

Legislative Advocacy for Disaster Risk Reduction

Legislative Advocacy Guidance Note No. 1



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The International Federation of Red Cross and Red Crescent Society's work is guided by Strategy 2020 which puts forward three strategic aims:

1. Save lives, protect livelihoods, and strengthen recovery from disaster and crises.
2. Enable healthy and safe living.
3. Promote social inclusion and a culture of non-violence and peace.

About the Legislative Advocacy Guidance Note Series

The Legislative Advocacy Guidance Note Series is coordinated by the International Federation of Red Cross and Red Crescent Societies' (IFRC) Legal Department. It is intended for National Red Cross and Red Crescent Society staff and volunteers with an interest in positively influencing the development of domestic legislation related to the humanitarian work of the Movement.

Each note in the series will briefly examine a particular theme of legislative advocacy of interest to National Red Cross and Red Crescent Societies. Each will provide a menu of potential advocacy ideas and considerations, informed by existing Movement and IFRC policies as well as examples from existing law. The notes are intended only to inform and inspire, not to dictate what National Societies must do.

The notes do not provide general guidance on how to develop an advocacy campaign. Those new to advocacy within the Red Cross and Red Crescent are strongly recommended to refer to the IFRC's guidance note entitled "Practicing Humanitarian Diplomacy: An Introduction" (2012). Guidance on advocacy and disaster risk reduction is also available in the IFRC's "Disaster Risk Reduction: A Global Advocacy Guide" (2012).

About Legislative Advocacy Guidance Note No. 1: Disaster Risk Reduction

This note was adapted from a chapter of a larger manual produced by the IFRC in 2011 on "Legislative Issues in Disaster Management and Epidemic Response," with updates based on more recent research.

The note was developed collaboratively, involving both headquarters and field offices of the IFRC secretariat as well representatives from a number of National Societies, participating as contributors, advisors and reviewers. The IFRC's Disaster Law Programme coordinated the project, acting on the advice of various departments of the Federation and a Reference Group of National Societies. The opinions of National Societies were actively sought out, including by way of a series of regional workshops on legislative advocacy concerning disaster management from 2008-11.

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Cover photo: 2013 floods in Zambales Province in the Philippines by Mike Young / IFRC.

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Introduction

Good legislation can play a critical role in reducing disaster risk. This has always been clear for man-made hazards, such as oil spills, faulty construction, and industrial accidents, all of which can be greatly reduced through well-enforced rules and standards. Natural disasters, on the other hand, have traditionally been thought of as an inevitable fact of life, beyond the scope of human laws.

These days, however, we know that societies are far from powerless in the face of earthquakes, floods, droughts and other so-called “acts of God,” even if their capacity to prevent them is limited. We can reduce the impact of these kinds of hazards on our communities in many ways, including effective early warning systems, physical protective structures, controls on land use in high-risk areas, and education and involvement of communities in taking steps to reduce their own risks. Effective legislation can help to ensure the success of all of these efforts.

The urgency to take the required steps has increased as the impacts of climate change have grown. Clearly, preventive measures must eventually include controls on the emissions that are understood to be causing the problem. In addition, however, there is a need to strengthen the traditional tools of disaster risk reduction, such as early warning, community engagement and adequate institutional and financial mechanisms to support protective activities, as well as the rule base that facilitates and enables these activities.

1. Key international instruments

There are a several international instruments that should be considered in developing a Red Cross and Red Crescent approach to legislative advocacy on risk reduction.

1.1 Hyogo Framework for Action

In 2005, an international conference of 168 states and other stakeholders adopted the Hyogo Framework for Action for 2005-2015. The Hyogo Framework identifies five “priorities for action” for governments, civil society and other actors:

- Ensure that disaster risk reduction is a national and a local priority with a strong institutional basis for implementation.
- Identify, assess and monitor disaster risks and enhance early warning.
- Use knowledge, innovation and education to build a culture of safety and resilience at all levels.
- Reduce the underlying risk factors.
- Strengthen disaster preparedness for effective response at all levels.

In connection with “Priority 1,” the Framework calls on governments to “adopt, or modify where necessary, legislation to support disaster risk reduction, including regulations and mechanisms that encourage compliance and that promote incentives for undertaking risk reduction and mitigation activities.”

The Hyogo Framework is not legally binding, but it has attained a very high level of political support from states at the international level and an impressive influence on the development of policy and

plans at the national level. As this guidance note was being completed, consultations were ongoing for the development of a successor instrument to replace the Hyogo Framework after its 2015 expiration.

1.2 Human rights instruments

In recent years, advocates have called for the development of an internationally recognized “right to safety.” As noted in the Chair’s summary of the 2013 Global Platform for Disaster Risk Reduction, “[t]here is growing recognition that the prevention and reduction of disaster risk is a legal obligation, encompassing risk assessments, the establishment of early warning systems, and the right to access risk information.”

At present, however, there is no treaty explicitly accepting such a right. Still, a state responsibility to take at least some appropriate steps to reduce disaster risks seems to be an obvious implication of the existing rights to life, food, housing, and health (among others), which are embraced by a number of treaties and soft law documents, notably the Universal Declaration of Human Rights of 1948, and the International Covenants on Civil and Political Rights, and on Economic, Social and Cultural Rights, of 1966.

It is also noteworthy that the European Court of Human Rights has held in two cases (*Öneryildiz v. Turkey* (2004) and *Budayeva and others v. Russia* (2008)) that the right to life imposes a responsibility on governments to act to prevent foreseeable disasters.

