



Handbook on Disaster Law Reform

A Guide for Domestic Authorities



+CIFRC

Disaster Law

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Chemin des Crêts 17, Petit-Saconnex, 1209 Geneva, Switzerland

Postal address: P.O. Box 303, 1211 Geneva 19, Switzerland

T +41 (0)22 730 42 22 | F +41 (0)22 730 42 00 | E disaster.law@ifrc.org | W ifrc.org

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Introduction

During the past two decades, there has been strong growth in domestic law and policy reform relating to disasters. Many governments have enacted modern, comprehensive disaster legislation and adopted new disaster policies, strategies and plans. Since 2015, this momentum has gathered pace with the adoption of the [Sendai Framework for Disaster Risk Reduction 2015-2030](#) and its priority action of strengthening disaster risk governance. IFRC and its member National Red Cross and Red Crescent Societies (**National Societies**) have made a significant contribution to this wave of legal and policy reform by providing technical support to governments that are reviewing and updating their disaster laws.

While significant progress has been made, there remains much more to do. The recent [Mid-Term Review of the Sendai Framework](#) found that progress towards strengthening disaster risk governance has been varied and there is a continued need to enhance legal frameworks. In many cases, major disasters serve as catalysts for disaster law reform. We should not, however, wait for major disasters to illustrate the weaknesses in existing disaster laws. Instead, it is critical to regularly review and update laws to achieve *legal preparedness* for disasters. Indeed, being legally prepared for disasters is more important than ever due to the intensification of weather and climate-related hazards.

This Handbook on Disaster Law Reform provides guidance on how to run an effective and inclusive legal review process, which harnesses the knowledge and experience of a broad range of actors and stakeholders to develop strong legal arrangements for disasters. The Handbook has been designed for government decision-makers and parliamentarians who are planning or engaging in a review of existing disaster laws and regulations. The Handbook may also be used in circumstances where a disaster law is being developed for the first time. Although written with government decision-makers and parliamentarians in mind, the Handbook may be useful for stakeholders who are participating in or supporting disaster law reform processes.

The Handbook builds on IFRC's 20 years of experience in disaster law. It comprises four main sections. First, the [Background](#) section provides a brief introduction to disaster risk management (**DRM**) and the foundational role of disaster laws. It also introduces a key IFRC guidance document: the [Guidelines on Disaster Risk Governance](#). The [second section](#) identifies the key actors and stakeholders that need to be involved in a legal review process and explains the role that each typically plays. The [third section](#) of the Handbook provides step-by-step guidance on designing and running a legal review process. This section also highlights key lessons learned from previous processes. The [fourth section](#) is a set of case studies — from Fiji, Honduras and Malawi — showcasing successful, government-led disaster law reform processes.

1. Background

Understanding disaster risk reduction and management

Disaster risk reduction and disaster risk management are closely related concepts which are sometimes used interchangeably. Disaster risk reduction (DRR) is the *policy objective* of preventing new disaster risk, reducing existing disaster risk and managing residual risk.¹ The term disaster risk management (DRM) refers to the *activities* implemented to achieve DRR.² There are several types of activities and measures that fall within the scope of DRM.

- **Disaster prevention** refers to activities and measures to avoid existing and new disaster risks.³ It expresses the concept and intention to completely avoid potential adverse impacts of hazardous events. Prevention aims to reduce vulnerability and exposure to hazards through measures such as dams or embankments that eliminate flood risks, land use regulations that prohibit settlement in high-risk zones, or seismic engineering designs that ensure the survival and functioning of a critical building in any likely earthquake.⁴
- **Disaster mitigation** is a closely related concept to prevention. It refers to lessening or minimising the adverse impacts of a hazardous event, rather than avoiding them completely.⁵ Mitigation measures include engineering techniques and hazard-resistant construction as well as improved environmental and social policies and public awareness.⁶ It should be noted that, in climate change policy, ‘mitigation’ is defined differently, and is the term for human interventions to reduce the sources or enhance the sinks of greenhouse gases.⁷
- **Disaster preparedness** is the knowledge and capacities developed by governments, response and recovery organisations, communities and individuals to effectively anticipate, respond to and recover from the impacts of likely, imminent or current disasters.⁸ It includes activities such as contingency planning, stockpiling equipment and supplies, developing coordination arrangements, evacuation and public information, and associated training and field exercises.⁹
- **Anticipatory action** refers to acting ahead of predicted hazardous events to prevent or reduce acute humanitarian impacts before they fully unfold.¹⁰ Anticipatory action often refers to activating pre-agreed financing or plans when an agreed trigger point is reached. However, in some cases the term describes more informal approaches, where action is taken in anticipation of a crisis or disaster on the basis of a forecast.
- **Disaster response** refers to actions taken directly before, during or immediately after a disaster in order to save lives, reduce health impacts, ensure public safety and meet the basic subsistence needs of the people affected.¹¹ Disaster response may also be referred to as disaster relief.
- **Disaster recovery** is the restoring or improving of livelihoods and health, as well as economic, physical, social, cultural and environmental assets, systems and activities, of a disaster-affected community or society, aligning with the principles of sustainable development and “build back better”, to avoid or reduce future disaster risk.¹²

Often, the above types of activities are conceptualised as ‘phases’ which follow one after the other. While several of the activities above *do* relate to a specific time period, they do not necessarily occur in a sequential or linear order. For example, even once the primary impacts of a disaster have materialised, it

may be necessary to implement activities to prepare for and anticipate secondary impacts. As a further example, prevention and mitigation measures need to be integrated into recovery in order to achieve the principle of ‘building back better’.

At the international level, the main instrument relating to DRR and DRM is the Sendai Framework for Disaster Risk Reduction 2015-2030. The Sendai Framework has seven global targets and is structured around four priorities for action: (1) understanding disaster risk; (2) strengthening disaster risk governance to manage disaster risk; (3) investing in disaster risk reduction for resilience; and (4) enhancing disaster preparedness for effective response and to “Build Back Better” in recovery, rehabilitation and reconstruction.¹³ Reviewing and updating national and sub-national disaster laws contributes to achieving the second priority for action of strengthening disaster risk governance.

The foundational role of domestic disaster laws

In most countries around the world, there is a main disaster law which provides the foundation for the DRM system. The key functions of a country’s main disaster law typically include the following:

- creating government disaster authorities and outlining their mandates, roles and responsibilities;
- requiring regular budget allocations for DRM and establishing other funding mechanisms;
- mandating and allocating responsibility for key tasks (e.g., risk assessment, early warning, evacuation);
- requiring the preparation and regular updating of policies, strategies, plans and procedures for DRM;
- creating exceptions from normal rules (i.e., removing ‘red tape’) to facilitate DRM activities; and
- enabling the declaration of a state of disaster and the introduction of emergency measures.

