
**DISASTER RISK REDUCTION:
LEGAL & INSTITUTIONAL
FRAMEWORK
IN
IRAQ**

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List of Abbreviations

CAC	Crisis Action Cell
CBDRM	Community Based Disaster Risk Management
CBO	Community Based Organisation
CSO	Civil Society Organization
GEC	Governorate Emergency Cells
GOI	Government of Iraq
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IFRC	The International Federation of Red Cross and Red Crescent Societies
IRCS	Iraqi Red Crescent Society
KRG	Kurdistan Regional Government
MODM	Ministry of Displaced and Migrants
MOEnv	Ministry of Environment
MOH	Ministry of Health
MOI	Ministry of Interior
MOST	Ministry of Science and Technology
MOWR	Ministry of Water Resources
NOC	National Operations Center
OCHA	Office for the Coordination of Humanitarian Affairs
PMO	Prime Minister's Office
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNOPS	United Nations Office for Project Service

Introduction

Background

1. Iraq is exposed to multiple forms of natural and human induced disasters. The country is increasingly susceptible to natural disasters including drought, floods, epidemics, sandstorms, desertification, destruction of marshlands, soil salination of fertile lands, earthquakes, and industrial and chemical hazards. The susceptibility to natural hazards is coupled with the effects of war in Iraq which has exposed the people of Iraq to multiple human induced hazards. These include depleted uranium, Sulphur Dioxide release due to Sulphur stockpiles, Industrial and military legacy of contamination and hazardous waste, military scrap yards, unexploded ordnance and land mines, fire, land contamination and hazardous waste by Oil industry and surface water contamination by oil spills due to sabotage of oil pipelines. War and the post war conflicts have left many essential services dysfunctional, thus making people vulnerable to otherwise manageable disasters. The acute poverty, displacement and the continuing effects of the conflict increase the vulnerability of the people in Iraq.
2. In this backdrop relatively poor policy and institutional capacities with regards to disaster risk reduction makes communities and people more prone to the effects of natural and man-made calamities. In case of natural or manmade disasters such as floods, earthquake, drought, conflict, or industrial disasters, the response by the government of Iraq has historically remained reactive. There are number of laws, regulations, and resolutions¹ which govern such situations including; Emergency Use Law 1961, Civil Defence Law 1978, Social Care Law 1980, Public Health Law 1981 etc. Similarly the DRM/Rrelated functions are performed by multiple institutions at federal, governorate and local tiers which include, Directorate of Civil Defence, Governorate Emergency Cells (GECs), Directorate General of Health, Ministry of Displaced and Migrants (MODM) etc. Moreover several other institutions have been established for the purpose of responding disaster and emergency situations; such as the National Operations Center, (NOC). The NOC was created under the Prime Minister's Office (PMO) to respond to the acts of violence; however its mandate is

¹ Regulations are issued by the Prime Minister and are meant to address specific issues under a particular law. Whereas instruction and resolution could be issued by the Ministry as well to explain the provisions of specific law are determine the roles and functions to be performed under the particular law.

being revisited to include response to natural calamities too. Similarly the Crisis Action Cell (CAC) was established in November 2006, to provide national-level crisis management, with authority to coordinate with all the line Ministries.

3. Appreciating the significance of reducing the disaster risks, the Government of Iraq (GoI) has initiated the process of revamping its institutional and legal systems. The government has set up a National Committee on Disaster Risk Reduction under the chairmanship of the Minister for Science and Technology. The Committee is comprised of relevant national ministries and departments. The Committee has drafted a Disaster Risk Reduction Law, which has been approved by Minister and submitted to the cabinet for its approval. The Committee also plans to propose a national policy on disaster risk reduction as well as to propose institutional system that shall be set up in Iraq.

Objectives of the Study:

4. In this context the present study with an aim to assist the ongoing efforts for improving DRR legal and institutional arrangement in Iraq intends to examine the key strengths and gaps in the existing legal and institutional framework for disaster risk reduction in Iraq. The present study besides providing a review of the existing legal framework also
 - a. Provides insights and forward looking recommendations on law and disaster risk reduction in Iraq;
 - b. Contributes to UNDP-IFRC Global Synthesis Report on DRR and Legislation; and
 - c. Informs the policy and law making process on disaster risk reduction in Iraq.

Framework of Analysis and Methodology:

5. The parameters of analysis for reviewing the existing DRM/R related legal and institutional arrangement in Iraq were guided by the following key principles:
 - a. Comprehensive disaster risk management framework as outlined in International Strategy for Disaster Reduction (ISDR) and the priority areas provided in Hyogo Framework for Action (HFA 2005-15).
 - b. Establishing DRM framework capable of generating a National Response at all tiers of governance in Iraq.
6. These parameters provided the basis for the subsequent evaluation of various legal instruments, mandate of different agencies and effectiveness of National Disaster Risk Reduction Law, currently under consideration by the Council of Ministers.

Methodology

7. The methodology for undertaking the present study included desk review substantiated by evidence from the field. The desk review included; review and evaluation of legal and institutional arrangements dealing with disaster management, draft National Disaster Risk reduction Law and Examination of the implementation of disaster related laws. The review of local legal and institutional arrangement was examined in light of the international best practices for states and international development partners in DRR/M. The inferences drawn from the desk review were corroborated by evidence from the field. In order to benefit from the experience of key stakeholders, interviews were conducted at National, Governorate and District tiers. (List of the persons interviewed attached as Annex-)

Scheme of Presentation

8. The study is divided in five parts. After Introduction, the second section in order to set the context presents a brief overview of disaster risk profile of Iraq. Third part of the study discusses in detail the existing legal and institutional arrangements for Disaster Risk Reduction in Iraq. The section prior to mapping the legal and institutional arrangements provides a brief overview of the DRR in the present constitutional setting. Iraq has recently formulated a draft National Disaster Risk Reduction Law which has been presented to the Cabinet for approval. In order to gauge how far the proposed draft law addresses the DRR challenge in Iraq and what possible improvements can be suggested to make it more comprehensive, the draft law has been examined in detail in the fourth section. The section provides a synopsis of the draft legislation on disaster risk reduction and then identifies key areas which may be revisited. The last section of the study provides the conclusions.

Overview of the Disaster Risk Profile of Iraq

9. Bordering the Persian Gulf and lying between Iran and Kuwait Iraq has a geographic area of 435,052 km. On the north it is bordered by Turkey in the north; Syria, Jordan and Saudi Arabia lie on the west. Iraq has four major physiographic zones including: Desert plateau, which is approximately 40percent of Iraqi territory; Northeastern highlands, which cover approximately 20% of the total; Uplands region, comprising of about 10 percent of Iraq; and the rest of 30% consists of the Alluvial plain formed by the combined deltas of the Tigris and Euphrates Rivers. Climatically, the country is mostly desert; climate varies from mild to cool winters with dry, hot, cloudless summers; northern mountainous regions along Iranian and Turkish borders experience cold winters with occasionally heavy snows that melt in early spring, sometimes causing extensive flooding in central and southern Iraq².
10. Regional differences are such that Baghdad is fairly dry; the South is very humid; whereas the North is cool all year round, with harsh winters. Of the total land area of Iraq arable land is only 13.12%. The rainfall pattern is irregular ranging from under 100mm to about 1,000mm/year. The water control projects of the previous regime have drained most of the inhabited marsh areas east of An Nasiriyah by drying up or diverting the feeder streams and rivers; a once sizable population of Marsh Arabs, who inhabited these areas for thousands of years, has been displaced; furthermore, the destruction of the natural habitat poses serious threats to the area's wildlife populations; inadequate supplies of potable water; development of the Tigris and Euphrates rivers system contingent upon agreements with upstream riparian Turkey; air and water pollution; soil degradation (salination) and erosion; and desertification. The population of Iraq is estimated to be 29.6 million (July 2007). The average population density is estimated at 61/km², ranging from 9/km² in Anbar governorate in the western desert to more than 1,490/km² in Baghdad governorate. While average population growth before the sanctions was estimated at 3.6 percent, this rate has been greatly reduced by emigration, severe economic hardship and lower fertility rate, reaching a low of 2.76 percent in 2003³.
11. Iraq due to its diverse topography is exposed to multiple natural and human induced disasters. The occurrence of floods and epidemics in the country is ranked on top as compared to earthquake and drought. The after-effects of war and a general economic

² UNEP. 2007. *UNEP in Iraq: Post-Conflict Assessment, Clean-up and Reconstruction*. United Nations Environment Programme. Nairobi. Kenya.

³World Food Programme.2008. *Comprehensive Food Security and Vulnerability Analysis In Iraq*. United Nations World Food Programme. Iraq.

CIA. 2013. *The World Fact Book*, <https://www.cia.gov/library/publications/the-world-factbook/geos/iz.html>

slowdown, exacerbated by 12 years of economic sanctions, have adversely affected Iraq's food security. The prevailing climate of insecurity and political uncertainty further complicates the situation. The people in Iraq are also exposed to environmental risks caused by the military operations during the past three wars. There are also the risk of radiations from materials which spread from some of industrial centers and to which the people are exposed and in risk of diseases such as cancer and poisoning. Following table list the natural and human induced vulnerabilities faced by Iraq:

Natural	Human Induced
Earthquakes	IDPs and refugees
Floods	Terrorism/civil unrest
Land Slides	Toxic environmental pollution
Sand Storms	Landmines & Unexploded Ordnance (UXO)
Drought	High risk structural collapses
Depletion of Natural Resources	Transport and industrial accidents
Health Epidemics	

Natural Disasters in Iraq

12. Over the last two decades (1988-2007), 76% of all natural disasters in Iraq were hydrological, meteorological or climatological in nature. These disasters account for approximately 45% of the deaths and 80% of the economic losses caused by the natural calamities in Iraq. The following table maps key natural disasters in Iraq since 1991. Due to the limited scope of study, economic losses due to armed conflict particularly in post 2003 scenario have not been incorporated.