Based on these precedents, in 2013, the United Nations’ International Law Commission asserted that states should accept a “duty to reduce the risk of disasters.”

1.3 Red Cross and Red Crescent instruments

In 2003, the state parties to the Geneva Conventions and the components of the International Red Cross and Red Crescent Movement adopted an “Agenda for Humanitarian Action,” at the 28th International Conference of the Red Cross and Red Crescent (“International Conference”). Final Goal 3.1 of the Agenda called on states to “review their existing legislation and policies to fully integrate disaster risk reduction strategies into all relevant legal, policy and planning instruments.” Likewise, in 2011, Resolution 7 of the 31st International Conference “encourage[d] states, with support from their National Societies, the IFRC and other relevant partners ... to review their existing legislative frameworks” with regard to key issues in disaster risk reduction (as described further below).

In addition to these formal resolutions shared with states, National Societies have adopted a number of internal strategy and guidance documents relevant to law and disaster risk reduction. One of these is the IFRC Framework for Community Safety and Resilience, developed in 2008. The Framework encourages National Societies to assist governments “to develop and implement laws, policies and plans that promote DRR at the community level.” At the time the present guidance note was being completed, consultations were ongoing concerning an updated version of the Framework. Similarly, in 2010, the IFRC adopted a ten-year strategy for its members and secretariat called “Strategy 2020”, in which National Societies indicated their intention to “advocate for laws, government policies and incentives for risk reduction measures.” Other more specific tools and guidance documents are mentioned below.

2. Legislative advocacy issue areas

2.1 Role of the National Society in disaster risk reduction

The problem

In many countries, National Societies are playing an increasingly important role in reducing disaster risks, particularly at the community level. However, that role is not always reflected in the relevant legislation, beyond very general language in establishing Red Cross or Red Crescent laws.

In some of those cases, a mention in relevant disaster policy or planning documents has been sufficient. In others, however, National Societies have found that a lack of clarity on their role in disaster management law can hamper their access to decision-making bodies, and discourage governmental support for and coordination with them. Some National Societies have also expressed concern about potentially mismatched expectations about the scope of their activities – in particular in the area of early warning – where nothing is mentioned about them in existing legislation.

Inasmuch as National Societies are often expected to play a very special role as auxiliaries to the public authorities in the humanitarian field, a formal acknowledgement in law will often be helpful.

The Red Cross/Red Crescent approach

The Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines), as adopted by the 30th International Conference of the Red Cross and Red Crescent in 2007, provide in Guideline 8.1 that “[a]s an essential element of a larger disaster risk reduction programme, States should adopt comprehensive legal, policy and institutional frameworks and planning for disaster prevention, mitigation, preparedness, relief and recovery, which take full account of the auxiliary role of their National Red Cross or Red Crescent Society[.]”

Likewise, paragraph 3.1.5 of the Agenda for Humanitarian Action adopted by the 28th International Conference in 2003 provides that states should “negotiate clearly defined roles and responsibilities with their respective National Societies in risk reduction and disaster management activities,” which “may include National Society representation on relevant national policy and coordination bodies as collaborative partners with States.” Resolution 7 of the 31st International Conference in 2011 called on states to ensure that their laws “promote the involvement of ... National Societies ... in disaster risk reduction activities at the community level.”

Questions to ask

- Does your national disaster management act refer to the role of your National Society in disaster risk reduction?
- If so, does it guarantee the participation of the National Society on key decision-making bodies relevant to disaster risk reduction?
- Does it appropriately set out expectations about the National Society’s activities?

Legislative examples

Bangladesh’s Standing Order on Disasters of 2010 sets out specific duties and responsibilities for a large number of governmental agencies, including public radio and television and other actors with regard to early warning. In particular, the order calls on the Meteorological Department of the

Ministry of Defence to issue special weather warnings and to provide this information both to relevant ministries and the Bangladesh Red Crescent Society for further dissemination. It also assigns the Bangladesh Red Crescent a critical role in the national Cyclone Preparedness Programme, which includes operation of a central command centre and elaborate arrangements for dissemination of warnings through 33,000 village-based volunteers using megaphones and hand-operated sirens.

Likewise, Djibouti's Decree on the Creation of an Institutional Framework for the Management of Risks and Disasters 2006, the Dominican Republic's Law on Disaster Management 2002, the Philippines' Disaster Management Act of 2010 and Colombia's Decree Creating the National System for the Prevention and Response to Disasters 1989 all mandate that the National Red Cross or Red Crescent Society be represented in disaster management committees at the national and local levels.

2.2 Institutional mechanisms for climate change adaptation

The problem

Experts have identified climate change as a major driver of the worldwide increase in natural disasters. This has sparked a critically important debate about how to reduce the gas emissions that are thought to be leading to the change. At the same time, there is a growing realization that societies must also adapt to the existing impacts of climate change – in particular by accelerating efforts to mitigate the impact of disasters that result. In a few countries, this has led to the development of new laws and institutions to tackle the issue of climate change. There is a danger, however, that these new rules and structures may duplicate existing frameworks for disaster risk reduction if not well integrated.

The Red Cross/Red Crescent approach

The “Declaration for Humanity” of the 30th International Conference of the Red Cross and Red Crescent in 2007 acknowledged that disaster preparedness and risk reduction are key elements of the adaptation to climate change and called for integrated approaches. Also in 2007, the Red Cross/Red Crescent Climate Centre, a reference centre for the Movement based in the Netherlands Red Cross, published the Red Cross/Red Crescent Climate Guide, intended as a reference for National Societies about the impacts of climate change and potential operational and advocacy approaches to adaptation measures.

