

27 February 2015

Submission

to the

Regulations Review Committee

on the

Inquiry into Parliament's legislative response to future national emergencies

By increasing the knowledge and capacity of local actors to respond effectively to emergency situations, countries can reduce the long-term cost and consequences of a disaster.

- Permanent Observer of the Holy See to UN General Assembly, 19 November 2007

Summary of main points:

- Legislation and more detailed planning for emergency response and recovery need to reflect and promote international humanitarian standards, such as the Sphere Handbook, which sets out universal principles and core standards for humanitarian relief.
- The legislative framework for recovery – including special emergency legislation – needs to ensure that the voices and concerns of affected people and local communities are properly heard and reflected to ensure adequate participation.
- Legislation needs to ensure appropriate safeguards and protection for people, especially vulnerable children.
- Legislation should provide for specific protocols around the use of military forces in a civil emergency, including any overseas military personnel. There are international guidelines which may assist this.
- We can anticipate the general type and scale of hazards New Zealand faces, so can prepare appropriate legislative frameworks for future special recovery responses, including setting of appropriate timeframes.

Introduction

1. Caritas Aotearoa New Zealand is the Catholic agency for justice, peace and development, and member of the Caritas Internationalis humanitarian network. We are mandated by the New Zealand Catholic Bishops Conference to undertake advocacy, education, development and humanitarian programmes in Aotearoa New Zealand, the Pacific, Asia, Africa and the Middle East.

2. Our submission on the Inquiry into the legislative framework for future national emergencies is based on:
 - our experience as a humanitarian and social justice agency responding to the needs of the poor and vulnerable in emergency situations around the world, including response to and recovery from the Canterbury earthquakes
 - our knowledge of, and support for, universally agreed humanitarian principles for emergency response
 - the principles of Catholic social teaching, in particular those relating to human dignity, participation, and protection of the most vulnerable.
3. We are not legislative experts, and have not thoroughly reviewed all the legislative framework and guidelines relating to New Zealand's emergency response and recovery. We have however examined our Civil Defence Emergency Management (CDEM) Act, Plan and Guide; as well as the Canterbury Earthquake Recovery Act 2011 in light of our particular priorities and concerns; and our experience in emergency and disaster response and recovery. What we offer here are some of the **key broad principles** that we consider the Review needs to bear in mind, and some of the questions we feel the Committee needs to consider.

Our principles

4. Our own principles as a Catholic humanitarian organisation that we apply to both international and local emergency response, are:
 - ensuring *human dignity* is maintained,
 - promoting *participation* by the affected community,
 - considering especially the needs of the most *vulnerable*,
 - *coordinating* with and *complementing* other local efforts,
 - ensuring programmes are *accessible* to all people,
 - providing for *rehabilitation* and *improved disaster preparedness*, as well as immediate relief, and
 - exercising responsible *stewardship* of resources.
5. We consider these principles are also valid for the Committee to bear in mind as it reviews New Zealand's legislative framework around response to and recovery from national emergencies.

International humanitarian standards

6. Though we appreciate the Inquiry's focus is on the legislative framework for recovery, we consider both New Zealand's legislation and more detailed planning for emergency response and recovery needs to consciously reflect and promote international humanitarian standards. We note that the international humanitarian 'Sphere' standards are not referred to in New Zealand's civil defence emergency management framework – neither in legislation nor in the *Guide to the National Civil Defence Emergency Management Plan*. We consider they should be.

7. The Sphere standards have been developed by a group of humanitarian agencies, including the Red Cross and Red Crescent Movement; and have become the *de facto* standards for emergency response across the world. They are standards that Caritas and most international humanitarian agencies apply in emergency and disaster planning and in response work itself, for example following Typhoon Haiyan in the Philippines.
8. The 'Humanitarian Charter' from the Sphere Handbook highlights:
 - the right to live with dignity
 - the right to receive humanitarian assistance
 - the right to protection and security.
9. Based on these principles, the Sphere *standards* then set out, in relatively high levels of detail, "basic minimum requirements for life with dignity" (Sphere Handbook, 2011, page 24) in emergency situations, in matters such as water supply, sanitation and hygiene promotion, food and nutrition, shelter and health services.
10. As an example, in terms of existing provisions in the CDEM framework (though at the policy level), we note that the 'Principles for the delivery of welfare' in the *Guide to the National Civil Defence Emergency Management Plan* emphasises the *coordination and preparation of welfare agencies*. Although coordination and management are crucial to effective planning and resilience-building prior to emergencies, the document says nothing about standards or quality of support for welfare recipients – ie, the people directly affected.
11. We understand that Sphere guidelines for minimum standards of welfare were not given specific consideration during the Canterbury earthquake response. Although Caritas was not directly engaged in providing humanitarian help (food and shelter) in that response, some of our associates who were have raised concerns that the standard of emergency welfare planning prior to the earthquakes, and service delivery afterwards, was not based on standards or appreciable experience.
12. For us as a Catholic humanitarian relief agency, human dignity – as well as providing for the basics of human sustenance – involves: helping people to recover a sense of control over their lives; ensuring a right to privacy and that respectful interactions are maintained; and building positive relationships with people, even in the most trying of circumstances.

Participation

13. The legislative framework for recovery – including any special emergency legislation – needs to ensure that the voices and concerns of affected people and local communities are properly heard and reflected in whatever legislation, procedures and practices are established for long-term recovery. This is in accord with the Catholic social teaching principle of *participation*. Affected communities themselves often see clearly the problems and solutions, and gain a sense of control over their lives when they are enabled to make and participate in decisions which affect them.