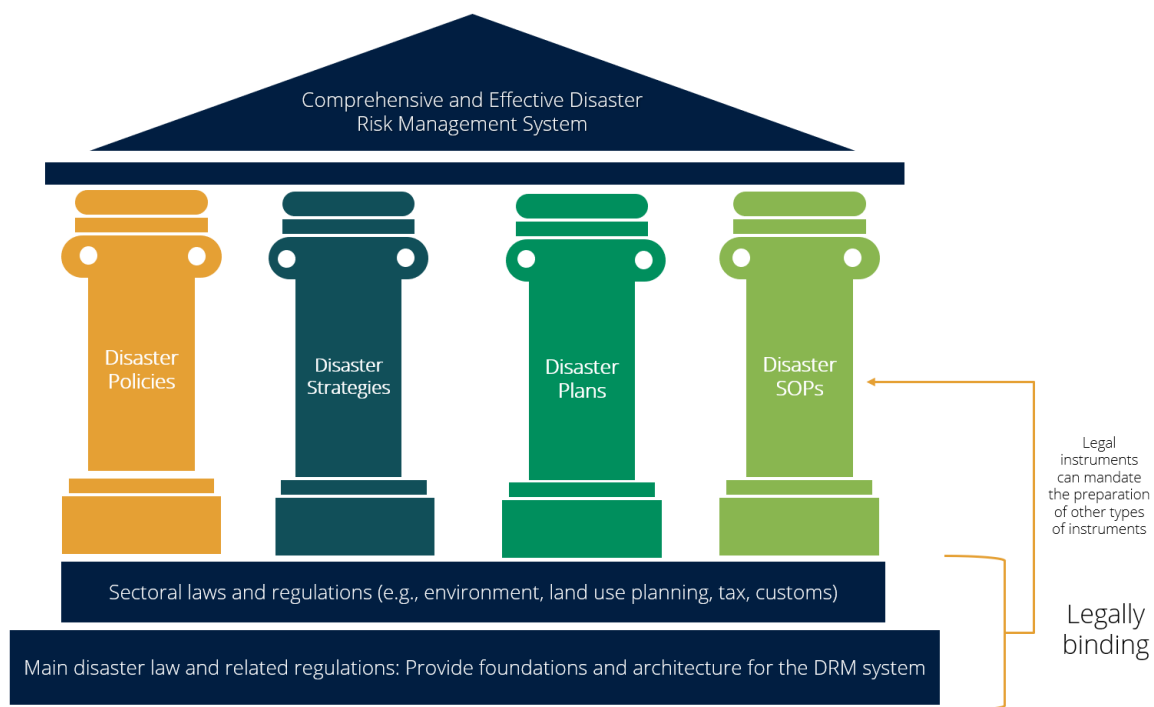
While most countries have a dedicated disaster law, the degree of detail included in the law varies depending on the type of legal system. In some legal systems, the law provides broad outlines and more detail is found in implementing regulations or decrees. In these systems, implementing regulations and decrees play a very important role. Indeed, provisions in the main disaster law may not become operational until implementing regulations or decrees are developed. In contrast, in other legal systems, the law itself descends into a lot of detail and there may be few (or even no) implementing regulations. Another important point to note is that in some countries — typically countries with a federal or decentralised political structure — disaster laws may be enacted by state/provincial parliaments. These may or may not be required to be consistent with a national disaster law.

In addition to the main disaster law and regulations, a range of other laws and regulations play an important role in DRM. For example, sectoral laws and regulations relating to the environment, land use and construction can play an important role in reducing exposure and vulnerability to hazards. Sectoral laws and regulations relating to tax, telecommunications, public procurement, transport, migration and customs (among many others) can play an important role in facilitating domestic and international disaster response operations. Like the main disaster law, sectoral laws and regulations may also be developed at sub-national level in countries, especially in countries with a federal or decentralised political structure.

DRM systems are not only underpinned by laws. Policies, strategies, plans and procedures are also important. Policies and strategies can establish a vision for DRR and DRM by defining key terms and identifying principles, objectives, goals, priorities and key activities. Plans and procedures can support

operations by descending into a high level of practical detail, thereby creating much needed clarity about the ‘who’, ‘what’, ‘when’, ‘where’ and ‘how’ of DRM activities. This Handbook refers to policies, strategies, plans and procedures as ‘supporting instruments’. While the main disaster law typically reflects a multi-hazard and all-phases approach, supporting instruments often address specific types of hazards or disasters and/or specific phases of DRM.

The relationship between the different types of instruments discussed above is shown in the diagram below. As the diagram depicts, the main disaster law and regulations provide the ultimate foundation for the DRM system. This is because laws can perform certain functions that cannot usually be performed by supporting instruments, such as creating enforceable rights and duties, government authorities and funding mechanisms. Importantly, the main disaster law can also mandate the development of supporting instruments, prescribe their contents and require them to be regularly updated. More generally, the main disaster law can provide an overarching framework under which supporting instruments are developed in a structured and coordinated manner, avoiding fragmentation or a siloed approach to different hazards or aspects of DRM.



The Guidelines on Disaster Risk Governance

During the past 20 years, IFRC has developed extensive guidance on how domestic laws, policies and plans can best support DRM.¹ It has recently consolidated this body of recommendations into a single guidance document, the [Disaster Risk Governance Guidelines](#). The Guidelines are a tool to support domestic

¹ Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance (2007); Checklist on Law and Disaster Risk Reduction (2015); Checklist on Law and Disaster Preparedness and Response (2019); Guidance on Law and Public Health Emergency Preparedness and Response (2022); Laws, Policies and Plans for Disaster Recovery: Multi-Country Synthesis Report (2023).

decision-makers in their efforts to strengthen disaster risk governance and to become legally prepared for disasters. Their intended audience is government decision-makers, as well as DRM actors and stakeholders, who are involved in reviewing and/or updating disaster laws, policies, strategies, plans or procedures.

The Guidelines encompass all key topics that need to be addressed in domestic disaster instruments. They commence with a section on the foundations of an effective DRM system, which addresses institutional arrangements, funding, monitoring and evaluation, and prevention of fraud and corruption. Subsequently, they address disaster prevention and mitigation; disaster preparedness, anticipatory action and response; and disaster recovery. The Guidelines also have dedicated sections on specific types of disaster; international disaster assistance; legal facilities for DRM actors; the protection and inclusion of marginalised and at-risk groups; mental health and psychosocial support; and disaster displacement.

