



TRANSCRIPT

Introduction to International Disaster Law

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1. Hello. I'm Dr. Kirsten Nakjavani Bookmiller, and I am a Professor with the Department of Government, Law, and International Relations and a Faculty Associate with the Center for Disaster Research and Education at Millersville University of Pennsylvania. It's my privilege today to survey the subject of International Disaster Response Law with you.

2. Imagine a major natural disaster strikes a country with such devastating force that the government lacks sufficient capacity to respond and must rely on external humanitarian assistance. The international community — other States, intergovernmental and nongovernmental organizations, corporations, private groups, and individuals — responds enthusiastically in a burst of global solidarity.

3. Now imagine that this country has few protocols, laws, or policies in place to receive and manage this surge of goodwill. Offers of assistance flood from all directions, creating chaotic communication across different parts of the government. At some border entry points, officials – operating in a procedural vacuum and concerned that enforcing regular custom, immigration, and other laws would delay urgently needed aid – essentially permit everything to enter the country. Alongside qualified responders, appropriate supplies come unqualified, under-resourced personnel and inappropriate or even dangerous items, ranging from ballgowns to expired medications. Meanwhile, at other entry points, officials strictly enforce non-emergency regulations, allowing no one and nothing to enter – resulting in life-threatening delays.



4. Though the country in this example is hypothetical, these very challenges have occurred in real international disaster responses. And they lie at the heart of the concerns addressed by the field of International Disaster Response Law or IDRL.

5. As defined by the International Federation of the Red Cross/Red Crescent Societies or the IFRC, IDRL is the “area of disaster law that deals with the facilitation of international disaster assistance.” IDRL addresses the initiation and termination of international assistance, and the legal facilitation of incoming response personnel and material resources. It also promotes clarity regarding the respective responsibilities of both the affected State and those actors providing external aid, including the latter’s legal status.

6. Before diving into IDRL, I’d like to offer two preliminary comments to support the discussion. First, I will define what constitutes a disaster. And second, I’ll briefly distinguish IDRL from the broader concept of International Disaster Law (or IDL).

7. Defining a disaster is not as straightforward as it might initially seem – in fact, it’s the subject of considerable debate. Disasters are often mistaken for the hazards that trigger them – such as earthquakes, floods, cyclones, pandemics, or nuclear and industrial accidents.

8. But a hazard alone does not constitute a disaster. Hazards are just one part of the equation. A disaster occurs when a hazard intersects with human systems – when it impacts people and critical assets such as housing, infrastructure, and livelihoods. In other words, a disaster arises when people and physical resources are both exposed to a hazard and are also vulnerable – meaning particularly susceptible to harm for a variety of social, economic, and other reasons.

9. Further, the event’s impact must be significant enough to seriously disrupt the functioning of a community or a society – borrowing from the United Nations Office for



Disaster Risk Reduction definition. But disasters are more than just the sum or scale of their impacts; they also involve the lack of coping capacity. In this context, coping capacity refers to the ability of individuals, communities, institutions, or systems to manage and respond effectively to such events. It includes the resources, skills, knowledge, and mechanisms available to minimize negative impacts, maintain essential functions, and recover.

10. This aspect of coping capacity is especially important in the context of IDRL. Some disasters – such as the 2004 Indian Ocean tsunami, the 2010 Haitian earthquake, 2013 Typhoon Haiyan (Yolanda), and the 2023 Türkiye–Syria earthquakes – are so massive that they overwhelm a national government’s ability to manage the response. In these cases, the affected State may request external assistance from fellow governments or international actors to address immediate needs and begin recovery.

11. The second preliminary comment concerns the distinction between International Disaster Law (or IDL) and International Disaster Response Law (or IDRL). As their respective names suggest, IDL is the broader field, encompassing myriad legal frameworks aligned with the entire disaster management cycle – including prevention and mitigation, preparedness, response, and recovery. Additionally, IDL addresses disaster risk reduction (or DRR) and, for some scholars, incorporates emerging jurisprudence on human rights protections during disasters, as well as the corresponding obligations of States.

