



GUIDE TO STRENGTHENING THE AUXILIARY ROLE THROUGH LAW AND POLICY

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Guide to Strengthening the Auxiliary Role
through Law and Policy

ACKNOWLEDGMENTS

This Guide is an initiative of the IFRC's Disaster Law Programme. The author of this Guide is Rachel Macleod; technical advice and oversight was provided by Isabelle Granger.

Thanks are owed to the following individuals from the IFRC who provided technical review and support for the development of this Guide: Pauline Caspellan, Gabrielle Emery, Cristina Estrada, Roger Fischli, David Fisher, Juan Gálvez, Drina Karahasanovic, Baktiar Mambetov, María Martínez, Rebeca Muñoz, Stella Ngugi, Krystell Santamaria, Maya Schaerer, Bernd Schell, Jeanique Serradinho, Marjorie Sotofranco and Sophie Teyssier.


The IFRC wishes to thank and acknowledge the support of the German Federal Ministry for Economic Cooperation and Development, which enabled the development of this Guide.



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Indonesia, 2019. The Indonesian Red Cross Society (PMI), with the support of the International Federation of Red Cross and Red Crescent Societies, and funding from USAID, has been helping communities prepare and prevent the spread of diseases through the epidemic and pandemic preparedness programme. Focusing on West Java, Central Java, Banten and Bali, PMI is working with governments, communities, local responders and humanitarian partners to collectively prepare for and respond to epidemics.

INTRODUCTION

A. Background

In 192 countries around the world there is a National Red Cross or Red Crescent Society established on the basis of a National Red Cross or Red Crescent Law (**RC/RC Law**). Although this Guide uses the term RC/RC Law, a country's RC/RC Law may not necessarily be called a 'law', but instead may be titled a decree, order, regulation, charter or bill. Equally, a country may have a series of RC/RC Laws, with later laws supplementing or replacing earlier ones.

RC/RC Laws are to be distinguished from National Society Statutes, which are an internal legal document developed by a National Society to address matters such as its leadership, membership and organizational structure. In addition to its RC/RC Law and Statutes, a National Society's legal base may include sectoral laws, meaning laws that relate to a specific sector of activity such as a Public Health Act or Disaster Risk Management Act.

The International Red Cross and Red Crescent Movement (the Movement) has long recognized the importance of strong and modern RC/RC Laws and National Society Statutes. In 2011, the Council of Delegates adopted Resolution 4, which encouraged National Societies to pursue dialogue with their national authorities in order to strengthen their legal base in domestic law through high quality RC/RC Laws, so as to formalize their auxiliary role and ability to operate in accordance with the Fundamental Principles.¹ This same call to action was reiterated in Resolution 4 of the 31st International Conference of the Red Cross and Red Crescent (International Conference).²

The Joint Statutes Commission³ is tasked with supporting National Societies to strengthen their legal base, with a specific focus on National Society Statutes and RC/RC Laws. The Joint Statutes Commission assesses the compliance of draft or amended National Society Statutes with the standards in the

Guidance for National Society Statutes, 2018. It assesses the compliance of draft RC/RC Laws with the Model Law on the Recognition of National Societies (RC/RC Model Law). [Annex 1](#) to this Guide is the RC/RC Model Law.

To date, the importance of sectoral laws to National Societies' auxiliary role has not received detailed attention. Sectoral laws can, however, play an important role in supporting and enabling National Societies to serve as an auxiliary to their public authorities. Sectoral laws may allocate National Societies specific roles and responsibilities in fields such as health, migration, disaster risk management and social welfare. Equally, they may provide for National Societies to participate in key coordination and decision-making bodies in these areas.

B. Purpose and Scope of this Guide

The purpose of this Guide is to provide practical guidance to National Societies about how to strengthen their auxiliary role through domestic law, policies, plans and agreements. Each of these types of instrument has different characteristics and functions, which are discussed in [Chapter Three](#). This Guide has a strong focus on sectoral laws, policies plans and agreements. It also focuses on **legal facilities**, meaning special legal rights and exemptions that enable National Societies to conduct their operations more efficiently and effectively.

The focus of this Guide is predominantly on how laws, policies, plans and agreements can strengthen the auxiliary role in sectors such as disaster risk management, health, migration and social welfare. The Guide does not address how to strengthen the auxiliary role in the context of armed conflict or other situations of violence; guidance on this topic is provided by the [Safer Access Framework](#) developed by the International Committee of the Red Cross (ICRC). The Guide also does not address National Society Statutes; guidance on this topic is provided by the [Guidance for National Society Statutes, 2018](#).



Democratic Republic of Congo, 2019. Red Cross of the Democratic Republic of the Congo is working closely with people like Chace Evariste, the vice president of "le motard" - the motorcycle association, in the Ebola response, to improve how they work and engage with communities, joining forces to help tackle the spread of the virus. © Corrie Butler / IFRC

C. Contents of this Guide

The structure and content of this Guide is as follows.

- **Chapter One** provides a brief refresher on the auxiliary role. It outlines what the auxiliary role means and where it comes from. It also discusses the respective roles and responsibilities of National Societies and their public authorities.
- **Chapter Two** focuses on RC/RC Laws. It discusses the main elements of the RC/RC Model Law, as well as three additional elements which can be included in a RC/RC Law. This Chapter concludes with a set of assessment questions, which can be used to identify areas where an existing RC/RC Law could be improved.
- **Chapter Three** focusses on how sectoral laws, policies, plans and agreements can strengthen National Societies' auxiliary role in health, disaster risk management, migration and social welfare. It focusses on two key mechanisms: (a) the clear allocation of roles and responsibilities; and (b) guaranteed participation in coordination and decision-making bodies. This Chapter also concludes with a set of assessment questions.
- **Chapter Four** focusses on legal facilities that may assist National Societies to perform their auxiliary role more efficiently and effectively. It discusses legal facilities relating to: (a) staff and volunteers; (b) tax; (c) funding; (d) access and freedom of movement; and (e) disaster-related goods, equipment and personnel. This Chapter also concludes with a set of assessment questions.
- **Chapter Five** outlines a process that National Societies can follow in order to advocate to strengthen their auxiliary role through domestic laws, policies, plans and agreements. Chapter Five also includes case studies of National Societies that have successfully advocated to strengthen their auxiliary role in domestic law.

[Annex 2](#) to this Guide provides a complete list of the assessment questions from Chapters Two, Three and Four.



This Guide is accompanied by a 30-minute online training course on the IFRC [Learning Platform](#). The online course, entitled **Strengthening the Auxiliary Role through Law and Policy**, provides a high-level overview of the content of this Guide.