For each topic addressed in the Guidelines, there is a description of key legal and practical issues. This is followed by a short checklist which identifies the types of legal, policy and planning provisions that need to be in place. These topic checklists are designed to serve as a benchmark for assessing domestic instruments and identifying strengths, weaknesses and gaps. They can be used to identify areas for improvement and the types of provisions that may need to be enacted. The Guidelines may be used to support a broad or wholesale review of a country's disaster laws, policies and plans. In this situation, IFRC recommends following the order of the Guidelines, by methodically considering each topic and checklist in turn. The Guidelines can also support more targeted law or policy reform focusing on a specific aspect of DRM, in which case IFRC recommends using the relevant section(s) of the Guidelines.

2. The role of different actors in a legal review process

Developing strong disaster laws requires the involvement of a broad range of actors and stakeholders, consistent with the all-of-society and all-of-state approach to DRM endorsed by the Sendai Framework. This section identifies the key actors and stakeholders that need to participate in a legal review process and explains the role that each may play.

The National Disaster Management Office

In most countries around the world, there is a department or agency dedicated to DRM. In many countries, this is a National Disaster Management Office (NDMO) or Civil Protection Department. This Handbook uses the acronym 'NDMO' to refer generally to the main government department or agency that is responsible for DRM.

It is increasingly common for NDMOs to have a comprehensive mandate that encompasses prevention, mitigation, preparedness, response and recovery for most types of hazards and disasters. NDMOs may have branches at provincial and local levels, as well as departments or divisions dedicated to specific topics. In IFRC's experience, disaster law review processes are typically led by the NDMO, with support and input from sectoral departments and agencies.

An important point to note is that in some countries — typically countries with a federal or decentralised political structure — there are state/provincial departments or agencies dedicated to DRM, which are fully or mostly autonomous. Similarly, there may be state/provincial disaster laws passed by state/provincial parliaments. In these types of countries, a disaster law review process may take place at the state/provincial level, instead of the national level.

Sectoral departments and agencies

Effective DRM requires the involvement of government actors from a multitude of sectors. It follows that these actors need to participate in legal review processes, both through consultations and the appointment of representatives to the working group overseeing the process. In general, it is necessary to consider involving the public authorities responsible for health, housing, social services, education, the environment, land use, infrastructure, transport, customs, migration, foreign affairs and taxation. It is also necessary to consider involving provincial and municipal disaster authorities and officials in order to capture key challenges and lessons at sub-national level. In addition to the foregoing, a legal review process typically involves government lawyers who are specialised in drafting and advising on bills, which often sit within an Attorney-General's Department (or equivalent).

Parliamentarians

Once a bill has been introduced to parliament, its fate ultimately lies in the hands of parliamentarians. In some cases, a bill will be introduced to parliament by a government that holds a clear majority of seats and will be passed without difficulty. In most cases, however, the situation is somewhat more complex and it will, therefore, be important for proponents of the bill to foster broad support among parliamentarians. Parliamentarians can act as champions of a bill, speaking in support of it during parliamentary debates and seeking to sway the opinions of other parliamentarians behind closed doors. To create buy-in from

parliamentarians from the start, it can be a good idea to include a small number of parliamentarians in the working group overseeing the review. This should ideally include parliamentarians from different political parties, especially any parliamentarians that serve as their parties' spokespersons on disasters/emergencies or climate change.

National Red Cross and Red Crescent Societies

In 191 countries around the world, there is a National Red Cross or Red Crescent Society (**National Society**). The IFRC is an international humanitarian organisation comprised of the 191 National Societies. Each National Society has a unique legal status as auxiliary to the public authorities in the humanitarian field. In a nutshell, the auxiliary role of a National Society is to support its public authorities by supplementing or substituting for public humanitarian services, while acting in conformity with the Fundamental Principles of the Movement, including impartiality, neutrality and independence. Most National Societies are involved in the DRM sector, typically implementing community-based DRM activities and serving as first responders in disasters and emergencies.

Since 2003, successive resolutions of the [International Conference of the Red Cross and Red Crescent](#) have conferred IFRC and National Societies with a mandate for disaster law. Many National Societies have fulfilled this mandate by supporting their governments to develop, review or update disaster laws and regulations. The case studies at the end of this Handbook illustrate how National Societies can make an important contribution to government-led legal review processes. National Societies around the world stand ready to support their governments in implementing the key steps outlined in this Handbook, drawing on their firsthand experience in DRM and the disaster law expertise within the IFRC network.

Non-government actors and communities

In addition to the actors identified above, it is essential to enable relevant non-government actors and at-risk communities to participate in legal review processes. This should occur both through consultations and the appointment of representatives to the working group overseeing the review process. The following actors and stakeholders need to be considered:

- community groups and representatives from areas that have a high level of disaster risk;
- peak bodies for marginalised and at-risk groups such as people with disabilities, older people or indigenous groups;
- reputable not-for-profit actors that play an important role in DRM;
- private sector actors that play an important role in DRM (e.g., telecommunications, water and electricity providers; suppliers of essential goods and equipment);
- international humanitarian and development actors with a presence in the country; and
- academics and researchers specialising in DRR and DRM.

3. Key steps in a legal review process

This section provides step-by-step guidance on designing and running a legal review process. It identifies eight key steps to be followed. The eight steps are also shown in the diagram on page 18.

Step 1: Establishing an institutional structure

Once a decision has been taken to develop a new DRM law or review an existing DRM law, it is critical to establish the institutional structure for the review. There are two key components to address: first, identifying which government entity will lead the review; and secondly, establishing a working group, taskforce or committee to oversee the process.

In terms of the first component, in IFRC's experience, disaster law review processes are typically led by the NDMO or equivalent (e.g., Civil Protection Department, Disaster Management Department). It is important for a high-ranking official (e.g., Director or Deputy Director of the NDMO) to be appointed as head of the review. This provides the necessary authority to convene all key government departments and agencies, as well as other relevant actors and stakeholders. Equally, it underlines the importance of the review process.

A preliminary step for the NDMO is to achieve 'buy in' for the review process amongst the full spectrum of DRM actors and stakeholders. Achieving 'buy in' can allow the legal review process to capture the knowledge and experience of diverse actors and stakeholders, allowing legal instruments to be carefully tailored to the local context. Equally, it can make more resources and capacities available to support the review process. Finally, if DRM actors are directly involved in the design of new legal instruments, they will be better positioned to implement them once they have been adopted.

