



# Introduction to International Disaster Law

*Giulio Bartolini, Roma Tre University*



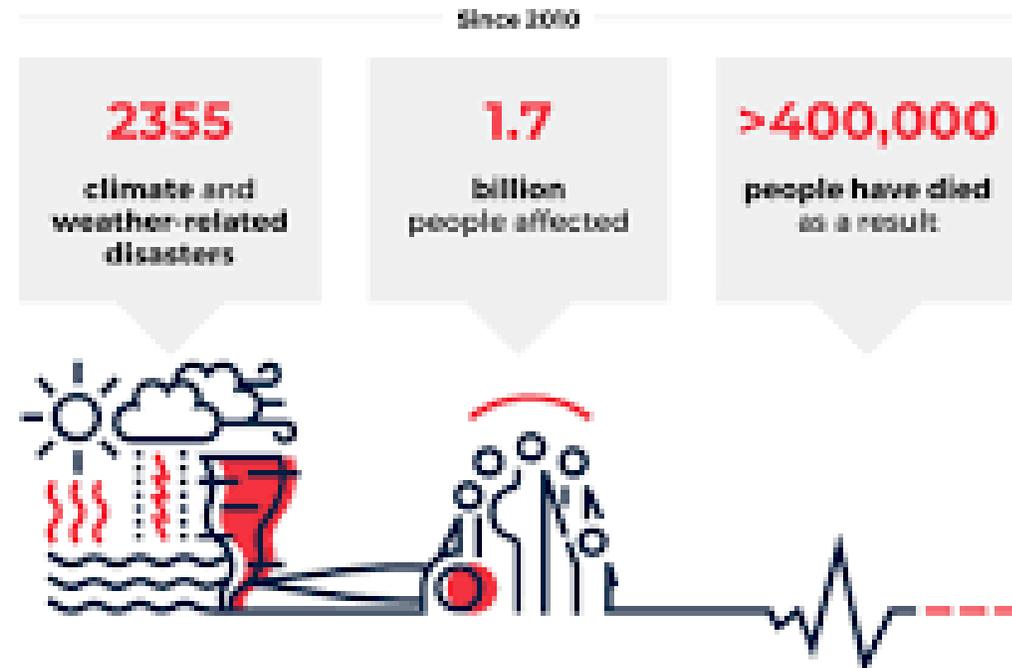
# Trends in Disasters

- The *World Disasters Report 2020* managed by the IFRC on the basis of data provided by the *Center for Research on the Epidemiology of Disasters, Leuven University*
- **In the last decade (2010-2019)**
- - **More than 2850 disasters triggered by natural hazards:** around 2300 ones raised by climatological hazards; around 270 by geophysical hazards; around 200 by biological hazards)
- - **740.000 deaths** attributed to such disasters;
- - **1.8 billions of persons** affected by such disasters;
- - **damages** evaluated in **USD 1.5 trillions**

## The impact of Covid-19



Did you know that during the past decade 1.7 billion people around the world have been affected by climate- and weather-related disasters? That's an average of **170 million people affected each year.**



World Disasters Report **2020**

## The Legal Definition of Disasters: International Practice

IDL instruments addressing this terminology issue evolved according to their own trends characterized by two diverging approaches

- **A) No definition of this term** in relevant IDL instruments (OAS, Inter-American Convention of assistance in case of disasters, 1991).

Art. 1 Inter-American Convention on « applicability” states that ‘[t]his Convention shall apply whenever a state party furnishes assistance in response to a request from another state party, except as they otherwise agree”

Providing flexibility

An approach shared with other branches of international law unable to settle a detailed definition of relevant terms of art (eg. ‘outstanding universal value’ for the 1972 World Heritage Convention)

Draft articles on the  
protection of persons in the event of disasters  
2016

Adopted by the International Law Commission at its sixty-eighth session, in 2016,  
and submitted to the General Assembly as a part of the Commission's report covering  
the work of that session (A/71/10), para. 48. The report will appear in *Yearbook of the  
International Law Commission, 2016*, vol. II, Part Two.