D. Research Underpinning this Guide

This Guide draws on insights from a collection of 30 country-level mappings commissioned by the IFRC's Disaster Law Programme (the **Country Mappings**), as well as supplementary research into other countries. Each Country Mapping focuses on how a National Society's auxiliary role is reflected in domestic laws, policies, plans and agreements. The 30 countries that have been mapped to date are: Australia, Afghanistan, Bangladesh, Colombia, Ecuador, Finland, The Gambia, Ireland, Jamaica, Laos, Liberia, Malawi, Mongolia, Nepal, Nigeria, Norway, Pakistan, Papua New Guinea, Seychelles, Sierra Leone, Spain, Solomon Islands, Peru, Poland, Rwanda, South Sudan, Sri Lanka, Uganda, the United Kingdom and Zambia (the **Sample Countries**). The Disaster Law Programme continues to conduct auxiliary role mappings and welcomes expressions of interest from National Societies that wish to undertake a mapping.





Bangladesh, 2020. People who have been living in the displacement camps and the local host community in Cox's Bazar have been experiencing the worst situations since the COVID19 started. As part of the response, on 31st December of 2020, with support from the IFRC and American Red Cross, Bangladesh Red Crescent Society (BDRCS) has completed providing cash among 1,200 families under DRR in the host community of Cox's Bazar who have been affected by COVID19. BDRCS has been supporting the local and displaced communities and treating them equally. People have received BDT 5,500 (USD64) each.

CHAPTER ONE

A REFRESHER ON THE AUXILIARY ROLE

The role of a National Society as “auxiliary to the public authorities in the humanitarian field” is at the core of its identity. It is a unique and defining feature, which distinguishes the National Society from all other organizations in its country. This Chapter provides a brief refresher on the auxiliary role by answering some common questions.⁴

A. What is the auxiliary role?

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, in particular neutrality and independence. Resolution 2 of the 30th International Conference provides the following description of the auxiliary role, and the special relationship that it entails between a National Society and its public authorities:

[P]ublic authorities and the National Societies as auxiliaries enjoy a specific and distinctive partnership, entailing mutual responsibilities and benefits, and based on international and national laws, in which the national public authorities and the National Society agree on the areas in which the National Society supplements or substitutes for public humanitarian services; the National Society must be able to deliver its humanitarian services at all times in conformity with the Fundamental Principles, in particular those of neutrality and independence, and with its other obligations under the Statutes of the Movement as agreed by States at the International Conference.⁵

B. Where does the auxiliary role come from?

The auxiliary role dates back to the foundations of the Movement in the 19th century. National Red Cross and Red Crescent Societies were originally created to provide medical assistance to those wounded in battle, in support of their countries' military medical services. Today, National Societies are recognized as auxiliaries to their public authorities in the humanitarian field both in times of war and peace. In recent decades, resolutions of the International Conference have elaborated on the meaning of the auxiliary role, especially Resolution 2 of the 30th International Conference and Resolution 4 of the 31st International Conference.⁶ These Resolutions are set out in full in [Annex 3](#) and [Annex 4](#) to this Guide.

C. Why is recognition of the auxiliary role a condition for the establishment of a National Society?

The Joint Statutes Commission is responsible for assessing applications by new National Societies for recognition by the ICRC and for admission to the IFRC. There are 10 conditions for recognition, which are established by article 4 of the Statutes of the International Red Cross and Red Crescent Movement (**Statutes of the Movement**). One of the conditions is that a National Society must be "duly recognized by the legal government of its country on the basis of the Geneva Conventions and of the national legislation as a voluntary aid society, auxiliary to the public authorities in the humanitarian field".⁷ This means that recognition of the auxiliary role is a condition for the establishment of a National Society.

D. What are the respective roles and duties of a National Society and its public authorities?

The respective **roles** of a National Society and its public authorities are as follows:

- it is the primary responsibility of the public authorities to provide humanitarian assistance to vulnerable persons on their territory; and
- the primary purpose of the National Society as auxiliary to the public authorities in the humanitarian field is to supplement them in the fulfilment of this responsibility.⁸

The respective **duties** of a National Society and the public authorities are as follows:

- the National Society has a duty to consider seriously any request by its public authorities to carry out humanitarian activities within its mandate;
- the public authorities must refrain from requesting the National Society to perform activities which are in conflict with the Fundamental Principles, the Statutes of the Movement or its mission; and
- the National Society has the duty to decline any such request and public authorities must respect any such decisions by the National Society.⁹

The above roles and duties derive from the Statutes of the Movement and Resolution 2 of the 30th International Conference.¹⁰ They are also consistent with United Nations General Assembly Resolution 55(I) dated 19 November 1946.¹¹

E. How does the auxiliary role relate to the Fundamental Principle of independence?

As auxiliaries to their public authorities, National Societies are responsible for supplementing or substituting for public humanitarian services. In practice, this means that National Societies often develop close working relationships with their public authorities and may be integral to the delivery of public humanitarian services. Yet, it is important to note that the auxiliary role does not mean that National Societies are subordinate to government. To the contrary, National Societies are independent organisations that are guided by their own principles: the Fundamental Principles.


Maintaining independence requires National Societies to resist any pressures or interference from the public authorities that would stop them from adhering to the Fundamental Principles of humanity, impartiality and neutrality.¹² In practical terms, this means that National Societies must decline requests to perform activities that are in conflict with the Fundamental Principles. Equally, National Societies should pursue activities that assist the most vulnerable groups within society, even when these activities have not been requested or supported by the public authorities.

Remaining independent is not always easy. For more information about how to maintain independence, National Societies can refer to [The Fundamental Principles of the International Red Cross and Red Crescent Movement: Ethics and Tools for Humanitarian Action](#).

F. Is advocacy compatible with the Fundamental Principle of neutrality?

The principle of neutrality requires National Societies not to take sides in hostilities or to engage in controversies of a political, racial, religious or ideological nature. The principle of neutrality is sometimes perceived as a challenge to advocacy, but it should not be. National Societies can undertake advocacy as long as it is guided by, and consistent with, the Fundamental Principles, especially the principles of humanity and impartiality.¹³ In other words, National Societies can undertake advocacy as long as it is: guided by their commitment to prevent and alleviate human suffering wherever it may be found, to protect life and health and to ensure respect for the human being (i.e. the principle of humanity); and guided solely by needs and giving priority to the most urgent cases of distress (i.e. the principle of impartiality).¹⁴





Uganda, 2018. Dr. Kasumba Joseph, CP3 officer for the Uganda Red Cross Society. Through Uganda Red Cross' extensive network of community-based volunteers, a powerful surveillance system has been set up, in coordination with other actors and the Ministry of Health. This system helps stop Ebola's spread, detecting outbreaks before they happen.

CHAPTER TWO

RED CROSS OR RED CRESCENT LAW

The focus of this Chapter is on the Red Cross or Red Crescent Law (**RC/RC Law**), meaning a law that establishes a country's National Society, recognizes its auxiliary role and addresses a range of other foundational issues. Although this Guide uses the term RC/RC Law, a country's RC/RC Law may not necessarily be called a 'law', but instead may be titled a decree, order, regulation, charter or bill. Equally, a country may have a series of RC/RC Laws, with later laws supplementing or replacing earlier ones.