In 2013, the IFRC published a “Guide to Mainstreaming Disaster Risk Reduction and Climate Change Adaptation,” aimed at supporting National Society and IFRC programming. This guide highlights the importance of advocacy as part of a mainstreaming approach, including advocacy for appropriate legal frameworks.

Questions to ask

- Does existing disaster management legislation or policy adequately acknowledge the impacts of climate change and provide for integration of efforts with others related to climate change?
- If institutional mechanisms have been created within government for climate change, are there adequate guarantees as to their proper coordination with existing mechanisms for disaster risk reduction and management?
- If funding mechanisms have been created for climate change adaptation, do they also provide support for disaster risk reduction, particularly at the community level?

Legislative examples

In 2009, the Philippines adopted a Climate Change Act which broadly addresses gas emissions matters as well as those related to adapting to climate change, including through disaster risk reduction. The Act creates a Climate Change Commission which is charged, among other things, with collaborating with disaster authorities to “[e]nsure the mainstreaming of climate change, in synergy with disaster risk reduction, into the national, sectoral and local development plans and programs” (Section 9). The following year, the Philippines adopted the Disaster Risk Reduction and Management Act of 2010, which, in turn, makes substantial reference to integrating a climate change perspective in disaster risk management tools.

In Algeria, a National Agency on Climate Changes was created in 2005 by an executive decree (No. 05-375 of 2005), with the task of mainstreaming climate change adaptation into development planning. This agency, which reports to the Ministry for the Environment, is also represented on the National Committee on Major Risks, established by Algeria’s Disaster Management Law (No. 04-20) of 2004, which coordinates all activities on disaster risks.

2.3 National platforms

The problem

The Hyogo Framework calls on states to develop “national platforms,” defined as “national mechanisms for coordination and policy guidance on disaster risk reduction that need to be multi-sectoral and inter-disciplinary in nature, with public, private and civil society participation involving all concerned entities within a country” (paragraph 16(i)(a) footnote 10). Among other things, these national platforms could serve as key forums for developing new legislation along the lines discussed in this guidance note. However, not all countries have created them. As of the date of writing, 80 national platforms had been reported to the UN International Strategy for Disaster Reduction (UNISDR) Secretariat.

Moreover, some countries that do have national platforms only include governmental representatives on them, despite the fact that UNISDR’s Guidelines for National Platforms for Disaster Risk Reduction (page 8) recommends that national platforms should include representatives of the National Red Cross or Red Crescent Society and other key stakeholders.

The Red Cross/Red Crescent approach

The IFRC was an active participant at the World Conference on Disaster Risk Reduction in 2005 and it has embraced the Hyogo Framework resulting from it, notably in the Framework for Community Safety and Resilience. When national platforms are created as directed by the Hyogo Framework, National Societies should be included on them, not only because of their expertise, but also because of their special role as auxiliaries to the public authorities in the humanitarian field, as noted above.

Questions to ask

- Does your country have a national platform on disaster risk reduction?
- If it does not:
 - Which ministry could take the initiative to form one?
 - Would this require amendment to existing law?
 - Is there an existing body that could be designated as a national platform?

- If your country does have a national platform:
 - Is its role reflected in national disaster law or policy in order to provide it with adequate authority?
 - Is your National Society represented on it?
 - Is the platform also inclusive of other key actors from civil society and the scientific community?

Legislative examples

In 2008, the Dominican Republic convened a National Technical Committee for the Prevention and Mitigation of Risk, which was designed as its national platform pursuant to the Hyogo Framework. The Committee has representatives of 22 institutions, including relevant ministries and departments of government, the National Red Cross Society and the academic sector. As set out in Article 11 of the Law on Disaster Management 2002 and its implementing regulation (Decree no. 932-03), the Committee is charged with developing the national disaster management plan as well as those of the regions.

In 2000, the Czech National Committee for Natural Disaster Reduction was formed as a national platform, including relevant ministries, institutes, the Czech Red Cross Society and other civil society members.

2.4 Defining disaster risk reduction as a primary governmental responsibility

The problem

While most governments acknowledge the importance of disaster risk reduction, it is often not accorded a formal priority in law.

The Red Cross/Red Crescent approach

Final Goal 3.1 of the 2003 International Conference called on states to ensure that legislation fully integrates disaster risk reduction. Similarly, Resolution 7 of the 2011 International Conference encouraged states to ensure that their legislative frameworks “establish disaster risk reduction as a priority for community level action.” Priority 1 of the Hyogo Framework for Action committed states to “ensure that disaster risk reduction is a national and a local priority with a strong institutional basis for implementation” in part through the development of legislation.

Questions to ask

- Does your national law state that the government has a responsibility to reduce disaster risks?
- If appropriate, do provincial or local laws state that government has a responsibility to reduce disaster risks?

Legislative examples

Article 25 of Costa Rica’s National Law on Emergencies and the Prevention of Risks 2006 provides that “[i]t is the responsibility of the Costa Rican State to prevent disasters. To this end, all institutions are required to take account of risk and disaster concepts in their programmes and to include measures to reduce risks in their ordinary work, promoting a culture of risk reduction.”

The preamble to Indonesia's Law Concerning Disaster Management 2007 (paragraph a) provides that "the Republic of Indonesia has the responsibility of protecting all people of Indonesia and their entire native land in order to protect life and livelihoods, including from disasters[.]"