Top 10 Natural Disasters (1900 to 2013)⁴

Type of Disaster	Year	No of Total Affected
Flood	1967	260000
Flood	1968	150000

⁴ "EM-DAT: The OFDA/CRED International Disaster Database (www.em-dat.net)

Drought	1969	500000
Flood	2004	8000
Flood	2006	41890
Flood	2006	18020
Epidemic	2007	4696
Epidemic	2008	892
Flood	2009	3000
Flood	2011	2001

13. The forecast of weather extremes in near future has the potential to increase the number and magnitude of weather-related disasters. Floods and Drought can be considered as recurring natural calamities in Iraq. The most recent drought of 2007-9 according to ICRC affected many governorates including Kirkuk Governorate, Makhmour, Koya, Chamchamal, and Rania⁵. Similarly Heavy rains in northern Iraq in early February 2006 caused rivers to overflow, leading to extensive flooding. The flooding was compounded by the natural melting of the ice in the mountainous north of the country. The most affected governorates included Erbil, Sallahaddin, Kirkuk, Dyjala and Missan forcing more than 7,000 families to leave their homes⁶.
14. Iraq is located in a seismically active zone at the North-eastern borderline of Arabian Plate. The territory of Iraq, although not directly located on a dense cluster of recent earthquake epicenters; but the geodynamic configurations show a medium to high seismic risk. The Wasit province is particularly vulnerable in this regard as being located in a seismically active zone. The medium to high risk is coupled with the increasing vulnerability of the major highly populated cities⁷.

Human Induced Hazards

15. Besides being exposed to common industrial accidents it is estimated that Iraq has several thousand contaminated sites resulting from a combination of general industrial activities, military activities, post-conflict damage and looting. Many of the sites are derelict and open to public access. They contain substantial quantities of hazardous waste and present a threat to human health and to the environment⁸. An issue

⁵ Raphaeli, Dr. Nimrod, "Water Crisis in Iraq: The Growing Danger of Desertification," The Middle East Media Institute, 7/23/09

⁶ IFRC Appeal. Iraq: Floods; Appeal no. MDRIQ001

⁷ Alsinawi, Sahil A., Zia O. Al-Qasrani. 2003. "Earthquake Hazards Considerations for Iraq." Fourth International Conference of Earthquake Engineering and Seismology, May 12-14, 2003, Tehran, Islamic Republic of Iran. Available at http://www.meseisforum.net/seeii_%20paper_1.pdf.

⁸ Ministry of Environment has identified five such sites for priority assessments. These include:

particular to Iraq is the continued looting and lack of security on many derelict and abandoned industrial sites. This implies that the risk to the public from direct contact with hazardous chemicals and wastes left on such sites is particularly high. Based on this broad assessment of vulnerability to contaminated land in Iraq, human health risks appear to be the predominant issue. The vulnerability of the rivers and groundwater to pollution is a critical and joint human health/environmental concern.

16. The issues of hazardous waste management and contaminated land are commonly linked in two ways: (a) Poor management of hazardous materials and wastes, e.g. by the dumping of wastes on site, is a common cause of land contamination; and (b) Remediation of contaminated land commonly results in the generation of hazardous wastes, which then require proper management including an appropriate treatment or disposal route. In the case of Iraq, a third link is apparent. Previously sound sites have been extensively damaged by looting and, in the process, the chemicals previously stored on site have been dumped on site, thereby creating hazardous waste and initiating land contamination⁹. Similarly the Landmines, abandoned munitions and military equipment, unexploded ordnance and other explosive remnants of war (ERW) also pose a serious threat to the people if Iraq. According to UN agencies' estimates contaminated sites cover approximately an area of 1,730 Sq. Km and can affect around 1.6 million people around the country. Most of the landmine contaminated sites are in the northern part of the country, whereas the people of southern Iraq besides being threatened by the landmines are also vulnerable to widely scattered UXO¹⁰.
17. In case of a natural or manmade disaster there are a number of institutions which respond to different aspects of a disaster, including the Civil Defence, Ministry of Environment, Ministry of Water Resources, NOC etc. The post war transitions have affected the institutional capacities to respond in an efficient manner, moreover it appears that the absence of a national platform to coordinate the efforts of multiple institutions at all tiers have serious limitations for the existing arrangement too. In the following section the study maps the legal and institutional settings which form the basis of DRM/Rarchitecture in Iraq.

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1. Al Qadissiya Metal Plating Facility
 2. Al Suwaira Pesticides Warehouse Complex
 3. Khan Dhari Petrochemicals Warehouse Site
 4. Al Mishraq Sulphur Mining Complex
 5. Ouireej Military Scrap Yard Site

⁹ UNEP. 2007. *UNEP in Iraq: Post-Conflict Assessment, Clean-up and Reconstruction*. United Nations Environment Programme. Nairobi. Kenya

¹⁰UN Inter-Agency Information and Analysis Unit. April 2012. *Landmines and Unexploded Ordnances Factsheet in Iraq*

Section-III

Mapping Legal and Institutional Framework for DRR/M

18. The policy and legal framework in a given context have the essential role of planning, implementation and monitoring the processes of disaster risk management. The framework ensures coordination among all stakeholders and integrates DRM efforts into development policies and programmes in order to reduce the level of vulnerability of the populace. In case of Iraq the existing legal and institutional arrangement has a limited scope and mandate in context of DRR/M. A number of factors contribute towards this limitation including its geographical features resulting in fewer natural calamities; longstanding wars, local conflicts; and the turmoil in post 2003 era.
19. The existing legal and institutional arrangement for DRR/M consists of laws, regulation and resolutions enacted/issued in different phases of political and constitutional development of the country¹¹. These include the legal arrangements which were enacted prior to 2003 and have not been annulled. In post 2003 Iraq a number of new legislations were done in the transition phase and later under the ambit of 2005 Constitution. As DRR/M is a crosscutting theme the body of law has a number of laws, regulations and resolutions which define authorities, responsibilities and roles of officials as they relate to preparedness or response. Similarly there is a diverse set of institutions at federal, governorate and local levels with recognised role to play in DRR/M. Prior to map the legal and institutional arrangement it seems appropriate to briefly review the constitutional landscape in the context of DRR/M in Iraq.

Constitutional Landscape and Disaster Risk Reduction/Management in Iraq

20. Historically and politically the constitutional development in Iraq can be divided in to two distinct phases; Pre 2003 Phase with centralized character of governance and Post 2003 phase which can be characterised by more decentralization. During both phases there are noticeable developments in context of DRR/M.

¹¹ Laws are enacted by the legislative authority; prior to 2003 Revolutionary Command Council (RCC) and Parliament had the authority to legislate, whereas during the transitional period (TAL) General Assembly had the power. The Constitution of Iraq 2005 vests the legislative authority in the Council of Representatives (COR). The Regulations on a specific matter are issued by the Prime Minister, and Instructions and Resolutions under a particular law can be issued by the Prime Minister or the relevant Ministry.

DRM/R in Pre-2003 Governance Framework

21. Iraq prior to 2003 was governed under the constitution of 1970, the constitution accumulated powers in the central government. The role of legislation was vested in the National Assembly and the Revolutionary Command Council (RCC)¹². During this period no dedicated legislation was done or institution established dealing with DRR/M. However a number of important DRR related legislations, which are still operative were done during this phase. These include Emergency Use Law 1961; Civil Defence Law 1978 and Social Care Law 1980. The Emergency Use Law 1961 was enacted to respond to disasters, calamities and accidents. Similarly the Civil Defence Law was enacted in 1978, which established Civil Defence in Iraq and later its purview was expanded by issuance of multiple resolutions under this law. Other important laws related to DRM/R which were enacted in this phase include; Cities Land Use Law 1965, the Social Care Law 1980, Public Health (drinking water provision, sanitation and environmental monitoring) Law 1981 and the Public Health Law 1981¹³.

DRM/R in Post 2003 Governance Framework

22. As a result of the regime change in Iraq in 2003, Coalition Provisional Authority (CPA) was established. CPA drafted and enforced the Temporary Administrative Law (TAL) in 2004 to serve as a transitional constitution. A number of executive orders were issued under TAL, but mostly were aimed at ensuring smooth transition. Nonetheless no DRM/R related legislation or regulation was issued during this period. The Iraq's constitution was approved by referendum on 15 October 2005 and entered into force in 2006.
23. The 2005 Constitution establishes a Federal Parliamentary system of government. It provides for an asymmetric system of federalism according to which Iraq's existing provinces may choose to form regions, or even to merge with a view to forming single region, with each being allowed to negotiate a specific relationship with the federal government, within the confines of the framework that is provided for by the constitution¹⁴. Administratively Iraq is divided in eighteen (18) governorates, with each governorate further subdivided in to districts known as *qadhs*¹⁵. Iraqi

¹² Revolutionary Command Council (RCC) was executive branch of government but with extensive legislative powers. The RCC was headed by Saddam Hussein and include the senior members of the Baath Party. Most of the RCC Resolutions were designed to keep the powers centralized as much as possible.

¹³ **Other Laws enacted prior to 2003 and have bearing on DRM/R include:** Rangelands and their Protection Law 1965, Maintenance of Networks of Irrigation and Drainage Law 1995, Regulation of Landfills Law 1986 (update in 2009 as Law No 29), Protection from Ionic Radiation Law 1980, Preservation of Water Resources Law 2001.

¹⁴ Article 119, Constitution of Iraq 2005

¹⁵ Administrative Divisions of Iraq: Iraq currently has 18 provinces or governorates, which include following:

Kurdistan¹⁶, known as Kurdistan Regional Government (KRG), has been constitutionally assigned a special status of a federal region, with its own government¹⁷.

24. The constitution provides for the legislative mandate of federation and the governorates/regions in Article 110 and Article 122 respectively. The subject matter of Disaster and Disaster Risk Reduction/Management has not been listed in these provisions of the constitution. This places the subject of DRM/R under the residuary powers, which are in the exclusive mandate of governorates as per Article 115 of the Constitutions¹⁸. But all these empowering provisions of the constitution are still a matter of debate between the federation, governorates and KRG as various groups have differing interpretations.