The **RC/RC Model Law** is a tool which can guide National Societies to develop or update their RC/RC Law in line with the standards agreed by the Movement. It contains sample clauses which address foundational issues for a National Society, including four sample clauses that are core elements for a RC/RC Law. The core elements derive from the conditions for recognition of a National Society established by the Statutes of the Movement.

Section A of this Chapter discusses the main elements of the RC/RC Model Law, while Section B discusses three additional elements which may be included in a RC/RC Law. Section C contains a list of assessment questions, which National Societies can use to evaluate their existing RC/RC Law and identify potential areas for improvement.

A. Main Elements of the RC/RC Model Law

1. Relationship between the National Society and the Public Authorities in its Country

An RC/RC Law should contain provisions regulating the relationship between the National Society and the public authorities in its country. These provisions should: (a) recognize the National Society's auxiliary role; (b) recognize the National Society's status as the *only* National Society in the country; and (c) require the public authorities to *at all times* respect the National Society's adherence to the Fundamental Principles. The RC/RC Model Law provides three sample clauses to this effect. These three clauses constitute three of the four core elements for a RC/RC Law:

1.2

The Society is a voluntary aid society, auxiliary to the public authorities in the humanitarian field, recognised and authorised on the basis of the Geneva Conventions (and their Additional Protocols) to render assistance to the medical services of the armed forces in times of armed conflict.

1.3

The Society is the only National Society of the Red Cross or Red Crescent in (name of the country). It carries out its activities on the entire territory of (name of the country).

1.5

The public authorities shall at all times respect the adherence by the Society to the Fundamental Principles of the International Red Cross and Red Crescent Movement as required by resolution 55(1) of the General Assembly of the United Nations.

2. Right of National Society to Act at All Times in Accordance with its Statutes

Sound Statutes are essential for a strong National Society. They describe the identity of the National Society, including what it intends to do to respond to humanitarian need, identify its stakeholders and leadership, and outline its governance and management structures. They ensure transparency about how power is allocated within the organization and help safeguard a National Society's integrity. National Society Statutes are adopted by the highest governance body of the National Society (General Assembly or similar), are the product of significant governance input and scrutiny, and cannot therefore be changed at short notice. For all of these reasons, the RC/RC Law should provide for the National Society to act at all times in accordance with its Statutes. Article 2.2 of the RC/RC Model Law is a sample clause to this effect. This is the fourth of the four core elements for a RC/RC Law:

2.2

The Society shall at all times act in accordance with its statutes (Constitution, by-laws) adopted by the (relevant body of the Society).

3. Legal Personality

In order to operate, a National Society requires 'legal personality', meaning that it must be a distinct entity which is capable of performing legal acts in its own name. This is generally referred to as 'incorporation', whereby the National Society becomes a 'body corporate'. In most countries, there are different types of body corporate designed for various purposes, and there is often a specific type of body corporate designed for non-profit organizations.

The RC/RC Law should incorporate the National Society. The RC/RC may also specify which type of body corporate the National Society is and the types of legal acts that it is entitled to perform, such as entering into contracts or acquiring property.¹⁵ Articles 2.1 and 5.1 of the RC/RC Model Law are sample clauses to this effect:

2.1 The Society is a corporate body with legal personality.

5.1 The Society, within the limits laid down by its object and functions, may acquire, own, alienate and administer such property as it deems fit. It may accept any conveyance of real estate to its use or benefit.



Turkey, 2020. Syrian refugee Houda Al-Fadil's new culinary adventure began when Houda enrolled in a traditional Turkish cooking course offered at a community center run by the Turkish Red Crescent Society, supported in part with funds from the European Union and operated as part of a partnership with the International Federation of Red Cross and Red Crescent Societies (IFRC). © Elif Irmak Erkek / Turkish Red Crescent



Kenya, 2019. Kenya Red Cross Society, with support from IFRC, and funding from USAID, has been helping communities prepare and prevent the spread of diseases, like anthrax, ensuring cases are detected early at the community level before it becomes an epidemic. © Corrie Butler / IFRC

4. Object, Mission or Purpose

The RC/RC Law should contain a provision establishing the National Society's object, which may also be referred to as its 'mission' or 'purpose'. Article 3.1 of the RC/RC Model Law is a sample clause which can be used to describe the object of a National Society:

3.1

In addition to rendering assistance to the medical services of the armed forces in times of armed conflict, the object of the Society is to prevent and alleviate human suffering with complete impartiality, making no discrimination as to nationality, race, gender, religious beliefs, class or political opinions.

National Societies that would like to include a more detailed description of their object should consider adopting the language used to describe the mission of the Movement in the Preamble to the Statutes of the Movement. Relevantly, the Preamble states that the Movement's mission is:

to prevent and alleviate human suffering wherever it may be found, to protect life and health and ensure respect for the human being, in particular in times of armed conflict and other emergencies, to work for the prevention of disease and for the promotion of health and social welfare, to encourage voluntary service and a constant readiness to give help by the members of the Movement, and a universal sense of solidarity towards all those in need of its protection and assistance.

This language from the Preamble can be directly imported into the RC/RC Law to describe the National Society's object.

5. Duties of the National Society as a Movement Component and IFRC Member

A National Society's status as a component of the Movement and as a member of the IFRC entails several duties. It means that the National Society must adhere to the Fundamental Principles, the Statutes of the Movement, the IFRC Constitution, decisions of the IFRC's General Assembly and Governing Board, and resolutions adopted by the International Conference and the Council of Delegates. Accordingly, the RC/RC Law should contain a provision recognizing that the National Society will comply with its duties as a component of the Movement and member of the IFRC. Article 4 of the RC/RC Model Law is a sample clause to this effect:

4

The Society shall comply with its duties as a component of the International Red Cross and Red Crescent Movement and as a member of the International Federation of Red Cross and Red Crescent Societies.

6. Emblem Protection

The Movement has three distinctive emblems: a red cross, crescent or crystal on a white ground. The use of the emblems is governed by the Geneva Conventions and their Additional Protocols, as well as the Regulations on the Use of the Emblem of the Red Cross or Red Crescent by the National Societies (the **Emblem Regulations**).¹⁶

In many countries the use of the emblem is governed by a separate and specific emblem law. The ICRC has developed a Model Law on the Emblems, which can guide the development or review of an emblem law, or a specific emblem chapter in the RC/RC Law. It is recommended that governments enact detailed legal provisions on the use of the emblems in accordance with the Model Law on the Emblems.¹⁷

Where it is not feasible to enact detailed provisions on the use of the emblem, the minimum legal protection of the emblem to be included in the RC/RC Law is a provision which: authorizes the National Society to use as its emblem the red cross/crescent/crystal on a white ground in conformity with the Geneva Conventions and the Emblem Regulations; prohibits any other use of the emblem; and establishes penalties for misuse of the emblem.¹⁸ Article 6 of the RC/RC Model Law is a sample clause which provides this minimum legal protection of the emblem:

6.1

The Society shall be authorised to use as its emblem a red (cross/crescent/crystal) on a white ground for all the purposes foreseen by the International Conference of the Red Cross and Red Crescent, in conformity with the Geneva Conventions of 1949, the present law and the Regulations on the Use of the Emblem by National Societies adopted by the International Conference of the Red Cross and Red Crescent.