Establishing a working group, taskforce or committee to oversee the legal review process is a key way to achieve buy in amongst DRM actors and stakeholders. Moreover, it is an important mechanism for promoting sustained engagement with the review, which in many cases can be a lengthy process. It should be noted that, in some cases, it will make more sense for an existing committee or body to oversee the review process, or for the working group to be established as a sub-committee of an existing committee or body. In either case, it is important to carefully consider who to invite to join the working group. There are many types of actors and stakeholders to consider, depending on the nature and scope of the review.

- First, it is advisable for the working group to include representatives not only from disaster authorities, but also from other relevant departments and agencies. This will depend on the focus and scope of the review. For example, if the legal review is focused on international disaster assistance, it will be important to include representatives from government departments and agencies responsible for foreign affairs, transport, civil aviation, telecommunications, tax, customs and migration (amongst others).
- Secondly, it is worth considering inviting parliamentarians to join the working group, especially any parliamentarians that serve as their parties' spokespersons on disasters/emergencies or climate change. Achieving 'buy in' from parliamentarians from the very beginning of the process can pave the way to a new law being passed. Consideration should be given to inviting parliamentarians from different political parties in order to achieve cross-party support for the new law.

- Thirdly, it is advisable to include the country's National Society in the working group. As discussed in the [Background](#) section, National Societies are well positioned to make a significant contribution to legal review processes, drawing on their firsthand experience in DRM and the disaster law expertise within the IFRC network. Indeed, in many countries National Societies have played the role of convener or secretariat for the review process, based on their disaster law mandate conferred by the International Conference of the Red Cross or Red Crescent.
- Fourthly, it is important to consider inviting representatives from non-government actors and at-risk communities. In terms of non-government actors, this should include: reputable not-for-profit or civil society actors that play an important role in DRM; peak bodies for marginalised and at-risk groups; private sector actors that play an important role in DRM (e.g., telecommunications, water and electricity providers; suppliers of essential goods and equipment); international humanitarian and development actors with a presence in the country; and academics and researchers specialising in DRR and DRM.

Step 2: Context analysis

As another preliminary step, it is recommended to undertake a brief context analysis to ensure that any resulting legal reforms are suited to the needs of the country and can be implemented using available resources and capacities. The use of existing information and, where available, previous analyses can ensure that this step is not overly time-consuming. The context analysis should focus on the following elements.

- **Disaster risk profile:** It is important to identify the main hazards present in the country and the levels of exposure and vulnerability to these hazards, as well as capacity to manage and reduce disaster risks. It is usually unnecessary to carry out new data collection or risk assessments, as existing risk information can generally be used.
- **Legal landscape:** It is critical to identify the different types of legal instruments that can be developed and by whom. Some instruments are enacted by parliament, whereas others can be adopted by the executive branch of government. Some instruments are operational as soon as they enter into force, whereas others depend on the development of implementing regulations.
- **Division of responsibility for DRM:** It is important to understand the existing division of responsibility for DRM between different levels of government, and how centralised or decentralised the DRM system is. This can vary significantly from one country to another depending on the political system and the country's constitution. This factor is closely connected to the legal landscape — for example, if state/provincial governments have lead responsibility for DRM, then new legal instruments may need to be developed and adopted at state/provincial level, rather than at national level.
- **Existing institutional arrangements for DRM:** It is important to understand the main institutional arrangements for DRM already in place. This includes roles, responsibilities and coordination mechanisms for different aspects of DRM and for different types of disaster. It is also critical to identify the key government and non-government actors involved in DRM, as well as their capacities and available resources.

Step 3: Planning the legal review

Once there is buy-in for a legal review process and a context analysis has been completed, it is time to design and plan the process. The following key aspects need to be discussed, agreed on and recorded in a plan.

- **Scope of the review process:** It is critical to clarify which law(s) and/or regulations will be developed or reviewed. Common scenarios include a review of the existing disaster law or the development of a main disaster law from scratch. This may or may not include related regulations. Alternatively, the review process may focus on laws and regulations relating to a specific aspect of DRM, such as international disaster assistance or disaster prevention and mitigation.
- **Objective of the review process:** It is important to identify the objective of the review process at the outset. In some cases, the objective will be to develop a new law or regulation. In other cases, the objective will simply be to provide a set of recommendations about how to strengthen the relevant law(s), whether by developing a new law and/or by amending existing laws.
- **Identifying the key steps in the review process:** It is necessary to identify the key steps or phases in the review process. In general, IFRC recommends following the steps outlined in this document, which include analysing existing legal arrangements, consultations with a broad range of stakeholders and preparing a report outlining findings and recommendations.
- **Allocating roles and responsibilities:** To ensure efficiency and effectiveness, it is important to identify which members of the working group will be responsible for leading and supporting the different steps in the review process.
- **Planning the timeline for the review:** It is essential to identify the timeframe for each of the key steps in the review process and the target end date. It is important to set a realistic timeline, which takes into account the working group members' other commitments, including any foreseeable periods where they will be unable to dedicate significant time or resources (e.g., hurricane season).
- **Modalities for coordination and communication:** Another aspect that needs to be planned is how members of the working group will coordinate and communicate with one another during the review process. One initiative that can be helpful is to plan regular coordination meetings or, alternatively, to plan meetings at key milestones in the process.
- **Resources needed for the review:** It is critical to identify the resources that will be needed at each stage of the review process and where these resources will come from. A budget should be prepared to plan and record these matters.

Step 4: Legal analysis using the Guidelines

Once a context analysis has been completed and a plan developed, the next step is to map and analyse the existing law(s) to identify strengths, weaknesses and gaps. The [Disaster Risk Governance Guidelines](#) are a benchmarking tool which can be used to guide this step of the legal review process.

The Guidelines encompass all key topics that need to be addressed in domestic disaster instruments. They commence with a section on the foundations of an effective DRM system, which addresses institutional arrangements, funding, monitoring and evaluation, and prevention of fraud and corruption.

Subsequently, they address disaster prevention and mitigation; disaster preparedness, anticipatory action and response; and disaster recovery. The Guidelines also have dedicated sections on specific types of disaster; international disaster assistance; legal facilities for DRM actors; the protection and inclusion of marginalised and at-risk groups; mental health and psychosocial support; and disaster displacement.