DRR/M Constitutional Status:

The subject matter of Disaster and Disaster Risk Reduction/Management has not been listed in these provisions of the constitution. This places the subject of DRM/R under the residuary powers, which are in the exclusive mandate of governorates as per Article 115 of the Constitutions

25. The Constitution however ascribes certain disaster related subjects and provisions to the federal government. These include, Article 33 (2) which obligates the state to protect and preserve environment and its biological diversity¹⁹. Similarly subsections 3, 5 and 7 of Article 114 provides concurrent powers to the federal government for formulation of policies on public health, environmental policy and water resources policy²⁰. So, there are no clear provisions on DRM/R in the constitution.

Dohuk, Nineveh, Arbil, Kirkuk, Sulaymaniyah, Saladin, Al Anbar, Baghdad, Diyala, Karbala, Babil, Wasit, Najaf, Al-Qādisiyyah, Maysan, Muthanna, Dhi Qar, and Basra. Each Governorate is divided into districts (qadha) which are further divided into sub-districts. At the moment there are a total of 111 districts.

¹⁶ Since 1970, three of the northern governorates (Dahuk, Sulaymaniyah and Erbil) have been officially designated as a Kurdish autonomous region, with a separate elected legislature. This region came under UN and coalition protection after the 1990-1991 Gulf War, to prevent the then Iraqi regime led by Saddam Hussain from taking military action against the Kurds.

¹⁷ Article 117(1): *This Constitution, upon coming into force, shall recognize the region of Kurdistan, along with its existing authorities, as a federal region.* Constitution of Iraq 2005. Kurdistan Regional Government (KRG) includes the three administrative governorates of Arbil, Duhok, and Sulaymaniyah.

¹⁸ Article 115: *All powers not stipulated in the exclusive powers of the federal government belong to the authorities of the regions and governorates that are not organized in a region. With regard to other powers shared between the federal government and the regional government, priority shall be given to the law of the regions and governorates not organized in a region in case of dispute.* Constitution of Iraq 2005.

¹⁹ Article 33 (2): *The State shall undertake the protection and preservation of the environment and its biological diversity.* Constitution of Iraq 2005

²⁰ Article 114: *The following competencies shall be shared between the federal authorities and regional authorities:*

(3). *To formulate environmental policy to ensure the protection of the environment from pollution and to preserve its cleanliness, in cooperation with the regions and governorates that are not organized in a region*

(5). *To formulate public health policy, in cooperation with the regions and governorates that are not organized in a region*

26. The administrative framework for Governorates, districts and local tier is organised according to the newly enacted Province Law 2008²¹. The law empowers the elected governors of the respective governorates to undertake specific measures in case of any natural or manmade calamity such as establishment of Emergency Response Cells²². At the Governorate level (currently in nine of 18 governorates) a Governorate Emergency Cell is operational, under the leadership of the Governor, to address

**Formation of Higher Coordination
Committees for Disaster
Management at Federal Level:**

In case of a disaster which is beyond the control of administration of governorate, a higher coordination committee under the Prime Minister can be formed to manage the affairs of the particular province facing emergency situation. The governors of other governorates are also member of the Committee.

humanitarian emergencies in accordance with a “Master Plan” for response functions. The GECs are complimented by a linkage to a Protection Assurance Committee, supported by DRC/UNHCR, offering legal assistance to returnees and others. Considering the magnitude of the calamity, the governor may request the support of Federal Ministry of Interior. In case of a disaster which is beyond the control of administration of governorate, a higher coordination

committee under the Prime Minister can be formed to manage the affairs of the particular province facing emergency situation. The governors of other governorates are also member of the Committee²³. The law though has limitations to the extent of the province of Kirkuk and KRG where it is not applicable²⁴.

27. KRG as discussed earlier is constitutionally an autonomous unit within the federal ambit of the republic of Iraq. The governorates of Arbil, Duhok, Sulaymaniyah are under the control of the Prime Minister of KRG. In case of emergencies they exercise similar powers as that of other provinces, however in case of large scale emergency situations they seek support from KRG Ministry of Interior²⁵.

(7). *To formulate and regulate the internal water resources policy in a way that guarantees their just distribution, and this shall be regulated by a law.* Constitution of Iraq 2005

²¹ Province Law No 21 of 2008. The Law is not extended to the Governorate of Kirkuk and KRG Governorates of Dahuk, Sulaymaniyah and Erbil.

²² Article 31, Province Law No. 21. 2008

²³ Article 45, Province Law No.21 2008

²⁴ This law is not applied in Kirkuk for legal and political issues related to the status of Kirkuk province due to the conflict between Arabs and Kurds. Article 140 of the constitution provides holding of a referendum to determine the status of Kirkuk not later than December 31, 2007 however it was delayed and is yet to be held. Anthony H. Cordesman and Arleigh A. Burke. 2011. *Iraq in Transition: Governance, Politics, Economics, and Petroleum*. CSIS. Washington, DC

²⁵ Interview with Mr. Karazan Bakhsh, Province Council / Chief of Staff Sulaymaniyah and Mr. Ali Rawoof, Chief of the Emergency and Succor Committee/Province Center Commissioner Sulaymaniyah at Sulaymaniyah on December 23, 2012.

Legal and Institutional Arrangement for DRM/R in Iraq:

28. The present section deals with the existing DRM/R related legal and institutional framework in Iraq. DRM/R is a cross cutting theme and legislations, public policies and institutions in a broad range of areas have direct and indirect impacts on it. These include laws and regulations on environment, health, land-use and planning, building codes, infrastructure etc. Major laws, regulations and institutions dealing with DRR have been dealt with here. The first part will provide a brief overview of DRR related major laws and regulations and the second part will map key institutions with a recognized role to play in hazards and risk management.

Emergency Use Law 1961²⁶

29. The law can be considered as an earliest effort to respond to the unexpected and sudden situations including natural and manmade disasters in Iraq. The Law aims at providing special powers to the administrative heads of the governorates for mounting up rapid response to crisis situations; including declaration of state of emergency, measures to respond to emergency situations, and setting up committees for assessing the damage²⁷. The special powers under this act include convening of government agencies for support, control over the available transport, buildings or any other materials necessary for the purpose²⁸. All these measures are to be taken in coordination with the Federal Ministry of Interior²⁹. The law attempts to cover most of the natural disasters which may cause such an emergency situation, including Floods, widespread fires, excessive snowfall, earthquakes and pest attack.

30. The Emergency Use Law 1961 can be termed as an important law however it has certain definitional deficits such as it does not provide a comprehensive definition of disaster, the usage of term “sudden or unexpected accidents” is too general and preclude important aspects of natural or manmade disasters. Similarly the classifications of emergency situations which can trigger the provisions of this law are too restrictive and fail to cover the whole spectrum of natural and manmade disaster. The law also does not provide for any specific measure aimed at reducing the risks of such disasters or specific hazard mitigating measures.

Civil Defence Law 1978³⁰

²⁶ Law No. 37 of 1961

²⁷ Article 1, Emergency Use Law No 37 of 1961

²⁸ Article 2, Emergency Use Law No 37 of 1961

²⁹ Article 3, Emergency Use Law No 37 of 1961

³⁰ Law No. 64 of 1978

31. The Civil Defence Law was enacted in 1978 and can be considered as the fundamental law in context of DRM/R in Iraq in the existing framework because of its mandate, prescribed functions and the outreach to the lowest administrative tiers in Iraq. The law establishes the Civil Defence department under the Federal Ministry of Interior and in case of natural and manmade emergencies is mandated to provide key response and relief services including; early warning, rescue, evacuation, medical services, firefighting, provision of Shelters, livestock safety, industrial security etc.³¹. If civil defence teams have not been raised at a district or sub-district tiers the mandated responsibilities are to be performed by the Police department³². Beside other important features the law provides for special allocation of funds for civil Defence activities and projects.

**Article 123, Civil Defence Law 1978:
Financial Allocation for Civil Defence Activities**

The Civil Defence law 1978 provides for special appropriation of resources by the relevant ministries in their annual budget for implementing project and activities related to civil defence activities.

32. **Resolutions under Civil Defence Law 1978:** Under this law a number of resolutions have been issued from time to time by the Federal Ministry of Interior, these can be classified in two categories; (a). Resolutions issued under Article 2 of Civil Defence Law 1978; and (b) Resolutions issued under Article 4 of Civil Defence Law 1978³³.

a. *Resolutions Issued under Article 2 of Civil Defence Law 1978:*

i. Resolution No. (13) 1992- The Public Service of Training on Civil Defence Activities: The resolution provides for the post war and emergency trainings of the civil defence formations. It also gives an outline of the roles and duties to be performed by the relevant ministries, departments and civic bodies in support of Civil Defence. The resolution also includes organisations as Students Unions, Youth and Women associations in the training and preparedness mandate³⁴.

ii. Resolution No. 1, 1999- Creation of the Supreme Leading Body of Civil Defence Activities: The resolution creates Supreme Leading Body to oversee and guide Civil Defence activities. The body is composed of two committees, Supreme Committee at the federal level with similar Committees at each governorate level.

b. *Resolutions Issued under Article 4 of Civil Defence Law 1978:*

³¹ Article 2-4, Civil Defence Law 1978

³² Article 11 (1)2, Civil Defence Law 1978

³³ Resolutions issued under Article 2 mainly deal with creation and organisation of Civil Defence formations at governorate, district and sub- district levels. Whereas the resolutions issued under Article 4, deal with setting up of committees and including citizens in the ambit of service by imparting trainings. Moreover providing guidelines and instructions for supporting and strengthening Civil Defence.