6.2

Any use of the emblem of the red (cross/crescent/crystal) other than foreseen in the Geneva Conventions of 1949 or paragraph 1, is prohibited and will be punished with (penalty) (in conformity with the relevant provision of the penal code or a specific law repressing abuse of the emblem).



Mozambique, 2019. The Italian Red Cross technicians set up a basecamp in Beira, Mozambique one month after Cyclone Idai hit.
© Italian Red Cross

7. Tax Exemption and Funding

The RC/RC Law should address tax exemption and funding for the National Society. Specifically, it should ideally provide the National Society and its donors with broad tax exemption, and provide a guarantee of funding for the activities which government entrusts to the National Society. Articles 5.4, 5.5 and 5.6 of the RC/RC Model Law address these important topics:

5.4

The assets of the Society, including its financial resources and real estate as well as the revenue from its income generating activities, shall be exempted from all taxes and duties.

5.5

Donations made to the Society by any individual or legal body shall benefit from tax exemption.

5.6

The public authorities shall make provisions for covering the cost of any service or activity which they may entrust to the Society within the scope of the Society's object and functions. The conditions for the implementation of such services or activities shall be laid down in agreements between the Society and the relevant public authority.

In practice, there is significant variation in the types of tax exemption and funding provided to National Societies by government. This topic is discussed in detail in [Chapter Four \(Legal Facilities\)](#).

B. Additional Elements to be included in a RC/RC Law

Section A focused on the main elements of the RC/RC Model Law. While a RC/RC Law that is fully consistent with the Model Law will provide a sound legal foundation for a National Society, there are three additional elements which a National Society may wish to include: (1) a definition of the auxiliary role and a description of the respective roles and duties of the National Society and its public authorities; (2) a high-level and non-exhaustive description of the National Society's key activities; and (3) legal facilities that will permit the National Society to operate efficiently and effectively. These additional elements are discussed below.

1. Definition of the Auxiliary Role and Corresponding Roles and Duties

As discussed in Section A above, the RC/RC Law must recognize the National Society as auxiliary to the public authorities in the humanitarian field. In order to promote understanding of the auxiliary role, National Societies may wish to include a definition of the auxiliary role in their RC/RC Law, and a description of the respective roles and duties of the National Society and its public authorities. In doing so, National Societies should rely on the language of Resolution 2 of the 30th International Conference.

For a **definition** of the auxiliary role, the RC/RC Law may use the following language from Resolution 2:

a specific and distinctive partnership, entailing mutual responsibilities and benefits, and based on international and national laws, in which the national public authorities and the National Society agree on the areas in which the National Society supplements or substitutes for public humanitarian services.



Kyrgyzstan, 2017. Red Crescent Society of Kyrgyzstan distributes door by door meals and foods to the beneficiaries of the aid program.
© Daniele Aloisi

For a description of the respective **roles and responsibilities** of the National Society and the public authorities, the RC/RC Law may use the following language from Resolution 2:

- it is the primary responsibility of the public authorities to provide humanitarian assistance to vulnerable persons on their territory;
- the primary purpose of the National Society as auxiliary to the public authorities in the humanitarian field is to supplement them in the fulfilment of this responsibility.¹⁹
- the National Society has a duty to consider seriously any request by its public authorities to carry out humanitarian activities within its mandate;
- the public authorities must refrain from requesting the National Society to perform activities which are in conflict with the Fundamental Principles, the Statutes of the Movement or its mission; and
- the National Society has the duty to decline any such request and public authorities must respect any such decisions by the National Society.²⁰

2. Legal Mandate for Key Activities

As discussed in Section A above, the RC/RC Law should contain a description of the National Society's object, which may also be referred to as its 'mission' or 'purpose'. In addition, a National Society may wish to include a provision outlining its key activities in order to create a legal mandate for it to carry out those activities. The description of the National Society's activities in the RC/RC Law should be quite general, in order to prevent it from becoming outdated. More specific details about the National Society's activities can be included in sectoral laws, policies, plans and agreements, as discussed in [Chapter Three](#) below. Additionally, the description of the National Society's key activities should be non-exhaustive, in order to allow the National Society to conduct new activities that are consistent with its object and the Fundamental Principles.

There are many examples of RC/RC Laws which create a legal mandate for a National Society's key activities through a provision containing a high-level description or list of those activities. Some examples are provided below.

Argentina

In **Argentina**, the RC Law identifies 16 activities that the Argentine Red Cross is authorized to perform, including four activities which it performs in its auxiliary capacity.²¹ For example, one of the four auxiliary activities is "risk reduction and community and institutional preparedness for emergencies and disasters, and the organization of relief for victims". This gives the Argentine Red Cross a strong legal mandate for disaster risk management. Notably, the RC Law provides that the Argentine Red Cross may also carry out other activities that are consistent with its object, allowing Argentine Red Cross to adapt its activities to changing humanitarian needs.²²

Finland

In **Finland**, the Presidential Decree on the Finnish Red Cross contains a list of 18 key activities to be undertaken by the Finnish Red Cross including providing "first aid services and training" and "blood services in accordance with the Act on Blood Services".²³ Importantly, the Decree provides that the Finnish Red Cross may "take other measures that promote or support" its purpose, which provides the Finnish Red Cross with flexibility to commence new activities in response to changing circumstances.

Mongolia

In **Mongolia**, the Red Cross Law contains a list of 10 "functions" of the Mongolian Red Cross Society (**MRCS**). Each function is described at a high level, yet also in sufficient detail to create a clear legal mandate for the MRCS. For example, one of the functions is to "organize activities of disaster prevention, ensuring preparedness, risk mitigation and recovery, to provide emergency relief services for the affected population and to educate the population on responding to disasters".²⁴ This gives the MRCS a clear legal mandate with respect to disaster risk management.

