



**Jamaica Red Cross**

# **International Disaster Response Law, Rules and Principles in Jamaica**



*An Analysis of the Legislative  
Framework for Receiving  
International Disaster Relief*

**A Publication of the Jamaica Red Cross**

**2013**



 International Federation  
of Red Cross and Red Crescent Societies

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- Ministry of Foreign Affairs and Trade
- Ministry of Local Government
- Ministry of National Security
- Ministry of Transport and Works
- Office of the Cabinet
- Office of the Prime Minister
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- Port Authority of Jamaica
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*Lois Hue*  
*Deputy Director General*  
*Jamaica Red Cross*

## List of Acronyms

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|                        |   |
|------------------------|---|
| <b>ADRA</b>            | <b>Adventist Development and Relief Agency</b>  |
| <b>CBO</b>             | <b>Community Based Organisation</b>   |
| <b>CDEMA</b>           | <b>Caribbean Disaster and Emergency Management Agency</b>   |
| <b>DANA</b>            | <b>Damage Assessment and Needs Analysis</b>   |
| <b>DM</b>              | <b>Disaster Management</b>  |
| <b>FAO</b>             | <b>Food and Agriculture Organisation</b>  |
| <b>IDRL</b>            | <b>International Disaster Response Law, Rules and Principles</b>  |
| <b>IDRL Guidelines</b> | <b>Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance</b> |
| <b>IFRC</b>            | <b>International Federation of Red Cross and Red Crescent Societies</b>   |
| <b>ISO</b>             | <b>Initial Situation Overview</b>   |
| <b>JDF</b>             | <b>Jamaica Defence Force</b>  |
| <b>JRC</b>             | <b>Jamaica Red Cross</b>  |
| <b>MOA</b>             | <b>Ministry of Agriculture</b>  |
| <b>MFA</b>             | <b>Ministry of Foreign Affairs</b>  |
| <b>MOH</b>             | <b>Ministry of Health</b>   |
| <b>NDC</b>             | <b>National Disaster Committee</b>  |
| <b>NDP</b>             | <b>National Disaster Plan</b>   |
| <b>NEOC</b>            | <b>National Emergency Operations Centre</b>   |
| <b>NGO</b>             | <b>Non-Government Organisation</b>  |
| <b>ODPEM</b>           | <b>Office of Disaster Preparedness and Emergency Management</b>   |
| <b>PAHO</b>            | <b>Pan-American Health Organisation</b>   |
| <b>SOP</b>             | <b>Standard Operating Procedures</b>  |
| <b>UN</b>              | <b>United Nations</b>   |
| <b>UNCT</b>            | <b>United Nations Country Team</b>  |
| <b>UNETT</b>           | <b>United Nations Emergency Technical Team</b>  |
| <b>UNRC</b>            | <b>United Nations Resident Coordinator</b>  |
| <b>VSD</b>             | <b>Veterinary Services Division, MOA</b>  |

## **International Disaster Response Law, Rules and Principles in Jamaica**

### *An Analysis of the Legislative Framework for Receiving International Disaster Relief*

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#### **EXECUTIVE SUMMARY**

This report assesses Jamaica's legal preparedness to facilitate and oversee international relief goods, personnel and equipment, particularly in the wake of a major disaster that overwhelms national resources.

The assessment process involved the following:

- a. A comprehensive review of laws, regulations, national policies and plans of action and other documents that bind or guide the actions of state and civil society in the wake of a major disaster. Those provisions that could impact the operations of international disaster relief agencies, as well as the entry and dissemination of their goods, equipment and personnel, became the focus of analysis and stakeholder discussions.
- b. Participatory analysis of the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines) and the implications for local application and adaptation.
- c. Meetings and consultations with key stakeholder agencies from within the public sector, NGO community and international disaster relief or humanitarian agencies. These discussions centred on the laws, regulations and less formal documents that address international disaster relief. They also sought to elicit examples of the documented and undocumented practices that have been informally developed to facilitate the entry and operations of international disaster relief, in response to specific disasters.
- d. Questionnaires and guided interviews were used to capture specific information from agencies involved in processing applications and permits relevant to the entry of international disaster relief goods, equipment and personnel.

The process was guided by an Oversight Committee comprised of the Jamaica Red Cross, the Office of Disaster Preparedness and Emergency Management, the Ministry of Local Government and Community Development and the University of the West Indies, as well as known experts in the disaster relief sector.

The main findings of this report are as follows:

1. Many of the waivers, exemptions and expedited processes recommended by the IDRL guidelines for facilitating international relief personnel, goods and equipment are permissible within the Jamaican legislative framework, and have been put in practice in some measure in the past. However, in the absence of a single, integrated set of policies or regulations, immigration, customs, labour, health sector and other approval processes are independently administered. The National Emergency Operations Centre (NEOC) can, nonetheless, play an important role in synchronizing, coordinating and directing the

application of special legal facilitation of international relief. Through the NEOC, Ministers of Government, Heads of Agencies and other decision-makers can use discretionary powers to implement waivers, expedited processes and other special mechanisms to facilitate the entry and operations of international disaster relief agencies.

2. Jamaica has a relatively robust damage assessment and needs analysis system, upon which locally based disaster relief agencies routinely rely. The system involves early reconnaissance, can be administered at the national, parish and sector levels, and routinely involves military support. While the system has not been perfected, it is likely to be implemented in some format following any disaster and should as far as possible remain the starting point for international disaster relief. Through this system, data on needs, include personnel requirements, can be generated locally, and should be made available to guide all potential donors.
3. Jamaica's coordination of disaster relief is well tried and tested, with partnerships between state agencies, foreign missions, UN organisations and NGOs occurring before, during and after a disaster. Coordination of activities through the NEOC should as far as possible remain central to any international disaster relief plans.
4. The sector benefits from a plethora of plans and procedural guidelines stipulating how various agencies will respond in the event of a major disaster. However the existing documentation suffers from several limitations:
  - a. The guidelines are not established at the level of law or national policy and are thus subject to ad hoc changes and divergencies. Because they are not grounded in law, there are no sanctions for non-implementation and the system is highly dependent on post-disaster meetings, negotiations and high-level agreements, which may not always be fully communicated or applied in the field.
  - b. Guidelines are not always supported by intra-agency protocols or Standard Operating Procedures and, as staff changes, there can be gaps in institutional knowledge as to what role different agencies play in the national disaster response.
  - c. Guidelines overlap in focus and content, leaving a desire among stakeholders for a 'single script' guiding the facilitation of international relief.
5. While locally based NGOs and humanitarian organisations have acquired special status or know-how to access the waivers and exemptions necessary to facilitate the entry of relief goods, there are no set procedures for guiding new or *ad hoc* donors. The information relevant to the entry of relief goods and personnel is contained in different sources, and there is no set procedure for communicating to potential donors or volunteers who do not have an established local presence.

6. Pandemic plans that are currently in existence deal largely with internal preparations (e.g. health sector arrangements) and do not specifically address issues related to the entry of relief goods and personnel into the country.

**Damage assessment and needs analysis system provide information - from the community level and guide international agencies on the extent of local need.**



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#### **INTRODUCTION**

##### **Summary Country Profile**

Jamaica is a tropical island in the northern Caribbean spanning over 10,000 square kilometers in land and coastal territory. Its population of 2.8 million is evenly distributed between rural and urban communities, with a third residing in its national city of Kingston. Jamaica is affected routinely by cyclical natural hazards including hurricanes, storms, flooding, landslides, drought and fires. The country also experiences an average of eighty (80) earth tremors per year. It has experienced two highly destructive earthquakes in 1692 and 1907, which caused major damage to the then cities of Port Royal and Kingston respectively, and resulted in thousands of lives lost.

The 2008 World Bank Natural Disaster Hotspot Study identifies Jamaica as having the second highest economic risk exposure to two or more hazards in the Caribbean and Latin America. Jamaica's disaster risk resilience has developed incrementally in the last two decades and the nation's disaster response machinery is among the oldest and best in the region. Its damage assessment systems, warehousing, coordination mechanisms and institutional disaster management capacity have been relied upon nationally and regionally. Yet the country is routinely reliant on international disaster relief to offset the annual cost of disaster-related damage. The hurricane season lasts from June to November and the country experiences 78 inches of rainfall annually. High limestone content and poor building code enforcement leaves many settlements vulnerable to landslides and flooding. Contributing to the risk of damage are persistent socio-economic practices, such as slash-and-burn agriculture and squatting on lands that are geographically unsuitable for dwellings. A high debt burden and the impact of climate change are among the factors that hinder the nation's attempts at improving its risk resilience. The average cost of disaster-related damage for the period 1998 to 2008 is estimated at US\$14 billion per annum. International donors, including humanitarian organisations, the Jamaica Red Cross (JRC) and assisting states play a critical role in funding disaster recovery.

##### **IDRL Guidelines**

In 2007, states parties to the Geneva Conventions and adopted the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance. These Guidelines are referred to as the International Disaster Response Law (or IDRL) Guidelines, and are the end result of an International Federation of the Red Cross and Red Crescent Societies (IFRC) led process of research, consultations and lessons learnt from major disasters occurring in different parts of the globe. The Guidelines are designed to reduce bureaucracy and the ensuing delays, costs and barriers to the entry of relief goods, equipment and personnel, while strengthening the accountability of assisting actors to common minimum standards of quality. The Guidelines

promote coordination, through the mechanisms established by the recipient country, and set out recommendations for that affected country to develop legal facilities for assisting actors. By waiving or expediting approvals linked to the entry and operations of relief, including simplifying forms and processes and removing fees, a country can set in place a legal framework that facilitates the provision of relief from both internally and externally based donors. This is of particular importance in instances in which the impact of a disaster overwhelms local resources. Through the assistance and support of the IFRC and its members, recommendations from the Guidelines have been integrated in law and procedures in 11 countries to date and others are currently developing new legislation.

### **The Role of the Jamaica Red Cross**

IFRC is an international humanitarian organisation representing the world's 187 National Red Cross and Red Crescent Societies. Jamaica's national Red Cross society (JRC) is a creature of statute and was incorporated in the Red Cross Act of 1964. The society is considered an auxiliary to the national government and, while the JRC is in no way owned, controlled or directly affiliated with the state, its Act gives it quasi-government rights and responsibilities. For example, the JRC is exempt from all taxes.

Functionally, the JRC is treated by many national disaster plans as a non-government or civil society entity having a key role in disaster management and risk reduction. Unlike other non-state entities identified as having similar responsibilities, the JRC's unique status has meant a longer, richer history of partnership in disaster and emergency relief. It is also routinely included in collaborative programmes developed through the UN mechanism, as it is the national representation of an international humanitarian organisation.

Throughout the report, wherever relevant, the rights and responsibilities of the JRC are discussed in relation to different aspects of international disaster relief. For practical reasons it is often compared to local or international NGOs which share similar concerns and functions. Where relevant, the JRC is also grouped in discussions on the roles of UN and international humanitarian organisations<sup>1</sup>.

### **Scope and Content of the Report**

The report assesses Jamaica's legal preparedness to facilitate and oversee international relief goods, personnel and equipment particularly in the wake of a major disaster that overwhelms national resources.

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<sup>1</sup> An example is the discussion on the UN cluster system in Part 1

The report is divided into five parts, as follows:

- Part 1: Core Responsibilities: Relief Coordination, Management and Monitoring
- Part 2: Early Warning and Preparedness
- Part 3: Initiation and Termination of International Disaster Relief and Initial Recovery Assistance
- Part 4: Eligibility for Legal Facilities
- Part 5: Legal Facilities for International Disaster Relief Entry and Operations

Within each part, the strengths and gaps within Jamaica's legal response mechanisms are analysed as follows:

- Under each heading, the relevant segment of the IDRL Guidelines is quoted.
- A summary of the laws and policies is presented. This will include the statute, regulation or national policy addressing the main issue. Policies referred to in this section are national policies that guide the actions and decisions of state agencies. Although not legally enforceable, policies can often be treated as binding by public sector actors. A national policy must be approved by Cabinet and therefore becomes a mandatory set of rules and principles and guidelines for Ministries, Departments and Agencies of the state. However, unlike laws, policies cannot bind the actions of non-state entities or ordinary citizens. They are not Acts of Parliament, and are thus much more readily changed, modified or adjusted. Policies are subject to laws and regulations. If there is any variance between a law and a policy, the law will prevail.
- A description of practices and procedures follows. This is important as in many instances, disaster plans will include protocols and guidelines that have not been developed into law or policy. These guidelines are at times internal to a specific state agency and will not have received the Cabinet level approval required for a document to be treated as a national policy. They include forms and templates, plans of action and other documents that guide emergency responses. Even where no written guidelines exist, informal practices may have developed that give insight into the types of non-legal mechanisms that can be used to facilitate or coordinate international disaster relief. In this way, the report captures some stakeholder accounts of special facilities provided to disaster relief donors, *even where these are not grounded in law*.
- Each section is completed with recommendations for improving disaster law and policy.

At the end of the report a presentation of the key recommendations is included. The full text of the IDRL Guidelines is appended, along with reports of the two major stakeholder consultations conducted during the course of the research process.