2.5 Risk mapping

The problem

In the absence of a recent disaster, relevant government ministries and departments may not be pro-active in gathering and updating data about hazards, community vulnerabilities and capacities.

The Red Cross/Red Crescent approach

Paragraph 3.1.1 of the Agenda for Humanitarian Action adopted at the 2003 International Conference called on states to integrate disaster risk reduction into all "legal, policy and planning instruments in order to address the social, economic, political and environmental dimensions that influence vulnerability to disasters." The gathering of appropriate data would clearly be necessary to understand such vulnerability.

Similarly, Resolution 7 of the 2011 International Conference encouraged states to ensure that their legal frameworks "promote disaster risk mapping at the community level." For their part, National Societies committed in the IFRC's Disaster Preparedness Policy of 1999 to "advocate with governments" and other parties about the "need for and effectiveness of disaster preparedness," and in particular to raise awareness of "hazards, levels of risks and coping mechanisms[.]"

Questions to ask

- Does your national disaster management law mandate specific ministries/departments to gather, update and disseminate information about disaster hazards?
- Does that law provide for multi-hazard risk mapping, or is it specific to only some types of disaster?
- Does your national law mandate specific ministries/departments to gather, update and disseminate information about vulnerabilities for disasters and community coping capacities?
- If these tasks are delegated to the provincial or local levels, does the law indicate whether and how the information is to be compiled and shared at the national level?

Legislative examples

South Africa's Disaster Management Act of 2002 mandates that South Africa's National Disaster Management Centre:

"must act as a repository of, and conduit for, information concerning disasters and disaster management, and must for this purpose –

- (a) collect information on all aspects of disasters and disaster management;
- (b) process and analyse such information;
- (c) develop and maintain an electronic database [the contents of which are set out in detail in the law, and include hazards, risks and community capacities]; and
- (d) take steps to disseminate such information, especially to communities that are vulnerable to disasters" (Article 17(1)).

The Act also empowers the Centre to seek information from any organ of state or person, with the power to report to Parliament (through its directing Minister) in the case of a governmental failure to comply – and with potential criminal sanctions for refusal by other persons (Articles 18 and 60).

Another example is Algeria's Law on the Prevention of Major Risks and Disaster Management in the Context of Durable Development 2004, which mandates the development of detailed plans for a wide range of enumerated hazard types ranging from earthquakes and floods to pollution and mass population movements (Articles 16 to 41). For each type of plan, the Law sets out the type of risk data that should be gathered.

Mexico's General Law on Civil Protection of 2012 (Article 23) requires the National Disaster Prevention Centre to oversee the development of "risk atlases" at federal, state and municipal levels. These risk atlases are to be "integrated systems of information on hazards and expected damages based on spatial and temporary analysis of the interaction of risks, vulnerability and the level of exposure of potentially affected persons" (Article 2). These risk atlases must be taken into account with regard to any permitting for construction or infrastructure development (Article 86).

2.6 Risk hazard monitoring and decision-making on warnings

The problem

The UNISDR has noted, in its 2006 Global Survey on Early Warning Systems, that a large number of countries lack clear and robust monitoring systems – particularly for non-meteorological hazards (p.16). As a result, lack of information, confusion and political concerns can hamper the delivery of official warnings.

The Red Cross/Red Crescent approach

The IFRC does not have a specific policy on this question. However, paragraph 17(f) of the Hyogo Framework, to which the IFRC adheres, calls on states to "[e]stablish institutional capacities to ensure that early warning systems are well integrated into governmental policy and decision-making processes and emergency management systems at both the national and the local levels, and are subject to regular system testing and performance assessments." Moreover, Resolution 7 of the 2011 International Conference encouraged governments to "ensure that development planning adequately takes into account local variability in hazard profiles, exposure, vulnerability and cost-benefit analysis."

Questions to ask

- Does your national law mandate specific scientific institutions or departments for ongoing monitoring of natural hazards?
- Does your law set out how information from technical experts is transmitted to decision-makers?
- Does your law define who is responsible for deciding whether a warning should be issued?
- If provincial or municipal authorities have responsibility to issue certain alerts, are their procedures set out in law at the appropriate level?

Legislative examples

A good example (although one requiring a number of steps) is Nicaragua's Law Creating the National System for the Prevention, Mitigation and Response to Disasters (SINAPRED) of 2000 and its implementing regulations (Decree Nos. 53-2000 and 98-2000). They mandate the Nicaraguan Institute of Territorial Studies (INETER) to undertake permanent meteorological, volcanic and seismic monitoring, while the Ministries of Health and the Environment are charged with monitoring health and environmental emergencies, respectively. These bodies are to inform the SINAPRED Executive Secretary of emerging dangers at the departmental, regional or national levels. The Executive Secretary then decides whether to recommend one of the designated colour-coded types of warnings (for varying

levels of threat) to the President of the National SINAPRED Committee (an inter-ministerial body). The President must then decide whether to convene the Committee, which has the power to decide to issue the warning. A separate procedure is foreseen for mayors for local-level alerts.

2.7 Formulation and dissemination of warnings

The problem

Disaster warnings are sometimes ineffective because they are not understood by their target audience or they are not received by them in a timely manner. In many cases, governmental warning mechanisms do not take full advantage of the role that National Societies, the private media and other community groups can play in disseminating timely warnings.

The Red Cross/Red Crescent approach

The IFRC's Disaster Preparedness Policy 1999 calls on the IFRC Secretariat and National Societies to contribute to "mitigation systems, such as early warning systems, that may reduce the loss of lives and property when a disaster strikes." It also calls on them to "[e]nsure that the knowledge from prediction and early warning systems can be accessed, understood and acted upon by local communities." In 2003, the Agenda for Humanitarian Action likewise stressed at paragraph 3.1.2 that states, "in cooperation with National Societies and other concerned agencies," should "implement ... early-warning systems."