Tajikistan

In **Tajikistan**, the Red Crescent Law contains a list of 16 activities performed by the Red Crescent Society of Tajikistan (**RCST**), including: providing assistance to people affected by emergencies in coordination with the Committee for Emergency Situations and Civil Defence; organizing the reception, storage and distribution of humanitarian aid; and creating a tracing service in order to search for missing persons and restore links between separated family members.²⁵ The list of the RCST's activities is not exhaustive, as the law also provides for RCST to perform other tasks arising from the Fundamental Principles of the Movement.²⁶

3. Legal facilities

The term 'legal facilities' refers to special legal rights that are provided to a specific organization (or a category of organizations) to enable it to conduct its operations efficiently and effectively. Legal facilities may take the form of positive rights or entitlements (i.e. to do or to have a particular thing), an exemption from a law that would otherwise apply, or access to simplified and expedited regulatory processes. A few examples of the types of legal facilities that may be included in the RC/RC Law include:

- **a legal right** to move freely throughout the country and to access vulnerable populations at all times;
- **a legal guarantee** of government-funded medical care and/or insurance for volunteers;
- **limited legal liability** for staff and/or volunteers for emergency response or providing first aid; and
- **exemption** from customs duties, taxes, tariffs or governmental fees for importing relief goods.

The above list provides only a few examples of the types of legal facilities that can be included in the RC/RC Law. The topic of legal facilities is addressed in [Chapter Four](#), which discusses many other types of legal facilities for National Societies.

Legal facilities can be provided to a National Society by its RC/RC Law and/or sectoral laws. For example, a tax exemption may be provided to a National Society by its RC/RC Law and/or by a tax law. In some cases, legal facilities can even be provided to a National Society via a Ministerial letter. For example, a Minister for Customs may have the power to grant a National Society an exemption from customs duty without needing to make an order or decree. In this case, a letter from the Minister stating that the National Society is exempt from customs duty may be sufficient.

Legal facilities can be highly valuable to a National Society regardless of whether they are provided by its RC/RC Law, a sectoral law or a Ministerial letter. However, including legal facilities in the RC/RC Law can have significant benefits.

- **Firstly**, when legal facilities are included in the RC/RC Law, they may apply to all of the National Society's activities (depending on the wording of the RC/RC Law). In contrast, when legal facilities are included in a sectoral law, they will usually be limited to the specific situations or activities that are addressed by that law.
- **Second**, when legal facilities are included in the RC/RC Law, it is clear that the National Society is entitled to the legal facility. In contrast, when legal facilities are included in sectoral laws such as tax or volunteering laws, National Societies may need to prove that they meet certain criteria in order to receive the legal facility (e.g. being a 'non-profit organization' or a 'first responder').
- **Third**, when legal facilities are included in the RC/RC Law, they are unlikely to be revoked or changed. This is because RC/RC Laws are generally not amended very frequently. In contrast, when legal facilities are provided via a Ministerial letter, they may be more susceptible to being changed or even revoked as governments and Ministers change over time.

C. Assessment Questions

This section provides a list of assessment questions which National Societies may use to evaluate their existing RC/RC Laws and identify potential areas for improvement. Using these assessment questions is a preliminary step to advocating to government for a stronger legal base, which is discussed in [Chapter 5](#).

1. Does the RC/RC Law:

- a. recognize the auxiliary role of the National Society;
 - b. contain a definition of the auxiliary role that is consistent with Resolution 2 of the 30th International Conference;
 - c. describe the roles and duties of the National Society and the public authorities consistently with Resolution 2 of the 30th International Conference; and
 - d. require the public authorities to *at all times* respect the National Society's adherence to the Fundamental Principles?
2. Does the RC/RC Law establish that the National Society is the *only* National Society in the country and carries out its activities on the *entire territory* of the country?
 3. Does the RC/RC Law provide for the National Society to act *at all times* in accordance with its Statutes?
 4. Does the RC/RC Law recognize that the National Society has legal duties as a component of the Movement and as a member of the IFRC?
 5. Does the RC/RC Law contain a provision:
 - a. authorizing the National Society to use as its emblem the red cross/crescent/crystal on a white ground in conformity with the Geneva Conventions of 1949 and the Emblem Regulations; and
 - b. prohibiting any other use of the emblem and establishing penalties for its misuse?
 6. Does the RC/RC Law provide the National Society with legal personality and, if necessary, specify which legal acts (e.g. acquiring property, entering into contracts) it can perform?
 7. Does the RC/RC Law contain a provision describing the National Society's object which is consistent with the Preamble to the Statutes of the Movement and article 3.1 of the RC/RC Model Law?
 8. Does the RC/RC Law contain a provision outlining the main activities of the National Society in a high-level and non-exhaustive manner?
 9. Does the RC/RC Law establish that government will provide funding for activities which it entrusts to the National Society?
 10. Does the RC/RC Law provide the National Society and its donors with broad tax exemption?





Mexico, 2018. Emergency Medical Technician, Gabriela Estrada, provided medical care for children at a school after a 7.1 magnitude earthquake struck outside of Mexico City.

CHAPTER THREE

SECTORAL LAWS, POLICIES, PLANS AND AGREEMENTS

This Chapter focuses on how sectoral laws, policies, plans and agreements can strengthen National Societies' auxiliary role. The Chapter comprises four sections. To provide context, Section A identifies the many and varied types of activities that National Societies perform in relation to health, disaster risk management, social welfare and migration. Section B explains the difference between laws, policies, plans and agreements, and discusses how these instruments are suited to different circumstances. Section C discusses two key ways in which sectoral laws, policies, plans and agreements can strengthen the auxiliary role. It focusses on: (1) the clear allocation of roles and responsibilities to National Societies; and (2) guaranteed participation for National Societies in coordination and decision-making bodies. Section D contains a list of assessment questions which can be used to evaluate the extent to which existing sectoral laws, policies, plans and agreements reflect and support a National Society's auxiliary role.

A. The Varied Activities of National Societies

National Societies are united both by the Fundamental Principles and the mission described in the Preamble to the Statutes of the Movement. Further, article 3(2) of the Statutes of the Movement tasks all National Societies with the following activities:

- cooperating with the public authorities in the prevention of disease, the promotion of health and the mitigation of human suffering by their own programmes in such fields as education, health and social welfare; and
- organizing, in liaison with the public authorities, emergency relief operations and other services to assist the victims of armed conflicts as provided in the Geneva Conventions, and the victims of natural disasters and other emergencies for whom help is needed.

The above activities are stated at a high-level, providing National Societies with a degree of flexibility to respond to the particular humanitarian needs within their countries. In practice, there is significant variation in the specific activities conducted by National Societies in relation to health, disaster risk management, social welfare and migration. The Country Mappings indicate that a National Society may perform a combination of the following types of activities:

With respect to **health** National Societies may:

- run blood banks and/or recruit non-remunerated blood donors;
- operate an ambulance service;
- provide first aid training and first aid services;
- provide home-based care and patient transport;
- undertake projects to improve community access to water and sanitation;
- operate healthcare facilities such as hospitals and clinics;
- run campaigns relating to the prevention of disease (including through immunization);
- support prevention, preparedness and response to outbreaks, epidemics and pandemics;
- provide mental health and psychosocial support services, particularly in crises;
- run programs to provide vulnerable groups with access to healthcare services;

With respect to **disaster risk management** National Societies may:

- run community-level disaster risk reduction, climate change adaptation and disaster preparedness programs;
- operate an early warning system or assist in the dissemination of early warnings and early action activities;
- participate in contingency planning at all levels from community to national level;
- act as a first responder during disasters in coordination with public authorities;
- run community-level relief and recovery programs;

With respect to **social welfare** National Societies may:

- run programs to counteract social isolation and loneliness for people who do not have adequate social contact;
- provide support to people affected by a myriad of social issues including forced marriage, labour exploitation, human trafficking and long-term unemployment;
- restore family links by tracing people that have been separated from family members due to war, disaster or migration;

With respect to **migration** National Societies may:

- provide humanitarian services to vulnerable migrants across their journeys;
- conduct monitoring of immigration detention facilities and provide services to people held in immigration detention;
- run programs for asylum seekers, refugees and internally displaced persons (IDPs), whether living in camps/settlements or in the community, in order to assist them to access education, healthcare, housing and employment.