**Stakeholders in consultation - January 29, 2013**



## Part 1: Core Responsibilities: Relief Coordination, Management and Monitoring

### Responsibilities of the Affected State

#### *National Coordination of Disaster Relief*

#### **IDRL Guideline 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.

#### *Laws and Policies*

The Disaster Preparedness and Emergency Management Act (“the Disaster Act”) creates the Office of Disaster Preparedness and Emergency Management (ODPEM), giving the agency its central role in the national disaster management process. A National Disaster Committee is in place, but this is grounded in the National Disaster Plan<sup>2</sup>. There is no law describing the role of this national coordination mechanism or any specific mechanism to mobilize and coordinate multi-agency responses before, during and after a disaster. Planned amendments to the Disaster Preparedness and Emergency Management Act are intended to address this gap. Draft revisions to the Act speak to providing a legal foundation for the functions of the National Disaster Committee, its Executive, Sub-Committees and parish coordination mechanisms.

The National Disaster Plan sets the policy level framework for determining and communicating relief priorities. ODPEM’s Damage Assessment and Needs Analysis Policy and Plan outline procedures for conducting damage assessments immediately following disaster. Such damage assessments become the basis for identifying immediate priorities and adjusting them over time.

There are no specific mechanisms in statute or policy for regulating or monitoring non-government organisations<sup>3</sup> including those providing disaster assistance. Assisting states routinely develop Memoranda of Understanding or Cooperation Agreements with the Government of Jamaica and

<sup>2</sup> Further details on the scope and content of the National Disaster Plan are given in Part 2 below in the discussion on Disaster Preparedness.

<sup>3</sup> There is also no separate mechanism for incorporation or registration of NGOs. This is discussed further in Part 5.

these will govern the terms under which disaster relief is provided. Agreed programmes of action between UN or international aid agencies will play a similar role.

### *Practices and Procedures*

The National Disaster Committee meets annually and is chaired by the Prime Minister, with ODPEM providing secretariat functions. High-level leadership and broad-based participation affords the NDC influence over the legislative and regulatory framework governing disaster relief and response. The NDC has spawned six sub-committees which meet intermittently to address risk reduction and other preparedness issues, as well as to develop and sustain relief coordination mechanisms at the parish and community levels. The six sub-committees are:

1. Administration and finance
2. Damage assessment, recovery and rehabilitation
3. Emergency operations, telecommunications and transport
4. Public information
5. Welfare, shelter and relief clearance
6. Health planning

All committees are co-chaired by ODPEM and provide year-round coordination among state and non-state partners. Each committee has a mandate and a plan, and these together comprise the National Disaster Plan (NDP).

During a disaster response, the Director General of ODPEM has the additional role of National Emergency Coordinator. In the event of a disaster, a National Emergency Operation Centre (NEOC) is established under the guidance of the National Emergency Director. The NEOC will remain in place for the duration of the emergency response, and during that time will centralize and coordinate national and international relief efforts. Parish-level Emergency Operation Centres provide coordination within the geographical regions that are affected by the disaster.

The JRC and NGOs such as Food for the Poor, the Salvation Army and the Adventist Development and Relief Agency (ADRA) routinely partner with the government in disaster risk management and relief response. They are included in the NDC and able, through that mechanism, to influence disaster law and policy. NGOs participate in subcommittees of the NDC, and have strong input at the parish and regional levels in coordinating and distributing relief. Among these established NGO partners are organisations that routinely bring international relief donations into the country. These include shipments of goods and supplies from their international humanitarian networks and donor partners, as well as facilitating the entry of relief personnel and volunteers. Where possible, agencies like the JRC and ADRA prefer to utilize international monetary donations to obtain supplies from the local marketplace.

In addition, there are multi-lateral coordination mechanisms involving assisting states and UN agencies. Primary among these are the following:

- The United Nations Country Team (UNCT) comprises all UN agencies in country. Of these, a core group will assume the role of a UN Disaster Management Team that coordinates relief activities and facilitates information exchange during a disaster. It uses its Inter-Agency Emergency Response Plan as its script for designing collaborative activities with local organizations engaged in risk reduction and emergency management.
- UN Emergency Technical Team (UNETT) provides support to the UNCT, and is comprised of technical focal points from UN Agencies involved in disaster relief. It provides the UN with a focal point for linkages with national disaster management organisations and departments on an ongoing basis. The UNETT has prepared an Inter-Agency Emergency Response Plan that guides the coordination of disaster planning and the humanitarian response to disasters around a cluster approach (see below).
- The Western Caribbean Donor Group is another coordinating mechanism that involves international donors and development partners. Co-chaired by the UN Resident Coordinator and the Director General of ODPEM as a representative of the Caribbean Disaster Emergency Management Agency (CDEMA), it works to track disaster risks and coordinate disaster responses across several countries in the Western Caribbean. While there continues to be regional coordination of relief, particularly through CDEMA, this group is evolving to focus more specifically on localized needs.

The 2011 Inter-Agency Emergency Response plan for UN agencies is creating a cluster-based system for emergency planning and disaster response. The nine proposed clusters are as follows:

1. Agriculture
2. Food Security
3. Health
4. Water Sanitation and Hygiene
5. Emergency Shelter
6. Emergency Education and Back to School Programmes
7. Early Recovery
8. Protection
9. Logistics and Emergency Telecommunications

These follow closely with a global cluster approach used and promoted by the UN System, but has modifications reflecting local conditions. Each sector is led by the humanitarian agency whose work most closely aligns with it. This allows participating humanitarian agencies to work in close partnership with state organisations and NGOs within their usual sphere of operations. Thus the Food and Agriculture Organisation (FAO) is a cluster leader in the agricultural sector, the Pan-American Health Organisation (PAHO) is a cluster leader in the health sector, the JRC leads the Emergency Shelter cluster etc. National lead agencies are also identified for each sector, and will

typically be the state agency whose mandate most closely addresses the issue. The cluster system is still in its developmental stages.

Among non-state entities, the JRC has a unique position. As a creature of statute<sup>4</sup>, the JRC has been a key partner of the Government of Jamaica in disaster management and risk reduction, long before the establishment of the ODPEM. As a member of the IFRC, it is also included in UNETT. With local branches islandwide, it is treated as a local civil society partner and CBO. It is therefore able to impact disaster relief policy and practice at various levels.

The NEOC is the focal point of a disaster response, particularly in the initial period. However persons interviewed indicated that the NEOC is affected by a few limitations:

- Not all agencies are represented by the right personnel. NEOC operations and discussions may thus have to be followed-up by high-level meetings between ODPEM and other agencies. This has led in the past to delays or communications issues between responding agencies.
- NEOC decisions and directives do not in themselves have binding effect. While buy-in from agencies is generally expected at the management level, procedures for follow-through are not specifically set. Thus the officers and operatives of different partner agencies may deviate from the letter or spirit of commitments made by their superiors in the NEOC.
- Reporting back to the NEOC is not treated as mandatory. Thus information on the progress of different agencies involved in the distribution of disaster relief may not always be forthcoming. The information gap is most stark among non-government entities.

#### *Recommendations*

- The Disaster Act or policy should formalise the National Coordination Mechanism and provide ODPEM with any powers necessary to coordinate relief and international disaster assistance.
- The Disaster Act or policy should provide an accountability framework for the NEOC, including reporting requirements, complaints mechanisms and procedures for enforcing NEOC directives.

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<sup>4</sup> The Red Cross Act of 1964 created the national chapter of the Red Cross and Red Crescent Societies. Prior to this, the British Red Cross had operations in Jamaica.

## **Responsibilities of Assisting Actors**

### *Ethics and Standards in International Disaster Relief*

#### **IDRL Guideline 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.

#### **IDRL Guideline 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.

### *Laws and Policies*

## Relief supplies at Norman Manley International Airport



As there are no laws directly addressing international disaster relief, issues of ethics and quality standards in disaster relief are matters of practice rather than national policy. Humanitarian organisations and international donors are guided by international norms and guidelines including the Paris Declaration on Aid Effectiveness and the Sphere Humanitarian Charter and Minimum Standards in Humanitarian Response (Sphere Handbook).

### *Practices and Procedures*

The humanitarian agencies, international donors and NGOs who partner routinely with government provide disaster relief through or in tandem with national disaster relief mechanisms and established distribution channels. This helps to ensure that relief is provided without bias or discrimination and in an open and ethical manner. While many of the opportunities to coordinate disaster relief emerge from domestic authorities, the agencies and states providing disaster relief assistance on a routine basis have developed mechanisms for their own coordination and management. High levels of coordination allow established donor partners to remain responsive to local needs and priorities. The Western Regional Donor Group, for example, was formed to provide a focal point for receiving and responding to disaster needs and priorities established by the Government of Jamaica. This group meets quarterly, but participation and commitment to address disaster needs are more prominent in the wake of a major disaster.

UN entities and other state-funded international development organisations coordinate intermittently among themselves. The extent, frequency and degree of organisation of these coordination efforts tend to increase following a disaster. UNETT was formed with a view to increasing the technical capacity of the UNCT to plan for and address disaster risk reduction and relief responses, thus allowing these donors to play a more proactive role.

There are also non-state operated disaster relief entities, primarily the JRC, Food for the Poor, the Salvation Army and ADRA, which have a network of local branches or partner organisations that help to feed them with information in addition to what is received from the government. These entities often have the volunteer base and warehouse stores to provide immediate services and supplies to affected communities. Non-state disaster relief entities often receive funds from their international networks, and use these funds to purchase emergency supplies in the local market. This provides them with the flexibility to respond to locally defined needs.

Unsolicited donations from ad hoc donor groups make up a significant percentage of international relief supplies received after a major disaster. There is currently no set procedure for communicating relief needs to groups that are not linked into the national coordination mechanism through ongoing partnerships with state agencies. This can result in the donation of goods that are not relevant to local needs or that are not likely to be utilized by the local population<sup>5</sup>. Unsolicited

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<sup>5</sup> This can happen when, for example, food imported is not commonly known or routinely used in the typical Jamaican household.

donations can also have an adverse effect on local industry and commerce by flooding the market with free goods.

UN organisations and established NGOs are often guided by internal plans and policies in determining the standards and ethics behind the work they do. The JRC, for example, has guiding principles and a code of conduct that shapes the manner in which it provides disaster relief. The UN agencies in their Inter-Agency Emergency Response Plan have guiding principles that inform the purpose and scope of the assistance they provide. The JRC, ADRA and Food for the Poor increasingly limit the sources of international donations received by them to their known networks, thus increasing their capacity to attest to the quality of relief goods. As these entities increasingly solicit funds internationally and procure goods locally, this ensures that supplies are culturally relevant and limits the negative impact that the importation of supplies and equipment may have on local industry and commerce.

In the absence of a monitoring and coordination mechanism for unsolicited or ad hoc donations, there is no strategic method of ensuring the quality and relevance of the goods received. There is also no set mechanism for monitoring the standards and ethics of disaster personnel and the quality of the services they provide. There have been instances in the past in which the importation of relief supplies has been marred by improper practices. Past examples have included:

- Medicines or foods that are close to or past their expiration date
- Goods or pharmaceuticals that do not seem relevant to disaster needs<sup>6</sup>
- Unusable items<sup>7</sup>
- Irreparably damaged items
- Goods labeled in a foreign language

These incidences occur more commonly in unsolicited or *ad hoc* donations. However as there are no set standards guiding all donors, the sector is dependent on self-regulation. The adoption of national principles and standards would facilitate common parameters by which both existing and new donors could be guided.

#### *Recommendations*

- The Disaster Act should establish ethics and standards for assisting international actors including states and NGOs, and establish guidelines for state agencies receiving and/or distributing aid.
- The National Disaster Plan should establish guidelines and quality standards for disaster goods and services, as well as a mechanism for communicating these to potential donors. The Sphere standards and other international standards could thus be adapted for local use.

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<sup>6</sup> An example of this is a shipment of Viagra

<sup>7</sup> As an example, one informant reported on processing a shipment that had left shoes only.

- The National Disaster Plan should establish a coordination mechanism for new donor groups that becomes activated in the event of a major disaster. This may be incorporated in the UN cluster system when that becomes operationalised.

**Diversion of Resources in International Disaster Relief**  
*Misappropriating Donations or Diverting from the Intended Use*

**IDRL Guideline 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.

*Law and Policy*

There are wider anti-corruption and integrity regulations governing agents of the state<sup>8</sup>, but none speak specifically to the application of disaster relief to intended purposes. There have been no major allegations of impropriety in the distribution of disaster aid within the last 10 years.

*Practices and Procedures*

ODPEM's warehousing facilities allow for the storage of any unutilized goods, which can be applied to future relief efforts. ODPEM provides storage for relief supplies earmarked for other Caribbean territories, on behalf of the CDEMA. This is an indicator of the organisation's reputation in utilising relief goods and supplies only for their intended purposes.

ODPEM also utilises storage facilities owned or controlled by non-state entities such as the JRC or the Salvation Army. These facilities are audited – both by the Auditor General and by ODPEM – and the ODPEM stock counted at least once per year.

Where appropriate, relief goods that remain after a relief effort are at times distributed to charitable organisations or causes. Thus clothing sent in the wake of a hurricane may be distributed to families who lose their belongings to a fire. Food may be sent to a children's home. These

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<sup>8</sup> These will include, for example, the Financial Audit and Assessment Act, the Corruption Prevention Act and the Government of Jamaica Procurement Guidelines. These mechanisms are enforced through different investigative agencies and parliamentary bodies, including the Office of the Contractor General, the Auditor General, the Financial Investigation Division and the Public Accounts Committee of Parliament. These govern all public sector procurement, accountability and accounting, but do not specifically address disaster-related issues.

decisions are made by the organisation (such as JRC or ODPEM) and will have to be in alignment with the wider goals and objectives of that organisation. There are no set guidelines governing this practice.