³⁴ Article 1-2, Resolution No. (13) 1992 under Civil Defence Law 1978

i. Resolution No. (12)1992- Civil Defence Teams Service in Residential Areas:

The resolution provides for the training of Civil Defence teams in residential areas. The resolution aims at preparing students, youth, and women segments of the society to play an effective role in case of any emergency situation. The resolution creates two types of committees one at the federal tier and the other at each Governorate level. The Committees are composed of Director of Civil Defence, Director Generals from the Ministries of Education, Municipalities, Interior, Red Crescent Society, Presidents of Iraqi Students Union, Union of Iraqi Youth, and Women Union. The Committees at the Governorate level have similar composition with Governorate level officials and representatives³⁵.

ii. Resolution No. (14) 1992- Civil Defence Facility Service: The resolution provides for establishment of Civil Defence facilities. The resolution entrusts the Ministry of Planning for the provision of funds for creation and sustenance of facilities for carrying out civil defence related activities. The planning, coordination and implementation of these activities are assigned to the Civil Defence Supreme Committee at the federal level and the Civil Defence Committees at the Governorate level. The stipulated activities include allocation of specific areas for, conduct of civil defence activities and maintenance of these facilities at all tiers starting from federal level till the municipality level³⁶.

33. Civil Defence Law though provides a wide-ranging framework for managing and preparing for emergency situations it seems lacking on a number of counts especially the definitional limitations. The Law is relief and response oriented, and provides tangential reference to preparedness. Moreover as most of the laws enacted in pre 2003 era it is essentially centripetal in nature and after the introduction of Constitution of 2005 a number of its provisions have been rendered inoperative. The resolutions issued under the Civil Defence Law 1978 provide a number of pertinent provisions which are relevant for preparedness as well as can be used for strengthening community based disaster risk reduction, such as allocation of funds and areas for civil Defence activities at local and municipality levels, training of civil defence teams in residential areas, and maintaining facilities to respond to emergencies.

Social Care Law 1980³⁷

34. The social care law obligates the state of Iraq to provide support and care to the citizens. The support stipulated in the law also covers the victims of natural disasters. The law requires the state to provide assistance and support in case of a natural and a

³⁵ The resolution is no longer in operation as the Unions of Students, Youth and Women are no longer in existence.

³⁶ Interviews with representatives of Ministry of Planning, Civil Defence Department and Baghdad Municipality. December 2012.

³⁷ Law No 126 of 1980

manmade disaster³⁸. The implementing authorities under this law include Ministry of Labor and Social Welfare, Department of Social Care and Chief of the State Department for Social Care. As stipulated under this law the relief/succor funds maintained by the federal government are under the control of the State department of Social Care³⁹. The law however does not provide details of the support to be provided. The scope of the law in context of responding to natural and manmade disasters is complementary to the Civil Defence Law, however both the laws does not cross refer to each other.

Public Health Law 1981⁴⁰

35. The Public Health law defines the functions and roles to be performed in case of epidemics. The key responsibility under this law resides with the Federal Ministry of Health. The prescribed actions under this law include; restriction of movement, closure of public and private concerns, quarantine measures in respect of livestock and goods, control of buildings, transportation and payment of compensation to the effected citizens⁴¹. An important consideration in regard of this law will be its applicability, as Iraq's Constitutions 2005⁴² makes health a concurrent subject. A number of provision of this law appears to be clearly in the mandate of the governorates/region and district tier authorities. How far this instrument can be effective at governorate/region and municipal tiers is a moot point.

Ministry of Transportation and Communication Law 1994⁴³

36. Originally the Law created Ministry of Transportation and Communication, however the ministry was bifurcated in two i.e. Ministry of Transportation and Ministry of Communication in 2003. However both the federal ministries are still governed under this law. The role of Ministry of Transportation under this law is mostly focused on emergency response and relief activities, particularly on acquisition of vehicles during the times of disaster and emergency. Under the provisions of Transportation Law 1983, the public authorities can use all the transportation means (governmental and private) available at the disaster times with no subsequent financial liability⁴⁴.
37. Federal Ministry of Communication under this law is mandated to provide basic telecommunications services. The Law mandates the ministry to monitor climate and

³⁸ Article 2(1), Social Care Law No. 126 of 1980

³⁹ Article 105, Social Care Law No. 126 of 1980

⁴⁰ Law No 89 of 1981

⁴¹ Article 46 (3), Public Health Law 1981

⁴² Article 114, Fifth, Constitution of Iraq 2005

⁴³ Law No. 7 of 1994

⁴⁴ Article 17 & 29 Transportation Law No. (80) of 1983

weather through its constituent Department for the Meteorology and Earthquake Observation⁴⁵.

Financial Management Law 2004⁴⁶

38. The Financial Management Law (No's 95 and 100) were issued by the Coalition Provisional Authority in 2004. The law regulates the preparation, adoption, recording, management, execution and reporting of the federal budget of the Iraq and related issues including the public borrowing, guarantees, internal control, accounting and auditing. The Law provides for allocations for contingency reserve funds not more than 5% of the non-interest expenditures of the federal budget⁴⁷. Later in 2006 the Council of Representatives increased the allocation for the contingency reserve to 10% of the non-interest expenditures of the federal budget. Since 2005 the annual allocations for contingency reserve have remained within the limit of 10% of the non-interest expenditures of the federal budget. The availability of finances to respond to disasters and supporting risk reduction activities is particularly important. The availability of contingency reserves in the federal budget enables the Government to deal for undertaking initiatives and activities which can reduce the risk of disasters in Iraq.

Annual Allocation for Contingency Fund

Financial Management Law 2006 provides for an annual allocation for contingency reserve funds to 10% of the non-interest expenditures of the Federal Budget

Environment Protection Act 2009⁴⁸

39. The Environment Protection Act 2009 is one of the newly enacted laws of Iraq and is compliant with international standards. The legislation aims to protect and improve the environment through the removal and treatment of the existing damage and preserve public health, natural resources, biodiversity, cultural and natural heritage and achieve international and regional cooperation in this area⁴⁹. The Council of Environment Protection and Improvement established under the Environment Law has also an important role in the formulation of the national plan and contingency plans of ministries on the emergencies and environmental disasters. The Environment protection legislation focuses on protecting and improving environment and does not specifically addresses DRR however it provides ample space to consider environmental aspects of DRR to be considered when impacts of projects to be assessed. Furthermore due to essential linkages between reducing the risk of natural

⁴⁵ Article 1 & 6 Ministry of Transpiration and Communication Law No. 7 of 1994

⁴⁶ Law No. 95 & Law No. 100 of 2004 and Law No. 25 of 2006.

⁴⁷ Section 7(2) d, Financial Management Law 2004

⁴⁸ Law No 29 of 2009

⁴⁹ Article 1, Environment Protection Act No. 29 of 2009

disasters and environmental protections, the provisions of this law will be important to consider while finalizing the draft National Disaster Risk Reduction Law.

Mayors' Law 2011⁵⁰

40. In order to revive the institution of Mayor at district and village level, Mayors' Law has been enacted in 2011. The law aims to functionalize the institution of mayor as essential mean of communication between the Government and the citizens⁵¹. Under this Law the Mayor is elected through the Sub-district Council and the individual so elected as Mayor needs to be approved by the Governor⁵². Beside other roles, the Mayor is entrusted with the responsibility to gather and share information regarding disasters, to inform the people and Government about natural disasters, epidemics and infected disease⁵³. The Law however stops short of providing an active role to mayor in case of a disaster. Considering the fact that disasters are essentially local in nature the office of Mayor can play a very important role not only in respect of timely information regarding any disaster, coordination of relief activities and most importantly building the resilience of the local communities.

Institutional Framework for DRR/M

41. As it is evident from the review of legal arrangements Iraq has traditionally been following a relief and response oriented approach towards natural as well as manmade disasters. Correspondingly, the existing institutional architecture also appears to be relief and response oriented. There are multiple federal ministries, departments at governorate and district tiers dealing with different aspects of managing disasters. In recent years a number of functions have also been assumed by the Prime Minister Office (PMO) by virtue of creating institutions such as National Operations Center (NOC). However there is no focal agency at national or governorate level for coordinating and synchronizing DRR related multiple roles of different institutions. There are a number of institutions with DRR/M related roles, major of which include the following:

National Operations Center (NOC)

42. The National Operations Center (NOC) was established under the Prime Minister's Office. The Centre was raised by the support from NATO's Training Mission in Iraq (NTM-I). NOC has been established with two key roles to perform a). Responding to terrorist incidents and occurrences of civil strife and conflict; b) collecting and sharing

⁵⁰ Mayors Law No. (13) of 2011

⁵¹ Article 9 of the law make it mandatory to have a mayor for population of 300 and more individuals.

⁵² Article (2)

⁵³ Article (6)/Fifth

with Prime Minister Office information regarding the internal security threats. As the normalcy is returning in Iraq, the threat of terrorism and civil strife has reduced considerably, NOC in this backdrop is planning to include response to natural disaster in its functions.

Ministry of Environment (MOENV)

43. Federal Ministry of Environment is entrusted with multiple tasks regarding reducing and managing disaster risks. The ministry is responsible for responding to chemical and biological threats. Ministry of Environment also shares the duty with the Ministry of Defence for addressing the challenge of landmines and UXO. Moreover it is also responsible for ensuring disposal of Hazardous materials and pollutants. The Council of Environment Protection and Improvement established under the Environment Law is responsible for the formulation of national and emergency plans of ministries regarding environmental disasters. The Federal Ministry for environmental protection has yet to develop Environment Impact Assessments (EIAs) standards it will be important to incorporate DRR criterion as part of the EIA.

Ministry of Water Resources (MOWR)

44. Ministry of Water Resource (MOWR) not only looks after the water resource management and is responsible for managing nine (9) large dams and eighteen 18 major barrages across the country. MOWR also plays a key role in responding to hydrological disasters including drought, seasonal water scarcity and rehabilitating marshlands. Iraq lies in the most water-scarce region on the globe, which is evident from the present water crisis. Iraq in 2010 faced worst drought in decades, and experts are of the opinion that at the current rate of decline Iraq may face a humanitarian crisis. MOWR is at the moment formulating a water management strategy, so as to be able to rehabilitate the affected areas, and to reduce the risk of future hydrological disasters. MOWR is also responsible to ensure the maintenance of dams and monitoring the flow of water⁵⁴.