The above list of activities is not exhaustive. National Societies perform many other activities that are not listed above.

In order to fulfil their auxiliary role in disaster risk management, National Societies need to continually review and enhance their preparedness and response capacity. Preparedness for Effective Response (PER) is an approach designed to be used by National Societies to systematically assess, measure and analyze the strengths and weaknesses of their response systems in order to continuously improve. The PER approach includes an assessment of the legal and policy basis for National Societies' disaster risk management activities. The assessment questions at the end of this Chapter can be used in this part of the PER.



Afghanistan, 2019. Afghan Red Crescent World Red Crescent Day , volunteers love campaign © Afghan Red Crescent Society

B. Sectoral Laws, Policies, Plans and Agreements

This Chapter focuses not only on sectoral laws, but also on sectoral policies, plans and agreements. Each of these instruments has different characteristics and functions.

Laws

Laws are binding rules; they create rights and duties, which can often be enforced in court if they are breached. Laws come in many different forms such as acts, regulations, decrees and orders. They are generally made by parliament or by high-ranking government officials (e.g. in the case of a Ministerial order or Presidential decree).

Policies

Policies are official government documents which set out a government's overall position on a particular issue. Policies generally outline the specific goals, strategies and measures that government intends to pursue in relation to that issue. Unlike laws, policies are generally not binding. Policies may refer to and rely on laws or plans, as these may be part of government's policy implementation strategy.

Plans

Plans are official government documents which set out practical measures or actions that government intends to implement. Plans are often used to set out the steps that government, and relevant non-government actors, will take to mitigate, prepare and respond to a particular threat or problem (e.g. drought management plan, pandemic response plan). In contrast to policies, plans often contain a high level of operational or technical detail.

Agreements

Agreements fall into two main categories: binding and non-binding. A binding agreement is referred to as a contract; similar to laws, contracts can often be enforced in court if they are breached. Non-binding agreements are often referred to as MoUs, the acronym for Memorandum of Understanding. A MoU is used when parties wish to record their agreement but do not wish, or are unable, to make a legal commitment to one another.

All of the above types of instrument have the potential to strengthen National Societies' auxiliary role by clarifying and formalizing their roles and responsibilities. While sectoral laws can provide a particularly strong foundation for National Societies' activities, it is important to note that a sectoral law is not always necessary. In many cases a policy, plan, agreement or MoU can achieve the practical outcome that a National Society needs. Further, an agreement or MoU (rather than a law) is likely to be a more appropriate foundation for an activity that a National Society has only recently commenced, that is highly susceptible to change, or is very specific to a particular situation.

In some cases a National Society's practical needs can be met simply through an official letter from the relevant government Minister. As discussed in [Chapter Two](#), depending on the local legal system, a Ministerial letter may be sufficient to provide a National Society with certain legal facilities, such as an exemption from customs duty. Equally, a Minister may issue a letter to provide formal recognition of a National Society's roles and responsibilities in a particular sector. Ministerial letters are therefore another type of instrument which can support the auxiliary role.



Dominican Republic, 2017. Hula hoops distribution by the Dominican Red Cross at the commanded Ginandiana's children.
© Catalina Martin-Chico / IFRC

C. Two Key Mechanisms for Strengthening the Auxiliary Role

There are two key ways in which sectoral laws, policies, plans and agreements can strengthen the auxiliary role: firstly, by clearly outlining National Societies' roles and responsibilities; and second, by providing for National Societies to be included in relevant sectoral decision-making or coordination bodies.²⁷

1. Roles and Responsibilities

There are many benefits of sectoral laws, policies, plans and agreements that clearly outline National Societies' roles and responsibilities. This provides National Societies with a clear mandate and clarity about what they are required or expected to do. In turn, this improves their ability to engage in long-term planning, to develop institutional knowledge and expertise, and to advocate for legal facilities and funding. In the context of disaster response, clear roles and responsibilities are also critical to avoiding confusion and delay in providing life-saving assistance.²⁸

Sectoral laws, policies and plans are usually publicly available and likely to be viewed by other relevant actors and stakeholders. As a result, compared to agreements, these instruments may provide some additional benefits: they may clarify how National Societies' roles and responsibilities relate to those of other actors (both governmental and non-governmental); and they may also raise other actors' and stakeholders' awareness of National Societies' roles.

The Country Mappings identified that, in many countries, National Societies' roles and responsibilities in relation to disaster risk management and health are clearly reflected in sectoral laws, policies, plans and agreements. This appeared to be less common in relation to National Societies' migration and social welfare activities. Some examples of good practice are provided below.

Australia

In **Australia**, the Australian Red Cross (**ARC**) has a Memorandum of Understanding with the Department of Home Affairs, which permits the ARC to monitor conditions in immigration detention facilities in Australia. As a result of the MOU, ARC is the only humanitarian organization in Australia that visits all detention facilities on a regular basis. The MOU also enables ARC to have an ongoing relationship and dialogue with the relevant public authorities, in which it confidentially provides public authorities with a humanitarian perspective on immigration detention.²⁹

Bangladesh

In **Bangladesh**, the Standing Orders on Disaster (dated April 2010) acknowledge Bangladesh Red Crescent Society's auxiliary status and its important role in disaster risk management.³⁰ The Standing Orders clearly identify BRCS' and other actors' roles and responsibilities during each phase of disaster risk management, from disaster risk reduction through to recovery.³¹ The description of BRCS' roles and responsibilities descends into a high-level of operational detail, outlining specific tasks such as disseminating emergency warnings, conducting evacuations, organising shelter, and providing first aid, food and medical care.³² New Standing Orders adopted in 2019 establish a similarly detailed and important role for BRCS in disaster risk management.