In 2013, the IFRC published "Guiding Principles for Community Early Warning Systems," which describe means to ensure that warning messages are understandable at the community level and describes how Red Cross and Red Crescent community-driven early warning systems can complement and interact with official warning systems.

Questions to ask

- Does your disaster management law or policy set out simple formats for transmitting disaster warnings?
- Are these formats appropriate for target communities?
- Does disaster legislation in your country set out a chain of dissemination for disaster warnings?
- Does it adequately incorporate the role of the National Society? Does it adequately incorporate the role of other actors, including the private media, civil society and communities themselves?

Legislative examples

One frequently-cited example is Bangladesh's Standing Order on Disasters 2010, which sets out specific duties and responsibilities for a large number of governmental agencies, including public radio and television and other actors, with regard to early warning. In particular, the order calls on the Meteorological Department of the Ministry of Defence to issue special weather warnings and to provide this information both to relevant ministries and the Bangladesh Red Crescent Society for further dissemination (paragraph 4.2.4.1). It also assigns the Bangladesh Red Crescent a critical role in the national Cyclone Preparedness Programme (paragraph 38), which includes operation of a central command centre and elaborate arrangements for dissemination of warnings through 33,000 village-based volunteers using megaphones and hand-operated sirens (IFRC World Disaster Report 2002, p. 16).

Another interesting example at the sub-national level is Puerto Rico's Law Establishing the Protocol for Access to Information and Education on Epidemic Diseases and Environmental Accidents 2007.

The law mandates the Department of Health to take certain actions to disseminate warnings to the public about potential emergencies using mass media organs. In cases where the location, urgency or other circumstances of an emerging disaster make these methods nonviable, the Department is required to take into account other methods of dissemination, including the local Red Cross network (Article 3(7)).

2.8 Raising community risk awareness and capacity to react

The problem

Families and communities can do quite a lot to reduce their own risk and vulnerability, but are unlikely to do so if they do not understand them. Moreover, without prior knowledge of the most effective steps they can take, communities may not be able to use disaster warnings, even if they are well framed. Communities lacking base knowledge of or information regarding the hazards and vulnerabilities they face are also less likely to respond appropriately to official warnings.

The Red Cross/Red Crescent approach

The IFRC's Disaster Preparedness Policy 1999 calls on National Societies to "[r]aise awareness of disaster hazards through public education" and to "[a]dvocate, where necessary, with government ... and the public about the need for and effectiveness of disaster preparedness." Resolution 7 of the 2011 International Conference encouraged states to ensure that their laws "promote communities' access to information about disaster risk reduction." The Hyogo Framework further calls for "institutions dealing with urban development [to] provide information to the public on disaster reduction options prior to constructions, land purchase or land sale" (Paragraph 18(i)(f)).

In 2013, the IFRC published "Public awareness and public education for disaster risk reduction: key messages," setting out model messages to be shared with communities about disaster risk and particularly household-level preparedness. This manual invites governmental authorities and other partners to share the messages and encourages National Societies to develop harmonized public messaging with their authorities at the national level.

Questions to ask

- Does your disaster management or education law mandate the provision of instruction to members of the public on disaster risks and how to react to disasters (e.g. through simulations or drills)?
- Is a particular department or agency assigned by law the responsibility to ensure disaster-related training?
- Is the role of the National Society in public education about disasters acknowledged and supported by domestic law?

Legislative examples

Fiji's National Disaster Management Act of 1998 establishes an inter-ministerial Preparedness Committee (on which the Fiji Red Cross Society must be represented), charged (among other tasks) with planning public awareness activities (Article 41). These activities are to be organized and coordinated at the national level by the National Disaster Management Office, and carried out by identified focal points at the Divisional and District levels. The law also mandates that the committee conducts a "National Disaster Awareness Week" prior to the beginning of the cyclone season.

The Russian Federation's Law on Protection of the Population and Areas from Natural Disasters and Human Created Accidents of 1994 (Article 18.1) provides that "citizens ... have the right to be

informed of hazards they can be exposed to at certain places of their residence within the [Russian Federation's] territory as well as of safety-provision measures." Similarly, Algeria's Law on the Prevention of Major Risks and Disaster Management in the Context of Durable Development of 2004 (Article 11) provides that "the State assures all citizens equal and permanent access to all information concerning major risks" including hazards specific to their homes and work places, applicable preventive measures, and applicable governmental measures and systems.

State parties to the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters of 1998, or Aarhus Convention, (currently only in Europe and Central Asia) are also required to ensure that environmental hazard information is available to citizens upon request, and in particular that "in the event of any imminent threat to human health or the environment, whether caused by human activities or due to natural causes, all information which could enable the public to take measures to prevent or mitigate harm arising from the threat and is held by a public authority is disseminated immediately and without delay to members of the public who may be affected" (Article 5.1(c)).

2.9 Community participation in decision-making

The problem

The consensus of risk reduction literature suggests that ensuring community participation in decision-making about programme planning and execution is the best way to ensure the success of risk reduction efforts. However, many governmental efforts still retain a "top down" quality.