#### *Recommendations*

- The Disaster Act or regulations should incorporate provisions that outline a guideline or procedure for utilising donations that cannot be applied directly to their intended use.



**Jamaica Red Cross has warehousing facilities where excess relief items can be stored and redistributed after disaster incidents.**

**Maintaining records of distribution is one way of reducing the scope for misuse of relief goods.**



## Part 2: Early Warning and Preparedness

### Early Warning

#### *Sharing Information with IDRL Partners Prior to a Disaster*

#### **IDRL Guideline 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.

#### *Laws and Policies*

Early warning and information sharing mechanisms are not specified in the Disaster Act. The powers of ODPEM, as described by the Act, could implicitly include the development of early warning systems and communications with aid relief partners.

#### *Practices and Procedures*

The National Disaster Plan, in the Standard Operating Procedures (SOPs) for the National Emergency Operations Centre, provides for detailed Warning and Alert Systems. While many disasters are designated 'No Warning' events that do not have an alert phase, this general alert system guides operations once there is an impending or actual disaster event.

Warnings are issued by the agency likely to become aware of the disaster, such as:

- The Meteorological Service, for weather situations,
- The Ministry of Health, for health problems threatening the population,
- The Ministry of Agriculture, for veterinary and plant health issues.

Heads of agencies will pass information on an early warning, including any assessments, on to the Prime Minister. They are also authorized to issuing warnings, survival information and evacuation

notices that are within their policy mandate<sup>9</sup> and purview. A warning regarding a major disaster or pandemic may result in the activation of the National Emergency Operations Centre by the Prime Minister.

As the Head of Government, the Prime Minister is the highest level official to whom the duty to issue early warnings is ascribed under the NEOC. It is recognized, however, that this function is routinely delegated to the Director General of ODPEM. Section 23.3 of the NEOC Standard Operating Procedures tasks the Director General with several detailed early warning responsibilities, including making contact with ‘regional and sectoral agencies’, such as CDEMA and Donor Groups<sup>10</sup>.

A separate SOP for Hurricanes is defined in Part 3 of the National Disaster Plan. This phases the warning and alert process in a four-stage activation system, starting at 72 hours prior to impact. From the earliest warning phase, ODPEM is directed to ‘make available all relevant information on the hazard’ to its publics, including CDEMA and its participating states<sup>11</sup>. At 24 hours before impact, the Prime Minister is tasked with notifying Heads of Missions, Caribbean States and CDEMA<sup>12</sup>. At this juncture ODPEM will send briefs to the NEOC and ‘parties to mutual aid agreements’<sup>13</sup>. These requirements do not necessarily reflect the relatively more comprehensive early warning processes that have since been developed in partnerships between the GOJ and the donor community.

The National Pandemic Plan – a subset of the National Disaster Plan – does not necessarily speak to an early warning mechanism for assisting actors. It does however provide for an integrated role for the Pan-American Health Organisation (PAHO) and assigns specific support functions to the JRC. Depending on the scale of the pandemic, the National Emergency Operations Centre will be activated, which will give rise to other routine meetings, briefings and information-sharing exercises with the donor community and foreign missions.

The Western Caribbean Donor Group coordinates the responses of donors, including international humanitarian agencies and foreign missions, to an emergency. It is co-chaired by the UNRC and the Director General of ODPEM on behalf of CDEMA. Among the group’s operations are pre-impact meetings held an estimated 48 hours before expected impact of a disaster. This is convened routinely as part of the early warning process for storms and hurricanes, and allows donors to be briefed on the likely impact of the disaster. The group also has briefings prior to the hurricane season allowing members to be briefed on national, regional and organisational preparedness for anticipated storm activity. The group is currently being redefined as a Jamaica Donor Group for humanitarian agencies and foreign missions operating within Jamaica. It does not provide a mechanism for coordinating new or ad hoc donor groups.

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<sup>99</sup> The policy mandate of a Ministry, Department or Agency will be informed by a range of laws, statutes, policies and, in some cases, Cabinet documents. Many such entities will have corporate or strategic plans that summarise their mandate.

<sup>10</sup> NDP, Part 4, p.53

<sup>11</sup> NDP, Part 3, p. 9 onwards

<sup>12</sup> NDP, Part 3, p. 13

<sup>13</sup> NDP, Part 3, p. 14

### *Recommendation*

- The ODPEM website can be used more effectively as a mechanism to issue early warnings, including damage predictions. This will facilitate planning by international donors.
- The National Disaster Plan should reflect all the comprehensive early warning processes in place in the country in a single integrated framework. This should be buttressed by specific principles in The Disaster Act or policy.

## **Preparedness**

### *Building Resilience and Domestic Disaster Response Capacity*

#### **IDRL Guideline 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.

#### **IDRL Guideline 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.

### *Laws and Policies*

The Disaster Act defines the scope of the mandate of ODPEM, including several functions related to ‘national and sectoral preparedness for coping with all emergency situations which may affect Jamaica’. It is expected to achieve this through:

- National and sectoral policies and programmes
- Parish-based measures
- Collaboration with local government, CBOs, private and voluntary organisations,
- Training programmes and consulting services
- Public awareness building
- Hazard analysis and operational research
- Mutual assistance and cooperation agreements

The latter category is the only aspect of the law that could be used as a reference to the ODPEM’s role in coordinating and interfacing with the donor community, and would primarily apply to humanitarian organisations, international NGOs and assisting states.

Under the Disaster Act<sup>14</sup>, ODPEM is expected to advance national preparedness and disaster mitigation and emergency response capacity. This is done through the National Disaster Plan and other emergency response and contingency plans. The National Disaster Plan represents the nearest attempt at a comprehensive script for disaster preparedness and recovery coordination, but suffers from several inherent limitations:

- The document is not a policy, and thus lacks high-level compelling force. It can be overridden by administrative decision-making based on circumstantial exigencies or managerial preference.
- The document is somewhat dated. Routine review would be necessary to ensure that the plan reflects the full-scope of emerging disaster preparedness needs.
- Some agencies named in the plan appear to have become disconnected from its implementation processes.
- The plan is itself divided into several sub-plans. The provisions of some of these plans overlap. Others have been superseded by operational changes or by plans developed within specific agencies. This means that the national framework consists more of a network of plans, rather than a single document. It results in some degree of fragmentation and often leaves ambiguities regarding the specific approach to a particular aspect of disaster management.
- There is no specific IDRL strategy or policy within the national framework. International donors are routinely included in disaster planning, but the parameters of this inclusion can change from time to time. As an example, the focal agency for coordinating disaster relief is typically ODPEM, but some level of coordination has alternately been done through other

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<sup>14</sup> The Disaster Preparedness and Emergency Management Act, 1993 s. 5(2)

agencies such as the Planning Institute of Jamaica. This results in a lack of predictability or certainty of national operations among donors.

### *Practices and Procedures*

Despite the fragmentation in national plans there is a high degree of ongoing collaboration between state agencies, humanitarian agencies and other international donors. This exists at the national level, and is replicated at the local level through Parish Disaster Committees, Sub-Committees and Plans. Collaboration between the state, international donors and domestic civil society on disaster preparedness is routine, and several assisting actors have identified disaster risk reduction as a programming priority.

The degree of funding provided by international donors to disaster risk reduction and preparedness is dually threatened by (a) increasing demand for emergency response and long-term recovery assistance from the list of major disasters occurring within the last five years, and (b) decreasing budgets for development grant funding in the wake of the global economic recession.

There is emerging interest both among state agencies and the international humanitarian organisations based in Jamaica in improving the national policy framework for emergency management and disaster preparedness. In addition to the modification of the Disaster Act, this includes growing support for improved international disaster response law.

Preparedness planning is being institutionalized, primarily through the work of ODPEM and its partners. A range of national emergency-specific plans exist – either in completed or draft form – including the following:

- Standard Operating Procedures for Hurricanes
- The National Earthquake Response Plan
- The National Oil-Spill Plan
- The National Pandemic Plan
- The National Emergency Animal Diseases Preparedness Plan
- The National Fire Management Plan

ODPEM, like a few of its partners (including the JRC) is able to maintain warehouses with certain essential emergency stock. Personal preparedness is promoted and throughout the hurricane season there is both commercial and informational promotion of risk reduction, disaster mitigation and preparedness precautions. General awareness of disaster preparedness and recovery strategies enables disaster relief agencies to rely on private sector sourcing of goods, rather than maintaining their own stock piles. Thus the local commercial market is an increasingly reliable source of disaster supplies, both leading up to and immediately after a major incident.

Jamaica's disaster resilience is arguably most profound in relation to the more routinely occurring source of national emergencies: hurricanes. This has both positive and negative effects. As

hurricanes are the most commonly occurring natural disaster, the probability of impact is high and hurricane preparedness becomes a significant aspect of planning at the national, organisational and community levels. Yet increased resilience can bring increased apathy. By surviving multiple disasters, the country builds inherent recovery skills and, ironically, may lose the urgency to address the long-term issues that compound disaster risk. Thus modifications to planning regulations and the relocation of vulnerable communities are ultimate strategies for which there is insufficient funding capacity – or political drive – to effect change. Further, a relatively high level of institutional preparedness for hurricanes can blind decision-makers to the reality of ill-preparedness to deal with other potential crises, such as a pandemic or mass casualty event.

Several of the international assisting actors who help routinely with disaster relief also work to build risk resilience at varying levels. The JRC builds risk resilience at the community level through training and the mobilization of community volunteers. Like other organisations such as Food for the Poor, the JRC has made meaningful contributions to long term risk reduction by replacing housing stock damaged during a major disaster. Other donor partners work in specific sectors, such as agriculture or health, to build out different aspects of risk resilience.

### *Recommendations*

- The Disaster Act, regulations or policy should reference ODPEM’s coordinating role in relation to international and local donors. Regulations (or a national policy) that identify Jamaica’s international disaster relief strategy and set provisions for coordination and regulation of assisting actors is becoming increasingly necessary.
- The National Disaster Plan should be updated and kept under routine review. Reviews should involve all agencies named as having a role under the plan, and would therefore have the added benefit of strengthening those institutions. The initial revision should attempt to simplify the plan and rationalize the content of its various sub-plans.
- Once updated, the National Disaster Plan should be published and distributed and should be the subject of an inter-agency communications and training initiative. An online, easily navigable version of the plan should be developed, for wider accessibility.

**International volunteers can be integrated in the national disaster relief effort by working with agencies (such as the Jamaica Red Cross) that already have a presence in the field.**



## Part 3: Initiation & Termination of International Disaster Relief & Initial Recovery Assistance

### Initiation and Termination of International Disaster Relief *Including International Donors in a Disaster Response and Recovery Process*

#### IDRL Guideline 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.

#### IDRL Guideline 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

#### *Laws and Policies*

The procedures for initiating or terminating disaster relief are not specifically detailed in the Disaster Act.

The Disaster Act makes reference to the power of the Minister with portfolio responsibilities for disaster management to declare a geographical area to be a disaster area, or that the country has suffered a national disaster<sup>15</sup>. Such a declaration, which is effected on the advice of ODPEM and implemented through a written notice to the Prime Minister, would likely result in the formal announcement of an emergency. The declaration would need to be premised on an assessment, as it has to establish the nature and likely consequences of the hazard, and proposed mitigation actions. Where the disaster is limited to a geographical region, the boundaries are specifically identified and this information is Gazetted.

<sup>15</sup> The Disaster Preparedness And Emergency Management Act, 1993, s.12

A state of emergency can also be put in place under s. 26 of the Constitution, and supported by regulations made under the Emergency Powers Act. This can be used to facilitate evacuations, to restrict the movement of persons within a disaster area, or for buttressing security and limiting looting through curfews.

### *Practices and Procedures*

The procedures for initiating disaster relief can be integrated in the ongoing relations between international donor partners and the state. From the pre-impact stage, or upon the declaration of a sudden onset or ‘no warning’ emergency<sup>16</sup>, meetings between ODPEM and donors will be convened. Donors have an early opportunity to identify the type of aid they may be able to give, but will ordinarily require damage assessments in order to formalize their commitments.

The extent to which donors are able to respond to emergency needs often depends on the formal declaration of an emergency. With the island’s dependence on foreign direct investment and tourism has come a reluctance to declare national emergencies, as perceptions regarding a small nation’s capacity to recover cannot be controlled<sup>17</sup>. Outside of the declaration of a national emergency, humanitarian agencies and NGOs are often limited in the funds that can be accessed to aid the recovery effort, as some sources are only triggered by a formal declaration.

The establishment of the National Emergency Operations Centre and instigation of the National Disaster Plan can be seen as the initiation point of the disaster management process. Assessments and requests for assistance can therefore be routed through the NEOC, which can relay information to its donor partners. There have been different methodologies for conducting assessments and communicating needs to donors in the past. Less formal meetings around rapid assessments are most useful to donors, as they provide the quick information needed to source and solicit aid. Requests can also be issued at the sector level, to indicate the primary needs of health, education, agriculture etc. These can assist those donors whose funding priorities are sector driven. More formal mechanisms for consolidating and validating information may be good practice from a planning perspective, but can create delays that affect the donor’s capacity to meet recovery and relief needs.