Ministry of Displaced and Migrants (MODR)

45. Ministry of Displaced and Migrants (MODR) is responsible for responding to the needs of displaced persons in Iraq. In post conflict Iraq internal displacement is one of the key manmade calamities faced by communities and people. The total numbers of IDPs is estimated to be between 2,040,000 and 2,750,000. In November 2010, the International Organization for Migration (IOM) reported that 2,750,000 IDPs lived in Iraq, out of which 1,660,000 people had been displaced since 2006⁵⁵ It is estimated that prior to 2003 there were 1.2 million displaced people in Iraq. The number

⁵⁴ Interview with Mr. Saleem Challub Bachay, Project Manager Al- Kut Dam

⁵⁵ International Organization for Migration (IOM), February 2011, Review of Displacement and Return in Iraq

increased drastically in the aftermath of 2003 invasion and ensuing armed conflict. According to MODR estimates more than 1.6 million people have been internally displaced⁵⁶.

Ministry of Science and Technology (MOST): *(Inter-Ministerial Committee on Disaster Risk Management)*

46. The Ministry for Science and Technology is making serious efforts for introduction of a comprehensive DRM/R framework in Iraq⁵⁷. A center to study the frequency and impact of disasters has also been established at the MOST. As a result of MOST efforts an inter-ministerial committee was formed with representation from all the ministries and the PMO to prepare a draft Law on disaster risk reduction⁵⁸. The draft has been prepared and has been submitted to the Cabinet for approval. *(Details in the next section).*

Directorate General of Civil Defence

47. Directorate General of Civil Defence, working under the Federal Ministry of Interior can rightly be termed as the focal response agency. It has presence at all tiers, and in case of any calamity it provides key services including, rescue, evacuation, ambulance, shelters, emergency communications, firefighting, and medical services. The resolutions 12, 13, & 14 of 1992 issued under the Civil Defence Law 1978, provide the directorate mandate to strengthen preparedness down till the municipality level.

Ministry of Health (MOH)

48. The ministry of health has an important role especially in case of epidemics and provision of emergency healthcare in event of other natural or manmade calamities. The Directorates of Public Health and Primary Health Care working under MOH are creating protocols and capacities to respond to emerging threats of new health epidemics in addition to building capacities to respond to conditions involving mass casualties.

Governorate Emergency Cells (GEC)/Emergency Committee (KRG)

49. Under PMO Resolution at the Governorate level (currently in nine of 18 governorates) Governorate Emergency Cells have been established. The GECs are headed by the respective Governor, and respond to the calamities. The GECs are composed of representatives from Civil Defence Department, Health Department, and NGOs working in the province, UN liaison officer at the province. The Emergency

⁵⁶ MODM. 2008. *National Policy on Displacement*. Baghdad; Iraq

⁵⁷ Interview with Dr. Samir Al-Attar, Deputy Minister of Science and Technology Iraq

⁵⁸ The committee included representatives of PMO, Ministry of Science and Technology, Iraqi Institution of radiant Sources Control in KRG, Ministry of Defence, Ministry of Water Resources / Dams Department, Ministry of Planning, Ministry of Health, Ministry of Municipality, Ministry of Environment, State Ministry for National Security, and ICRC.

Cells perform the much needed coordination function among the relevant departments at governorate and local level to respond to a disaster. The GECs however have not been allocated any budgets to perform these functions; especially in case of disasters there are no earmarked funds to help assist the affected populace⁵⁹. In KRG similar institution by the name of “Emergency and Succor Committee” has been established at the Governorate tier. The Committee is headed by the Governorate Commissioner, and is composed of representatives from the Civil Defence Department, Health Departments, Iraqi Red Crescent Organization, KRG Ministry of Environment, and Members from National and International NGOs. The Committee is reinforced by a subcommittee which consists of 11 permanent members from various districts within the governorate⁶⁰.

Department of Meteorological and Earthquake Observation:

50. The role of early warning for preparedness is performed by two key institutions; a) State Department for Meteorological and Earthquake Observation, Ministry of Communication and b). Geological Survey Department, Ministry of Industries and Minerals. The Meteorological department is mandated under the Transportation and Communication Law 1994 to take appropriate measures including acquisition of scientific equipment and continuous monitoring of the climate and weather phenomenon⁶¹. In context of early warning and risk assessment the role of these departments is significant not only in terms of timely information but for planning and preparedness at all levels to respond to natural disasters.

Role of Communities in DRR/M in the Existing Legal and Institutional DRR/M Setting:

51. Besides the role of government in mitigating risks and responding to disasters the communities traditionally have over a period of time evolved a set of responses to address hazards/disasters confronting their existence and livelihood. The significance of community based disaster risk management is well recognised and plays a vital role in building resilient communities through reducing local vulnerabilities and building capacities of the people at risk. Increasing the capacity of the local communities and reinforcing their abilities to deal with hazards reduces the negative impacts of disasters considerably. The Hyogo Framework of Action (HFA)⁶² recognizes the crucial importance of CBDRR/M by specifically considering it as a strategic goal (Strategic Goal 12b) and making it a key priority for action (Priority for Action 1).

⁵⁹ Interview with Mr. Mahdi Hussein Khalil al-Zubaidi, Governor of Wasit Governorate. December 10, 2012

⁶⁰ Interview with Mr. Ali Rawoof, Chief of the Emergency and Succor Committee December 23, 2012

⁶¹ Article 1 & 6 Transportation and Communication Law 1994

⁶² HFA was adopted in January 2005 at the World Conference on Disaster Reduction (WCDR) in Kobe, Japan as a ten year plan to make the world safer from natural hazards

52. The analysis of existing legal and institutional arrangements in Iraq indicates that there are limited avenues available for involving communities in planning, preparing or responding to disaster situations. Similarly the present legal and institutional arrangement falls short of providing effective conduits for tapping the potential of local community groups, and building coalitions and partnerships that contribute to strengthening communities' resilience to potential hazard situations.
53. In context of communities' role in DRR/M, Civil Defence Law 1978 provides certain provisions under Resolution 12 and 13 of 1992. Resolution 12 deals with raising of Civil Defence Teams to combat emergency/disaster situations in residential areas. The resolution also provides for allocation of specific area as well as funds for these community based activities. The efficacy of these resolutions in terms of a disaster situation in the present dispensation has not been practiced yet. However it provides a good foundation for involving and mobilizing communities at municipality and local level for disaster preparedness and response.
54. Resolution 13 of 1992, issued under Civil Defence Law 1978 deals with the training of Students, Youth and Women Unions at local levels to respond to emergency situations. These unions as discussed above are defunct, thus limiting the scope of the resolution. The resolution nonetheless can be used to work with the local CBOs (Community Based Organisations), groups, and NGOs for strengthening the level of preparedness at the local tier.
55. The Draft National DRR Law, which has been examined in detail in the next section, however provides a number of community empowering provisions. Foremost, the draft law defines disaster as a community emergency⁶³, which places the community as a focal point for any effort aimed at reducing disaster risks. The proposed law acknowledging the importance of community also assigns role to community representatives in Supreme National Authority and Regional/Provincial Councils⁶⁴. It will be important that these roles are clearly spelled out in the proposed National Plan and National Strategy which will be made under the proposed law.
56. Building local capacities for fighting disasters would be the rational choice as communities are the first to respond to disasters. Adequate measures of preparedness need to be in place at the community level providing options for mitigation. Moreover, interface between the communities and the government needs to be developed for materializing effective Community Based Disaster Risk Management

⁶³ "A certain community emergency that causes damage to life, money, property or the environment wider than its ability to respond thereto, e.g. natural disasters such as (earthquakes, floods, flash floods, epidemics, diseases, and drought, etc.) or man-made such as (technological accidents, acts of sabotage and war). Draft National DRR Law" Article 1 (IV), Draft National Disaster Risk Reduction Law

⁶⁴ Article 13, Draft National DRR Law

initiatives. Self-help capacities of communities will be easy to build once such an interface is created.

57. Government of Iraq should focus on supporting communities that are vulnerable and experience recurrent disasters. These Communities need to be involved in local level hazard and vulnerability assessments and developing plans for their mitigation. Communities are better able to identify differential needs of women and children and to suggest ways of addressing these. However they lack capacity to link up with government processes at the local and district levels. Creating such linkages would be very useful for the sustainability of DRR reforms.

Legal and Institutional Arrangement for DRR/M: Key Inferences

58. The review of existing legal and institutional arrangements in Iraq highlights a number of gaps and serious shortcomings. Iraq as of now is following the emergency response model for responding to natural and manmade disasters. The functions associated with reducing the risk of disasters and management thereof are placed in different ministries. Major gaps in the existing legal and institutional arrangements include the following:
59. *Reactive and Fragmented Nature:* The existing legal arrangement does not provide a comprehensive disaster risk management framework. The two key laws i.e. *Emergency Use Law 1961* and *Civil Defence Law 1978* provide relief and response based model for addressing the hazards thus missing out completely on mitigation, and preparedness.
60. *Substantive Deficiencies in DRR/M Related Laws:* The existing body of law is made up of laws and regulations enacted in three distinct phases of political and constitutional development of the country. These include laws enacted prior to Constitution of 1970, laws enacted under the Constitution of 1970 and the laws and regulations enacted/issued post 2003 and after the promulgation of 2005 Constitution. This basic void has the potential to render comprehensive application of certain laws ineffective. Emergency Use Law was enacted in 1961 and its provisions are relevant for state institutions which no longer exist thus placing a serious limitation on the application of a valuable piece of legislation. The Resolution 13 issued in 1992 under the Civil Defence Law primarily focuses on Student, Youth and Women Unions for the purpose of training and mobilizing the communities at local level, however these unions have ceased to exist in the present dispensation, thus making a suitable legal mean for strengthening community based DRR useless.
61. *Multiple Agencies dealing with Different Aspects of Disaster:* As discussed in the foregoing sections, there are multiple laws and institutions dealing with different aspects of managing disasters at all tiers. At the national tier National Operations Center (NOC) under the Prime Minister office is responsible for managing issues related to terrorism and civil unrest. Recently NOC has been gearing up to include response to natural disasters in its mandate too. Civil Defence working under the Ministry of Interior is also responding to a number of emergency situations. Similarly, Ministries of Water Resource, Ministry of Displaced and Migrants, Ministry of Environment, Ministry of Science and Technology, and Ministry of Defence respond to emergency situations in their respective mandates.
62. *Efficacy of Governorate Emergency Cells:* Besides the Civil Defence formations at subnational level, in nine Governorates, Governorate Emergency Cells (GECs) have been established and are working under the respective governors. The GECs are being

supported by international humanitarian agencies. This seems to be a step in the right direction, as these cells are performing the essential function of coordination among the departments having DRR/M relevant functions. There are however some serious gaps which need to be attended by the relevant authorities. First, GECs are only present in nine of the eighteen governorates, there are no corresponding institutions at national and district/local tiers and most importantly GECs have no financial support to perform the mandated functions⁶⁵.

