

# Caribbean Emergency Legislation Project (CELP)

## National Workshop – Grenada

### Best Practices —

Presentation by Teni Housty  
Attorney-at-Law, Mediator & Legal Consultant

# Best Practices - Structure

- Introduction
- Best Practices – Defined.
- Approach
  - Categories – 7
  - Countries – 14
  - Best Practices - 45
- Caveats
- Conclusion.

# 7- Categories

- Declarations;
- Funding, Infrastructure And Budgetary Appropriation;
- International Aid ;
- National Security;
- Health;
- Communication; and
- Additional

# Countries

- Basis – similar in experiences and structures, new and responsive laws, accessibility to information.
- **Africa** – The Gambia, South Africa.
- **Pacific** – Marshal Islands, Australia, Fiji, Micronesia, Vanuatu.
- **Asia** – Singapore, India, Indonesia, Philippines.
- **Americas** – United States of America, Canada, Colombia.

# Specifics - Declarations

## **Definitions –**

- *Countries should not be tied to specific labels of disasters or emergencies, which ever term is utilized in legislation, the specifics of the events intended to be encompassed by the definition should be provided;*
- *Emphasis should be placed on the impacts, causes and results of the particular activities which constitute disasters;*
- *Categories of natural and man-made disasters should be maintained, combined with the impacts, causes and results, holistic definitions can be developed; and*
- *Emphasis should be placed on threats of disasters and threats of emergencies in definitions. This emphasis will allow for effective pre-emptive action to be taken to address disasters and emergencies before they occur;*

# Specifics – Declarations (cont')

## ***Declaration Procedures***

- *The authority to make the necessary declarations should be clearly spelt out in legislation;*
- *Provisions requiring acting on advice and recommendations support accountability, and reduces arbitrariness in the exercise of powers and prohibits abuse;*
- *The declaration should be in writing with as many particulars and specifics as are necessary to address the specific situation; and*
- *Provisions should be made for the declaration to be communicated to the widest possible audience within the shortest period of time.*

# Specifics – Declarations (cont')

## ***Duration of the Declaration***

- *Flexibility should be provided regarding the duration of the declaration having regard to the actual circumstances which originally caused the declaration to be made.*

## ***Powers and Responsibilities related to Declarations***

- *The declaration and accompanying instruments should be specific as regards the powers to be exercised and the person or agency exercising those powers;*
- *Powers which have been suspended or varied should be clearly identified in the declaration documentation; and*
- *Powers of coordination should also be clearly expressed in the instrument used to initiate the declaration.*

# Specifics – Declarations (cont')

## ***Regulations related to Declarations***

- *The preservation where in existence, or the introduction where absent, of regulation making powers is essential for the effective introduction of supporting and enabling measures.*



# Specifics – Budgetary Allocations

- The funding mechanism provides a dedicated annual and recurring funds.
- Established as a supplementary or contingency source of funding that can be accessed when primary funds for disaster recovery and rehabilitation are exhausted or disaster exceeds a certain magnitude.
- The allocation of funds based on a realistic risk assessment of future disaster costs.

# Specifics – Budgetary Allocations (cont’)

- Disaster funds that are supported by procedures and guidelines that ensure impartiality, accountability, efficiency and discourage waste and moral hazard.
- Disaster funding mechanism allowing for pooling of risk between public and private sector stakeholders.
- Disaster funding mechanism is supported by legislation.

# Specifics – International Aid

- Clear provisions for the initiation and termination of international aid relief.
- Privileges and immunities with respect to immigration & customs.
- Privileges and immunities with respect to goods & equipment (including medical supplies).
- Privileges and immunities with respect to taxes, tariffs and duty.

## Specifics – International Aid (cont’)

- Privileges and immunities with respect to transportation (freedom of movement, waiver of restrictions, tolls, etc.
- Legal status to international organization in domestic jurisdiction (operate, contract, sue) and immunity from prosecution for relief activities.

# Specifics – National Security

- *The inclusion of national security considerations in the definitions of disasters and emergencies are important in providing the scope and basis for effective action. Responses to terrorism and terrorists acts as a basis for emergency action are examples of effective action based on clear legislative definitions;*
- *The importance of coordination among representative and stakeholder agencies is once again highlighted as an important element of best practices in response to disasters and emergencies ;*

## Specifics – National Security (cont’)

- *Depending on the nature of the threat, there would be a need to implement a longer period for the duration of emergency related to national security. Periods of 90 days appear to be too short to address national security emergencies. The procedure of extending emergency declarations should not be cumbersome. Lapses in renewal may permit breaches of the measures put in place;*
- *There is an important interaction among national security interests, established rights and human rights. The response to national security concerns should not be to the limitation of enshrined human and other rights.*

# Specifics - Health

- *The definition and scope of public health concerns, (diseases and pandemics) to enable the widest possible basis for action a wide definition of specific health consequences would be useful;*
- *Pre-emptive action in response to a public emergency threat in another jurisdiction is a useful practice to adopt. This can reduce the impact of the disaster on the national population;*
- *The importance of the adequacy of legislation in the absence of enabling legislation there will be delays in implementing the appropriate measures;*
- *The impact of public health measures on existing laws must be considered. Enabling laws should be strengthened while potentially restrictive laws and requirements should be suspended;*

## Specifics – Health (cont')

- *Waivers of statutory provisions in the interest of public health emergencies are useful tools for the effective implementation of health related emergency measures;*
- *The requirement of a reporting mechanism is a useful measure as it allows the executive to be kept informed of the progress and measures utilized to address the emergency;*
- *The immediate allocation of funds to alleviate the impact of the threatened emergency is a useful mitigation strategy; and*
- *The emphasis on the dissemination of information is a key strategy to address the potential and actual impacts of a threatened health related disaster or emergency;*



# Specifics - Communication

- *Adoption and ratification of the Tampere Convention on the Provision of Telecommunication Resources for Disaster Mitigation and Relief Operations (“Tampere Convention”).*
- *Adoption of a stated emergency telecommunication action plan and designated emergency telecommunications coordinator.*

## Specifics – Communication (cont')

- Reduction or waivers of regulatory barriers to the type, importation and deployment of telecommunications resources during a declared emergency.
- Granting of certain privileges and immunities to organizations and individuals providing telecommunications assistance.

# Additional

- Remedial Measures. Philippines.

*“Remedial Measures - The declaration of a state of calamity shall make mandatory the immediate undertaking of the following remedial measures by the member-agencies concerned as defined in this Act: (a) Automatic imposition of price control of basic necessities by the Department of Trade and Industry, in areas declared under a state of calamity; (b.) Monitoring, prevention and control of over pricing/profitteering and hoarding of prime commodities, medicines and petroleum products by the local Price Coordinating Council; (c) Programming/reprogramming of funds for the repair and safety upgrading of public infrastructures and facilities; and (d) The granting of “one-year, no-interest loans” by government financing or lending institutions to the most affected section of the population.”*

# Caveats

- Timing
- Duration
- Abuse
- Existing Rights
- Waivers

# Thank You

- I humbly suggest that you add “pre” and “prior” to your disaster planning mechanism.