14. Our decades of experience in community resilience-building, emergency response, and disaster recovery tell us that emergency legislation needs to provide for reasonable and adequate processes to enable community participation, even during circumstances when it is understood decisions need to be made under urgency. It is communities – in a broad and inclusive meaning of the term – who are at the forefront of determining their own destiny prior to emergencies. The same is true of effective disaster response and recovery efforts. Effective and sustainable relief, response and recovery can only occur when communities are seen as part of the solution rather than external problems for agencies to fix.

Protection of the vulnerable

15. Legislation also needs to ensure appropriate safeguards and **protection** for people, especially vulnerable children. For example, ensuring the legislative framework provides for rigorous and appropriate screening of service centre staff and other people – whether paid or volunteer – who deal with members of the public. In restoring and maintaining a healthy society, we need to put the needs of the poor and vulnerable first. The Sphere Humanitarian Charter says the right to protection and security is rooted in international law and the resolutions of the United Nations. “Some people may be particularly vulnerable to abuse and adverse discrimination due to their status such as age, gender or race, and may require special measures of protection and assistance.” (Sphere Handbook, 2011, page 22.)

16. New Zealand’s Bill of Rights Act 1993 includes provisions prohibiting discrimination, however emergency response and recovery legislation needs to go a step further to ensure that emergency and disaster planning, and response and recovery focuses on identified vulnerabilities, needs and strengths of communities and community members. The current framework is not as needs or vulnerabilities-focused as international experience and best-practice suggests it should be.

Use of military forces

17. Legislation should provide for specific protocols around the use of military personnel and resources in a civil emergency, whether local forces, or overseas military personnel that may be called upon. Current provisions (in the National CDEM Plan) only say that the New Zealand Defence Force is a support agency, and specify how it may be called upon and how it relates to the CDEM structure. However, there are no guidelines on the appropriate use of military hardware, nor on engagement of overseas forces. The sight of armoured personnel carriers and long convoys of military vehicles following the Canterbury quakes was intimidating and disconcerting for many. Their use extended well beyond the initial emergency period to 30 June 2013. Members of the Singapore Armed Forces were also involved in the earthquake response.

18. It would be well-worth considering legislative requirement for military personnel deployed in a civil emergency role to wear distinctive but non-camouflage uniform so it is clear they are in a non-combat role, as is the case with United Nations and other peacekeeping forces. The

Committee should consider what basic principles and protocols should guide military involvement in future emergencies, including the use of foreign forces.

19. International guidelines, such as the *Oslo Guidelines on the Use of Foreign Military and Civil Defence Assets* (“Oslo Guidelines”) and *Guidelines on the Use of Military and Civil Defence Assets to Support United Nations Humanitarian Activities in Complex Emergencies in Disaster Relief* (“MCDA Guidelines”), though developed primarily for United Nations’ purposes, may offer assistance. For example, the Oslo Guidelines say: “In principle, foreign military and civil defence personnel deploying on disaster relief missions will do so unarmed and in national uniforms,” and in general, that military organisations’ support role, “should, to the extent possible, not encompass direct assistance, in order to retain a clear distinction between the normal functions and roles of humanitarian and military stakeholders.”
20. The international guidelines also recommend investing in civilian capacity (in our context: the CDEM network and mechanisms, and building of resilience within communities and organisations), rather than depending on *ad hoc* use of military resources in emergency response. It is important that there remains adequate support for the control of emergencies (including any military resources) being retained by civil rather than military personnel.

Recovery Time-Frames

21. Clear limits and timeframes for the application of special emergency response and recovery legislation can and should be set in advance, to ensure they are not mis-used, or extend beyond a relevant period of need. For example, the 5-year application of the Canterbury Earthquake Recovery Act 2011 seems appropriate to that situation; but special legislation for other levels and types of recovery may warrant limits of a few months, to one-year, or perhaps as long as 10 years in some situations.
22. Legislation should include parameters enabling local authorities, CDEM Groups, and the minister responsible for national emergency management and disaster recovery, to select from a range of timeframes within which special powers can be exercised by personnel – depending on the scale and significance of any particular emergency.

Other elements

23. A key element of CDEM is emergency preparedness and learning from past events. We are aware many lessons having already being learnt and applied from the Canterbury earthquakes, Pike River mine incident, the grounding of the MV Rena, and responses to these incidents. These elements should also be reflected in the legislative framework providing for future responses to national emergencies. We know the types of hazards New Zealand faces – including earthquakes, volcanic eruptions, cyclones, severe storms, infrastructure failure, major transport accidents. We know from both recent and longer geological history the kind of scale of disaster these hazards can lead to. So we can and must anticipate to some extent the level and nature of special legislation or provision that may be required for longer-term recovery.

24. We support the recognition in our current CDEM framework, as conveyed through the national *CDEM Plan*, that recovery efforts are interrelated, that recovery and community regeneration may take decades, and that recovery encompasses the relationship between the community and four inter-related environments of: social, economic, natural and built. This holistic and inter-related approach should also be reflected in any changes or enhancements to our legislative framework providing for recovery from following national emergencies.

25. We cannot prevent the situations that will generate the need for declarations of national emergencies, nor legislate in advance for every aspect of a special response. We can, however, be as well prepared as possible – in both the immediate response phase and in establishing the right legislative frameworks for longer term response and recovery; ensuring that even in times of crisis and emergency we can still uphold human dignity, provide for participation and protect the most vulnerable.