For each topic addressed in the Guidelines, there is a description of key legal and practical issues. This is followed by a short checklist which identifies the types of legal, policy and planning provisions that should be in place. These topic checklists are designed to serve as a benchmark for assessing domestic instruments and identifying strengths, weaknesses and gaps. They can be used to identify areas for improvement and the types of provisions that may need to be enacted. If the Guidelines are being used to support a broad or wholesale review of a country's disaster law(s), IFRC recommends following the order of the Guidelines, by methodically considering each topic and checklist in turn. The Guidelines can also support more targeted legal review focusing on a specific aspect of DRM, in which case it is generally only necessary to consult the relevant section of the Guidelines.

Step 5: Stakeholder consultations

The next step in a legal review process is to consult with a broad range of stakeholders. Selecting which stakeholders to invite to consultations will depend on the scope of the legal review. For example, the stakeholders that may be invited may be different if the review focuses on disaster prevention and mitigation, as compared to disaster recovery. In general, the following stakeholders need to be considered:

- ministries, sectoral departments and agencies such as authorities responsible for health, housing, education, the environment, land use, infrastructure, transport, customs, migration, foreign affairs and taxation;
- provincial and municipal disaster authorities or officials;
- parliamentarians from different political parties, especially those serving as their parties' spokespersons on disasters/emergencies or climate change;
- community groups from areas that have a high level of disaster risk;
- peak bodies for marginalised and at-risk group such as people with disabilities, older people or indigenous groups;
- reputable not-for-profit or civil society actors that play an important role in DRM;
- private sector actors that play an important role in DRM (e.g., telecommunications, water and electricity providers; suppliers of essential goods and equipment);
- international humanitarian and development actors with a presence in the country; and
- academics and researchers specialising in DRR and DRM.

The contextual and legal analysis completed in the previous steps can guide stakeholder consultations and a summary may be published or provided to stakeholders beforehand. However, it is also important that consultations include open discussions of the practical challenges and problems that stakeholders encounter and what types of solutions may need to be implemented. The discussion questions should

prompt stakeholders to share lessons learned from previous response operations and simulation exercises.

In some cases, practical problems will be linked to weaknesses or gaps in existing legal arrangements, in which case legal reforms will be required. In other cases, however, there may already be appropriate legal provisions in place and the real challenge lies in their implementation. In this latter situation, it may be necessary to strengthen implementation through measures such as trainings, drills and simulation exercises or providing additional funding.

Step 6: Preparing a report containing recommendations

The next step in the legal review process is to prepare a report which summarises the key findings from the review — namely the contextual analysis, legal analysis and stakeholder consultations — and provides a set of recommendations. The recommendations may include one or more of the following:

- enacting new laws and/or regulations;
- amending existing laws and/or regulations;
- further research and/or consultations into issues raised during the review; and
- measures to strengthen implementation such as:
 - trainings, drills and simulation exercises for DRM actors;
 - public awareness campaigns, education and drills;
 - strengthening coordination between DRM actors; and
 - providing additional funding for specific actors or activities.

If one of the recommendations of the report is to enact new laws or amend existing laws, the report should provide detailed analysis and recommendations on the types of provisions that need to be developed based on the gaps and weaknesses identified during the review.

Once the report has been finalised, it is important to publish and disseminate it, so that all key actors and stakeholders are able to access it and understand its key findings and recommendations. This may be achieved, for example, by publishing the full report and a concise summary online, organising public events to discuss the report's findings and disseminating key information about the report through widely used communications channels.

Step 7: Drafting and enacting legal instruments

If one of the recommendations of the report is to develop new or amended legal instruments, a critical follow up action is to commence the legal drafting process. The question of who will draft the new or amended legal instruments is context dependent. In most cases, this task is the responsibility of — or is supported by — specialised government lawyers, often known as parliamentary counsel, who prepare bills based on detailed instructions.

Once a draft instrument has been prepared, it is important to hold a public consultation. This can take place by publishing the draft instrument and inviting written submissions. To ensure that the full range of stakeholders can participate in the consultation, it may be necessary to raise awareness about the draft

instrument by using a range of communications channels and formats. Equally, public events may be organised to reach communities in high-risk areas and groups that are disproportionately impacted by disasters or underrepresented in decision-making processes.

Once the consultation process has been completed, the next step is to update the draft and have it enacted. For legislation, this generally means having a bill introduced to parliament. Some other types of legal instrument (e.g., decree, order, subsidiary legislation) may simply be adopted by the president, prime minister or relevant minister. It is often at this stage that momentum can be lost, and the process can stall. In the case of bills, this can be due to parliament having many different bills before it for consideration, with other bills being perceived as more urgent, important or politically salient. Members of the working group, and other supporters of the bill, may need to employ carefully designed advocacy strategies to keep the bill high on the agenda and to generate broad, cross-party support for it.

Once a new legal instrument has been adopted, or an existing instrument has been amended, it may be necessary to develop implementing regulations or decrees. Additionally, it may be necessary to update supporting instruments — such as policies, plans and standard operating procedures — to ensure they are consistent with and can support the implementation of the new or amended instrument.

Step 8: Planning and monitoring implementation

A well-drafted legal instrument is not sufficient in itself to achieve DRM objectives. Once an instrument has been enacted, it is critical to maintain stakeholder engagement to ensure it is fully implemented. IFRC therefore recommends that the working group continues to meet after the instrument has been adopted in order to oversee its implementation. IFRC also recommends that the working group develop both an implementation plan and a monitoring and evaluation framework. The implementation plan should identify which government entity is ultimately responsible for overseeing the implementation of the new instrument — in most cases, this will be the NDMO or equivalent. Additionally, it should identify the key steps for implementing the new law and assign clear roles and responsibilities for each step to appropriate actors. The monitoring and evaluation framework should identify the modalities for collecting and evaluating information about the implementation of the new law. It may also be helpful for the framework to identify what kind of measures will be implemented to address deficiencies in implementation.

Key steps in a legal review process

1

Establishing an institutional structure: Identifying which government entity will lead the review and forming a multi-sectoral working group to oversee the review.

2

Context analysis: Analysing the country's disaster risk profile, legal landscape and existing arrangements for DRM.

3

Planning: Making a clear plan for the review process that addresses objectives, timing, key steps, roles and responsibilities, and budget.

4

Legal analysis: Mapping and analysing existing disaster-related laws to identify strengths, weaknesses and gaps using the Disaster Risk Governance Guidelines.

5

Stakeholder consultations: Conducting extensive consultations with government and non-government actors to understand practical challenges.

6

Preparing a report: Drafting a report summarising the key findings from the review and providing a set of recommendations. Publishing and disseminating the report.

7

Drafting and enacting legal instruments: Liaising with government lawyers to draft a new legal instrument (or amendments to existing instruments) and advocating for their adoption by parliament or the executive branch of government.