Requests for relief have provided donors with detailed needs lists, that donors can themselves use to ‘shop’ for funding. The preferred methodology for ODPEM and some humanitarian organisations such as the JRC is to source funding internationally and procure goods from the national market. This strategy allows the response to a request for assistance to be flexible enough to facilitate unforeseen needs or changes in circumstances.

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<sup>16</sup> This is an emergency situation that, by definition, is unpredicted or unforeseeable.

<sup>17</sup> Stakeholders noted for example that expectations may vary regarding the capacity of Caribbean countries versus states in the USA to recover from the impact of Hurricane/Tropical Storm Sandy. This difference in perception feeds the reluctance of small island states to express globally an inability to handle the impact of a major disaster through local means.

The National Damage Assessment Plan is a 2011 annex to the National Disaster Plan. It aims to set new standards and practices in damage assessment and needs analysis processes, which can be used to trigger the initiation of disaster relief. The needs analysis is implemented by ODPEM and begins with an Initial Situation Overview (ISO) conducted between 4-8 hours after an ‘all-clear’ notice is given, indicating that the disaster event is at an end. This ISO will identify broad needs and immediate actions, as can be culled from aerial reconnaissance and local/community surveys. More detailed information will come throughout the preliminary assessment phase, during which daily reports will be produced by ODPEM for the first 7 days following an all clear. As this plan is relatively new, its systems are relatively untested and will necessitate training and the development of work teams.

While the existing procedures for initiating relief and communicating needs can readily facilitate those donors who routinely partner with the government of Jamaica, there is no established communication system for *ad hoc* donations. Outside of established coordination mechanisms formed by or in tandem with domestic authorities, the communication of disaster needs to external actors is ad hoc and unsystematic. In the event of an extraordinary emergency, more emphasis may need to be placed on issuing calls for assistance through global media or the internet. These mechanisms have not been at the forefront of Jamaica’s disaster response strategies to date.

The Ministry of Foreign Affairs provides some coordination of international donor relief through diplomatic channels. Jamaican consulates and high commissions abroad, as well as foreign embassies and missions located in Jamaica can facilitate requests for relief goods and supplies. This is not always integrated with the National Emergency Operations Centre and may not be responsive to locally defined needs and priorities.

Within the context of a collaborative environment, notification that a period for receiving international relief is coming to an end may be convened through routine meetings and committees that include assisting actors. There is no established notification process that targets *ad hoc* or -unsolicited donors.

As part of the process of facilitating international donors the Ministry of Local Government in partnership with ODPEM is in the process of completing a compendium of laws addressing disaster relief. This will form part of a regional body of information that will be available to international assisting actors seeking to participate in an emergency response.

### *Recommendations*

- The Disaster Act should indicate or facilitate the determination as to what levels of disaster should trigger the declaration of a national or localized disaster. This can be ascertained or influenced by the number of households significantly impacted by the incident.
- The Disaster Act should clarify the mechanisms for requesting and terminating international disaster assistance.

- The Disaster Act should indicate a timeline for declaring a disaster, as well as give a guideline for determining the length of time by which the declaration will expire, or the decision be revisited.
- The Disaster Act, regulations or policy should identify the structures and mechanisms through which relief priorities are identified and communicated.
- The National Disaster Plan should establish a communication mechanism that can broadcast disaster impact information and priority needs to existing partners and ad hoc donors on a timely basis.
- The website of ODPEM should be used more strategically to communicate information, include damage assessment and needs analysis data, guidelines and ethical standards for disaster relief and other informational and procedural guides for the entry of relief goods, equipment and personnel.
- The National Disaster Plan should clarify the role of the Minister of Foreign Affairs in soliciting and coordinating international disaster support.

### **Initiation of Military Relief**

#### *Special Arrangements for Foreign Military Aid*

#### **IDRL Guideline 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.

#### *Laws and Policies*

The Disaster Act does not address military relief as a separate form of aid. The legal arrangements for the deployment of foreign military relief in Jamaica are guided by the Visiting Forces Act, 1975. This Act recognizes the complementary jurisdictions of local laws and the laws and service regulations of the state of the visiting force. Members of the visiting force and their visiting dependants will be subject to their own laws, as well as the laws of Jamaica, and may be detained, charged and tried locally for breaches of the criminal law<sup>18</sup>. Visiting forces may also hold service courts within the territory of Jamaica.

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<sup>18</sup> Visiting Forces Act, Part III

Under s. 20 of the Act, members of a visiting force can be treated as servants of the Crown, and the property, vehicles and aircraft used by visiting forces deemed as owned by the Crown. This facilitates indemnification from judgments for acts done in the course of their duties<sup>19</sup>.

Visiting forces and their members will not pay income tax<sup>20</sup>. Their vehicles are exempt from licensing and registration fees<sup>21</sup>. They are exempt from duties on imported goods and supplies designated for their exclusive use, including use by the dependents of members of the visiting forces<sup>22</sup>.

### *Practices and Procedures*

Any request for military relief is first agreed at the diplomatic level. Authorisations are agreed from the Office of the Prime Minister and processed through the Ministry of National Security and the Jamaica Defence Force. These are typically based on existing cooperation agreements between both governments, which will set parameters of operation long before a disaster hits.

The Jamaica Defence Force, through their logistics unit, will facilitate customs, immigration and other entry processes for foreign military. Operational partnerships between the JDF and other state agencies will facilitate this. The degree of assistance provided will often depend on the provision of advanced notice and the degree of detail and accuracy with which flight manifests are prepared.

Military aid will often work in tandem with the Jamaica Defence Force to provide support to the NEOC in areas such as aerial reconnaissance, search and rescue operations or the delivery of relief goods to areas cut off from land access.

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<sup>19</sup> Visiting Forces Act s.22

<sup>20</sup> Visiting Forces Act, s.25

<sup>21</sup> Visiting Forces Act, s.26

<sup>22</sup> Visiting Forces Act, s.27

## Part 4: Eligibility for Legal Facilities

### Legal Facilities for Assisting Actors

#### *Determining Which Organisations Should Benefit from Special Legal Arrangements*

#### **IDRL Guideline 13: Facilities for Assisting States**

It is recommended that transit and affected States grant, at a minimum, the legal facilities described in Part V (*Guidelines 16-24*) to assisting States with respect to their disaster relief or initial recovery assistance.

#### **IDRL Guideline 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 (*Guidelines 16-24*) 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 (*Guidelines 16-24*) 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.

#### **IDRL Guideline 15: Facilities for Other Assisting Actors**

Affected States may also wish to extend, upon request, some of the legal facilities in Part V (*Guidelines 16-24*) to assisting actors other than those covered by paragraphs 0 and 0, 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 0.

### *Laws and Policies*

Currently, no single specific eligibility mechanism is in place for donors seeking to benefit from special arrangements for the entry of relief goods and personnel. Some donors benefit from

ongoing tax concessions as diplomatic missions, UN agencies or incorporated entities having charitable status.

Assisting states and UN agencies that have a local mission or representative will have ongoing duty concessions and procedures for the admission of personnel. Locally-based charities will typically register under the Companies Act as a corporation limited by guarantee<sup>23</sup> that does not allow its members to benefit from profits. These 'non-profit' entities may subsequently apply to be recognized under the Companies Act<sup>24</sup> and under various tax laws as charitable entities. The JRC is unique among non-state actors as its establishment is recognized under the Red Cross Act of 1964. It is therefore statutorily exempt from taxes and duties.

### *Practices and Procedures*

There are no defined eligibility mechanisms for benefitting from exemptions, concessions or other special facilities for disaster relief. Organisations working with ODPEM or other key state agencies (e.g. Ministry of Foreign Affairs), may benefit from special facilities that these organisations access, due to their status as government agencies<sup>25</sup>.

Donors who are not locally registered but desire to benefit from duty concessions and other special arrangements can arrange to consign their goods to a locally based entity such as ODPEM or the JRC. Local entities may limit these arrangements to pre-existing partners, in order to ensure that goods are of a certain quality and meet locally defined needs.

Assisting actors who do not have a local presence and who wish to engage in a more long-term relief effort will either need to partner with and operate through a locally based humanitarian organisation or charity, or register through the Companies Office as a foreign entity doing business in Jamaica. This registration is done by lodging the entities' incorporation documents and information on its directors and principals to the Companies Office. The procedure can take a two to three week period, during which the organisation may be asked to answer additional questions to clarify its status under the laws of its country of origin. Following a major disaster, the precise length of time for registration would depend in part on the capacity of the Office of the Registrar of Companies to recover from any impact the disaster may have had on its facilities, records, staff and operations.

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<sup>23</sup> Companies Act. Ss.3(2)(b). For specific provisions relating to such companies, see also ss. 9 and 20.

<sup>24</sup> The Companies Act identifies these entities by allowing such corporations to drop the suffix 'Limited', under s.16 of the Act. This is considered a precursor to applying for tax concessions. This is done by a letter of application to the Minister with portfolio responsibilities for the regulation of companies.

<sup>25</sup> For example, by consigning goods to ODPEM, a donor would benefit from ODPEM's tax exempt status; however this would mean that the goods would be under the custody and control of ODPEM.

Ad hoc donors may not be able to access exemptions and concessions, unless special allowances are made by the Ministry of Finance on a case by case basis<sup>26</sup>. Their personnel may be allowed entry for a limited period as short-term visitors, but will need permits from the Ministry of Labour and the Passport, Immigration and Citizenship Agency for lengthier stays. These are described in greater detail in the following Part.

In the absence of an eligibility mechanism, there is also no compliance or quality control system to track the ethics and standards of donors.

### *Recommendations*

- A registry of disaster relief NGOs and relief personnel should be maintained through ODPEM. This will be used to facilitate special legal arrangements, as well as for tracking and communications purposes. The registry should be developed prior to a disaster, and *ad hoc* donors advised to provide disaster support through registered entities.
- Registration should only be made available to international actors that agree to comply with international quality standards and comply with established coordination mechanisms.
- New or ad hoc donors should be directed to work through existing agencies. Mechanisms should be developed to facilitate the coordination of such volunteers and relevant information integrated into ODPEM's website.

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<sup>26</sup> Case by case applications would be the ordinary process for any importer to access exemptions, including during non-disaster periods. Recognised charitable organisations (such as churches or schools) may obtain case by case exemptions for the importation of goods and supplies that are linked to their charitable purposes.

**A Jamaica Red Cross volunteer processes distribution records.**



## Part 5: Legal Facilities for Entry and Operations

### Disaster Relief Personnel

#### *Special Legal Facilities for the Entry of Relief Personnel*

#### **IDRL Guideline 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.

#### *Laws and Policies*

**The Aliens Act, 1946** creates general restrictions regarding entry into the country. It also empowers the Minister with portfolio responsibilities for immigration issues to issue exemptions and waivers from its provisions to any person or class of persons<sup>27</sup>. This law works in tandem with the Immigration Restrictions (Commonwealth Citizens) Act, 1945, the Caribbean Community (Free Movement of Skilled Persons) Act, 1997 and the Jamaican Nationality Act to guide visa requirements for non-nationals.

There are no special visas – or visa arrangements – for disaster relief personnel. Entry visas are not required from citizens of the Caribbean, most Commonwealth countries<sup>28</sup>, The United States of

<sup>27</sup> The Aliens Act, 1946, s.17

<sup>28</sup> Exceptions are Pakistan, Nigeria, Sri Lanka, the British Virgin Islands and the Cayman Islands.

America or most Western European countries. For persons from many other countries, visas can be issued upon entry. Personnel from these countries may enter Jamaica for short periods without prior application. Visits will typically be approved for a 30-day period, and the cumulative number of visits should not exceed 180 days in a calendar year. For a longer visit, a visitor's visa will not be applicable, and a work permit or work permit exemption will be needed from the Ministry of Labour in order to remain in the country for work-related purposes.

The law does not provide specific facilities by which immigration requirements and procedures are waived or modified during a disaster. However, this has been done by practice and convention in the past.

Most emergency personnel will be able to operate locally without the need for special licences. As an exception, medical personnel must be approved by the Ministry of Health. Each medical profession is governed by a separate law, and administered by a separate Council. Thus there is a Medical Council, Nursing Council, Pharmacy Council, Dental Council and a Council for Professions Supplementary to Medicine, each of which is regulated by a different law<sup>29</sup>. The foreign medical professional would therefore submit an application to the relevant council, which reviews the application on the basis of the recognition or compatibility of foreign qualifications and registration. All Councils are subject to the Minister of Health. This technically will enable the Minister to facilitate expedited processes in the wake of a disaster<sup>30</sup>.

Under the **Emergency Powers Act**, a state of emergency can be declared by proclamation of the Governor-General in the event of a natural disaster, pandemic or significant threat to public safety<sup>31</sup>. When a state of emergency is declared, curfews can be imposed to restrict movement at particular times or within particular geographic areas. By law and convention, states of emergency are imposed in exceptional circumstances, and only for the timeframe necessary. During a state of emergency or curfew, movement of essential personnel (including firefighters, emergency workers or medical personnel) is ordinarily facilitated by security forces. This would not ordinarily include international relief personnel unless such personnel is travelling with local teams or unless special arrangements have been communicated to the security forces.

