

# Preface and Acknowledgments

Over the last three decades natural and technological disasters have been increasing in terms of frequency, size, number of people affected, and material damage caused. Between 1980 and 2011, 9,916 natural disasters have occurred killing some 2.5 million people across the world (according to the data collected and elaborated by the Centre for Research on the Epidemiology of Disasters at the University of Louvain).<sup>1</sup> The number of those affected by these phenomena—i.e. individuals requiring immediate assistance during a period of emergency, such as the provision of food, water, shelter, sanitation and immediate medical assistance—is even more impressive, as it reaches a figure close to 6 billion. The material damage produced has been reckoned to amount to 2.2 billion USD. Statistics are less astonishing, but still disturbing, with respect to the 6,603 technological disasters reported. In the time span considered, over 250,000 persons have died because of such events, while 4.4 million have been affected with estimated damages amounting to over 25 million USD. To provide a term of comparison, in the three decades between 1950 and 1980 the number of individuals affected by natural or technological disaster was around 730 million, while the combined economic losses caused by these events were just under 780 million USD. The total number of disasters reported in those years was 2,216 as opposed to the 16,519 registered from 1980 to nowadays, with an increase of 745 %. Hydrological and meteorological disasters represented about 80 % of the total disaster occurrence in the last decade while geophysical disasters accounted for about 7 % in the same period. As far as the regional distribution of disaster is concerned, in the last decade Asia accounted for about 30 % of the number of all reported disasters, the Americas 25 %, Europe and Africa about 20 % each, and Oceania less than 4 %.

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<sup>1</sup> Guha-Sapir D, Vos F, Below R and Ponserre S, Annual Disaster Statistical Review 2010: The numbers and trends, Centre for Research on the Epidemiology of Disasters (CRED), Université Catholique de Louvain—Brussels, Belgium, 2011.

While most of these disasters were relatively small scale and only a rather small number of large disaster caught the attention of the media and public opinion, there is growing awareness of the potentially devastating consequences of the increase in frequency and scope of disasters especially for those areas most vulnerable to climate change and environmental stress. According to the Intergovernmental Panel on Climate Change, major impacts of climate change on human health are likely to occur in the next future via changes in the magnitude and frequency of extreme events, which trigger a natural disaster or emergency. As consequence, in recent years national budgets for emergency response, disaster preparedness, and mitigation have experienced rapid growth as have the activities of international agencies and NGOs directly involved in policy development related to disasters prevention and mitigation and in operational disaster response. For instance, according to OECD data on Official Development Assistance, from 1995 to 2009 financial commitments for emergency response has increased by 400 %.

Heightened awareness about the plight of disaster victims has called attention to the importance of adequate national and international legal rules and structures for disaster prevention, mitigation, and response. International Disaster Response Law has developed significantly in recent years, as shown by the increasing number of relevant treaties which have been signed and ratified worldwide. The codification of norms addressing various aspects related to disaster prevention, management, and post-disaster recovery occurred over a strikingly short period of time, very often as a reaction to new kinds of disasters. This resulted in *ad hoc* developments of IDRL, which sometimes caused significant overlapping and contradictions. The need for better synchronization and co-ordination of codification activities has been highlighted several times by scholars, and this inspired the International Law Commission to focus its attention on these issues. A special rapporteur, Mr. Eduardo Valencia-Ospina, has been therefore appointed to deal with the protection of persons in the event of disasters and so far the ILC has examined seven reports and agreed on about 10 articles.

IDRL has also attracted increasing attention from both practitioners and the public. This growing awareness is due to the new complex challenges facing international relief operations as well as to the magnitude and incidence of natural and man-made disasters. As it often occupies a center-stage position under close public scrutiny, the relief organizations and the humanitarian community have discovered the importance of better international and internal regulation of their activities, which is essential to be able to perform in a more professional manner, to deliver the requested relief services on time, and to act in a more accountable way.

IDRL, however, is not a self-contained regime, growing in isolation from general international law. On the contrary, it shares a number of fundamental tenets with the legal discipline of other areas that in various ways contribute to shape its form and content. This relationship may be aptly described in terms of mutual support and cross-fertilization. While the general principles and rules belonging to related branches of international law influence and stimulate the progress of IDRL, the latter may in turn enhance their implementation. It is the opinion of the editors and the authors of this volume that in order to fully benefit from this productive

relationship, IDRL should be constructed and applied taking into account the interpretation and implementation of Human Rights Law, International Humanitarian Law, refugee law, global health law, international environmental law, international criminal law, and the law of international development.

The editors and authors of this book wish to contribute to identify the existing international rules and normative gaps, and to share reflections about the best way to address the numerous issues at stake.

To achieve these goals the book is divided into five parts: Part I presents recent trends in natural and made-made disasters and offers a survey of the present state of IDRL, while positioning this emerging body of norms within existing International Law. Special attention is devoted to the work of the International Law Commission as well to a special type of disaster, subject to *ad hoc* legal rules, namely nuclear accidents.

In Part II the focus is on EU disaster response law. As the European Union has become a major actor in dealing with disasters, the relevant decision-making mechanisms and rules are examined, regarding both disasters within and outside Europe.

In Part III the emphasis is put on issues related to liability and compensation, and on the rights and duties of States in preventing and mitigating a disaster, in facilitating access to their territory by humanitarian relief actors, both in times of peace and war. The existing obligations incumbent on disaster-affected nations relating to the hosting of international missions are carefully examined.

Disasters usually have a serious effect on human rights. Human rights obligations of the greatest importance in such situations include (but are not limited to) the right to life, the right to personal liberty and security, the right to humane treatment, the right to food, the right to health. Those rights must be respected in accordance with the fundamental principle of nondiscrimination, i.e., without any adverse distinction, and special measures need to be undertaken to protect the most vulnerable groups. Part IV examines these issues more deeply and analyzes the potential relevance of international criminal law.

The natural impulse to offer support to the population affected by a disaster has contributed to the proliferation of new players in the international humanitarian arena ready to offer their services. The development of these relief actions poses several challenges related to the design and implementation of a disaster response field operation and to the controversial and so far unresolved issue of coordination among the many actors involved. Additional topics such as the customs barriers to relief consignments (which very often delay the full operational capacity of the missions), the use of civilian and military defence assets in emergency situations, the mechanisms and procedures available to offer financial support for recovery and rehabilitation efforts, the challenges related to offering risk insurance, and the issue of corruption during disaster-related activities are specifically addressed in Part V.

In the Conclusions it clearly emerges that it is now time for fine words in treaties to be transformed into concrete measures which will achieve real co-operation and synergies in the interests of the people suffering the consequences of ever more frequent natural and man-made disasters.

This book is the result of a joint research project carried out by the Scuola Superiore Sant'Anna, the University of Milan and the University of Modena and Reggio Emilia. It has involved about 30 researchers from several Universities and a number of independent researchers/scholars. Research began at the end of 2010 and its first results were presented and discussed during an international Conference on IDRL which took place in Rome, at the Headquarters of the Italian Civil Protection Department, in November 2011. The authors of the various contributions benefited tremendously from the comments and discussions which took place during that conference, which inspired the revision and finalization of the contributions published in this volume.

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Andrea de Guttery  
Marco Gestri  
Gabiella Venturini



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