8

Planning monitoring and implementation: Reconvening the working group to plan and monitor implementation of the new legal instrument(s).

Key lessons from previous legal review processes

Since 2003, National Societies and IFRC have supported many governments to review and update their disaster laws and regulations. Below is a list of key lessons learned from these two decades of experience in disaster law reform.

- Disasters often highlight the need for legal reforms. They can therefore present an important opportunity to generate broad support for a legal review process and the adoption of new legal instruments.
- The legal review process should be led by a high-ranking government official (e.g., Director or Deputy Director of the NDMO) as this provides the necessary authority to convene all key government departments and agencies, as well as other actors and stakeholders.
- Strong and sustained commitment from government ministers and high-ranking public servants is critical to driving the reform process. Equally, it is valuable to have support from a range of political parties, especially at the final stage of the process when a bill is introduced to parliament.
- Disaster law reform processes can often take longer than anticipated due to various setbacks or hurdles. It is therefore important for proponents of law reform to be persistent and tenacious as they work towards the adoption of a new instrument.
- It may be necessary to augment existing government capacity with specialised expertise (e.g., consultants, academics). However, in order to ensure ownership of the process, the role of external consultants should be to support government, rather than to carry out the bulk of the work.
- It is essential to conduct extensive consultations with all government and non-government actors that play a role in DRM. This is key to ensuring new legal instruments reflect on-the-ground realities. It can also pave a path towards effective implementation once new instruments are enacted.
- It is critical to conduct extensive consultations with groups and communities that are disproportionately impacted by disasters such as people living in high-risk areas, women and girls, racial and ethnic minorities, indigenous groups, older people and people with disabilities.
- It can be helpful to draw on the experiences of other countries that have recently enacted new disaster laws and have a similar risk profile and political system. This can be done through research and by arranging visits to exchange best practices, the latter of which may be facilitated by regional intergovernmental organisations.
- When disasters occur during a legal review process, this can highlight important lessons that need to be reflected in the recommendations. If draft instruments have already been prepared, it may even be necessary to revise them to reflect the new lessons learned.
- To ensure that a new disaster law does not become outdated in future, it is wise to include a provision requiring the law to be periodically reviewed and updated (e.g., once every 5 years).
- Additionally, once a legal review process has ended, the working group should continue to meet regularly to monitor the implementation of the new instrument(s). It may be a good idea for the working group to become a standing entity that focuses on continuously reviewing and updating disaster laws and policies.

4. Case studies

Review of the 1998 Disaster Management Act in Fiji

Origins of the disaster law review process

Tropical Cyclone Winston tore through Fiji in 2016, destroying homes, infrastructure, and livelihoods, killing 43 people, affecting 62 per cent of the population and causing cyclone-related losses of 32 per cent of GDP. Following the cyclone, it was identified that there was a need to strengthen and update the disaster law, and related policies and procedures. Areas identified included legislating for the Fiji Cluster System, provisions for strengthening coherence, coordination, and regulation by government of non-government organisations and international agencies, and strengthening preparedness of all agencies involved in response.

An official request for support is made

The Government of Fiji approached the Red Cross to assist in the review of the disaster law and, in 2018, the Fiji National Disaster Management Office (NDMO), the Fiji Red Cross Society (FRCS) and the International Federation of Red Cross and Red Crescent Societies (IFRC) signed a memorandum of understanding (MoU) to review the 1998 Natural Disaster Management Act (the Act) and the 1995 National Disaster Management Plan (the Plan). This MoU was established to guide the comprehensive review of the Act and Plan, with an initial completion timeline of November 2018. However, the timeline was subsequently extended due to the necessity for further consultations with key stakeholders.

A taskforce is setup to oversee the review process

An Advisory Group was formed to oversee the revision of the Act, comprising of the Attorney General's Office, the then Ministry of Defence and National Security, the Pacific Community, the FRCs, IFRC, United Nations Office for Disaster Risk Reduction, the then Ministry of Economy and Climate Change Division and the NDMO. This taskforce is under the direct oversight of the Permanent Secretary for Rural and Maritime Development and Disaster Management (MRMDDM).

Extensive stakeholder consultations are undertaken

The review process has involved consultations with government agencies, international, regional, national, and subnational stakeholders. Over 100 face-to-face consultations and eight workshops were completed in a span of four years from 2018-2022.

Recommendations that emerged from the consultations included:

- introducing a central risk information management system;
- strengthening subnational and community risk governance through establishing subnational risk management committees down to community level;
- strengthening regulation of international aid to minimise unsolicited goods and disaster waste;
- strengthening the role of disaster service liaison officers especially the front-line agencies
- strengthening legal facilities and minimum standards to be met by recognised non-governmental organisations and humanitarian organisations; and
- adopting an integrated multi-hazard approach that allows for impact-based forecasting to inform early action.

Importantly, the consultation recommendations also supported the disaster risk management system being proactive, inclusive, taking a multi risk/hazard approach and focusing on disaster risk reduction. A strong collaboration between the NDMO and the Fiji Climate Change Division for an integrated risk management approach at the community level was also a key recommendation.

A new law is drafted

The process of drafting the Disaster Risk Management Bill (DRM Bill) began in March 2018. The Bill is now on the precipice of being passed into law, and the extensive consultation process which began in advance of drafting the Bill has ensured that the DRM Bill has had the benefit of the involvement of individuals and institutions with decades of experience with responding to a multitude of disasters.

Key features of the DRM Bill

The review of the Act has presented several opportunities to enhance systems and processes and adequately protect actors in Disaster Risk Reduction and Emergency Response. Some of these highlights are:

- the establishment of a bespoke Disaster Risk Management Fund that allows for easier access to much needed disaster risk financing at all stages of the disaster cycle, including provisions for subnational disaster authorities to finance immediate response for critical lifesaving operations;
- the explicit focus on disaster risk reduction as opposed to disaster response, reflecting the shift in focus to prevention and mitigation being paramount in alleviating the impacts of disasters; and
- the introduction of critical provisions that have far reaching impacts. These include the formalization of the Cluster System, the establishment of subnational offices of the National Disaster Management Office (NDMO), the regulation of international humanitarian actors, Single Window systems and the expanded scope of the Act to now include all hazards (with the exemption of civil unrest), instead of the previous limitation of natural hazards only.

Planning ahead for implementation

Once the DRM Bill has been passed by the Parliament of Fiji, the focus of the NDMO, with the support of the Fiji Red Cross Society and the IFRC, will be twofold. Firstly, the passing of the Bill into law will kickstart a second round of awareness on the law, closing the communication loop between the NDMO and stakeholders engaged in consultation for its development. Secondly, a strong focus will be placed on the development and endorsement of necessary regulations to enhance its implementation, in accordance with the Act.