63. *Restrictive Scope:* The existing institutional arrangement at national, region, governorate and district tiers primarily focuses on post disaster situations. The existing set of skills of line agencies to engage in disaster response is emphasized to cope with specific natural disasters and does not cover the whole spectrum of other impending disasters.
64. *Early Warning:* There are visible inadequacies in institutionalized early warning & information management. An institutionalized Risk Assessment for essential information to set priorities for mitigation and prevention strategies is absent. Similarly the monitoring and predicting capabilities to provide timely estimates of the potential risk faced by communities, economy and the environment have yet to be designed. The evidence from the field suggests that the government departments responsible for undertake risk assessments and monitoring are deficient in terms of human resource and scientific equipment⁶⁶.
65. *Information Dissemination:* There is no dedicated communication system in place which can help deliver the warning messages to the potentially affected locations to alert provincial, regional and local governmental agencies.
66. *Absence of a Focal Agency:* The present legal and institutional arrangement presents a complex scenario; laws and institutions with overlapping jurisdictions and DRR related functions are placed in different ministries. There is no coordinating vector to ensure synergetic response from multiple agencies working under different laws for DRR/M.

⁶⁵ Interview with Mr. Mahdi Hussein Khalil al-Zubaidi, Governor of Wasit Governorate. December 10, 2012

⁶⁶ Interview with Mr. Salwan Amjad, Department Assistant, Department for the Meteorology and Earthquake Observation

Draft National Disaster Risk Reduction Law: Issues and Concerns

67. The realization of deficiencies in the existing legal and institutional framework has led to the formation of an Inter-Ministerial Committee to draft a law on *Disaster Risk Reduction*⁶⁷ in Iraq. The committee under the lead of MOST has prepared a draft which has been submitted to the cabinet. The draft National DRR Law indicates towards a shift from traditional disaster response approach to disaster reduction, prevention and mitigation. The draft National Disaster Risk Reduction Law intends to provide a framework based upon strategy of the Arab Disaster Risk Reduction 2020 document, approved by the Arab Summit Conference held in Baghdad – 2012, and the Hyogo Framework 2005-2015⁶⁸.
68. The preparation of Draft National Disaster Risk Reduction Law is a step in the right direction which can address the existing void in the legal framework for DRR/M at national level. The draft law needs to be reviewed so as to identify whether the proposed draft is responsive to the legal and governance realities of Iraq and ensure synergies among various legal instrument and agencies mandated to contribute to DRR/M at different tiers of the system. Therefore this section of the report attempts to undertake a review of the draft law in order to identify whether there are any issues and concerns which may necessitate revisiting the Draft National Disaster Risk Reduction Law. The following section is divided in two subsections, with first providing a brief synopsis of the draft National Disaster Risk Reduction Law, whereas the second highlights some key areas of concern:

⁶⁷ The conceptual framework of elements considered with the possibilities to minimize vulnerabilities and disaster risks throughout a society, to avoid (prevention) or to limit (mitigation and preparedness) the adverse impacts of hazards, within the broad context of sustainable development. The disaster risk reduction framework is composed of the following fields of action:

- *Risk awareness and assessment including hazard analysis and vulnerability/capacity analysis;*
- *Knowledge development including education, training, research and information;*
- *Public commitment and institutional frameworks, including organisational, policy, legislation and community action;*
- *Application of measures including environmental management, land-use and urban planning, protection of critical facilities, application of science and technology, partnership and networking, and financial instruments;*
- *Early warning systems including forecasting, dissemination of warnings, preparedness measures and reaction capacities.* ISDR "Living with Risk: a global review of disaster reduction initiatives", 2002, page 23

⁶⁸ The Hyogo Framework for Action 2005–2015 is a global agreement signed by over 180 countries under the auspices of the UN. HFA calls on governments to enhance and support disaster risk assessment and related process

Synopsis of Draft National Disaster Risk Reduction Law:

- 70.1. The Draft National Disaster Risk Reduction Law emphasize reduction of disaster risks by taking appropriate policy and administrative measures for demonstrating government's commitment to reduce the potential risks of disasters of all kinds and develop the capacity of government institutions, communities and organizations⁶⁹. The draft law proposes a number of new institutions to be created at National and subnational levels which include; Supreme National Authority for Disaster Risk Reduction, National Center for Disaster Risk Reduction and Disaster Risk Reduction Councils at provinces and KRG.
- 70.2. **Supreme National Authority:** is envisaged as the apex body. It is headed by the Prime Minister and includes representation from Regional Prime Minister-KRG, Governors of the provinces, Ministers of Interior, Health, Science and Technology, Environment, Municipalities and Public Works, Labour and Social Affairs, Electricity, Water Resources, Agriculture, Industry and Minerals, Civil Defence and representatives of Iraqi Red Crescent Society. The authority is mandated with Approval of National Plans, declaration of disasters and supervision and monitoring the implementation of the National Plan⁷⁰.
- 70.3. **National Center for Disaster Risk Reduction:** The National Centre for DRR with its satellite offices at provincial is responsible for the development of National Plan and National Strategy for Disaster Risk Reduction. The Centre is also responsible for ensuring early warning system, information system management and knowledge management⁷¹.
- 70.4. **Disaster Risk Reduction Council for KRG Region and Governorates:** The Disaster Risk Councils at KRG and Governorates are structured on the format of the Supreme National Authority. KRG Council is headed by Prime Minister and representatives of the regional ministers, with representatives from Iraqi Red Crescent Society. The provincial councils headed by the respective Governors have a similar composition. The Regional and Provincial Councils are mandated with preparation and implementation of respective Disaster Risk Reduction Plans and their implementation⁷².
- 70.5. **National Plan & National Strategy for Disaster Risk Reduction:** The draft law provides for the formulation of a National Plan for Disaster Risk Reduction

⁶⁹ Article 3, Draft National Disaster Risk Reduction Law

⁷⁰ Article 5-8, Draft National Disaster Risk Reduction Law

⁷¹ Article 9-10, Draft National Disaster Risk Reduction Law

⁷² Article 11 (I-III), Draft National Disaster Risk Reduction Law

and National Strategy for Disaster Risk Reduction by National Centre for Disaster Risk Reduction. The National Plan is aimed at providing key goals, and proposed measures for risk mitigation, preparedness, response planning, and mainstreaming of DRR in development planning⁷³. Whereas the National Strategy for DRR will map the functions and duties of government authorities and civil society, assessment of potential disasters risks, and management of disaster risks⁷⁴.

70.6. **Financing of Disaster Risk Reduction:** DRM/R activities as stipulated in the law will be financed by two sources; first the allocations made in the national budgets and Second; Grants, donations, and contributions made for the purpose according to the Law⁷⁵

70.7. **Role of Civil Society:** The proposed law also recognizes the role of civil society by not only assigning them representation in the Supreme National Authority and Regional and Provincial Councils. The draft also provides for their role in the national efforts in providing relief and disaster response⁷⁶.

Draft National Disaster Risk Reduction Law: Some Concerns & Considerations

DRR vs. DRM:

69. Prior to a detailed examination of the scope, extent and provisions of the draft law, it seems pertinent to discuss the title of the proposed law i.e. Draft National Disaster Risk Reduction Law. International experience, international and regional instruments as well as the Disaster related legislations enacted so far, suggests a choice of Disaster Risk Management as opposed to Disaster Management or Disaster Risk Reduction for the obvious reasons of the limiting scope and meanings of the terms Disaster Management and Disaster Risk Reduction⁷⁷. The disaster management laws which

⁷³ Article 1 (VI), Draft National Disaster Risk Reduction Law

⁷⁴ Article 4 (I), Draft National Disaster Risk Reduction Law

⁷⁵ Article 17, Draft National Disaster Risk Reduction Law

⁷⁶ Article 13, Draft National Disaster Risk Reduction Law

⁷⁷ ISDR definition of disaster risk management: "The systematic process of using administrative decisions, organization, operational skills and capacities to implement policies, strategies and coping capacities of the society and communities to lessen the impacts of natural hazards and related environmental and technological disasters. This comprises all forms of activities, including structural and non-structural measures to avoid (prevention) or to limit (mitigation and preparedness) adverse effects of hazards" <http://www.unisdr.org/eng/library/lib-terminology-eng.htm>

Section 2 (e) of India Disaster Management Act 2005 defines disaster risk management as a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for— (i) prevention of danger or threat of any disaster; (ii) mitigation or reduction of risk of any disaster or its severity or consequences; (iii) capacity-building; (iv) preparedness to deal with any disaster; (v)

aim to place emphasis on risk reduction have opted to use both the terms in the title as is the case of Philippines. The Philippines law is titled Philippines Disaster Risk Reduction and Management (DRRM) Act thus incorporating both risk reduction and risk management. The usage of Disaster Risk Reduction alone seems to falls short of highlighting the post-disaster functions of the Government. Moreover the term Disaster Risk Management comprehensively describes the function of “disaster management” in Government as well as the multi-sectoral and multi-disciplinary activities for reducing disaster risks.

