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South Africa's Disaster Management Act:
one scrum ... three tries ... lacklustre conversion

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Introduction

Professors Swanepoel, Duvenhage. Dr Van Niekerk, ladies and gentlemen, colleagues and friends, I am honoured to be able to join you today in this second annual lecture that celebrates the commitment and competence Pat Reid has shared in the field of disaster risk management for many years. It is also occasion to acknowledge Pat's professional contribution to this field in an academic setting which, itself, under Dewald's able stewardship, has significantly influenced and guided thinking on disaster risk reduction far beyond the borders of South Africa.

The timing for this event is opportune, reflecting the convergence of a strangely incongruous set of processes. First, we are all aware – or at least should be – that this year's International Disaster Reduction Day (on Wednesday) underlines the message that *Disaster Risk Reduction Begins at School*. The second process in which we are inescapably immersed right now is the Rugby World Cup, where global attention increasingly focuses on the semi-finals scheduled for this weekend ...and, no, I dare not 'hazard' an opinion on the outcome of these matches.

But third, and even more auspicious, it was this month (October), ten years ago in Pretoria, that the second draft of South Africa's Green Paper on Disaster Management was circulated for critique – culminating in its eventual approval by Cabinet in December 1997. Effectively, this signalled the 'formal departure point' of a political and professional commitment to improve, evolve and strengthen the effectiveness of our disaster risk reduction capabilities in South Africa – launching us on a largely uncharted course that we are still grappling with – even now.

As I was reflecting on the focus for this presentation, I was struck by the uncanny similarities between the seemingly incongruous processes of legislative reform and tightly contested sports such as rugby, and specifically the experience of our own disaster management legislative reform. For this reason, I would like to begin by critically reflecting on the reform process itself – the 'scrum' and 'three tries'.

The 'lack-lustre conversion' refers to progress made – or not made in the four years or so since the promulgation of our landmark disaster management law, legislation which has received accolades world-wide and is increasingly emulated both within Africa and beyond. In this context, I will specifically focus on the perverse consequences associated with the exuberant promotion of new legislation, especially when this publicly signals the official debut of a vibrant emerging field and its accompanying discourse.

Last, and I feel obliged to address this issue as a critical dimension of socially relevant scholarship, is the call for even 'new' emerging fields such as the disaster risk reduction to remain intellectually and professionally open to critique and change. This means vigorously resisting the temptation to remain in a professional 'comfort zone', to perpetuate approaches and ways of thinking that are habitual or to retreat into some kind of 'cul-de-sac' of disciplinary complacency – that we 'know it all'.

The Process of Legislative Reform – 'a scrum and three tries'

In reflecting on reform process itself, let me begin with the origins of the word 'scrum'. We all know that 'scrum', first used in 1888, is short for 'scrummage' which itself is a variant of the word 'scrimmage' and dates back to around 1470. 'Scrimmage' apparently is an alteration of the word 'skirmish' – meaning 'any small combative encounter'. For those of you who are interested, the origins of 'skirmish' rest in the romance languages of Old French "escarmouche," and Italian 'scaramuccia' – back even further to around 1300 AD.

So, today's term 'scrum' began its convoluted journey as 'escarmouche' or 'scaramuccia', eventually metamorphosing to 'scrimmage', where its first use in rugby was recorded around 1857 to mean 'a confused struggle between players' ... becoming 'scrummage', then 'scrum' in 1888.

This image of a 'confused struggle between players' is indeed an apt description of the tussle, the jockeying, the lobbying that took place during the transformation of our disaster management legislation, especially in relation to the diversity of interest groups represented – from specialists in emergency response, our military and emergency services, to equally ardent proponents of environmental protection and social vulnerability reduction.

The heightened engagement around the process took place around 9 years, from June 1994 to January 2003 and mirrored the general tensions of this stage of legislative reform in post-Apartheid South Africa. From a socio-political perspective, this period represented a momentous 'sea-change' in South Africa, with the passage of more than 800 Acts of Parliament and the dramatic transformation of the country's political, social and administrative landscape.