Ecuador

In **Ecuador**, the Emergency Operations Committee Manual, which was legally adopted in 2017, outlines the roles and responsibilities of the Ecuadorian Red Cross in disaster response.³³ The Manual identifies the Ecuadorian Red Cross as having roles and responsibilities in relation to three key areas: search and rescue; health and pre-hospital care; and temporary accommodation and humanitarian assistance.³⁴ In each of these areas, a relevant government agency has the overall responsibility for coordination, however the Ecuadorian Red Cross' supporting role is clearly recognized. The Manual outlines the specific activities to be performed in each of these areas and requires the Ecuadorian Red Cross to immediately convene with other identified actors whenever a disaster occurs.³⁵

Finland

In **Finland**, the Finnish Red Cross and the Finnish Immigration Service (under the Ministry of Interior) have entered into an agreement on support services for refugees and asylum seekers. Pursuant to the agreement, the Finnish Red Cross supports the authorities in receiving asylum seekers and refugees and maintains reception centres throughout Finland. The Finnish Red Cross also provides both monitoring and social activities in migration detention facilities.

Honduras

In **Honduras**, the Honduran Red Cross and IFRC have a Cooperation Agreement with the Presidential Social Protection Programme Unit and the Honduran Institute of Social Security in relation to the primary care component of the new healthcare system in the Sula Valley. The Agreement contains an introductory paragraph recognizing key features of the Honduran Red Cross, such as its adherence to the Fundamental Principles, commitment to assisting the most vulnerable within society and experience in implementing community-based healthcare programs. The Agreement outlines in detail the shared and individual obligations of the parties and, in doing so, provides the Honduran Red Cross and IFRC with an extensive role in designing and implementing the project.

Kyrgyzstan

In **Kyrgyzstan**, the Red Crescent Society of Kyrgyzstan has entered into cooperation agreements with the Ministries for Health, Disaster Management, and Labour and Social Development. The agreements provide a high-level overview of the Society's roles and responsibilities for activities falling within the purview of each of these Ministries. The agreements support the Society to perform its auxiliary role by creating the foundation for an ongoing relationship with government. In practice, the agreements provide a framework within which the Society and government engage in collaborative planning, coordinate their activities and enter into more specific project or activity-level agreements.

Nepal

In **Nepal**, the Nepal Red Cross Society's roles with respect to health are reflected in many different policies. For example, under the *National Blood Transfusion Policy 2071* (2014), the NRCS is tasked with responsibility at the national level for blood transfusion services including collecting, analysing, storing and transporting blood products.³⁶ As another example, the *Health Sector Plan for Disaster Response 2071* (2014) provides for the NRCS to support the Ministry of Health to perform numerous health-related activities in the event of a disaster. This includes (but is not limited to) emergency first aid, transportation of injured people to health facilities and the establishment of field hospitals.³⁷

Nigeria

In **Nigeria**, the National Disaster Response Plan (NDRP) provides that the Nigerian Red Cross Society is one of three primary agencies responsible for “mass care” during disasters, meaning the “emergency provision of temporary shelters, emergency mass feeding, bulk distribution of relief supplies for victims of disaster, and disaster welfare information”.³⁸ The other two primary agencies are the Ministry for Health and the National Emergency Management Agency. The NDRP goes into detail about the responsibilities of the Nigerian Red Cross Society with respect to mass care, and outlines how it must coordinate with the other primary agencies.

Norway

In **Norway**, the Norwegian Red Cross' roles with respect to health and disaster risk management are formalized through agreements with the relevant government authorities. With respect to disaster risk management, 236 municipal authorities have an agreement with the local branch of the Norwegian Red Cross. These agreements generally provide for the Norwegian Red Cross, as an auxiliary to the municipality in its disaster preparedness and response activities, to make available resources and to assist with specific activities such as evacuation and search and rescue.³⁹ With respect to ambulance services, the Norwegian Red Cross has agreements with regional health authorities which provide for it to deliver supplementary ambulance services as well as “emergency helpers” for certain events and arrangements.⁴⁰

2. Coordination and Decision-Making Bodies

In addition to clearly outlining National Societies' roles and responsibilities, sectoral laws, policies, plans and agreements can provide for National Societies to participate in key decision-making and coordination bodies. Indeed, in order to perform their assigned roles and responsibilities effectively, National Societies require access to forums which enable coordination and communication with all other relevant actors. Further, participating in decision-making and coordination bodies allows National Societies to represent and advocate for the needs of the most vulnerable groups within society.

The Country Mappings reveal that, in many of the Sample Countries, National Societies are *invited* to participate in relevant sectoral decision-making and coordination bodies, but do not have a *legal right* to participate because the law that creates the body does not list the National Society as one of its members. It is strongly preferable for the law to clearly identify National Societies as a member of relevant decision-making and coordination bodies. This ensures that National Societies' always have a seat at the table, and do not have to await an invitation. Some examples of good practice in this area are provided below.

Bangladesh

In **Bangladesh**, the Safe Blood Transfusion Act 2002 establishes the National Safe Blood Transfusion Council, which is responsible for developing policies and procedures for the safe collection, storage and circulation of blood and other related issues, such as promoting voluntary blood donation and regulating private blood donation clinics.⁴¹ The Act designates the Chairman of Bangladesh Red Crescent Society as a member of the Council, together with representatives from sectoral authorities (e.g. Ministry of Health and Family Welfare) and civil society organizations (e.g. National Women's Organization).⁴²

Jamaica

In **Jamaica**, the Disaster Risk Management Act 2015 establishes a National Disaster Risk Management Council, whose responsibilities include reviewing and approving the National Disaster Response Coordination Plan and facilitating effective national coordination for disaster preparedness, response and recovery.⁴³ The Act specifies that the President of Jamaica Red Cross is a member of the Council, which also includes representatives from a number of sectoral agencies, humanitarian actors and civil society organizations.⁴⁴

Nigeria

In **Nigeria**, there is a national law which establishes the National Emergency Management Agency (NEMA).⁴⁵ The law provides that the Governing Council of NEMA comprises representatives from sectoral agencies and a representative of the Nigerian Red Cross Society.⁴⁶ The same law also establishes State Emergency Management Committees and, again, provides for the Nigerian Red Cross Society to be a member of such committees.⁴⁷

Peru

In **Peru**, the Law Establishing the Disaster Risk Management System provides that it is mandatory for institutions and organizations involved in disaster response to participate in coordination, decision-making, communication and information management mechanisms.⁴⁸ It specifically names Peruvian Red Cross and the volunteer fire service as two such organizations. In turn, implementing regulations designate Peruvian Red Cross as a "first responder" and provide for it to participate in Regional and Local Emergency Operations Centres.⁴⁹

Spain

In **Spain**, there is a Ministerial Order establishing a Coordination Authority for the response to irregular migration in the Strait of Gibraltar, the Alboran Sea and adjacent waters.⁵⁰ The Ministerial Order specifically provides for the Spanish Red Cross to participate in the Coordination Authority, together with several national ministers and representatives of governmental agencies (e.g. National Police, National Intelligence Centre). The Spanish Red Cross is included in this coordination mechanism due to its role in providing assistance to irregular immigrants upon arrival in Spain.