Both the **Immigration Restriction (Commonwealth Citizens) Act** and the **Aliens Act** provide for the prohibition from entry of 'any person certified by a Health Officer to be suffering from a communicable disease which makes his entry into the island dangerous to the community'<sup>32</sup>. These provisions will facilitate health vetting for relief workers prior to their entry into the island. This

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<sup>29</sup> Respectively, these are the Medical Act, the Nurses and Midwives Act, the Pharmacy Act, the Dental Act and the Professions Supplementary to Medicine Act.

<sup>30</sup> This facility has not been frequently utilized as it has been more expeditious to rally local medical personnel to volunteer their services immediately following a disaster. Where medical personnel have been integrated in longer term recovery efforts, no instances of a specially expedited process were raised in the research process. However the health sector has facilitated the entry of personnel involved in charitable operations.

<sup>31</sup> The Emergency Powers Act, 1938, ss.2-3. See also s.26 of the Constitution.

<sup>32</sup> This quote is taken from s.4 of the Immigration Restriction (Commonwealth Citizens) Act, but similar actions can be taken in relation to non-Commonwealth citizens under the Aliens Act.

would be of particular importance during a pandemic. These laws permit a Health Officer or Immigration Officer to inspect any person coming into the island, and to do so immediately on entry.

#### *Practices and Procedures*

As an adjunct to the National Disaster Plan, an **Overseas Assistance Plan** is in place to streamline facilitation of the entry of relief personnel, supplies and equipment in the event of a major disaster. The plan will be activated if a major disaster causes a degree of damage or displacement that overwhelms local resources. The plan includes Guidelines for Incoming Relief Personnel, which begin with the identification of human resource needs by the NEOC and communication of these needs to donors through donor meetings.

Once needs have been communicated and indications of support given by assisting humanitarian organisations or states, the Ministry of Foreign Affairs is identified as the liaison point for communications with personnel based overseas. The MFA is responsible for the collation of information on the leadership, composition and qualification of relief teams. In addition, information should be provided on the immunization and health status of incoming personnel and the countries they have recently visited. The MFA is also identified as the responsible agency – along with Customs and Immigration – of clarifying agreements on length of stay and departure procedures with relief personnel.

In addition to these general requirements, the plan identifies some specific arrangements for specialized teams or personnel. Medical personnel will need special clearance from the Councils under the Ministry of Health to practice locally. No special timeframes are identified in the plans, but the negotiated expedition of processes is implied. The MOH coordinates this process, as well as provides access to hospitals or clinics, as well as setting up field hospitals as necessary. Military personnel will be coordinated by the JDF in collaboration with the NEOC. The NEOC will also appoint a sub-committee/liaison point for Search and Rescue Personnel. An Urban Search and Rescue Plan is currently being developed by ODPEM and will probably provide added details on these arrangements.

Expedited processes and fee waivers can be arranged for the entry of personnel, if special directives are given to immigration officers by the Minister responsible for immigration issues. Immigration officers can, for example, facilitate the entry of teams into the country by the approval of manifests, in place of examining individual passports. As Immigration Officers operate 24 hours per day, special provisions for extended opening hours can be facilitated, particularly through the airports.

In relation to the entry and operations of international relief personnel, the Overseas Assistance Plan further provides for:

- Identification of the types of relief personnel and specialists required and communication of these needs to donor agencies and embassies.

- Centralisation of interactions with overseas-based relief personnel through the embassies or local diplomatic representatives of assisting countries. The Ministry of Foreign Affairs will be the national liaison point for such communications and will appoint a designate to the NEOC to facilitate this.
- Coordination of issues related to the entry, licensing and operation of Medical Personnel through a Health Subcommittee of the NEOC.
- Coordination of issues related to the entry and operation of Search and Rescue personnel through an Emergency Operations Subcommittee of the NEOC.
- Appointment of designated coordinators by each relevant sub-committee to handle all issues related to the operation of overseas personnel, including deployment and tasking.
- Daily reporting from coordinators/subcommittee chairs to the NEOC on issues related to the facilitation and coordination of international relief personnel, including deployment, tasking, progress and welfare issues.
- Provision of accommodation, communication facilities and other equipment to international relief personnel by the NEOC.
- Establishment by the director of the NEOC of specific location(s) from which relief personnel will be deployed. These could be national or parish-based.
- Provision of information to welfare personnel and volunteers on matters related to liability in case of injury or illness by the Attorney General.

The Overseas Assistance Plan supports existing partnerships between the national emergency infrastructure and its locally-based assisting partners. Outside of personnel assigned through a humanitarian organisation or an assisting state, volunteers are expected to be affiliated with an international umbrella organisation such as the JRC. The coordination of such volunteers is expected to be done through the Welfare Subcommittee, and is the responsibility of JRC, the Salvation Army and ADRA. These locally-based donor partners maintain databases of emergency volunteers, including medical teams. This reduces the need for imported skills. However, the entry of non-national relief personnel into the country is often a counter-part activity to sending locals to other countries to aid in their relief efforts. For this reason, non-national volunteers may be invited and facilitated by humanitarian organisations and NGOs even when local skills and expertise is available.

The Jamaica Defence Force has provided emergency relief teams to both local and international disasters. This includes reconnaissance missions, medical teams, evacuation and search and rescue teams, engineering and construction services. The availability of the army for such disaster-related services has further reduced the need for overseas assistance in this area.

For long term operations, emergency relief workers will need to acquire long-term visas, work permits or work permit exemptions. This can be done through written applications to the Passport Immigration and Citizenship Agency and the Ministry of Labour respectively. The procedures are no different for applications associated with a national disaster relief effort, and can take weeks at a time. While no specific procedures exist, it would be possible to arrange for processes to be

expedited if special arrangements are negotiated, for example through NEOC meetings and discussions.

While there are several detailed guidelines addressing the entry of relief personnel, these documents are not grounded in law. They are therefore non-binding. Many existing plans address responsibilities on an agency by agency basis, and do not provide an overarching policy statement on how disaster relief personnel should be addressed under immigration or labour laws. This represents a gap in the legislative framework for facilitating international relief.

### *Recommendations*

- A central source of information is needed on the various regulations and procedures governing the entry and operations of disaster relief personnel.
- The Disaster Act, Immigration Law, Labour Law and various professional regulations should identify special procedures for disaster relief personnel as a distinct category of workers. Allowances for the entry of personnel for limited periods following a major disaster should be made, with predefined qualifications applicable to different classes of personnel.
- The Disaster Act, regulations or policy should make provision for the registration, coordination and regulation of relief workers. This should include the indemnification of relief workers in special circumstances and identify conditions under which relief workers shall be held liable for their own acts and omissions.
- The National Disaster Plan should identify mechanisms for integrating international disaster relief personnel with their local counterparts. This should include protocols for the deployment, coordination and supervision of relief workers, and guidelines for the operation of volunteers and teams.
- Applications for licences, waivers and special legal facilities for relief personnel should be made prior to the departure of the relief personnel from the assisting state.

## **Disaster Relief Goods and Equipment**

### *Special Legal Facilities for the Entry of Relief Goods and Equipment*

#### **IDRL Guideline 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 “pre-clearance” 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.

### *Laws and Policies*

The existing Disaster Act does not include details on the processing of goods and equipment for disaster relief. The entry of all goods and equipment is subject to customs regulation and taxation. No special provisions are included in law for disaster-related imports. However the Minister of Finance has a general discretion to waive applicable procedures and duties<sup>33</sup>.

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<sup>33</sup> See Customs Act, s.5XX



### *Practices and Procedures*

Under the NDP, the **Overseas Assistance Plan, Disaster Relief Policy, the Welfare Relief Plan** and the **Relief Clearance Policy** sets out procedures for facilitating the entry of relief goods and equipment. This is activated through the NEOC, once a disaster has been declared, the impact of which overwhelms national resources. Under the NDP, a range of arrangements can be made to facilitate the entry of relief goods and equipment:

- Identification of the types of relief goods and equipment required and communication of these needs to donor agencies and embassies.
- Expediting the clearance of goods and equipment earmarked for relief assistance, including through one-stop clearance facilities. This has in the past been done through putting together multi-sector clearance teams representing the different agencies that inspect and approve goods on entry.
- Putting together lists of procedures and requirements for persons shipping relief goods from overseas. Under the OAP, this is the responsibility of the Customs Department.
- Facilitating the storage and transportation of relief goods, and assigning manpower for loading and transporting items. Under the OAP manpower assignments and transportation arrangements can be done by the National Works Agency, with assistance from the Jamaica Defence Force. In practice the Jamaica Constabulary Force have also been helpful with these aspects of facilitating relief goods and equipment.
- Establishment by the director of the NEOC of specific location(s) from which relief equipment will be deployed. These could be national or parish-based.

In practice, the clearance of disaster relief goods is also facilitated through the recognition of special forms and reduced documentation requirements by Customs. The Ministry of Finance, in consultation with the Commissioner of Customs, may approve the use of Provisional Clearance Forms as a final level of authorization for the clearance of relief goods and equipment. This reduces the clearance time and can result in near-immediate passage of goods through ports of entry. Following one particular disaster<sup>34</sup>, stakeholders report that an alternate, temporary form was put in place to be used for fast-tracking relief goods and equipment through the ports.

Another strategy that is often required in the wake of a major disaster is the clearance of goods at special berths or in locations outside of the ports. In order to create space for the influx of relief goods and equipment, containers may be delivered to a donor partner's warehouse or premises as long as same remains sealed until opened and inspected by officials from Customs and the Ministry of Finance.

'One-stop' or multi-agency clearance facilities are provided for under the NDP and have been tested in the past. However such facilities have not been put into operation in more recent disasters, for which the timeframe for recovery has been shorter. Similarly, a supply management system has been piloted for use in tracking the distribution of relief goods during a recovery effort. This in turn

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<sup>34</sup> Hurricane Ivan

enables informed and updated decision-making on relief and recovery needs at the national and local levels. The system has been tested across several agencies, but is not routinely used in smaller scale disasters involving a shorter recovery timeframe. The non-use of these special facilities could result in the inability of agencies to put them in operation in the wake of a major disaster. This can result, for example, from the loss of staff trained or sensitized in these disaster-specific operations across different response agencies.

Indications are that donor partners of the GOJ have improved their standards for importing relief goods and equipment over time. This includes the provision of detailed manifests, in English, prior to the clearance of goods. According to stakeholders, issues with mislabeled goods, foreign language labeling, and inaccurate manifests are more commonly associated with unsolicited or *ad hoc* donations.

Among agencies such as the JRC, Food for the Poor and ADRA, increased quality control on the supply end and an express preference for financial donations from their international partners have limited the impact of customs and clearance issues on their capacity to supply aid relief in a timely fashion. By soliciting funds and purchasing goods or leasing equipment locally, these organisations avoid delays that may ensue during the shipping process.

Among the main hindrances identified by stakeholders is the inadequacy of written policies<sup>35</sup>, and the consequential impact that staff turnover can have on internal memory of disaster-specific operations. This can affect the smooth implementation of post-disaster exemptions and special facilities. This creates an ongoing need to develop intra-agency procedural guidelines and conduct staff briefings routinely on the roles agencies are allotted within the NDP framework.

The biggest gap in know-how appeared to be in relation to the repatriation of equipment used temporarily in the initial disaster response. Few agencies – public or private – reported having any experience in the re-exportation of equipment brought in temporarily for disaster relief. If such equipment is sold or transferred locally, duties that were initially waived at the point of entry may be applied, unless the recipient also has or attains access to duty exemptions. The ease with which equipment is re-exported appears to depend on whether this intent is declared to customs at the point of entry.

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<sup>35</sup> This includes limitations in national policies, absence of national policies on some issues and absence of departmental or organisational policies or protocols that reflect the role an organisation is expected to play in national plans. Thus, for example, the Customs Department may be named as a member of a one-stop clearance facility, but may not have any internal guidelines indicating when the one-stop facility should be instituted or what amended forms or procedures should be utilised. These practices are passed down through corporate memory, or the NEOC initiates discussions surrounding special arrangements that have been made during past disasters.

### *Recommendations*

- The Disaster Act, regulations or policy should articulate a position on international disaster relief facilitation. This should speak to special procedures for the importation of goods and equipment and should reference the use of a one-stop or multi-agency clearance facility where necessary. The capacity of Ministers and the Commissioner of Customs to waive, expedite or simplify requirements in the wake of a disaster should also be expressly stated. These statutory provisions would add greater authority and enforceability to the content of existing plans and guidelines.
- A central source of information on the procedures for importing disaster relief goods and equipment is necessary.
- The identification and publication of standards, guidelines and ethics applicable to disaster relief donations is necessary. This should explain and promote the preference for cash donations, where feasible, to both government agencies and approved non-state partners such as the JRC. The Sphere Handbook can provide guidelines and principles for national standards.