12. Now with those preliminaries out of the way, let’s dig more into IDRL.

13. Compared to International Humanitarian Law, which has long governed the conduct of conflict, IDRL is a relative newcomer to the international legal landscape. Yet, cross-border humanitarian relief following natural disasters is centuries old. One of the earliest recorded instances of such aid occurred after the devastating 1755 Lisbon earthquake, when fellow European societies responded with charitable donations and supplies. This moment, shaped by Enlightenment-era political, philosophical, and



economic thinking, has been described by the scholar Michael Barnett as part of the “Humanitarian Big Bang.”

14. A century later, the creation of the International Committee of the Red Cross (or the ICRC) and the adoption of the 1864 Geneva Convention laid the foundation for a robust international legal framework governing aid during armed conflict. However, no parallel legal architecture was developed for so-called peacetime disasters. Several factors inhibited its emergence. Chief among them was – and still is – the view that responding to natural disasters falls squarely within the domestic jurisdiction of the affected State.

15. While World War I revealed the immense toll of conflict on both soldiers and civilians, other disasters during the same era also had similarly devastating human impacts. Notable examples include the 1906 San Francisco and 1908 Messina (Italy) earthquakes, as well as the 1918 influenza pandemic. The inadequate response to the Messina earthquake, which Giovanni Ciruolo personally witnessed as an Italian Red Cross official, inspired him to advocate for a more coordinated and multilateral approach to natural disaster relief.

16. In 1919, as President then of the Italian Red Cross, Ciruolo advanced the idea of an international body for what he referred to as peacetime disaster response – first to the ICRC and the newly established League of Red Cross Societies (which later became the IFRC), and then to the League of Nations. After several years of deliberation, this vision culminated in the 1927 adoption of the Convention and Statute Establishing an International Relief Union (or the IRU), which entered into force in 1932.

17. Although the Convention and the organization it created ultimately failed for various reasons, it holds a significant place in the history of international disaster law. To date, it remains the first, for the moment, comprehensive multilateral treaty to enter into force specifically addressing natural disaster response.



18. During the post–World War II period, various efforts – both within and outside the United Nations – sought to establish a new legal framework for international post-disaster assistance. However, it wasn’t until the late 20th century that global attention to international roles and responsibilities in natural disaster response reached a sustained critical mass, promoting broader calls for a dedicated legal regime.

19. Several factors contributed to this shift. A nascent field of disaster studies began to emerge, while disaster vulnerability grew exponentially due to rapid, unregulated urbanization in high-risk areas and the accelerating impacts of climate change. As a result, disasters came to be seen not as isolated, episodic events, but as a persistent and growing threat to human security.

20. By 1992, the UN was coordinating humanitarian responses for 45 natural disasters; by 1994, the number had risen to 75, and a year later, it climbed to 85. Simultaneously, the disaster relief sector was being inundated with a proliferation of private organizations, spurred in part by the growing influence of globalized media, which began to play a powerful role in shaping public engagement and participation in humanitarian efforts.

21. The urgency to bring stability to an increasingly frenetic disaster response landscape highlighted the glaring absence of international legal standards. The IFRC emerged as the foremost advocate to address this gap. Recognized for its special role in disaster response through a long series of UN General Assembly resolutions dating back to the 1960s, the Federation consistently promoted operational standards designed to expedite and enhance the effectiveness of international relief efforts.

22. By the late 1990s, the Federation sought to address relief through a broader, more holistic focus on vulnerability and preparedness. Simultaneously, there were growing calls within the Federation to prioritize international law in discussions on how to address the many challenges of effective relief. In response, the Disaster Preparedness and Relief



Commission advised the IFRC Governing Board to make the International Disaster Response Laws a key advocacy priority in 2000.

