Department of Education to identify areas we’ll operate in, which age groups we’ll target and so on.”

The input of civil society – and the responsibility it places upon them – is clear, and spelled out in the new legislation. NGOs have four seats in the National Disaster Risk Reduction and Management Council, an unmistakable opportunity for stronger grassroots advocacy.

There is, though, no room for complacency. As of September this year, the country was again braced for more flooding. Again heavy storms were expected, brought this time by the La Niña weather effect.

The chairman of the Philippines’ Climate Change Commission, Heherson Alvarez, spoke of a race against time to prevent large-scale destruction. On a scale of one to ten, he gave the country a rating of four in its level of preparedness.

Advocating for change

What they wanted was law that truly emphasized disaster risk reduction, and they fought for it tooth and nail. The Philippine Red Cross (PRC) and other disaster management agencies worked hard for new legislation.

The government had opened the door for their advocacy with a multi-stakeholder dialogue on how to fulfil its commitment to the Hyogo Framework for Action, the global plan for reducing the risk and impact of disasters. Among technical working groups created was one to review the current disaster management law, a group representing all of the country’s disaster management actors, the PRC among them.

Chairman Richard Gordon and governing board member Juan Miguel Zubiri shared Red Cross experience in hearings, pushed for stronger support for community-level action, and were proposers of one of the bills that led to the Act Strengthening the Philippine Disaster Risk Reduction and Management System.

The PRC will now work to encourage its implementation. Will there be challenges? Disaster management director, Catherine Martin says, “Changing mindsets will be important, particularly at the local level among the mayors and chief executives of towns, cities and provinces. It helps that we are in the National Disaster Risk

Reduction and Management Council, both at national and local level. We can help local authorities in many ways, from assisting with assessments and risk and resource mapping, to training for disaster response.

But we will need to continue with advocacy, with information campaigns, with education.”



Multi-stakeholder dialogue was an important part of the new legislation that has strengthened community-level disaster response

Conclusions

Natural hazards are bringing ever greater threats to Asia Pacific. Disasters are growing in number and ferocity. Governments across the region are encouraged to assess the degree to which their laws and legal frameworks are prepared for the challenge. Interest and actions around IDRL are gaining momentum globally and in the Middle East, IDRL issues are becoming prominent in policy discussions at national and regional forums including the Conference of Heads of Arab civil protection agencies - civil defense, which was held in Rabat in May 2006.

The Red Cross and Red Crescent National Societies of Asia Pacific will use the opportunity of their 2010 Regional Conference in Amman, Jordan, to discuss how they can increase their support to authorities in this area, drawing on examples like those in the case studies of this report.

The IFRC and its members are already working with a number of governments to make use of the IDRL Guidelines to analyse national frameworks for regulating international assistance. Formal projects have already been launched in Cambodia, Laos, Vietnam and Vanuatu and others are being planned in Mongolia and flood-drenched Pakistan.

All governments and National Societies will be invited to formally report on their progress to the international community at the 31st International Conference of the Red Cross and Red Crescent in Geneva, Switzerland, in November 2011.

The IFRC is also working with National Societies to study best practices in legislation for disaster risk reduction and in overcoming legal barriers to shelter solutions for those displaced by disasters. This information will be made available to states at next year's International Conference.

In the meantime, this report offers the following recommendations for governments in the Asia Pacific region:

On IDRL

Consider following the example of Indonesia and collaborate with their National Societies to use the IDRL Guidelines as a tool for assessing the preparedness of their existing legal and regulatory frameworks to receive international disaster assistance.

On Shelter

Draw on experiences such as Sri Lanka's and collaborate with their National Societies to assess if they are prepared to overcome legal barriers to speedy, stable and equitable shelter solutions for disaster-affected households.

On Disaster Risk Reduction

Consider following the example of the Philippines and collaborate with their National Societies to strengthen the focus on community-based disaster risk reduction in their disaster management laws.



Finding shelter solutions for the millions displaced in disasters like the 2010 floods in Pakistan will be high on the agenda at the next International Conference of the Red Cross and Red Crescent in 2011

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.

IDRL programme donors in Asia Pacific:



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Humanitarian Aid

Together for humanity
Ensemble pour l'humanité
Juntos por la humanidad
معاً من أجل الإنسانية



The International Federation of Red Cross and Red Crescent Societies promotes the humanitarian activities of National Societies among vulnerable people.

By coordinating international disaster relief and encouraging development support it seeks to prevent and alleviate human suffering.

The International Federation, the National Societies and the International Committee of the Red Cross together constitute the International Red Cross and Red Crescent Movement.