### **Entry of Specially Regulated Goods and Equipment**

*Vehicles, Telecommunications and Medical Equipment, Drugs and Food*

#### **IDRL Guideline 18: Special Goods and Equipment**

In addition to the facilities described in paragraph 0:

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

In addition to the clearance procedures discussed above, regulated goods and equipment require special permits, as follows:

- *Drugs for Human Use:* The Ministry of Health (MOH), through its Standards and Regulations department regulates the entry of pharmaceuticals. This is done under the Food and Drugs Act, and is informed by the Pharmacy Act, the Dangerous Drugs Act and the Precursors for Chemicals Act. The Department has guidelines for the approval of pharmaceuticals imported for the purposes of donations. An application for approval is made by submitting letters from both the donor and recipient organisations, along with a permit application form. Through this form, the donor should identify the drug, its strength, quantities and pack sizes and the expiration dates. Drugs are not normally approved if they are less than twelve months from their expiration date. A registered pharmacist is typically identified as a custodian of the drugs. The drug (or its generic form) should be registered for local use. The permit approval process can take 2-3 days and is usually done prior to the exportation of the drug. However discretionary expedition can be done after a disaster. Regulations under the Food and Drugs Act give extensive procedural directions for the processing, labeling, storage and transportation of food and drug items. These procedures are not typically waived during a disaster, but inspection and approval may be expedited by special internal directives during emergency operations. These emergency procedures are not necessarily clearly defined within the MOH, but fall within the general discretion of officials, such as the Chief Drug Inspector.
- *Drugs for Animal Use:* The Ministry of Agriculture (MOA), through its Veterinary Services Division (VSD) regulates the entry and prudent use of all veterinary medicinal products. The Ministry of Health (MOH) registers veterinary pharmaceutical products. An application for

**Blankets, tarpaulins, hygiene and kitchen kits are some of the items that do not require special permits.**



approval for the entry of veterinary drugs is made by submitting letters from both the donor and recipient organisations, along with a permit application form, to the VSD. Through this form, the donor should identify the drug, its strength, quantities and pack sizes and the expiration dates. Drugs are not normally approved if they are less than twelve months from their expiration date. A registered veterinarian and registered pharmacist are typically identified as custodians of the drugs

- *Pesticides:* The Pesticides Control Authority under the Ministry of Health registers pesticides and must approve them for importation. It is governed by the Pesticides Act (1975) and Regulations. If a product is already locally registered, the licence for importation will be approved after some consideration is given to issues such as storage arrangements. This licence can be acquired within a twenty-four hour period. If the product is not registered for local use, the importer must submit a dossier of information on the product and this will be reviewed by the Board of the Authority. Donors are encouraged to gift the pesticides already registered for local use, a list of which is available online. In the wake of a disaster, the Minister of Health may override some of the procedures of the authority, if this is determined to be in the national interest.
- *Plants, Animals, Feeds and Foods of Animal Origin:* The Ministry of Agriculture (MOA) regulates the entry of plants (Plant Quarantine Division) and animals, feeds and related veterinary products (Veterinary Services Division) into the country. Foods of animal origin are also restricted and should be sent in a processed form to meet regulatory requirements. Under the Animals (Diseases and Importation) Act, all animals, birds, insects etc. brought into the country are subject to quarantine for a fourteen-day period. There are no special statutory exemptions for rescue dogs. However, rescue dogs are allowed under special arrangements based on the authority of the Director of Veterinary Services Division. In the wake of a disaster, the Minister of Agriculture has the prerogative to override procedures, if this is determined to be in the national interest.
- *Radio and Telecommunications Equipment:* Telecommunications equipment that can access radio frequencies must be approved by the Spectrum Management Authority for clearance by the Customs Department. This is governed by the Telecommunications Act and the Radio and Telegraph Control Act. Any relief equipment utilising radio frequency will have to be approved prior to being cleared by customs. The application will need to be accompanied by a detailed manufacturer's manual. Type approval will be required for equipment that is new to the local market. This is a more extensive process that ordinarily takes 15 days. If the equipment has already received approval for local use, customs authorization for entry may be processed within one working day. The Spectrum Management Authority also licenses users of the radio frequency spectrum. ODPEM, the JRC and many foreign missions have in the past been licensed users of the radio communication devices. Fees payable for importation and licensing of radio equipment may be waived by application to the Minister with responsibility for telecommunications. ODPEM and embassies are exempt from licensing fees. This exemption does not necessarily extend to non state entities such as the JRC. ODPEM has articulated plans for the establishment of an Emergency Affiliated Radio Services network for use during an emergency, but this has not been completed. When

implemented, this could allow anyone with access to radio communication devices to feed into a common platform during a disaster.

- *Vehicles and Heavy Duty Equipment*, including fire trucks, must receive clearance from the Ministry of Transport before being cleared by Customs for entry into the country. Consideration will be given to the size (weight and width) of the equipment vis-à-vis the capacity of local roads.
- *Weapons and Explosives*: The Ministry of National Security's Protective Security Department gives approval for the entry of weapons and explosive materials and devices. This can include devices used by urban search and rescue teams.

*Recommendations:*

- A central source of guidelines and information is needed on the requirements for the entry of specially regulated goods and equipment in the wake of a major disaster.
- The Disaster Act should contain provisions underscoring the role of members of the Cabinet in expediting various processes and procedures in order facilitate the entry of disaster relief through (for example) multi-agency clearance facilities.
- A licencing or registration system should be developed to track foreign vehicles brought into the country for temporary use by assisting actors. The use of registration plates issued by the Government of Jamaica is preferred.
- The National Disaster Plan should include a framework for the use of radio equipment in the wake of a major disaster. This can include the implementation of the proposed Emergency Affiliated Radio Services system. It may also include the waiver of fees for the approval and use of radio equipment brought temporarily into the island by disaster relief teams. Any special waivers for assisting actors in regards to access to bandwidth or the use of radio equipment should be contingent on the NEOC coordination of an emergency-specific communication system. These facilities should be supported by appropriate provisions in the Disaster Act.
- Where restrictions, limitations and approval systems associated with food and drug imports (including fumigation requirements) are deemed necessary for population health and safety, these should not be modified or reduced to facilitate disaster relief. Expedited processes for approving food and drug imports should be integrated into multi-agency clearance facilities.

## **Transport**

### *Special Arrangements for Transportation*

#### **IDRL Guideline 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.

#### *Laws and Policies*

The Disaster Management Act does not specifically address transportation issues.

#### *Practices and Procedures*

Transportation for local or foreign relief personnel is typically arranged through the security forces or the military. This has included the use of military helicopters or coast guard vessels for accessing areas left inaccessible by flood waters. Police escort can be essential for emergency relief crews, particularly where curfews have been imposed. Special provisions are made for the JRC, whose humanitarian principles prevent the inclusion of armed personnel within their teams or travelling in their vehicles.

The Ministry of National Security, through its Protective Security department, must provide approval prior to the landing of ships and aircraft. Arrangements for expedited procedures can be made by Ministerial discretion.

There are no special visa provisions for vehicle operators or any other relief personnel. In the past, expedited entry and clearance of personnel have been arranged through the NEOC.

#### *Recommendations*

- Information on the specifications and procedures for the landing of ships and aircraft should be more accessible to assisting actors and facilities for expediting procedures should be detailed in the National Disaster Plan.

### Temporary Domestic Legal Status

#### *Providing Legal Recognition and Capacity to Eligible Donors*

#### **IDRL Guideline 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.

There is no specific legal facility through which an organisation may acquire temporary legal status for the purposes of disaster relief operations. A tax registration number (TRN) is needed for many business transactions, and will not be allotted to any organisation (or individual) that has no local legal status.

A foreign entity can be recognized locally in one of two primary ways:

- By establishing a local not-for-profit corporation as a company limited by guarantee under the Companies Act of Jamaica<sup>36</sup>. Local and in particular community-based non-profits also incorporate under other laws such as the Benevolent Societies Act. There is no specific law for registering all non-profit or charitable organisations. While the process for registering a non-profit company has been simplified within the last decade, a foreign entity may still need a local attorney, accountant or company secretary to navigate the process efficiently.
- By registering under the Companies Act as a foreign entity doing business in Jamaica<sup>37</sup>. This will require the submission of incorporation documents from the jurisdiction in which the entity has been registered, and information on the directors or equivalent officers of the organisation.

These options can result in the acquisition of legal status within a week or two, but they are not necessarily designed for short-term operations. The incorporated entity will need assistance from local attorneys or accountants to further navigate tax laws and other corporate governance requirements.

<sup>36</sup> Companies Act, 2004, ss. 3(2)(b)

<sup>37</sup> Companies Act, 2004, ss.362-371



For short term operations, the more simple option that has been utilized by organisations in the past is to associate with and work through locally established entities such as the JRC.

#### *Recommendations*

- The Disaster Act or policy should include a registration mechanism for entities seeking to partner with the state in providing disaster relief. Registration should not be done in the emergency situations that may follow a major disaster, but should involve an evaluative process. New donors providing short-term assistance immediately following a major disaster should be encouraged to work through and in partnership with entities that already enjoy legal status. Long-term operations should make use of existing legal mechanisms for the recognition and registration of foreign entities doing business in Jamaica.

### **Taxation**

#### *Tax Exemptions for Relief Operations*

#### **IDRL Guideline 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.

#### *Laws and Policies*

Jamaica's tax system is disaggregated in statute, with different laws applying to different taxes. Value added tax is administered under the General Consumption Tax Act. Income tax for individuals and organisations is administered under the Income Tax Act. Customs duties are covered by the Customs Act. For the most part each statute sets out a process by which waivers and exemptions may be applied.

Many local humanitarian organisations are exempt from taxes by law, either because they are covered by diplomatic arrangements, or because they have been recognized as tax exempted charities<sup>38</sup>. The JRC is statutorily incorporated under the Red Cross Act, which makes it exempt from all taxes.

The Disaster Act does not put in place a specific procedure for applying tax exemptions in the wake of a major disaster.

#### *Practices and Procedures*

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<sup>38</sup> The latter status is facilitated under the regime for the registration of companies - falling under s. 16 of the Companies Act of Jamaica - and is recognized under tax statutes.

**Escort to areas that may be dangerous to enter can be arranged through the security forces.**



During a major disaster the Prime Minister or the Minister of Finance can institute customs and GCT exemptions to facilitate the tax free entry of relief goods and equipment. This is typically done for a set period of time to facilitate the initial influx of relief goods. Exemptions can also be accessed by consigning a shipment to a specific tax exempt organisation such as the ODPEM or JDF (for shipments from foreign military).

Because the process of applying disaster-specific tax exemptions is not laid out in law or policy, the procedure for accessing these exemptions may change from one disaster to another. For GCT waivers in particular, the assisting organisation may have to initiate a separate process to request a waiver for each separate shipment. This results in an undue burden of bureaucracy on NGOs and other organisations that do not have the automatic tax exempt status enjoyed by foreign missions, state agencies and UN organisations.

*Recommendations:*

- The Disaster Act and all relevant taxation laws should include provisions to facilitate tax exemptions and waivers for disaster relief goods, services and donations. General waivers should be time-bound and limited to the minimum feasible period to facilitate immediate relief and the restoration of customs processes. Waivers applied to new donors should be subject to review and conditional on quality control and compliance with ethical standards.

### **Security**

#### *Safety and Security of Relief Personnel and Operations*

#### **IDRL Guideline 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.

*Laws and Policies*

The Disaster Act does not necessarily specify security arrangements for disaster relief operations.

*Practices and Procedures*

The National Disaster Plan and its sub-plans acknowledge the security responsibilities of the Jamaica Constabulary Force. The JCF, independently and through involvement with the NEOC, can

provide security assistance to various aspects of disaster relief operations, and will ordinarily work closely with national and parish-level teams. The JDF (at times in conjunction with foreign military) are involved in several aspects of disaster operations such as needs assessment and reconnaissance, air and water transportation, and search and rescue operations. Military presence adds a dimension of security to disaster relief operations.

#### *Recommendations*

- The National Disaster Plan should be updated to clarify the roles played by security sector agencies in the wake of a national disaster.

### **Extended Hours**

#### *Extending Business Hours to Facilitate Relief Operations*

#### **IDRL Guideline 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.

#### *Laws and Policies*

Extension of business hours to facilitate international disaster relief is not expressly covered in laws and policies.

#### *Practices and Procedures*

Many of the personnel involved in international disaster relief facilitation, including ODPEM staff, customs officers, immigration officers, security personnel and others are contractual expected to work outside of expected working hours during a disaster response. This facilitates ease of dispatch and allows for the special arrangements to be made to expedite the entry of goods and personnel.

As part of the national response to a major disaster, adjustments to normal administrative practices are common. This has included the establishment of emergency opening hours, but also may cover:

- simplified processes, including waiving the requirement for certain forms;
- expanded locations for customs and other procedures related to the entry of relief goods and equipment;
- temporary 'one-stop' operations in which multiple inspection and approval processes are centralized.

These arrangements are facilitated under the NDP, in particular related plans and policies on Overseas Assistance and Relief Clearance, and are administered through the NEOC.



**International donors provide financial and physical assistance in times of disaster**

### **Costs**

#### *Off-setting the Cost of Providing Disaster Relief*

##### **IDRL Guideline 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.

#### *Laws and Policies*

The Ministry of Finance has some broad discretion to waive fees and duties payable to central government. Where fees are due to specific agencies regulating special goods and equipment, arrangements to waive these fees at the agency level can be made through the NEOC, although this facility is not grounded in law. During the nationally declared disaster period, support services provided by the Government of Jamaica, such as security, transportation or warehousing, would not normally be at a cost to assisting actors.

Several of the costs related to the entry of goods and equipment (e.g. brokerage and demurrage fees) are payable to private sector entities. In the experience of stakeholders, local private sector entities have in the past waived or reduced the costs to assisting actors as their contribution to the relief effort.