Copyright © United Nations  
2016

United Nations

A/71/644



General Assembly

Distr.: General  
1 December 2016

Original: English

Seventy-first session

Agenda item 19 (c)

Sustainable development: disaster risk reduction

**Report of the open-ended intergovernmental expert  
working group on indicators and terminology relating to  
disaster risk reduction**

**Note by the Secretary-General**

The Secretary-General has the honour to transmit herewith the report of the  
open-ended intergovernmental expert working group on indicators and terminology  
relating to disaster risk reduction established by the General Assembly in its  
resolution 69/284 for the development of a set of possible indicators to measure  
global progress in the implementation of the Sendai Framework for Disaster Risk  
Reduction 2015-2030, coherent with the work of the Inter-Agency and Expert  
Group on Sustainable Development Goal Indicators and the update of the

# The Legal Definition of Disasters

- **The majority trend in IDL instruments: Descriptive and flexible approaches, with some caveats and exclusions**
- ILC Draft Articles (2016), art. 3.a ““disaster” means a calamitous event or series of events resulting in widespread loss of life, great human suffering and distress, mass displacement, or large-scale material or environmental damage, thereby seriously disrupting the functioning of society”
- UNDRR Terminology (2018) “[a] serious disruption of the functioning of a community or a society at any scale due to hazardous events interacting with conditions of exposure, vulnerability and capacity, leading to one or more of the following: human, material, economic and environmental losses and impacts”

# The Legal Perimeters of IDL

## IFRC Disaster Law Database

Welcome to the IFRC Disaster Law Database, the world's largest collection of documents relating to disaster law. The Database currently contains four categories of documents and an additional four categories are coming soon.



Documents of  
International  
Organizations



Documents of  
Transnational  
Private Actors



RCRC  
Documents



Treaties

- Lack of a universal flagship treaty
- A fragmented approach framed in a broad container
- ILC Secretariat (2007): 350 instruments as treaties, soft-law instruments by IOs and non-state actors
- 2021 [IFRC/Roma Tre Disaster Law Database](#) (+ 700 treaties, instruments and acts of IOs and non-state actors, and + 600 IFRC Documents. Next: + 1300 documents of treaty-bodies, international and domestic case-law; national laws and policies, etc.)

# The Legal Perimeters of IDL

- **6 Trends relevant in shaping the legal perimeters of IDL**
- a) international treaties and binding acts expressly drafted for disaster scenarios having both a comprehensive and multi-hazard character or,
- b) tailored for specific legal issues of the disaster-cycle or specific hazards;
- c) ad hoc provisions addressing disasters located in treaties dealing with broader topics and other specialised areas of international law;
- d) customary rules and treaties having a general scope but able to address some legal issues raised by disasters;
- e) IDL soft-law instruments developed by IO, States and non-state actors ;
- f) domestic provisions relevant in this area.
- Particular law-making approaches in areas relevant for IDL (e.g. climate change law, international health law)

# IDL legal issues framed around the disaster-cycle

Disasters are obviously able to raise a series of legal issues having an impact for international law which might be accommodated along the **Disaster Cycle** and its different phases

UNDRR Terminology:

‘Mitigation’ (‘activities aimed to minimize or lessening the adverse impact of non-imminent hazards’)

‘Preparedness’ (‘measures carried out within the context of disaster risk management to anticipate, respond to and recover from the impacts of likely, imminent or current disasters’)

‘Response’ (‘relief actions taken directly before, during or immediately after a disaster in order to save lives, reduce health impacts, ensure public safety and meet the basic subsistence needs of affected people’)

‘Recovery’ (‘the restoring or improving of livelihoods, health, and relevant assets of affected communities to avoid or reduce future disaster risk’).

## 2 Overarching Phases:

Disaster Management

Vs

Disaster Risk Reduction



## Some Legal Issues Disaster Management: Relief and Recovery phases

The role of the affected State and assisting actors

**Affected State:** the negative and positive dimension of sovereignty

Prerogatives: Consent of the affected State; Coordination of international assistance; Facilities and privileges for relief personnel and relief goods and equipment; Recognition of professional qualifications; etc.

Duties: Notification of disasters; Protection of assisting actors; Protection of people affected by disasters; Request of assistance; etc.

**Assisting actors:** Offers of assistance; humanitarian principles; quality standard of assistance; International coordination of assistance; International responsibility and liability; International economic support for relief activities and recovery; etc.

# Some Legal Issues Disaster Management: Disaster Risk Reduction (Prevention, Mitigation)

More attention toward the role of national and local communities. Cross-sectoral perspectives

Setting-up institutional and operational mechanisms to address disasters

Early warning systems

Participation/information of communities in relation to disaster risks

Sectoral preparation for disasters (eg. Pandemic/epidemics plans)

Development of domestic sectoral laws to enhance resilience as minimum technical standards (e.g. building codes)

Facing long-term vulnerabilities: climate change

The role of World Conferences on Disaster Risk Reduction to shape the international and domestic agendas (Yokohama, Yogo, Sendai): non-binding approaches

Relevance of DRR in international/regional binding instruments