The Red Cross/Red Crescent approach

The IFRC Disaster Preparedness Policy 1999 "recogniz[es] that a community-based approach is the best guarantee that improvement in disaster preparedness will be realized and sustained" and therefore asserts that "the assisted population must participate in the planning and preparation for disasters." In 2011, the 31st International Conference encouraged states to ensure that their legal frameworks "promote the involvement of community representatives, ... in disaster risk reduction activities at the community level." The Hyogo Framework also calls on governments to engage communities directly in risk reduction activities, including through "the attribution of roles and responsibilities, and the delegation and provision of the necessary authority and resources" (paragraph 16(iii)(h)).

Questions to ask

- Does domestic law mandate the involvement of communities in decision-making and planning for disaster risk reduction activities?
- Are community representatives systematically included in relevant committees and other bodies with responsibility for risk reduction?

Legislative examples

Zambia's Disaster Management Act of 2010 provides for the creation of "satellite" disaster management committees covering one or several villages. These committees are to be locally elected, but required to include a representative of a traditional authority, at least three local residents trained in disaster management, one representative of a community organization in the area, two women and two men from the area, at least one youth, a businessman or farmer and a local representative of an NGO (Article 26).

France's Law on the Prevention of Technological and Natural Risks and on Recovery from Damages of 2003 mandates the establishment of departmental commissions on major natural risks with membership including local elected officials, disaster management professionals and academics, representatives from various professional private sector and community groups, including "victims' associations", and media personalities (Article 44).

El Salvador's Law on Civil Protection and the Prevention and Mitigation of Disasters of 2005 requires the establishment of committees at the department, municipal and communal levels, including not only elected officials and governmental disaster response agencies but also representatives of civil society and (in the latter two levels) "community leaders" (Articles 10-15). These committees are charged both with developing plans and carrying out risk reduction and preparedness activities.

2.10 Land management and urban planning

The problem

Some disasters – like earthquakes, floods and industrial accidents – are geographically predictable, yet land management and urban planning rules (e.g. zoning regulations) do not always go as far as they should to control their risks, either because they lack updated hazard-related provisions or because of a lack of enforcement.

Moreover, uncontrolled urbanization, in and of itself, has been identified as one of the largest disaster risk factors in many countries. One solution that has been promoted to address the dangers of overcrowded slums and other hazardous settlements is to mandate the resettlement of persons living there prior to the advent of a disaster. However, this can have enormous consequences for the livelihoods and well-being of affected persons, most of whom live in these areas because poverty has left them no other choice.

The Red Cross/Red Crescent approach

Both the Agenda for Humanitarian Action (at paragraph 3.1.2) and Hyogo Framework Priority 4 (at paragraph 19(iii)) call on governments to bring a disaster risk reduction lens to their current laws on resource and land management and urban planning.

The Red Cross/Red Crescent does not have a formal policy on evictions, however, according to the UN Guiding Principles on Internal Displacement of 1998 (principle 7), a decision to displace persons from their homes (even for the purpose of protecting them from future disasters) should be considered only in the absence of other safe alternatives and should include minimum procedural guarantees. Moreover, if a decision is made to go forward, authorities should "ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated."

Questions to ask

- Do your municipalities have zoning regulations to minimize residential and commercial development in high-risk areas and promote other uses (such as agriculture), which are less likely to expose human life and habitation to destruction?
- If so, are those regulations kept regularly up-to-date?
- Are the regulations adequately enforced? If not, are there gaps in existing law concerning the enforcement powers, responsibilities, or funding of responsible authorities?

- Does your law allow for the resettlement of residents living in zones of high disaster risk?
- If so, does it provide adequate protections for the rights and dignity of evicted persons?

Legislative examples

In the United States, the Federal Flood Insurance Act of 1968 (Section 1315 (Section 4022 U.S.C.)) provides for affordable flood insurance for homeowners and renters so long as they abide by zoning laws and their state governments implement effective land management laws and policies to lower flooding risks. Special premium rates may be applied in communities that implement effective measures to reduce flood and erosion risks.

Brazil has sought to address the dangers faced by inhabitants of illegal settlements in slums with an innovative national urban policy. The Statute of the Cities 2001 calls for “Special Social Interest Zones” to be designated in municipal plans or laws (Article 4(V)(f)). In these zones, homes built in violation of building and land use codes are to be progressively “legalized”, for instance, by being made eligible to receive federal funding for projects to improve their safety (such as water and sanitation projects, which are not only critical for public health reasons, but can also reduce the potential for soil erosion and landslides to which open sewers may contribute).

In Bogota, Colombia, Municipal Decrees 296 of 2003 and 190 of 2004 set out procedures for disaster hazard and risk analysis of various parts of the city (Article 142 of Decree 190 of 2004) and allow the authorities to declare certain high-risk zones for intervention, including, as a last resort, resettlement of the population (Article 158(8) of Decree 190 of 2004) (EMI, 2005). A study is required prior to the decision to resettle to determine the social, economic and legal situation of potentially affected families and the impacts such a move might have on them. Detailed programmes of information and incentives and support are mandated to seek the voluntary and dignified participation of communities and to ensure safe and legal alternative homes (Article 301-302 of Decree 190 of 2004 and Decree 296 of 2003).

2.11 Building codes

The problem

A large proportion of the deaths, injuries and losses due to disasters such as earthquakes, windstorms, floods and fires are due to faulty construction practices. A number of countries lack mandatory building codes, particularly in the areas of seismic safety and windstorm and flood resistance. In many others, such codes exist but are badly out of date (Benson and Twigg, Guidance Note 12, 2007; UNISDR, Global Platform Report, 2007).