Defining “Disaster”

Disaster: “A certain community emergency that causes damage to life, money, property or the environment wider than its ability to respond thereto, e.g. natural disasters such as (earthquakes, floods, flash floods, epidemics, diseases, and drought, etc.) or man-made such as (technological accidents, acts of sabotage and war). Draft National DRR Law” Article 1 (IV), Draft National Disaster Risk Reduction Law

70. The definition of disaster as provided in the Draft National DRR Law is quite comprehensive however in regards to manmade disasters, such an event may not be solely because of an accident it may be a result of disregard and neglect of what one was supposed to do, therefore in case of manmade causes negligence is a fundamental component/ingredient for defining an incident as well as for fixing of liability⁷⁸. The Indian Disaster Management Act while defining disaster takes cognizance of this aspect and defines disaster as; “a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man-made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area”. Therefore it seems pertinent to suggest that the definition of disaster may be revised in a manner to incorporate the element of negligence⁷⁹.

prompt response to any threatening disaster situation or disaster; (vi) assessing the severity or magnitude of effects of any disaster; (vii) evacuation, rescue and relief; (viii) rehabilitation and reconstruction;

Section 14 of Queensland’s Disaster Management Act 2003, refers to Disaster Risk management as, “arrangements for mitigating, preventing, preparing for, responding to and recovering from a disaster”

⁷⁸ It is important to consider that an act or omission of an individual or an institution may result in suffering of many, and it is vital to fix responsibility of such an action. This further necessitates the careful examination of the action or omission which has resulted in such consequences. Negligence is the failure to use care a reasonable person would under the same circumstances. It refers to lack of acceptable or expected conduct. One may refer to Alderson B’s comment in *Blyth v. Birmingham Water Work Co.* (1856), “Negligence is the omission to do something which a reasonable man guided upon these considerations which ordinarily regulate human affairs would do or doing something which a prudent or reasonable man would not do”

⁷⁹ Section 2 (d), of Indian Disaster Management Act 2005

Relevant Authority:

71. The use of word relevant authority also needs some clarification here as the only Authority defined in the Chapter on definitions is the Supreme National Authority for Disaster Risk Reduction⁸⁰. The use of word relevant authority in subsequent sections suggests other authorities as well i.e. Authorities at regional and governorate tiers. The law prescribes a number of functions to these authorities too, thus necessitating insertion of the definition of Regional/Governorate Authorities too.

National Plan for Disaster Risk Reduction:

72. Article 1 (VI) of the Draft National Disaster Risk Reduction Law, defines the Plan for Disaster Risk Reduction as following:

“A document prepared by the relevant authority sets goals and targets for disaster risk reduction and develop programs needed to achieve them and to identify the authority responsible for execution to occur periodically. And include for example:

- 1. Necessary measures to mitigate the risk of disasters and their effects,*
- 2. Necessary measures for the integration of disaster effects mitigation measures into the development plans,*
- 3. Required measures to ensure the necessary preparations, disaster preparedness and capacity building required for the relevant authority concerned with addressing disasters”* **Article 1 (VI), Draft National Disaster Risk Reduction Law**

There are a number of considerations in this regards including the following:

- 74.1. The Article besides defining the Plan for Disaster Risk Reduction also outlines key ingredients of the proposed Plan. It seems important to include identification of hazards and vulnerabilities, prior to measures for mitigating the risk of disasters and their effects⁸¹. Similarly building resilient communities is the corner stone of planning for reducing the risk of disaster therefore it also needs to be listed in this section thus making it an integral part of any planning document which will be produced.

- 74.2. Complementing Disaster Risk Reduction Plan with Disaster Risk Management/ Emergency Response Plan: The draft law though provides for

⁸⁰ Article 1 (I). The Authority: The Supreme National Authority for Disaster Risk Reduction. Draft National Disaster Risk Reduction Law.

⁸¹ Most of the Disaster management legislations in planning prioritize identification of hazards. The identification is followed by measures for risk mitigation. See for example Indonesia Disaster Management Act 2007, New Zealand Civil Defence Emergency Management Act 2002, etc.

contingency planning⁸² but for establishment of a comprehensive disaster risk management framework the international best practices indicate two approaches:

- a) Preparation of national and regional disaster response plans separately e.g. Sri Lanka Disaster Management Act provides for preparation of National Disaster Management Plan and National Emergency Operation Plan⁸³.
- b) Preparation of a single plan which encompasses pre and post disaster planning e.g. New Zealand's Civil Defence Emergency Act provides for preparation of National Civil Defence Emergency Management Plan which comprehensively covers, pre and post disaster phases⁸⁴

Iraq's draft National Disaster Risk Reduction Law, however only provides for the development of a National DRR Plan, it needs to be complemented with development of Disaster Management Plan and Emergency Operation's plan.

National Strategy for Disaster Risk Reduction⁸⁵

73. Article 4 of the Draft National DRR Law provides for the formation of a National Strategy for Disaster Risk Reduction and outlines its scope. The National Strategy is not defined in the Chapter on definitions and appears for the first time in this article. Besides being a legal deficiency the review of international experience indicates that National Strategy besides being clearly set out in the definitions part are also linked to National Plans as well as provincial and regional strategies⁸⁶. This is not in the case of the draft law and the proposed National Strategy as provided for in the existing provisions seems to be a standalone document. The draft also does not provide for any time frame for the development of the strategy document, leaving the preparation of such documents open ended tends to delay their formation.

Declaration and Classification of Disaster/Emergency Incidents

74. The declaration of and classification of disasters is of vital importance as it triggers the emergency response mechanisms designed to respond to disaster/emergency

⁸² Article 1 (X), Chapter-I Draft National Disaster Risk Reduction Law

⁸³ Article 4 (b) Sri Lanka Disaster Management Act 2005

⁸⁴ Article 39-45 Civil Defence Emergency Management Act 2002

⁸⁵ Article 4 - The Authority seeks to achieve the objectives of the law hereby through the following means:

I. Approve the national strategy for disaster risk reduction and allocate the necessary resources thereto.

The national strategy for disaster risk reduction includes the following elements:

1. Determine the functions and duties of government authorities and civil society organization.
2. Assessment of potential disasters risks.
3. Management of disaster risks and its impact on sustainable development.
4. Issues related to preparedness and response plans.
5. Management of information, knowledge, education, awareness, and citizen notification bases.

⁸⁶ South Africa Disaster Management Act No. 57 of 2002

situations. Furthermore the classification helps identify the nature and quantum of response which needs to be mounted in a particular situation. The proposed draft law in Chapter III, suggest development of system for classification and declaration of disasters by the commission:

“The Commission shall develop a system to declare a state of emergency in areas affected or threatened by the disaster, taking into account the type of disaster or threat and the concerned region, subject to the provisions of the Constitution and the laws in force, and determine exceptional powers acting in the areas covered by the state of emergency during the period declared.” **Article 8, Draft National Disaster Risk Reduction Law**

There are number of concerns in this regard which merit to be considered:

76.1. **The “Commission”**: Article 8 of the draft law entrusts the commission to devise the standards and procedures for classification and declaration of disasters. However the word commission appears first time in the draft in this Article. There is no previous mention of such an entity. It seems fair to assume that the power has been entrusted to Supreme National Authority as it appears under the section of draft law listing the functions and duties of the authority⁸⁷. However if the law intends to constitute a commission under the authority for the purpose then its formation and functions needs to be clearly mentioned so as to avoid any ambiguity in the provisions of the law.

76.2. **Classification and Declaration of Disasters and Decentralization**: The existing provision only provides for development of procedures for classification and declaration of disasters. The draft is also deficient on account of providing the same for regional, provincial and local tiers. The evidence from across the world suggests two key features in this regard;

- a) First, identification of authority having the mandate of declaring a particular situation as an emergency or disaster for example the Sri Lankan Disaster Management Act 2005 rests the responsibility of declaration on the President. Similarly the UK Civil Contingencies Act 2004 provides that a Minister of the Crown, or, in relation to Scotland, the Scottish Ministers, may by order issue the proclamation of emergency.
- b) Second as the disasters are essentially local in nature as in most cases a particular geographical area is hit, therefore the power to declare a situation as emergency/disaster needs to be vested at provincial and local tiers. The case can be best illustrated in the

⁸⁷ Chapter III of Draft National DRR Law, deals with the formation and duties of Supreme National Authority

South Africa Disaster Management Act 2002. The Act makes provisions for the classification and declaration of states of disaster at national, provincial and municipal levels⁸⁸.

Lack of Strong Institutional Basis:

77. A weak institutional basis can be cited as one of the common barriers to the implementation of an effective DRM/R framework. Under the Draft National Disaster Risk Reduction Law, three key institutions are envisaged namely; Supreme National Authority, National Center for Disaster Risk Reduction and Disaster Risk Reduction Councils. A closer examination indicates three issues:

77.1. *National Center for Disaster Risk Reduction vis-à-vis Disaster Reduction Councils:* Article 9 (II) of the draft National DRR Law besides institution of National Center for Disaster Risk Reduction at national tier provides for the establishment at regional and provincial levels⁸⁹. However the role at regional/provincial tier is not clear. With the presence of Disaster Risk Reduction Councils at regional/provincial tiers the role and functions of National Center for Disaster Risk Reduction's formations at regional and provincial tier needs to be made clear.

77.2. *Linkages between the National and Regional/Provincial Institutions:* The draft law also falls short of elaborating upon the linkages between the Supreme National Authority, National Centre for DRR and regional and provincial Disaster Risk Reduction Councils.

77.3. *Implementation at Regional/Provincial Tiers:* The draft law also seems deficient on account of the implementing mechanisms at regional and provincial tiers. There are no provisions providing for some agency to implement the plans developed by the regional and provincial authorities. If the existing mechanism and institutions such as Governorate Emergency Cells or Civil Defence formation, these are not even referred to.

77.4. *Institutional Arrangement at Local Tier:* The draft law does not provide any role for the local/municipal authorities. There is a strong recognition around the world for providing substantial role to local and municipal authorities for

⁸⁸ Sections 23, 26, 27, 41 & 55, South Africa Disaster Management Act No. 57 of 2002.

⁸⁹ Article 9 –

I - Under the law hereby, the National Center for Disaster Risk Reduction shall be established, headed by an official ranked director general, nominated by the President of the Authority with experience and competence, appointed in accordance with the law and linked to the President of the Authority.