23. What later became known as the “International Disaster Response Law Project” was formally endorsed by the Council of Delegates at the ICRC, IFRC, and National Societies biennial meeting in 2001. Throughout the early 2000s, the project set relatively modest goals. Alongside advocacy with national governments and promoting and normalizing the term International Disaster Response Law, it involved compiling and publishing existing international laws and regulations – mostly non-binding – and assessing their operational effectiveness in various contexts. Its findings painted a grim picture quite frankly. Desk studies revealed widespread difficulties in accessing disaster-affected populations, facilitating relief (from securing visas to managing financial transfers), poor coordination between national and international relief providers, and concerns over quality and accountability. Additionally, most domestic authorities were generally unfamiliar with existing IDRL-related instruments or how these could empower governments to tackle such challenges.

24. Since then, the Federation – working alongside national governments, National Red Cross and Red Crescent Societies, and other supportive stakeholders – has been a leading global advocate for promoting the field and the broader importance of disaster law within disaster risk governance. I’ll discuss some of its specific legal contributions in the next section on sources. Additionally, I will highlight another significant, more recent development in IDRL’s evolution toward the end of my lecture.

25. Now, however, I’d like to shift from the history to the main sources of IDRL and its principal characteristics as a body of international law. For traditionalists who favor “hard” law, IDRL can be quite vexing. It lacks a central, unified legal framework and has no single go-to reference point. In the literature, IDRL is often described as a “disparate collection,”



“scattered,” “incoherent,” a “patchwork quilt,” or even a “potpourri” of instruments – many of which are overlapping, contradictory, and heavily oriented toward soft law, at least for now. While time doesn’t permit a detailed overview of all of its components, I will highlight a few broader themes that capture its overall character.

26. As for its hard law components, IDRL’s treaty-based instruments at the global level are largely limited at the present time. Those that do exist are typically hazard- or sector-specific, often do not directly address disasters caused by natural hazards, and in nearly all cases suffer from low levels of State participation.

27. At first glance, the 2000 Framework Convention on Civil Defence Assistance – a treaty adopted under the auspices of the International Civil Defence Organization (or ICDO) – appears to fit the bill. It aims to simplify and reduce administrative and customs formalities for the entry and stay of civil defense units, but only at the request of the affected State. However, this agreement has never gained real traction. Its limited impact stems from the ICDO’s small membership base, and it also fails to provide concrete guidance on how incoming assistance should be effectively managed.

28. Several other treaties are hazard specific. These include the 1986 Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency; the 1990 International Convention on Oil Pollution Preparedness, Response and Co-operation and its 2000 Protocol addressing hazardous and noxious substances; and the World Health Organization’s 2005 International Health Regulations, which governs public health emergencies with potential cross-border impacts.

29. Others are sector-specific, such as the often-cited Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations. There are also more general agreements that reference “disaster relief” in some way, including the Chicago Convention on International Civil Aviation, the Convention on the



Facilitation of International Maritime Traffic, and various instruments related to customs procedures, triggered by incoming international assistance – including the 1999 amendments to the International Convention on the Simplification and Harmonization of Customs Procedures and the annexes to the Convention on Temporary Admission. However, nearly all of these agreements suffer from limited State participation, which significantly undermines their global utility.

30. There have also been very impressive significant developments at the regional level. For example, the Association of Southeast Asian Nations (or ASEAN) adopted the Agreement on Disaster Management and Emergency Response (AADMER), which entered into force in 2009. Similarly, the South Asian Association for Regional Cooperation adopted the Agreement on Rapid Response to Natural Disasters in 2011. With a slightly different focus, the 2008 Agreement Establishing the Caribbean Disaster Emergency Management Agency aims to provide coordinated assistance to Member States affected by disasters. Another important regional arrangement is the European Union’s Civil Protection Mechanism, which derives its legal authority from the EU’s founding treaties and is further supported by a series of regulations, directives, and decisions.

31. Zooming in further, numerous bilateral agreements exist across all regions of the world, focusing on mutual assistance and various forms of technical cooperation. Many involve neighboring countries, but not always. And increasingly, there are also bilateral arrangements between States and international organizations, with the European Union being a prominent example.