In some countries, disaster-related construction codes (such as seismic codes) are available for use, but on a voluntary basis. In a great many countries, however, the problem is not a lack of law on safer construction but a lack of enforcement (see UNISDR, *Living with Risk*, p. 344).

The Red Cross/Red Crescent approach

Both the Agenda for Humanitarian Action (Final Goal 3.1) and Priority 4 of the Hyogo Framework call on states to incorporate risk reduction as a central feature of building codes that are properly enforced. Priority 4 of the Hyogo Framework further encourages regular updating of building codes “with the aim of making them more applicable in the local context, particularly in informal and marginal human settlements and to reinforce the capacity to implement, monitor and enforce those codes, though a consensus-based approach” (paragraph 19(iii)(r)).

In 2011, the 31st International Conference encouraged states to ensure that their laws “ensure full implementation of building codes, land use regulations and other legal incentives, taking into account areas of competence of various levels of government within countries, to reduce disaster risk at the community level in a manner that does not impinge unnecessarily on livelihoods or rights.” Also, in 2011, the IFRC published its Participatory Approach to Safe Shelter Awareness (PASSA) Manual, with the goal of assisting National Societies to support community-led approaches to addressing risks related to construction.

Questions to ask

- Does your country have building codes specifically targeted to ensuring disaster-resistant structures?
- Are those codes regularly updated, with reference to current hazard risks and vulnerabilities?
- Are those codes too complex and expensive for low-income builders to meet?
- Are especially strict rules in place for hospitals and schools?
- Do your country’s laws require actions to be taken to make buildings constructed under older building codes safer (for example, retrofitting)? If so, are the potential economic impacts on low-income home-owners, renters and residents adequately taken into account?
- Are existing building codes adequately enforced? If not, are there gaps in existing law concerning the enforcement powers, responsibilities, or funding of responsible authorities (particularly at the local level)?

Legislative examples

Algeria’s Law on the Prevention of Major Risks and Disaster Management in the Context of Durable Development of 2004 (Article 20) requires that all National Disaster Management Plans (required for each major hazard area listed in the legislation) set out areas in which construction will be prohibited due to the level of risk, as well as the specific measures that are to be taken for buildings already constructed in high risk zones.

In the absence of binding building codes for smaller homes, Nepal’s Department of Urban Development and Building Construction (disseminates “Mandatory Rules of Thumb” (MRT), a set of voluntary guidelines intended to assist owner-builders to construct earthquake and fire-safe smaller buildings. Developed by the National Society for Earthquake Technology, Nepal, the MRTs, pragmatically, recognize that most owner-builders do not generally have access to engineering advice (as 93 per cent of buildings are non-engineered), especially in rural communities, and also that local materials will be used.

2.12 Funding mechanisms

The problem

It is often the case that a given institution has adequate legal authority to undertake disaster risk reduction activities, but those activities do not take place because the authority is not matched with adequate resources. This is a particularly common problem in situations of recently devolved authority from the central to the local level.

The Red Cross/Red Crescent approach

Paragraph 3.1.4 of the Agenda for Humanitarian Action provides that “States are strongly encouraged to prioritize and provide resources to implement comprehensive disaster risk reduction

measures[.]” Resolution 7 of the 2011 International Conference encouraged states to ensure that their laws “allocate adequate funding for disaster risk reduction activities at the community level.”

Similarly, Priority 1 of the Hyogo Framework calls on states to “[a]llocate resources for the development and the implementation of disaster risk management policies, programmes, laws and regulations on disaster risk reduction in all relevant sectors and authorities at all levels of administration and budgets on the basis of clearly prioritized actions” (paragraph 16(ii)(f)).

Questions to ask

- Does your national disaster management legislation make reference to sources of funding to match the authority it provides to specific ministries or levels of government to undertake disaster risk reduction activities?
- If the law in your country assigns disaster risk reduction authority to local authorities, do they also have legal means to obtain appropriate resources?

Legislative examples

The United States adopted the Disaster Mitigation Act in 2000, establishing the National Predisaster Mitigation Fund, which provides grants to states, territories, local governments, tribal governments and NGOs for risk reduction measures and planning. This directly funds risk reduction activities but also incorporates an incentive for ongoing investment at the state/local level by including, among the criteria for selection of applications, “the degree of commitment by the State or local government to support ongoing non-Federal support for the hazard mitigation measures to be carried out using the technical and financial assistance” (Section 102).

The Philippines’ Disaster Risk Reduction and Management Act of 2010 specifically mandates at Section 21 that local governments dedicate 5% of their income for disaster mitigation and response, with 70% of this set aside available for mitigation and preparedness measures. In Guatemala, Article 15 of the Law on the National Coordinator for the Reduction of Natural or Man-Made Disasters 1996 provides for the creation of a dedicated Permanent National Fund for Disaster Reduction, to be used by the National Coordinator.

Costa Rica’s National Law on Emergencies and the Prevention of Risks of 2002 not only created a national disaster fund, but also requires all departments and levels of government to maintain a separate budget line for disaster risk reduction activities (Articles 43-46). Moreover, it requires all national agencies to direct 3% of any budget surplus they might have each year into the national disaster fund.

2.13 Integration into development plans

The problem

In many countries, development and disaster risk reduction processes remain separate. In light of the overwhelming priority often placed on the former issue, this means that a risk reduction agenda may not be able to find a sustained footing on the national agenda.