The reform process also took place during a time of intensifying disaster risk in southern Africa and rising global awareness of the region's unique risk profile. The 1990s were punctuated by severe recurrent droughts - and in 2000, the devastating floods that affected Mozambique as well as other southern African countries, generated severe losses, especially in South Africa's Limpopo Province. During this time, recurrent wild-land, urban fringe and informal settlement fires became more severe in South Africa – while urban flooding in the country's densely congested informal settlements emerged as a critical urban development concern. Similarly, this period saw South Africa record the highest number of HIV infections of any country world-wide.

Thus, it is unsurprising that South Africa's journey of legal, institutional and professional transformation in disaster risk reduction was inescapably shaped by these events and processes and fell into three general phases.

- Actions from June 1994 leading up to the Green Paper on Disaster Management in February 1998, and then to
- The White Paper on Disaster Management in January 1999

- The period from 1999-January 2003, characterised by the gazetting of successive Disaster Management Bills, (gazetted in January 2000, September 2001 and May 2002) that resulted in the promulgation of the Disaster Management Act on 15 January, 2003

The far-reaching consequences of this somewhat protracted and at times exasperatingly slow process resulted in a dramatic reconceptualisation of the disaster management in South Africa, at least in principle, from its original civil protection roots in militaristic response to a progressive focus on developmental risk reduction.

...three tries

However, it took three gazetted bills or ‘tries’ before the law was passed. Now, here I would like to refer to the term ‘try’ as it was first used in rugby prior to the 1880s, and not as it applies today. Originally, the ‘touchdown’ when the ball was grounded over the opponents’ line was not a point-scoring action. The only way to generate points was to ‘try’ for a conversion. Apparently, so it is reported, the spectators, in their enthusiasm would shout “Try, Try”, meaning that an attempt should be made to kick the goal. This ‘try for goal’ eventually became the point-bearing term we now know as ‘try’.¹

In this context, although the gazetted disaster management bills of 2000, 2001 and 2002 were truly ‘tries’ for a disaster management act conversion, it was only after the third attempt that the law was passed.

With your permission, I will dwell somewhat on the process of the 2001 debates by the Portfolio Committee for Provincial and Local Government – for it was in this forum that the Act as it currently stands was contested, criticised and ‘more-or-less’ recrafted to take its final form.

There are four aspects of 2001 Portfolio Committee debate that I would like to reflect on – as they have continued to resonate since that time; the first refers to the constrained level of active stake-holder engagement reflected, the second the public ‘title’ of the legislation, the third the tension between the relative value of ‘structures’ and ‘centres’ for disaster management, and the fourth the wisdom and political stewardship illustrated by bridging legislation that negotiated a ‘liveable’ compromise between conservative and progressive constituencies.

Limited stake-holder engagement

As we all know, South Africa’s democratic process provides for public comment in the form of stake-holder consultation, invitations for written response to gazetted bills and scope for both written and verbal submissions as part of the legislative process.

In the case of the 2001 Portfolio Committee debates on the Disaster Management Bill, only twelve written submissions were received, compared with thirty-six written submissions in another bill presented to the same committee. This low response signalled pervasive disinterest and perceived irrelevance on the part of a host of civil society stakeholders, including nongovernmental and community-based humanitarian organisations, I might add, those working in highly at-risk communities and disaster-prone areas, and whose opinions should ideally have vigorously informed the debate.

¹ <http://www.rl1908.com/Rugby-Rules.htm>

'Disaster Management Act' – a dated and limiting title

Second, despite the growing groundswell internationally towards disaster risk reduction as the driving concept in the management of disaster risks, and repeated advocacy to this effect in the Portfolio Committee hearings, it was the opinion of the Committee to retain the proposed 'Disaster Management' title – rather than something like 'Disaster Management and Risk Reduction Act'. While this decision clearly side-stepped the controversy that might have followed a shift in labelling, the retention of both 'disaster' and 'management' in the title served to perpetuate the established stereotype of 'managing disaster events'.

So, despite genuine attempts to produce an enabling legal framework for developmental risk reduction within the letter of law, the public message communicated by its labelling as 'disaster management' effectively discouraged a more inclusive interrogation by more socially and developmentally-oriented disciplines and communities of practice.