Development of the Law for the Facilitation of International Humanitarian Assistance for Disasters and Initial Recovery in Honduras

Origins of the review process

When major disasters occur, international humanitarian assistance can be critical to meeting the needs of affected communities. However, international humanitarian assistance operations often encounter a set of recurring challenges. In many cases, the affected country's laws are too restrictive to enable the timely entry of external assistance. The application of 'situation normal' laws can slow or even prevent the entry of personnel, goods and equipment. It can also be challenging for domestic authorities to coordinate the influx of international actors. Over the past 20 years, international disaster response law (IDRL) has emerged as a distinct branch of international law concerned with addressing the regulation and facilitation of international assistance.

Honduras is highly susceptible to the risks of disasters and regularly faces extreme weather events such as hurricanes, tropical storms, heatwaves and droughts. In 2009, the Honduran Government established a new institutional framework for disaster risk management (DRM). Recognising that international assistance was — and would continue to be — vital to meeting the needs of disaster-affected communities, this framework included a Coordination Centre for International Humanitarian Assistance, known by its acronym 'CCAHI' (which stands for *Centro de Coordinación de Asistencia Humanitaria Internacional*). While the creation of a dedicated coordination centre for international assistance was a significant advancement in Honduras' DRM framework, over time it gradually became apparent that there were deficiencies in the existing arrangements for international assistance.

An IDRL study is undertaken and a IDRL working group is established

In 2016, the Honduran Red Cross (HRC) completed a study analysing the strengths and gaps in Honduras' legal and institutional framework for international humanitarian assistance. One of the key recommendations of the study was to form a national working group on IDRL, to be chaired by the national DRM authority (COPECO) with the participation of all relevant government entities (e.g., customs, immigration, foreign affairs) and key humanitarian actors. HRC advocated for the implementation of this recommendation, resulting in an informal IDRL Working Group being formed. The IDRL Working Group was chaired by COPECO and comprised representatives from several government departments and humanitarian organisations, including HRC.

Legal analysis and stakeholder consultations are undertaken

The IDRL Working Group focused its efforts on comprehensively mapping laws, procedures, protocols and lessons learned relating to international disaster assistance. After extensive interviews and meetings with key national and subnational stakeholders, this work culminated in 2019 in a study entitled '[Legal and Institutional Preparedness for International Disaster Response: Towards the Implementation of the IDRL Guidelines in Honduras](#)' (the IDRL Study). The IDRL Study presented a set of detailed recommendations on how to strengthen Honduras' legal framework for international humanitarian assistance.

A new law is drafted

Following the publication of the IDRL Study, the IDRL Working Group moved quickly to prepare a draft new law entitled 'Law for the Facilitation of International Humanitarian Assistance for Disasters and Initial Recovery' (IDRL Law). The bill was introduced into the National Congress by the end of 2019. In November 2020, Honduras was hit by Hurricanes Eta and Iota within a span of two weeks, initially affecting four million people. The devastating impacts of the Hurricanes highlighted the importance of

being legally prepared to receive international humanitarian assistance and created vital momentum for the new law to be passed. On 11 November 2020, the National Congress adopted the IDRL Law with a 93% majority. The IDRL Law was subsequently endorsed by the Honduran President on 14 November 2020.

Key features of the IDRL Law

The IDRL Law provides Honduras with a world-leading legal framework for international disaster assistance, which reflects many of the recommendations of the IFRC's [IDRL Guidelines](#). The Law:

- addresses the initiation and coordination of international assistance;
- provides for international assisting actors to receive legal facilities to enable prompt entry of their goods, equipment and personnel and reflects the key concept of the IDRL Guidelines that such legal facilities are not provided to *all* actors but are instead only provided to actors deemed 'eligible'; and
- establishes a permanent working group on IDRL and outlines its membership and mandate. This mandate includes streamlining and expediting the regulatory framework for the entry of international personnel, goods and equipment, and coordinating the establishment of 'one stop shops' for the entry of international assistance.

A key feature to promote implementation, the IDRL Law also requires the IDRL Working Group to develop a set of detailed regulations for international humanitarian assistance. At the time of writing, the Working Group has prepared a set of regulations and delivered them to COPECO for review and adoption.

Development of the Disaster Risk Management Act 2023 in Malawi

Origins of the disaster law review process

In 2014, Malawi's Department of Disaster Management Affairs (DoDMA) and the Malawi Red Cross Society (MRCS) conducted research on the country's legal preparedness for international disaster assistance. This research project culminated in a report entitled [International Disaster Response Law \(IDRL\) in Malawi: A Study on Legal Preparedness for Regulatory Issues in International Disaster Response](#) (the IDRL Report), which was published in 2015. The report identified several aspects of Malawi's existing legal framework that needed to be strengthened to enable international disaster assistance.

At the time of this project, the Malawi Government was already actively reviewing its legal arrangements for disaster risk management (DRM), with a view to introducing new legislation to replace the Disaster Preparedness and Relief Act of 1991. A draft DRM Bill had been produced in 2013, with assistance from the United Nations Development Programme. The DRM Bill represented a significant advancement from the existing legislation, however the IDRL Report identified several areas where more detailed provisions were still needed.

Following publication of the IDRL Report, DoDMA hired a legal expert to advise on how the report's recommendations could be incorporated into the DRM Bill. In a preliminary report, the legal expert provided advice on the next steps in the process, recommending the need for a taskforce to be established to support the ongoing work on the DRM Bill, and for consultations with stakeholders.

A taskforce is established to oversee the review

Consistent with the expert's recommendation, the Malawi Government established a taskforce to support the ongoing work on the DRM Bill. The taskforce comprised representatives from a broad range of government departments, MRCS, national non-government organisations and development partners. MRCS continued to play an important role in the process, providing technical advice on how the DRM Bill could be strengthened and guidance to the legal expert in this regard.

The taskforce oversees extensive stakeholder consultations

As technical legal work continued, the taskforce also oversaw extensive consultations with a broad range of DRM actors and stakeholders in Malawi. In total, more than 70 stakeholders were consulted as part of the review. Consultations were held with relevant sectoral government agencies such as the Ministry of Justice, Department of Climate Change and Meteorological Services, Department of Civil Aviation and the Malawi Revenue Authority. Equally, district governments were consulted. In terms of non-government actors, the taskforce consulted with representatives from the Civil Society Network Organization and the Council for Non-Governmental Organisations, as well as academic experts from universities.