The Red Cross/Red Crescent approach

Paragraph 3.1.3 of the Agenda for Humanitarian Action urged states, in cooperation with National Societies, “to incorporate risk reduction as a central feature of national development plans, poverty reduction strategies and post-disaster recovery policies[.]” Likewise, Priority 4 of the Hyogo

Framework urges governments to incorporate disaster risk reduction into mainstream development planning as a way of ensuring that political will endures over time. States will be more likely to achieve this consistently if legislation requires it.

Questions to ask

- Does the law in your country require that development plans include an element of disaster risk reduction?

Legislative examples

India's Disaster Management Act of 2005 requires "every Ministry or Department of the Government of India to ... integrate into its development plans and projects, the measures for prevention or mitigation of disasters in accordance with the guidelines laid down by the National Authority" (Article 36(b)). Likewise, Indonesia's Law Concerning Disaster Management of 2007 requires both the national and regional governments to incorporate disaster risk elements into their development programming, and to ensure that "[e]very development activity involving high disaster risks is equipped with disaster risk analysis as part of disaster management effort in accordance with power vested" (Articles 6-7, 9 and 40).

South Africa's Disaster Management Act of 2002 requires risk management plans, particularly strategies on mitigation and prevention, to form an integral part of national, provincial and municipal development plans, programmes and initiatives. The National Disaster Management Centre is mandated to develop guidelines to lead this integration (Article 19).

2.14 Reporting and oversight

The problem

While many countries have positive laws on disaster risk reduction, in the absence of adequate reporting and oversight, many of their provisions can go unheeded.

The Red Cross/Red Crescent approach

The Hyogo Framework calls on states to "develop procedures for reviewing national progress against this Framework for Action" (paragraph 30(d)).

Questions to ask

- Does your country's disaster management law require periodic reporting by agencies responsible for disaster risk reduction to parliamentary or other bodies?

Legislative examples

South Africa's Disaster Management Act of 2002 calls on the national, provincial and municipal disaster centres to submit annual reports to their legislative bodies on their activities, the results of their monitoring of prevention and mitigation initiatives, any disaster that occurred and problems experienced, evaluating disaster plans and strategies and making recommendations (Arts. 24, 36, 50). Similarly, Pakistan's National Disaster Management Act of 2010 requires the National Disaster Management Authority, as well as equivalent provincial and district authorities, to make annual reports of their activities to their representative assemblies (Article 41).

The Philippines' Disaster Risk Reduction and Management Act of 2010 establishes a specific Congressional Oversight Committee to monitor and evaluate the implementation of the Act, and is to include members of the Senate and members of the House of Representatives (Article 26). In addition, the National Disaster Risk Reduction and Management Council, which is responsible for policy-making, coordination, integration, supervision, monitoring and evaluation functions, is mandated to "[m]onitor the development and enforcement by agencies and organizations of the various laws, guidelines, codes or technical standards required by [the] Act" (Section 6(g)).

2.15 Legal remedies (liability)

The problem

The question of legal liability for disaster risk reduction obligations can be very sensitive, in light of the political impulse to assign blame in the aftermath of any disaster. It can also have direct ramifications for National Societies themselves – particularly where they take on an official role in early warning activities. On the other hand, enforcement of disaster risk reduction rules (including building codes and zoning rules, as noted above) is notoriously weak in many countries. Individual remedies can be a powerful tool for combating this.

The Red Cross/Red Crescent approach

Resolution 7 of the 2011 International Conference encouraged states to ensure that their laws “promote strong accountability for results in reducing disaster risks at the community level.”

Questions to ask

- Does the law in your country allow for court intervention in case of gross failures by governmental actors to undertake necessary actions to reduce disaster risk?
- Does the law in your country provide liability protections to the National Society for its early warning activities (e.g. by limiting claims only to wilful misconduct) or at least clearly define the limits of its responsibility?

Legislative examples

South Africa's Disaster Management Act of 2002 offers liability protection both to disaster management officials and to “any other person exercising a power or performing a duty in terms of” the Disaster Management Act for any acts “done in good faith in terms of, or in furthering the objects of, [the] Act” (Article 61). Similar language appears in Article 23 of Sri Lanka's Disaster Management Act of 2005. This offers a degree of protection, but leaves the door open for certain types of claims, such as for wilful misconduct.

Indonesia's Law Concerning Disaster Management of 2007 foresees fines and even jail terms for persons who, out of negligence (Article 75), or with intent (Article 76), “implement high risk development without disaster risk analysis ... that causes disaster”.

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The Fundamental Principles of the International Red Cross and Red Crescent Movement

Humanity The International Red Cross and Red Crescent Movement, born of a desire to bring assistance without discrimination to the wounded on the battlefield, endeavours, in its international and national capacity, to prevent and alleviate human suffering wherever it may be found. Its purpose is to protect life and health and to ensure respect for the human being. It promotes mutual understanding, friendship, cooperation and lasting peace amongst all peoples.

Impartiality It makes no discrimination as to nationality, race, religious beliefs, class or political opinions. It endeavours to relieve the suffering of individuals, being guided solely by their needs, and to give priority to the most urgent cases of distress.

Neutrality In order to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature.

Independence The Movement is independent. The National Societies, while auxiliaries in the humanitarian services of their governments and subject to the laws of their respective countries, must always maintain their autonomy so that they may be able at all times to act in accordance with the principles of the Movement.

Voluntary service It is a voluntary relief movement not prompted in any manner by desire for gain.

Unity There can be only one Red Cross or Red Crescent Society in any one country. It must be open to all. It must carry on its humanitarian work throughout its territory.

Universality The International Red Cross and Red Crescent Movement, in which all societies have equal status and share equal responsibilities and duties in helping each other, is worldwide.

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