Disaster Management 'Structures' or 'Centres'

Contrary to prevailing understanding, the White Paper on Disaster Management published in 1999 never recommended the establishment of disaster management 'centres' within all spheres of government. It proposed one National Disaster Management Centre and both local and provincial intergovernmental 'structures' which (at least in the municipal context) were envisaged comprising 'disaster and emergency management and essential service personnel, NGOs, CBOs/village/district/community representative and the private sector'.² This contrasted directly with the content of the three bills gazetted subsequently and the eventual decision by the Portfolio Committee to 'go with centres' and not disaster management structures. The issue of 'centres' or 'structures' was one of the last to be resolved due to different interpretations between the White Paper and the bill under debate, along with strong representation by the Municipal Demarcation Board that intergovernmental disaster management 'structures' rather than 'centres' would be more effective in achieving developmental risk reduction objectives.

There are several important 'subpoints' to this discussion that have continued to resonate since 2001. The first was the obvious tension between providing an institutional framework that on one hand, advanced interdepartmental and interdisciplinary efforts in transversal risk reduction, but on the other, ensured clear vertical lines of organisational accountability. The second was the political and administrative urgency to establish a uniform institutional architecture that could, over time, over provinces, and over municipalities of widely differing capacities, implement the Act's requirements – rather than an explicit humanitarian or developmental imperative to reduce the impact of all sizes and types of disasters – on people.

The Role of Skilled Political Stewardship

It was the insightful political leadership and facilitation of the parliamentary debate that successfully navigated 'liveable' compromises between these juxtaposed positions. Practically, the 'centres vs structures' debate was resolved by the retention of 'centres' within all three spheres of government to ensure uniformity and clear lines of accountability. The introduction into the final Act of advisory fora within provincial and municipal spheres was intended to address complementary needs for broad-based 'transversal' and interdisciplinary interaction along with the engagement of civil society.

² Republic of South Africa, Ministry for Provincial Affairs and Constitutional Development (1999) *White Paper on Disaster Management*

Similarly, while the Act's objective retained its clear institutional focus on 'an integrated, co-ordinated and uniform approach to disaster management', a human imperative was explicitly foregrounded into the terms of reference for the national disaster management framework, emphasizing 'measures that reduce the vulnerability of disaster-prone areas, communities and households'. This priority on social vulnerability reduction was subsequently pursued in the detail of the National Disaster Management Framework, gazetted in April 2005.

In this way, the hearings were absolutely critical for reconciling more conservative incident management concerns with emerging risk reduction priorities – for strengthening the risk and vulnerability reduction themes in the eventual Disaster Management Act, without compromising needs for institutional uniformity. It was indeed the skilled stewardship of the Committee Chair, Yunus Karim, that successfully generated 'bridging legislation' considered broadly acceptable to both conservative disaster management and progressive risk reduction constituencies, simultaneously allowing forward movement that was broadly aligned with international best practice, without undermining established practice within South Africa.

Disaster Management Act ... Lacklustre Conversion

It was on 22 September, 2002 that the National Assembly voted in favour of our current Disaster Management Act, just over five years ago. Since then, we have seen the production of a National Disaster Management Framework, the emergence and strengthening of disaster management centres across the country, an increasingly robust approach to assessing disaster risks, and in many municipalities, enhanced early warning, preparedness and response.

In this context, there has indeed been impressive progress in relation to the Act's original objectives. Some might argue, however, that these are only 'process indicators' of disaster risk reduction success...that the provision of 'an integrated and coordinated disaster management policy...', and 'the establishment of national, provincial and municipal disaster management centres' represent merely interim indicators of effectiveness. These critics might further ask whether there is evidence of clear reductions in disaster risk and vulnerability, especially in our poorer communities and settlements. Has there been a reduction in informal dwelling fires? Are fewer people being displaced by extreme weather events? Are our wild-fire warning systems accessible enough for at-risk rural families to move safely out of harm's way before they find themselves engulfed by a fire front? Do all our schools and health centres in drought-prone rural areas have a dependable safe supply of water in the dry season? Is there indeed evidence of an 'emerging culture of prevention'...

Positive answers to these questions would certainly validate the investment in disaster management systems advocated in our legislation. Yet, while the Act obliges all organs of state to become active role players in transversal risk reduction, there has been uneven progress in 'mainstreaming' the agenda multisectorally since 2003.