32. Before leaving the subject of hard law, it is worth noting that IDRL concerns certainly overlap and draw support from other treaty regimes, including, but not limited to, international humanitarian, environmental, health, human rights, and refugee laws, in a host of others.



33. Still, as anyone who focuses on IDRL will tell you, soft law is currently the beating heart of the field. Soft law comprises of non-binding legal instruments and takes various forms. While scholars cite many reasons why States may pursue soft law, within IDRL, it has primarily served to establish a shared set of expectations about how disaster response should ideally be conducted in a world of proliferating demands.

34. Under United Nations’ auspices, the most prominent soft law instrument is the Sendai Framework for Disaster Risk Reduction (2015 to 2030). DRR intersects with IDRL in two important ways. First, the disaster field has long recognized that a State's need for external assistance often reflects a deeper problem: the failure to reduce disaster risk has enabled crises to escalate to such a scale that it necessitates international aid. Second, preparing for the optimal response is a form of risk reduction in and of itself. This is a very important point. Ill-planned, chaotic, unaccountable aid leads to further deaths and injuries beyond the original triggering event itself. In other words, the response can cascade into its own secondary disaster. The Sendai Framework reflects this essential understanding in its Priority 4 titled “Enhancing disaster preparedness for effective response,” which urges strengthened disaster preparedness, including ensuring that capacities are in place for effective response and recovery at all levels.”

35. Other important UN-related soft law instruments within IDRL include a series of General Assembly resolutions on international assistance adopted over the past several decades. By far one of the most foundational is UNGA Resolution 46/182 from 1991, titled Strengthening the Coordination of Humanitarian Emergency Assistance of the United Nations. This resolution underpins the modern architecture of the UN-based humanitarian aid system.

36. Guidelines aimed at professionalizing and improving coordination of response have also been developed under the UN’s aegis. A major set of such guidance documents



comes from the Inter-Agency Standing Committee (or the IASC) – a coordination forum made up of UN and non-UN humanitarian partners. I also want to highlight two sector-specific instruments that establish minimum technical standards and guidelines. The first were developed by urban search and rescue practitioners under the International Search and Rescue Advisory Group (or INSARAG), known as the INSARAG Guidelines. INSARAG’s work simultaneously inspired and influenced the World Health Organization’s Emergency Medical Team standards and guidelines. In both cases, the focus is on ensuring a professional, rapid, and coordinated response within these two critical domains.

37. On the regional and subregional front, there is also an incredibly rich and diverse array of soft law around the world, again, too many to mention here. But they assume numerous forms, including regional intergovernmental organization resolutions, regional mechanisms for mutual assistance, reference procedures for aid facilitation, regional plans and disaster management strategies, model laws, regulations, and acts, among many others.

38. Lastly, a significant source of energy behind IDRL’s soft law foundation has come from non-governmental organizations and the IFRC. One prominent example is the Sphere Handbook, developed by the Sphere Project, which is among the most widely recommended sets of voluntary humanitarian standards grounded in its Humanitarian Charter. However, it is the IFRC that has produced some of the most influential soft law instruments. The most notable is the Federation’s 2007 Guidelines on the Facilitation of International Disaster Relief and Initial Recovery Assistance (commonly known as the IDRL Guidelines). They provide template protocols for initiating assistance, defining the roles and responsibilities of host governments and responding actors, and ensuring coordination, facilitation, and accountability in cross-border disaster response.



39. The importance of these guidelines cannot be overstated. They are directly referenced in Sendai's Priority 4, have been cited in no less than 22 UN General Assembly resolutions, and have served as an influential reference point during the UN's International Law Commission's drafting of the Draft Articles on the Protection of Persons in the Event of Disasters, which I will return to momentarily. They have also informed the development of regional instruments and guided the drafting of related national level legal frameworks in nearly 40 countries.

40. So where does IDRL stand now? Throughout my remarks, I have suggested that a new development may have the potential to significantly transform International Disaster Response Law—and International Disaster Law more broadly. Until now, I have emphasized the diffuse and fragmented nature that has long defined the field. That defining characteristic may soon undergo a profound shift. In December 2024, the UN General Assembly adopted Resolution 79/128, Protection of Persons in the Event of Disasters, and, in a remarkable development, called for the conclusion of a legally binding convention.