During the consultation process, a deliberate effort was made to include and understand the views of women, children, people with disabilities and people with other vulnerabilities. This was enabled by community consultation meetings in Chikwawa and Nsanje Districts. These community consultation meetings identified the central role of local authorities in disaster risk management and highlighted the importance of supporting and enabling this role through enhanced institutional arrangements. Equally, they drew attention to the need for people that have been internally displaced by disasters to be provided with dignified living conditions in camps or other places where they are residing.

The extensive consultations enabled the taskforce to identify the types of provisions that would need to be included in the new law. In particular, the new law would need to contain provisions creating a National DRM Committee, establishing an early warning system, enabling the declaration of a state of disaster and regulating international disaster assistance. Important changes to the institutional arrangements for DRM were also identified, including reviewing the composition of district-level committees and renaming them from Civil Protection to Risk Management Committees. Finally, it was identified that DoDMA's mandate needed to be expanded to enable it to relocate people living in very high-risk areas.

The DRM Bill is drafted and tabled in Parliament

The lessons learned from the extensive consultation process culminated in DoDMA submitting a draft DRM Bill to the Ministry of Justice in August 2020. The Ministry of Justice provided several comments on the Bill. In 2021, DoDMA held a working session to incorporate the comments, with support from Malawi Red Cross Society. Upon resubmission, the DRM Bill was endorsed by the Ministry of Justice and tabled in Parliament. This was a huge achievement for the taskforce, but its work was far from done.

In the months that followed, key members of the taskforce, including DoDMA, the Environmental Affairs Department, the Department of Climate Change and Meteorological Services and Malawi Red Cross Society, had to work hard to keep the DRM Bill on the agenda. They had several meetings with the Parliamentary Committee on the Environment as well with the Cabinet Ministers. With a change of government having recently occurred, the meetings with Cabinet Ministers were vital to informing the new government about the DRM Bill and persuading it of the importance of enacting it in a timely manner.

A new DRM Act is passed

After years of tenacious advocacy from members of the taskforce, the devastating impacts of Cyclone Freddy in February 2023 provided the final impetus for this much needed legal reform. On 12 April 2023, Parliament passed the DRM Bill, which was subsequently enacted into law. The Disaster Risk Management Act 2023 provides Malawi with a modern, comprehensive legal framework for disaster risk management. It is a multi-hazard, all-phases disaster law which establishes the institutional and financial architecture for Malawi's DRM system. It has a strong focus on establishing DRM structures at the local level and ensuring preparedness through measures such as contingency planning and establishing an early warning system. Equally, it provides for the declaration of a state of disaster and contains detailed provisions on international assistance.

Key features of the new DRM Act

Some of the key features of the DRM Act of 2023 are that it:

- establishes a National Disaster Risk Management Committee (National Committee) responsible for providing leadership in the development, coordination and implementation of DRM strategies;
- establishes a National Disaster Risk Management Technical Committee responsible for providing technical support to the National Committee and the Commissioner for DRM;
- establishes the Office of the Commissioner for DRM, which is responsible for development, coordination and implementation of DRM strategies and interventions;
- provides the DoDMA with a mandate and guidelines for the establishment of local government structures for DRM coordination, and implementation;
- includes measures to ensure disaster preparedness through, among other things, the development of multi-hazard contingency plans, the development and maintenance of disaster

risk management information systems and the development of an integrated multi-hazard early warning system;

- establishes a procedure for declaring disaster prone areas as high-risk areas for the purposes of DRM and the resettlement of persons occupying those areas;
- provides for the declaration of a state of disaster and the measures to be taken upon such a declaration;
- establishes a mechanism for appealing for international relief assistance and regulating the operation of assisting international actors; and
- provides for the establishment of the Disaster Risk Management Trust Fund to serve as a repository of funds intended for use in DRM.

The DoDMA is currently developing the DRM Act Implementation Plan to ensure the new law is fully implemented. Equally, efforts are being made to raise public awareness of the contents of the new Act.

Key lessons learned

The development of the new DRM Act in Malawi has permitted the identification of several important lessons, which could be helpful for other governments and National Societies embarking on a similar process. The experience highlighted that legislative reform can be a lengthy process that requires sustained engagement and commitment from government and supporting actors. This can be promoted by assigning government and National Society employees to work on the process from beginning to end, thereby ensuring continuity. To the contrary, when focal points change during the process, this can result in a loss of momentum and institutional memory, ultimately hampering progress. To the extent possible, employees with significant experience in disaster law and policy should be released from their routine duties, in order to be able to bring their important knowledge to the table.

Another key factor for success is for government and supporting actors to make sure they fully understand parliamentary procedures (and any other relevant law reform procedures) at the very outset. This is key to planning the legal review process and ensuring that any procedural requirements or other formalities are complied with. As was the case in Malawi, it can be beneficial for government to hire a legal consultant with expertise in disaster risk governance to advise it on the new law. Finally, the experience in Malawi underlines the importance of extensive consultations with a broad range of actors and stakeholders, including at-risk communities and groups with particular vulnerabilities. It is only through extensive consultation that the resulting law can be tailored to the local context and fully address existing challenges and vulnerabilities.

Endnotes

¹ Expert Working Group Report, above n2, 41.

² Expert Working Group Report, above n2, 15-16 (see definition of 'disaster risk management') ; UNDRR, 'Disaster risk reduction & disaster risk management' <<https://www.preventionweb.net/understanding-disaster-risk/key-concepts/disaster-risk-reduction-disaster-risk-management>>.

³ Expert Working Group Report, above n2, 21.

⁴ Expert Working Group Report, above n2, 21.

⁵ Expert Working Group Report, above n2, 20.

⁶ Expert Working Group Report, above n2, 20.

⁷ Intergovernmental Panel on Climate Change, 'Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation' (2012) <https://www.ipcc.ch/site/assets/uploads/2018/03/SREX_Full_Report-1.pdf> 561 (in Annex II, Glossary of Terms).

⁸ Expert Working Group Report, above n2, 21.

⁹ Expert Working Group Report, above n2, 21.

¹⁰ ADAPT initiative and Risk-informed Early Action Partnership, 'Glossary of Early Action Terms' (2022) <https://www.early-action-reap.org/sites/default/files/2022-10/REAP_Glossary%20of%20Early%20Action%20terms_2022%20edition_FINAL.pdf> 7.

¹¹ Expert Working Group Report, above n2, 22.

¹² Expert Working Group Report, above n2, 21.

¹³ Sendai Framework for Disaster Risk Reduction 2015-2030 (adopted 18 March 2015) 20.