#### *Recommendations*

- The Disaster Act and other relevant laws should establish and/or support the waiver of costs and fees for relevant state services to approved disaster relief partners during the wake of a major disaster.

## SUMMARY OF FINDINGS, GAPS AND RECOMMENDATIONS

### General Findings

7. Many of the waivers, exemptions and expedited processes recommended by the IDRL guidelines for facilitating international relief personnel, goods and equipment are permissible within the Jamaican legislative framework, and have been put in practice in some measure in the past. However, in the absence of a single, integrated set of policies or regulations, immigration, customs, labour, health sector and other approval processes are independently administered. The NEOC can, nonetheless, play an important role in synchronizing, coordinating and directing the application of special legal facilitation of international relief.
8. Jamaica has a relatively robust damage assessment and needs analysis system, upon which locally based assisting actors routinely rely. The system involves early reconnaissance and can be administered at the national, parish and sector levels, and routinely involves military support. While the system has not been perfected, it is likely to be implemented in some format following any disaster and should as far as possible remain the starting point for international disaster relief.
9. Jamaica's coordination of disaster relief is also well tried and tested, with partnerships between state agencies, foreign missions, UN organisations and NGOs occurring before, during and after a disaster. Coordination of activities through the NEOC should as far as possible remain central to any international disaster relief plans.
10. The sector benefits from a plethora of plans and procedural guidelines stipulating how various agencies will respond in the event of a major disaster. However the existing documentation suffers from several limitations:
  - a. The guidelines are not established at the level of law or policy and are thus subject to ad hoc changes and divergencies.
  - b. The guidelines are not always supported by intra-agency SOPs and, as staff changes, there can be gaps in institutional knowledge as to what role different agencies play in the national disaster response.
  - c. Guidelines overlap in focus and content, leaving a desire among stakeholders for a 'single script' guiding the facilitation of international relief.
11. While locally based NGOs and humanitarian organisations have acquired or know how to access the waivers and exemptions necessary to facilitate the entry of relief goods, there are no set procedures for guiding new or ad hoc donors. The information relevant to the entry of relief goods and personnel is contained in different sources, and there is no set procedure for communicating to potential donors or volunteers who do not have an established local presence.

12. Pandemic plans that are currently in existence deal largely with internal preparations (e.g. health sector arrangements) and do not specifically address issues related to the entry of relief goods and personnel into the country.

## **KEY GAPS BY TOPIC**

### **Relief Coordination Gaps:**

- The legislative description of ODPEM's role does not detail many of the organisation's current functions. Some functions have been shifted as other organisations take on overlapping coordinating roles.
- The National Disaster Plan and its systems are not enshrined in law and open to administrative changes. Different documents identify different coordination mechanisms, suggesting a need for a single, simplified policy for disaster coordination.
- Plans are not routinely updated and reviewed and many are considered outdated.
- National plans do not necessarily match the internal plans and protocols of participating organisations, suggesting the need for an integrated policy framework.

### **Early Warning Gaps**

- Early Warning Mechanisms are not grounded in law or policy and have no clear linkage to the Disaster Management Act.
- With a multiplicity of sub-plans under the National Disaster Plan, there can be lack of clarity as to which plans are activated and what roles are expected of different organisations.
- Mitigation strategies are most effective at short-term approaches. More directed solutions are needed on long term issues such as:
  - Changes to physical planning laws and practices,
  - Improvement of community risk resilience.

### **Gaps in the Initiation and Termination of Relief**

- The definition of when a national or localized disaster can be declared is unclear.
- The process for initiating and terminating international relief is not standardized, and thus:
  - May give rise to different arrangements, varied concessions or processes for accessing concessions, etc.

- The communication of damage assessment and priority needs has at times been delayed due to a desire to perfect the information within the state machinery prior to releasing same to donors.
- There is no established communication mechanism for unsolicited donations (e.g. web communiques, the publication of a national fund for cash donations).

#### **Gaps: Entry of Goods, Equipment and Personnel**

- The system is well-known to existing users, but there is no set packaging of information available to new or *ad hoc* donors.
- Provision of waivers and expedited processes is often *ad hoc* and based on discretion, rather than regulation or policy.
- There is limited information on procedures for the entry of equipment. For example, the size and weight of rescue and recovery equipment can determine whether it will be approved for entry, and from which port. Limited information exists on the procedures for the re-export of vehicles and equipment.
- Prohibitions on the entry of animals limit the use of rescue/cadaver dogs, as a period of quarantine will be necessary.

### **RECOMMENDATIONS**

This section repeats the recommendations made throughout the document, for ease of reference. The recommendations emerge from the gap analysis, but also reflect the comments of stakeholders interviewed and those agencies participating in the two stakeholder workshops held during the research process.

#### **Law and Policy Recommendations**

1. The Disaster Act or policy should recognize the National Coordination Mechanism and provide ODPEM with any powers necessary to coordinate relief and international disaster assistance.
2. The Disaster Act or policy should provide an accountability framework for the NEOC, including reporting requirements, complaints mechanisms and procedures for enforcing NEOC directives.
3. The Disaster Act should establish ethics and standards for assisting international actors including states and NGOs, and establish guidelines for state agencies receiving and/or distributing aid.
4. The Disaster Act or regulations should incorporate provisions that outline a guideline or procedure for utilising donations that cannot be applied directly to their intended use.

5. The Disaster Act, regulations or policy should reference ODPEM's coordinating role in relation to international and local donors. Regulations (or a national policy) that identify Jamaica's international disaster relief strategy and set provisions for coordination and regulation of assisting actors is becoming increasingly necessary.
6. The Disaster Act should indicate or facilitate the determination as to what levels of disaster should trigger the declaration of a national or localized disaster. This can be ascertained or influenced by the number of households significantly impacted by the incident.
7. The Disaster Act should clarify the mechanisms for requesting and terminating international disaster assistance.
8. The Disaster Act should indicate a timeline for declaring a disaster, as well as give a guideline for determining the length of time by which the declaration will expire, or the decision be revisited.
9. The Disaster Act, regulations or policy should identify the structures and mechanisms through which relief priorities are identified and communicated.
10. The Disaster Act, Immigration Law, Labour Law and various professional regulations should identify special procedures for disaster relief personnel as a distinct category of workers. Allowances for the entry of personnel for limited periods following a major disaster should be made, with predefined qualifications applicable to different classes of personnel.
11. The Disaster Act, regulations or policy should make provision for the registration, coordination and regulation of relief workers. This should include the indemnification of relief workers in special circumstances and identify conditions under which relief workers shall be held liable for their own acts and omissions.
12. The Disaster Act, regulations or policy should articulate a position on international disaster relief facilitation. This should speak to special procedures for the importation of goods and equipment and should reference the use of a one-stop or multi-agency clearance facility where necessary. The capacity of Ministers and the Commissioner of Customs to waive, expedite or simplify requirements in the wake of a disaster should also be expressly stated.
13. The Disaster Act should contain provisions underscoring the role of members of the Cabinet in expediting various processes and procedures in order facilitate the entry of disaster relief through (for example) multi-agency clearance facilities.
14. The Disaster Act or policy should include a registration mechanism for entities seeking to partner with the state in providing disaster relief. Registration should not be done in the emergency situations that may follow a major disaster, but should involve an evaluative process. New donors providing short-term assistance immediately following a major disaster should be encouraged to work through and in partnership with entities that already enjoy legal status. Long-term operations should make use of existing legal mechanisms for the recognition and registration of foreign entities doing business in Jamaica.

15. The Disaster Act and all relevant taxation laws should include provisions to facilitate tax exemptions and waivers for disaster relief goods, services and donations. General waivers should be time-bound and limited to the minimum feasible period to facilitate immediate relief and the restoration of customs processes. Waivers applied to new donors should be subject to review and conditional on quality control and compliance with ethical standards.
16. The Disaster Act and other relevant laws should support the waiver of costs and fees for relevant state services to approved disaster relief partners during the wake of a major disaster.

### **Recommended Changes to Practices and Procedures**

1. The National Disaster Plan should establish guidelines and quality standards for disaster goods and services, as well as a mechanism for communicating these to potential donors. The Sphere standards and other international standards could thus be adapted for local use.
2. The National Disaster Plan should establish a coordination mechanism for new donor groups that becomes activated in the event of a major disaster. This may be incorporated in the UN cluster system when that becomes operationalised.
3. The ODPEM website can be used more effectively as a mechanism to issue early warnings, including damage predictions. This will facilitate planning by international donors.
4. The National Disaster Plan should reflect all the comprehensive early warning processes in place in the country in a single integrated framework. This should be buttressed by specific principles in The Disaster Act or policy.
5. The National Disaster Plan should be updated and kept under routine review. Reviews should involve all agencies named as having a role under the plan, and would therefore have the added benefit of strengthening those institutions. The initial revision should attempt to simplify the plan and rationalize the content of its various sub-plans.
6. Once updated, the National Disaster Plan should be published and distributed and should be the subject of an inter-agency communications and training initiative. An online, easily navigable version of the plan should be developed, for wider accessibility.
7. The National Disaster Plan should establish a communication mechanism that can broadcast disaster impact information and priority needs to existing partners and ad hoc donors on a timely basis.
8. The website of ODPEM should be used more strategically to communicate information, include damage assessment and needs analysis data, guidelines and ethical standards for disaster relief and other informational and procedural guides for the entry of relief goods, equipment and personnel.
9. The National Disaster Plan should clarify the role of the Minister of Foreign Affairs in soliciting and coordinating international disaster support.

10. A registry of disaster relief NGOs and relief personnel should be maintained through ODPEM. This will be used to facilitate special legal arrangements, as well as for tracking and communications purposes. The registry should be developed prior to a disaster, and *ad hoc* donors advised to provide disaster support through registered entities.
11. Registration should only be made available to international actors that agree to comply with international quality standards and comply with established coordination mechanisms.
12. New or ad hoc donors should be directed to work through existing agencies. Mechanisms should be developed to facilitate the coordination of such volunteers and relevant information integrated into ODPEM's website.
13. A central source of information is needed on the various regulations and procedures governing the entry and operations of disaster relief personnel.
14. The National Disaster Plan should identify mechanisms for integrating international disaster relief personnel with their local counterparts. This should include protocols for the deployment, coordination and supervision of relief workers, and guidelines for the operation of volunteers and teams.
15. Applications for licences, waivers and special legal facilities for relief personnel should be made prior to the departure of the relief personnel from the assisting state.
16. A central source of information on the procedures for importing disaster relief goods and equipment is necessary.
17. The identification and publication of standards, guidelines and ethics applicable to disaster relief donations is necessary. This should explain and promote the preference for cash donations, where feasible, to both government agencies and approved non-state partners such as the JRC. The Sphere Handbook can provide guidelines and principles for national standards.
18. A central source of guidelines and information is needed on the requirements for the entry of specially regulated goods and equipment in the wake of a major disaster.
19. A licencing or registration system should be developed to track foreign vehicles brought into the country for temporary use by assisting actors. The use of registration plates issued by the Government of Jamaica is preferred.
20. The National Disaster Plan should include a framework for the use of radio equipment in the wake of a major disaster. This can include the implementation of the proposed Emergency Affiliated Radio Services system. It may also include the waiver of fees for the approval and use of radio equipment brought temporarily into the island by disaster relief teams. Any special waivers for assisting actors in regards to access to bandwidth or the use of radio equipment should be contingent on the NEOC coordination of an emergency-specific communication system.
21. Where restrictions, limitations and approval systems associated with food and drug imports (including fumigation requirements) are deemed necessary for population health and safety, these should not be modified or reduced to facilitate disaster relief. Expedited processes for approving food and drug imports should be integrated into multi-agency clearance facilities.

22. The National Disaster Plan should be updated to clarify the roles played by security sector agencies in the wake of a national disaster.
23. Information on the specifications and procedures for the landing of ships and aircraft should be more accessible to assisting actors and facilities for expediting procedures should be detailed in the National Disaster Plan.