II – Shall be established in the Kurdistan Region and the provinces not incorporated into a region for disaster risk reduction, and is considered part of the formations of the center. Draft National Disaster Risk Reduction Law

effective local efforts to manage and respond to local risks. In this regard the Indonesian Disaster Management Law can be cited as an example which provides for an effective role to the local authorities⁹⁰.

Dovetailing with DRR/M Related Laws:

78. Disaster Risk Reduction is essentially cross sectoral and DRR/R legislations need to be effectively dovetailed with related laws and regulation for effective implementation thereof. The draft National DRR Law however limits itself to Civil Defence Law 1979 and aims to complement it. However it stops short at prescribing a complementing role of the new legislation. It seems important to functionally link Civil Defence Services at all the tiers with proposed institutions in the draft law. The example of New Zealand Disaster Management legislation would be pertinent here as it incorporated both services i.e. emergency management and civil defence⁹¹. Moreover it would be important to synchronize and effectively dovetail the draft law with other relevant laws and regulations including; Emergency Use Law, Environmental Law, Land Zoning and Building Regulations and Codes etc.

Financing of DRR/M

79. There is a strong recognition of the need to promote stronger *ex ante* disaster risk management. Thus most of the countries across the world now tend to create permanent funds not only to have robust pre-disaster preparedness but to have effective funding available to respond to any natural or manmade calamity. The draft law does not create special funds for disaster risk reduction at national and regional/governorate tiers. It only provides for supporting the activities through the allocations in the national budget and grants and donations⁹². Even the law does not require for creation of dedicated/mandatory allocations for DRR/M.

Compensating the Victims of Disasters

80. Article 4 (VI) entrusts the Supreme National Authority to approve national policy to compensate those affected by disasters and especially the vulnerable of the society⁹³.

⁹⁰ Indonesia Disaster Management Law 24/2007

⁹¹ New Zealand Civil Defence Emergency Management Act 2002

⁹² **Article 17 – I** - The Authority's resources consists of the following:

1. Allocations thereto in the State's general budget.

2. Grants, donations, contributions, and bequest according to the law.

II - the budget of the Authority include credits required for the Centre, and the staff and workers' wages, allowances, salaries, bonuses and any other expenses required by the duties of the Center. Draft National Disaster Risk Reduction Law

⁹³ Article 4 (VI) – Approve the national policy to compensate those affected by disasters, especially society's vulnerable groups. Draft National Disaster Risk Reduction Law.

Similarly Article 12 of the draft law acknowledges the right of citizens to be compensated⁹⁴. However the law does not provide any supporting provisions.

80.1. Despite the mention of national policy to compensate the victims neither it is defined in the chapter on definitions nor is any procedure provided in the law for accomplishment of the same.

80.2. The vulnerable groups have been mentioned, but group so mentioned needs to be defined as well, it may include in order of priority Infants, children, Pregnant or lactating mothers, disabled, elderly, women etc.

Disaster Management Information System

81. The draft law acknowledges the importance of information and knowledge management but fails to provide for any framework for establishment of dedicated information systems. The DMIC established by the Bangladesh government is a good example in this regards for connecting Government agencies, NGOs, the private sector, regional and international agencies for cooperative action in risk reduction and emergency response.

⁹⁴ Article 12 - The State shall guarantee the inalienable rights of citizens during a disaster represented by:

1. Protection of his life, freedom and property
2. Be informed if there are threats of disaster
3. Contribute to the acts of response and disaster risk reduction in accordance with prior-set plans.
4. To get a compensation in case of health or property damage caused by disasters. Draft National Disaster Risk Reduction Law.

Conclusions

- 82.** The review of existing legal and institutional architecture in Iraq to respond to disaster and crisis situations reveals four overarching features;
- a. First; as result of longstanding conflict and wars the focus of most of the efforts in Iraq has been on manmade calamities such as conflicts, terrorism, industrial hazards etc.
 - b. Second; due to a lower frequency of natural disasters in recent years there has been no rigorous effort to institute a comprehensive disaster risk management framework. Therefore, historically the response to the disasters have largely remained ad-hoc and reactive in nature.
 - c. Third; transition from war and internal strife to functional governance has a direct bearing on DRM/R architecture in Iraq. A number of issues regarding the administrative relations between the federation and federating units especially Kurdisatan Regional Government (KRG) have yet to be resolved. Thus inhibiting establishment of any comprehensive DRM/R framework which can be operative at all the tiers.
 - d. Fourth; there are number of laws which were enacted prior to 2003 and are directly related to DRM/R such as the Emergency Use Law 1969, Civil Defence Law 1978, Public Health Law 1981, etc. But these laws have yet to be synchronized with the emerging legal and institutional arrangements in post 2005 Iraq.
- 83.** Beside these overarching issues the DRR/M related legal and institutional arrangements in Iraq reveals multiple gaps and serious shortcomings. The existing framework provides a relief and response based model for addressing the hazards thus missing out completely on mitigation, and preparedness. Almost all the disaster related laws are restrictive and limited in their scope. The disaster management at governorate tier operates on traditional lines based upon their conventional experience. The laws as well as the institutional setup are poorly equipped to respond to diverse types of disasters.
- 84.** Most of the definitions provided for various categories in the laws are restrictive in nature. Generally, the laws when drafted were never aimed at addressing the issue of disaster in a holistic manner and were responses to specific needs arising as a matter of necessity, e.g. Emergency Use Law 1961, Civil Defence Law 1978 etc. Majority of these laws fail to define disaster in an all-encompassing manner, e.g. Disaster Emergency Use Law deals with “sudden or unexpected accidents” which is limiting in scope. Similarly the Civil Defence Law 1978 fails to provide any definition of disaster. The existing laws fail to take in to account the Disaster contingency planning, an ongoing exercise that should address multiple disaster contingencies (which includes;

vulnerability assessments, resource mapping and multi-agency response guidelines etc.) It is indicative of the reactive approach towards addressing the disasters. The existing legal and institutional arrangement is also lacking on the provisions for an ample early warning set-up. The Department of Meteorological and Earthquake is the focal agency for monitoring, collecting and disseminating climate related information however it is not only short on professional human resource but is also in need of the technical equipment for performing the mandated functions.

- 85.** The present DRR/M related legal and institutional architecture presents an intricate situation; there are multiple institutions with overlapping jurisdiction and agencies with same scope of work. The duplication of mandates contributes towards a fragmented response. There is no institution which can perform the role of coordination and can ensure synergetic response from institutions and departments working under multiple DRR/M related law, regulations and resolutions. The existing laws fail to align federal, governorate and district tiers in responding to the disasters. Even within a governorate framework there are overlapping and at times conflicting provisions of different laws. The international best practices have established that disasters are responded to in an effective and efficient manner when addressed in a national perspective. Such an approach is in accordance with the International frameworks for disaster management and is also relevant in context of federation and practice of federalism.
- 86.** The Government of Iraq in lead of MOST has recently prepared a Draft National Disaster Risk Reduction Law. The review of the draft reveals a number of inadequacies. There are certain sections of law which need to be made more robust for providing a comprehensive disaster risk management at all the tiers of governance in Iraq. Foremost it seems important to highlight that the usage of Disaster Risk Reduction alone seems to have limiting effect on the desired objectives of the legislation. The usage of term Disaster Risk Reduction suggests a focus on pre-disaster phase with either no or less emphasis on the post-disaster functions to be performed.
- 87.** In the definitions of the proposed draft law there are number of inadequacies and deficiencies. The definition of disaster though includes manmade disasters as a part of the stipulation but it does not include negligence. Negligence is deemed to be a basic component while defining any incident caused due to human commission or omission for the purpose of fixing liability. There are number of key terms which are used in the law but have not been defined in the section on definitions these include; National Strategy for Disaster Risk Reduction, Commission which have been entrusted with the responsibility to prepare the system for declaration of disaster; regional/governorate authorities have been assigned multiple functions, however the respective authorities have not been defined in the chapter on definitions.
- 88.** The draft law establishes National Center for Disaster Risk Reduction with its offices at governorate tier. But at the same time also establishes Disaster Risk Reduction Councils at regional/provincial tiers. The role and functions of National Center for Disaster Risk Reduction's formations at regional and provincial tier are not clear and its linkages with

Disaster Risk Reduction Councils need to be made clear. The Law does provide for Disaster Risk Reduction Councils at Regional/Governorate tier; however it does not provide any provision for performing the mandated role by the DRR councils.

- 89.** Disaster Risk Reduction is fundamentally cross cutting and a policy or legal framework can be effective if it is linked with other related laws, regulations etc. The draft law only refers to the extent of the Civil Defence Law 1978, and does not dovetail with other important laws and regulations such as Social Care Law, Environment Protection Act, Water Management regulations, land zoning and building codes etc.
- 90.** The local/municipal authorities play key role in reducing risk, preparedness, and responding to disasters. The draft law however seems deficient on this count. There are no provisions regarding the roles and functions to be performed by the local authorities and their linkages with the communities.
- 91.** Risk Reduction and Preparedness is an ongoing activity which calls for a smooth flow of funds. The draft law provides for allocation of funds in the annual budgets, however does not create any permanent fund for supporting disaster risk reduction at national and regional/governorate level.
- 92.** For creating a robust DRR/M framework in Iraq it would be essential to involve the relevant stake holders especially the communities and NGOs in the process. DRR cannot be effective without strengthening the capacities of those who are most vulnerable and who need to have the information and skills to reduce the impact of hazards on their lives and livelihoods. At the initial stage it would be important to empower the local and municipal authorities by issuing regulations to involve communities in planning and preparedness activities. Similarly the relevant clauses of existing laws and resolution such as Civil Defence Law Resolution No. (12)1992 which provide provisions for inclusion of Student, Youth and Women Unions to be operationalized by including representatives of communities and members of local civil society organisations.
- 93.** Considering the existing deficiencies in legal and institutional arrangement for DRR/M, it is important to formulate a comprehensive framework that can create synergies among various legal instrument and implementing agencies thus improving DRR/M at all tiers.

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