Challenges to integration

There are several reasons for this. First, many argue that the location of the function within the national department of Provincial and Local Government has significantly constrained transversal integration across the wide range of governmental entities involved in disaster risk management. They venture that location of the disaster risk management function in the Office of the Vice-President or the establishment of an alternative institutional arrangement such as a national disaster management agency would enable greater transversal authority.

Others consider that second, and almost counter-intuitively, the legislative reform process itself may have militated against mainstreaming – by demanding high levels of ‘inward-looking’ disaster management preoccupation. They argue that, perversely, this drive to rapidly transform within a single disciplinary cluster and institutional silo undermines interdisciplinary engagement with other sectors and departments – actually inhibiting cross-sectoral mainstreaming.

This is particularly relevant in contemporary South Africa, where the vigorous generation of transformative legislation has occurred ‘across the board’. The massive implementation and institutional demands these changes have exerted on all organs of state has clearly limited capacity to integrate elements of parallel legislation not perceived to be directly linked to ‘core business’.³ Under such conditions of parallel transformation, it was probably unrealistic to expect seamless uptake and response to obligations contained in the Disaster Management Act by other government departments. In the same vein, should we not ask ourselves honestly, critically, to what extent have we integrated core considerations of the National Water Act, the Veld and Forest Fires Act or NEMA (National Environmental Management Act), into our risk reduction policies and practices when they all have a clear bearing on disaster risk?

Enabling transdisciplinary integration

The implementation or ‘conversion’ phase of our new disaster management legislation strongly indicates that while legal instruments and unambiguous institutional arrangements are clearly ‘necessary’ for enabling transversal integration of risk reduction, they are ‘not sufficient’ to guarantee success. This is because what we are describing is a process of complex ‘transdisciplinary’ integration across a multiplicity of fields and disciplines, not merely the institutional or administrative ‘clipping-on’ of a generic disaster risk management component in an IDP or a ‘cut- and-paste’ in the job descriptions of, for instance, a municipal engineer or adult educator.

My own thinking and practice around the challenges of transdisciplinary integration has benefited substantially from the academic writing of Michael Gibbons and his colleagues, who would describe risk reduction as ‘border work’ – a context that crosses multiple disciplinary boundaries, ‘transgressing’ the individual disciplinary borders of the fields or disciplines involved.⁴ ⁵ They would also acknowledge however, that such ‘boundary work’ is not straight-forward, at least not in early the phases of cross-disciplinary engagement between partners who have not previously engaged – as many of us have discovered along this journey of legislative reform.

Michael Gibbons would venture that successful navigation of complex stake-holder interests and cross-disciplinary relationships in fields like disaster risk reduction works best when it involves what he terms ‘boundary objects’ and ‘transaction spaces’.

³ One exception to this is section 26G of the Municipal Systems Act (No. 32 of 2000) that requires that disaster management plans are incorporated into Integrated Development Plans in the municipal sphere. This legislation actually predates the Disaster Management Act by three years, but was also informed by Janet Love who was a member of the respective portfolio committee that debated the Municipal Systems Bill at the time.

⁴ Gibbons, M. (2005) Engagement with the Community: the emergence of a new social contract between society and science. Presented at the Griffith University Community Engagement Workshop, South Bank Campus (unpublished)

⁵ Horlick-Jones, T. and Sime, J. (2004) Living on the border: knowledge, risk and transdisciplinarity. Futures 36:441-246

What is a boundary object? Gibbons gives the practical example of a man and a woman (who don't know one another) walking in Hyde Park, in London. In this context, it could be awkward for either to start up a conversation, not 'impossible', but awkward nonetheless. However, if both are walking their dogs, then a conversation might originate around 'the dogs', while 'other issues remain in the background for the time-being'. In this example, the dogs constitute a 'boundary object' – a neutral entity around which information can be exchanged, creating the conditions – the 'transaction space' - for the possibility of a dialogue on 'other more serious matters'.⁶

Let me share a practical illustration of this in relation to integrating disaster risk reduction within the Western Cape's Provincial Strategic Infrastructure Plan (SIP). In 2005, a multi-sectoral task-team was called upon to draft chapters for the SIP, one of which was initially labelled 'Emergency Services and Justice'. Over time, it evolved to become 'Risk Reduction and Emergency Management', reflecting a role for infrastructure in the Province in ways that had never previously existed either from a Public Works and Transport perspective or from a risk reduction point of view.