## **Appendix A: List of Documents Reviewed**

### **Laws of Jamaica**

Aliens Act, 1946  
 Animals (Diseases and Importation) Act, 1948  
 Caribbean Community (Free Movement of Skilled Persons) Act, 1997  
 Chemicals (Precursors for) Act, 2005  
 Companies Act, 2005  
 Corruption Prevention Act, 2001  
 Dangerous Drugs Act, 1948  
 Dental Act, 1974  
 Disaster Preparedness and Emergency Management Act, 1993  
 Emergency Powers Act, 1938  
 Financial Audit and Assessment Act,  
 Food and Drugs Act, 1975  
 General Consumption Tax Act, 1991  
 Immigration Restrictions (Commonwealth Citizens) Act, 1945  
 Income Tax Act, 1955  
 Jamaican Nationality Act, 1962  
 Medical Act, 1976  
 Nurses and Midwives Act, 1966  
 Pharmacy Act, 1975  
 Professions Supplementary to Medicine Act, 1969  
 Radio and Telegraph Control Act, 1973  
 Red Cross Act, 1964  
 Telecommunications Act, 2000  
 Visiting Forces Act, 1975

### **Government of Jamaica Policies, Plans, Reports**

- Damage Assessment and Needs Analysis Plan (ODPEM)
- Disaster Relief Policy
- Government of Jamaica Procurement Guidelines
- Guidelines for Child Friendly Disaster Management and Response, ODPEM, 1989
- Hurricane Dean Impact Assessment
- Hurricane Ivan Impact Assessment
- Ministry of Health Pandemic Plan
- National Damage Assessment Plan
- National Disaster Plan
- National Earthquake Response Plan
- National Emergency Animal Diseases Preparedness Plan
- National Fire Management Plan
- National Hazard-Risk Reduction Policy
- National Oil-Spill Plan
- National Pandemic Plan
- Overseas Assistance Plan

- Paris Declaration on Aid Effectiveness
- Relief Clearance Policy
- Standard Operating Procedures for Hurricanes
- Tropical Storm Wilma Impact Assessment
- Welfare Relief Plan

#### **International Guidelines and Reports**

- Gender Sensitive Approaches for Disaster Management, IFRC, 2010
- Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines), IFRC
- Inter-Agency Emergency Response Plan for Jamaica, 2011
- Introduction to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and International Recovery Assistance, IFRC, 2011
- Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance, IFRC, 2011
- Sphere Humanitarian Charter and Minimum Standards in Humanitarian Response (Sphere Handbook)
- Natural Disaster Hotspot Study, World Bank, 2008

### **A helping hand amidst the storm**



**Jamaica Red Cross volunteers prepare packages of relief goods for distribution.**



## Appendix B: Summary of Stakeholder Consultation Workshop Reports

### WORKSHOP 1: August 16, 2012

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#### OVERVIEW/SUMMARY

Thursday August 16<sup>th</sup> 2012 was a landmark day for disaster policy in Jamaica as over thirty of the island's government officials, legal specialists and civil society representatives gathered to review the future of the country's International Disaster Response Law. The event was a workshop and seminar hosted by the Jamaica Red Cross in collaboration with the Office of Disaster Preparedness and Emergency Management (ODPEM), under the theme of 'Strengthening Legal Preparedness for International Disaster Assistance'. Attendees represented several Ministries, Agencies, International Humanitarian Organisations and International Donors and were eager to share their perspectives on facilitating and coordinating international aid in the wake of a major disaster.

Participants worked throughout the day to identify gaps in the coordination of international disaster assistance, as well as barriers to the entry of relief goods, personnel and equipment. They also addressed some of the peculiar challenges that would arise in the event of a pandemic. It was clear from the workshop sessions that many of the IFRC guidelines have been met in practice, but lack the legal foundation required to make them a permanent feature of disaster relief coordination. Special waivers and other exemptions are commonly made available to those humanitarian organisations that are ongoing partners in the disaster sector. However, no set mechanisms are in place to establish partnerships with new NGOs or *ad hoc* donors.

Recommendations focused on translating practices into policy, and increasing the flow of information to new and existing donors. These recommendations will inform a Legislative Gap Analysis on Jamaica's Disaster Response Law, currently being prepared by Tania Chambers on behalf of the Jamaica Red Cross. The workshop also assisted in providing detailed information on existing laws, regulations and administrative arrangements for the entry of disaster relief into the country. This data will be included in a Regional Compendium on International Disaster Response Law, an activity that is being jointly coordinated by the Ministry of Local Government and Community Development and ODPEM.

#### PRESENTATIONS

**Dr. Jaslin Salmon, Vice President of the International Federation of Red Cross and Red Crescent Societies (IFRC)** addressed the workshop on behalf of the Jamaica Red Cross. He urged the group to ensure that Jamaica maintained its cutting edge status in regional disaster policy by integrating the content of IFRC guidelines on domestic facilitation of international disaster assistance in our legislative and policy framework. He noted that while the content of the guidelines were not binding, they were based on international treaties and reflected the lessons learnt from large-scale disasters such as those that have occurred in Japan and Haiti.

**Miss Michelle Edwards, representing the directorate of ODPEM,** assured those gathered that their ideas and recommendations would influence the modifications to the Disaster Preparedness and Emergency Management Act, which is currently under review. She reiterated the agency's support for legal mechanisms that maximize the impact of international disaster assistance while maintaining a high standard in emergency response and risk mitigation.

**Mrs. Tania Chambers, Legal Consultant to the JRC,** informed participants on the content of the IDRL guidelines and gave examples of ways in which legal mechanisms can help, or hinder, international emergency relief.

**Mrs. Paula Robinson-Russell, Legal Officer of the Ministry of Local Government and Community Development** gave the workshop a brief update on the compilation of a Regional Compendium on Disaster Response Laws, an activity that is being jointly coordinated by the Ministry of Local Government and Community Development and ODPEM.

#### STAKEHOLDER IDENTIFIED GAPS & RECOMMENDATIONS

Participants worked throughout the day to identify gaps in the coordination of international disaster assistance, as well as barriers to the entry of relief goods, personnel and equipment. They also addressed some of the peculiar challenges that would

arise in the event of a pandemic. It was clear from the workshop sessions that many of the IDRL guidelines have been met in practice, but lack the legal foundation required to make them a permanent feature of disaster relief coordination. Among the main gaps identified were the following:

- Longer timeframes for communicating national damage assessment data and relief priorities can affect the content and quantity of international donations, particularly when there are competing needs. A robust rapid assessment-based information-sharing mechanism is needed.
- Where legal provisions exist, they are distributed across different laws (disaster, customs, military etc.). There is no single legal or policy framework to guide international relief coordination.
- Information gaps exist throughout the system and government agencies are not always clear on each other's roles and expectations.
- Waiver procedures are not always documented or policy-based, and can change with new managers or personnel.
- Customs/taxation waiver procedures are dependent on communication from the Prime Minister or Financial Secretary. If such communication is compromised based on the impact of a major disaster, there is no alternative method of invoking special facilities for donors.
- While coordination exists among UN agencies and through the Western Caribbean Donor Group, NGO coordination and information exchange is ad hoc.
- Special waivers and other exemptions are commonly made available to those humanitarian organisations that are ongoing partners in the disaster sector. However, no set mechanisms are in place to establish partnerships with new NGOs or *ad hoc* donors.
- While locally-based international humanitarian organisations are identified as NGO partners and integrated into the national emergency response network, new or *ad hoc* donors could lack access to waivers, exemptions and special facilities for facilitating international disaster relief. There is no single information portal for new or ad hoc relief donors to gain access to disaster relief coordination information.
- There is no single mechanism for quality management of donated goods and services. Damaged, expired or otherwise inappropriate goods have at times been imported under exemptions and waivers, only to be dumped or destroyed. Quality assurance issues have led to internal policy changes by locally-based humanitarian groups, some of whom prefer to raise cash internationally and acquire goods and services locally. Clear quality guidelines are not readily accessible to new or ad hoc donors seeking to access special exemptions and waivers.

**Recommendations** focused on translating practices into policy, and increasing the flow of information to new and existing donors. The main recommendations were as follows:

- Law or policy should identify a single agency for coordinating relief efforts. Currently ODPEM, the Ministry of Foreign Affairs and the Planning Institute of Jamaica all appear to have overlapping roles.
- Regulations should be put in place to facilitate the roll-out of waivers and exemptions, once an emergency has been declared. This could include emergency orders listing the types or classes of goods that can be given duty-free clearance without any prior arrangement or additional state intervention.
- Improve the information infrastructure for communication during and following a disaster. This can range from developing a web-based information portal for relaying needs assessments and priorities, to ensuring that there is a network of satellite phones at the parish-level to be used for relief coordination.
- Web-based information and guidelines on the entry of disaster relief goods, equipment and personnel should be put in place. All requirements for entry, including standard preparation for travel or shipment and procedures for invoking exemptions and waivers, should be included. This information should be included in or hyper-linked to the websites of all agencies processing these goods or personnel (including Customs, Ministry of Finance, Passport and Immigration, Ministry of Labour etc.)
- Information on which medical licences, driver's licences and other permits from other territories are locally recognised should be centrally available. Information on how to obtain local permits and guidelines should also be available.
- Not all limitations should be waived during a disaster. Laws that are directly designed to limit human, plant or animal epidemics should remain in force. For example, fumigation requirements or immunization guidelines should be maintained. Guidelines on these standards should be readily available to international disaster assistance actors.
- A quality management system should be developed and integrated into disaster relief facilitation guidelines.

- A data-driven priority/needs communication mechanism should be established in law or policy. This should be informed by rapid-assessments and should facilitate swift information sharing among donors. Timeframes for information and reporting should be established at the policy level.

#### **PARTICIPATING AGENCIES**

- |   |   |
|---|---|
| 1. Jamaica Red Cross  | 13. Ministry of Foreign Affairs                           |
| 2. Office of Disaster Preparedness and Emergency Management | 14. Ministry of Local Government                          |
| 3. Adventist Development and Relief Agency                  | 15. Ministry of Transport and Works                       |
| 4. Airport Authority  | 16. Office of the Cabinet                                 |
| 5. Food for the Poor  | 17. Office of the Prime Minister                          |
| 6. Inter-American Development Bank                          | 18. Passport, Immigration and Citizenship Agency          |
| 7. Jamaica Customs  | 19. Port Authority  |
| 8. Jamaica Defence Force                                    | 20. Spectrum Management Authority                         |
| 9. Meteorological Office                                    | 21. United Nations Development Programme                  |
| 10. Ministry of Agriculture                                 | 22. United Nations Children's Fund                        |
| 11. Ministry of Health                                      | 23. Veterinary Services Division, Ministry of Agriculture |
| 12. Ministry of Finance                                     |   |

#### **WORKSHOP 2: January 29, 2013**

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##### OVERVIEW

Representatives from several local and international organisations gathered in Kingston Jamaica to review the findings of a study on that country's legal preparedness to facilitate international relief following a major disaster. The stakeholders represented government agencies, international donors, NGOs, as well as representatives of the Jamaica Red Cross and the International Federation of the Red Cross and Red Crescent Societies (IFRC).

The study used as its benchmark the principles laid out in the International Disaster Response Law Guidelines, an initiative of the IFRC. IFRC Disaster Law Programme Regional Coordinator for Latin America and The Caribbean, Isabelle Granger, confirmed the importance of the study to the evolution of disaster policy in Jamaica and the Caribbean. While Colombia, Peru and Haiti have all initiated legislative changes to improve their legal framework for international disaster response, Jamaica is leading the English-speaking Caribbean in developing policy positions in this area. She encouraged the engagement of Caribbean policymakers in ongoing dialogue on IDRL, through regional discussions such as the 'Enhancing International Partnership Meeting' scheduled to take place in Jamaica during 2013.

While Jamaica's disaster management laws do not currently address the facilitation of international relief, Consultant Tania Chambers reported that many of the IDRL's fundamental principles were reflected in the practices and procedures developed over time through the country's disaster response system. Expedited processes, waivers and special arrangements had all formed part of Jamaica's disaster response history. However the reinforcement of these facilities in national law and policy was a necessary next step in enabling international donors to engage with a stable and predictable governance structure.

The study, completed after an eight month process involving legal research, stakeholder interviews, questionnaires and a workshop held last summer, was the output of a project managed by the Jamaica Red Cross. JRC Director General Ms. Yvonne Clarke thanked the range of state agencies that participated in the process. Primary among these was the Office of Disaster Preparedness and Emergency Management (ODPEM), which chaired the project's oversight committee and provided administrative support. ODPEM's Deputy Director General underscored the organisation's commitment to improving the legal framework for disaster management, noting that the law in this area was in the process of being updated. As a concurrent effort, ODPEM has been working with the Ministry of Local Government and Community Development to prepare a Compendium of Laws and Regulations impacting disaster relief.

## OUTCOMES

Participants in the consultation were amenable to the development of an enabling environment for established donor partners. However cautions were expressed regarding the influx of ad hoc donors in the wake of a major disaster. Dr. Barbara Carby, the event's moderator and a regional expert on disaster policy reminded the group that regulating the flow of ad hoc donors is intrinsic to responsible emergency management and issues of security, safety and health should continue to frame decision-making.

Specific comments were made by agencies on each of the areas covered by the report, both during and after the meeting. The findings of the study were largely validated by the group, and participants were able to add a depth of perspective and experience to the information on mechanisms for facilitating the entry of disaster relief goods and personnel into the country. Comments were captured in writing and have been incorporated into the consultant's report.

The study will be completed and published by the JRC for local and regional distribution.

## PARTICIPATING AGENCIES

- |   |  |
|---|--|
| 1. Ministry of Agriculture (Vet Services Division)                      | 13. Ministry of National Security              |
| 2. Food for the Poor  | 14. Jamaica Fire Brigade                       |
| 3. Jamaica Defence Force  | 15. Passport, Immigration & Citizenship Agency |
| 4. Office of Disaster Preparedness and Emergency Management             | 16. Inter-American Development Bank            |
| 5. Port Authority of Jamaica  | 17. Jamaica Constabulary Force                 |
| 6. International Federation of the Red Cross and Red Crescent Societies | 18. UK Department of Foreign Assistance        |
| 7. Jamaica Red Cross  | 19. Ministry of Transport, Works & Housing     |
| 8. Office of the Prime Minister   | 20. Ministry of Foreign Affairs & Trade        |
| 9. Ministry of Finance  | 21. Ministry of Health                         |
| 10. Spectrum Management Authority                                       | 22. Ministry of Labour and Social Security     |
| 11. Jamaica Customs Department  | 23. Salvation Army                             |
| 12. USAID/OFDA  | 24. A.D.R.A                                    |
|   | 25. Ministry of Local Government               |

## Notes