41. As often happens with disaster law advancements, two events pushed this proposal forward. Although IDRL's weaknesses had been evident for decades, the devastating 2004 Indian Ocean tsunami – and the deeply flawed international response that followed – brought these issues sharply into focus. The UN's International Law Commission (or ILC) formally added the subject to its program of work in 2007. After nearly a decade of intensive drafting and broad multi-stakeholder input, the ILC adopted eighteen Draft Articles on the Protection of Persons in the Event of Disasters in 2016. Notably, in its recommendation to the UN General Assembly, the ILC proposed that these articles serve as the basis for a legally binding international convention – a significant departure from previous discussions, which had leaned toward developing yet another soft law instrument.



42. States' experiences during then the COVID-19 pandemic, combined with growing concerns about the impacts of climate change, gave renewed momentum to advancing the Draft Articles within the Sixth Committee. Following the emergence of a supportive core group of States that advocated for the idea of a convention, the General Assembly adopted Resolution 76/119, which established a working group within the Sixth Committee to weigh the recommendation of a convention. This working group convened in 2023 and 2024.

43. On December 6, 2024, in a historic breakthrough for the field of IDRL the General Assembly adopted Resolution 79/128, in which it decided to “elaborate and conclude a legally binding instrument on the protection of persons in the event of disasters” and it called for to happen by the end of 2027 at the latest. Under this timeline, governments are to submit their proposed amendments to the draft articles by December 31, 2025. A Sixth Committee Working Group will then take over and develop a consolidated text by the end of 2026, with the goal of finalizing the convention by the conclusion of 2027.

44. This is certainly an exciting juncture for IDRL. If the Draft Articles are any indication, this is an unprecedented opportunity to address the field's longstanding legal fragmentation. They affirm the affected State's primary role in managing incoming assistance, while also clarifying its duty to seek external aid when necessary and its responsibilities towards incoming actors. At the same time, the human dignity and rights of disaster-affected populations are explicitly upheld, along with the recognition of the core humanitarian principles of humanity, neutrality, impartiality, and non-discrimination. The Draft Articles also go further by establishing clearer expectations for a broader swath of responding actors – including other States, intergovernmental and non-governmental organizations, and the Red Cross and Red Crescent Movement.

45. Yet the Draft Articles go even further. Article 9(1) introduces a general legal duty for disaster risk reduction—an area that, until now, has largely been regarded as falling



exclusively within the domestic purview of States. As noted earlier, the primary existing instrument for addressing risk reduction, to this point, was the soft-law Sendai Framework. By characterizing risk reduction as prevention, mitigation, and preparedness efforts, Article 9 signals the potential for a binding legal framework that extends well beyond disaster response. In doing so, the Draft Articles lay the groundwork for a more comprehensive legal approach to nearly the entire disaster management cycle – essentially, international disaster law, this time, without the “R”.

46. It will certainly be interesting to see how the upcoming UN Member State discussions unfold. While many provisions remain the subject of active debate, two of the most significant issues to watch out for are, first, how States will navigate their sovereign concerns – particularly the duty to seek external assistance when national response capacity is exceeded, and the obligation not to withhold consent to incoming assistance offers arbitrarily. Second, there are ongoing concerns about the lack of specificity in the Draft Articles regarding the facilitation of incoming assistance. Many stakeholders and observers have called for greater clarity, along the lines of the IFRC Guidelines, to define better what is expected of States in genuine operational terms.

47. Still, for those who have long followed IDRL, the excitement is palpable. The Assembly’s 2027 deadline coincides with the 100-year anniversary of the Convention establishing the International Relief Union. Although that historic treaty ultimately failed to fulfill its promise, perhaps International Disaster Response Law will finally gain the crystallizing lodestar it has long sought.

48. Thank you for your time and attention.