In other words, it unfolded a 'transdisciplinary' conceptualisation of infrastructure, first as 'protector' to avert risks, second as 'enabler' to facilitate access and timely response in times of stress, and third as 'potential endangerer' when poorly sited, managed or maintained.

In this instance, the first occasion in which a serious intellectual engagement between the role of infrastructure and risk reduction, the 'boundary object' was the need for an chapter in the SIP that fully integrated disaster risk reduction and infrastructure, the transaction space was the SIP process itself, and the transdisciplinary outcome was a conceptualisation of risk reduction in the context of infrastructure that 'transgressed' the two original fields.

An exciting direct outcome of this shared understanding was that the Provincial Department of Public Works and Transport agreed to co-finance the post impact research on last year's devastating cut-off lows in the Southern Cape, along with the PDMC and NDMC. The results of this research presented unequivocal financial argument in terms of repeat road failures to justify the Provincial Department's generation of a funding request to National Treasury to upgrade extreme weather exposed road infrastructure in the Southern Cape in order to meet its 'protective' risk reducing obligation.

Roles of Higher Education and Research

The creative and intellectually challenging nature of this 'boundary discipline' demands of our practitioners, enormous laterality and multi-disciplinary skill. Similarly, there are significant obligations for our institutions of higher learning and research, for it is in this environment that new knowledge management architectures for risk reduction should be actively conceptualised and nurtured.

In this context, I am particularly heartened by the range of exciting postgraduate curricula configurations now emerging across Africa. Within the next two-three years, we can expect to see new graduate programmes launched in the associated disaster risk disciplines, from Mozambique to Algeria, from Ghana to Ethiopia. These will embrace environmental and seismic engineering, geomatics, agriculture, and hopefully public health, in addition to those already existing in South Africa.

⁶ Gibbons (ibid)

What I find most intriguing in this, is that in each instance, a considered interrogation of local context and disciplinary framework has taken place. This is beginning to generate a diversity of creatively crafted academic programmes that, on one hand, speak to recurrent themes on vulnerability and disaster risk, but on the other, are uniquely responsive to local context and their respective disciplinary frames.

They also illustrate the value of independent and critical scholarship for ensuring that the field remains socially responsive to rapidly changing and uncertain risk configurations. Even now, this means learning from – but looking ‘beyond’ the Hyogo Framework as it is currently conceptualised, as well as interrogating, refining or even discarding the theoretical frameworks that currently guide risk reduction policy and practice.

...and, lessons from foote balle

In this context, we can most certainly draw considerable inspiration from the Rugby World Cup, as a truly vibrant, resilient and inventive reflection of human endeavour. This is particularly significant given that ‘foote balle’ as it was first known, was banned by Royal Decree in England no less than 31 times in three hundred years by seven kings.⁷ King Henry VIII’s 1531 Royal Decree spake ‘foote balle is nothing but beastly fury and extreme violence, whereof proceedeth hurte and consequently rancour and malice do remayne with thym that be wounded, wherefore it is to be put in perpetual silence’...⁸

And what of ‘escarmouche’ that became ‘skirmish’ then ‘scrimmage’ and ‘scrummage’ then ‘scrum’...? Well, since the 1990s, ‘scrum’ has also referred to a management approach for software development, using small cross-functional high-performing teams, proof once again that you just can’t hold back inventive applications of robust, engaging and relevant concepts.

We should keep this in-mind as we look back on the passage of the Disaster Management Act. While there is no question that this path-breaking legislation was a remarkable and essential achievement, all of us, practitioners, educators, policy makers, strategists, must resist the temptation to be complacent, to inwardly gloat at our apparent success.

The disaster risk field is an intellectually exacting and dynamic arena, underpinned by an historically entrenched commitment to humanity. Through its formal acknowledgement of Pat Reid’s contribution to disaster risk management, this annual lecture unequivocally underlines such qualities. More important, it is both an opportunity to guard against professional complacency, as well as a call for inventiveness, innovation and laterality in our joint efforts to reduce disaster risks.

⁷ www.angelfire.com/biz4/bigbrian/origins.html

⁸ (ibid)