Vanuatu

In **Vanuatu**, the Disaster Risk Management Act No. 23 of 2019 provides the Chief Executive Officer of the Vanuatu Red Cross Society with a seat on the National Disaster Committee, which is responsible for overseeing the implementation of disaster risk management policies in Vanuatu.⁵¹ The Committee's other responsibilities include advising the Minister on the need to declare, extend or terminate a state of emergency, and on the need to request international assistance.⁵² Vanuatu Red Cross Society is the only non-governmental organization that is legally guaranteed a seat on the Committee, with other organizations being invited at the Chairperson's discretion.

D. Assessment Questions

This section provides a list of assessment questions which National Societies can use to evaluate whether sectoral laws, policies, plans and agreements adequately support and reflect their auxiliary role. In order to conduct this assessment, National Societies should first:


- a. prepare a list of the National Society's key activities in relation to health, disaster risk management, migration, social welfare and any other key sectors;
- b. search for all laws, policies, plans and agreements which relate to those key activities (e.g. Blood Donor Act, Disaster Response Plan, Policy on Irregular Migration).

The questions below can then be used to evaluate whether the identified instruments adequately support and reflect the National Society's auxiliary role.

1. Do the identified sectoral laws, policies, plans and agreements clearly allocate the National Society roles and responsibilities?
2. If 'yes', are those roles and responsibilities commensurate with the National Society's experience, capacity and resources?
3. Do the identified sectoral laws, policies, plans and agreements provide for the National Society to be a member of relevant decision-making and coordination bodies?



Greece, 2016. Over 10.000 people have been stranded by the border in Idomeni for two months. More than 40 per cent are children. The Hellenic Red Cross staff and volunteers organise activities for children to make them smile and laugh despite the dire conditions. Their happiness goes a long way in ensuring that also their parents and everyone else feels better. © Caroline Haga / IFRC



Afghanistan, 2020. Portrait of Gul Rahman one of the Afghan Red Crescent Society volunteers who will be distributing soap door to door in Kabul.

CHAPTER FOUR

LEGAL FACILITIES FOR NATIONAL SOCIETIES

The term ‘legal facilities’ refers to special legal rights that are provided to a specific organization (or a category of organizations) to enable it to conduct its operations efficiently and effectively. Legal facilities may take the form of positive rights or entitlements (i.e. to do or to have a particular thing), an exemption from a law that would otherwise apply, or access to simplified and expedited regulatory processes.

The IFRC’s Disaster Law Programme has developed recommendations on legal facilities for domestic and international actors involved in disaster preparedness, response and early recovery. Of particular note are the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (the **IDRL Guidelines**) which were adopted by the 30th International Conference in 2007, and the **Checklist on Law and Disaster Preparedness and Response** which was endorsed by the 33rd International Conference 2019.⁵³

This Chapter draws on this existing body of recommendations but has a specific focus on legal facilities *for National Societies*. Rather than being limited to the disaster risk management context, this Chapter focuses on legal facilities that are relevant to the full range of National Society activities. It discusses legal facilities in five key areas: (a) staff and volunteers; (b) tax; (c)

funding; (d) access and freedom of movement; and (e) disaster-related goods, equipment and personnel. While this Chapter discusses a wide range of legal facilities that may be helpful to National Societies, it is not exhaustive. Other legal facilities may be required depending on the local or operational context. The following general points about legal facilities should be noted.

- **Firstly**, as discussed in [Chapter Two](#), while legal facilities can be provided by the RC/RC Law, by sectoral laws or by a Ministerial letter, there may be benefits to including legal facilities in the RC/RC Law. One benefit is that legal facilities that are included in the RC/RC Law can be applicable to all of the National Society's activities, whereas legal facilities in sectoral laws will usually be limited to the specific situations or activities addressed by the relevant sectoral laws.
- **Second**, National Societies' unique auxiliary role provides a strong, principled basis for requesting legal facilities. The auxiliary role means that National Societies have a recognized public function to supplement or substitute their governments' humanitarian activities. It is appropriate for governments to support and enable National Societies to perform this public function by providing them with legal facilities.
- **Third**, as we will see in this Chapter, governments often decide to make legal facilities available to a category of organizations, rather than solely to a National Society. For example, legal facilities may be provided to "charitable organizations" or "first responders". In these circumstances, whether the National Society is entitled to the relevant legal facilities usually depends on whether it meets the legal definition of these terms.

A. Staff and Volunteers

This section discusses legal facilities that protect or incentivize National Society staff and volunteers. The main types of legal facilities in this category are as follows:

- legal rights to government-funded medical care, compensation and/or insurance for illness, injury or death sustained in the course of working or volunteering for the National Society;
- legal rights to volunteer for a National Society for a specified period of time in lieu of paid employment and/or in lieu of military service;
- limited legal liability for acts or omissions committed in good faith, especially in relation to providing first aid in an emergency (to be balanced against providing legitimately aggrieved individuals and communities with legal recourse);
- tax concessions for staff (e.g. income tax concessions for salary) and for volunteers (e.g. tax exemption for volunteering allowances or stipends); and
- access to automatic or expedited recognition of professional qualifications (e.g. for doctors, engineers) across national or sub-national borders.

The Country Mappings indicate that, at least in the Sample Countries, the above types of legal facilities for National Society staff and volunteers are not very common. However, there are still many examples of good practice.

Argentina

In **Argentina**, the RC Law provides that, in the event of a local, provincial or national emergency in which the resources of the Argentine Red Cross are summoned, Argentine Red Cross volunteers are considered to be "mobilized" and their employment status is a "public charge" for their employers.⁵⁴ This period may not exceed 10 days per calendar year. The practical effect of this provision is that volunteers can participate in the Argentine Red Cross' emergency response activities for 10 days per year without suffering any decrease in salary. Volunteers can also participate in a further 5 days of training per calendar year on the same basis.⁵⁵

Australia

In **Australia**, employees of the Australian Red Cross are entitled to enter a “salary packaging” arrangement, which potentially has the effect of reducing the amount of income tax they are required to pay. This tax concession is available to employees of organizations that are registered as a “charity” and have been endorsed by the Australian Taxation Office.⁵⁶

Colombia

In **Colombia**, there is a national law establishing a “National Subsystem of Volunteer First Responders” comprising volunteers for the Civil Defence, the Fire Department and the Colombian Red Cross Society.⁵⁷ The law provides that these volunteers and their immediate family members are entitled to priority access to the government’s subsidized healthcare scheme.⁵⁸

Norway

In **Norway**, a national government circular provides for volunteers who are involved in search and rescue, or in providing health and care services, to be covered by a government-funded occupational injury insurance scheme.⁵⁹ The circular explicitly applies to the Red Cross Auxiliary Corps. The insurance provided to volunteers covers medical expenses and provides compensation in the event of loss of income, disability or death.

Panama

In **Panama**, there is a national law which exempts a person from administrative, civil or criminal liability arising from providing first aid to a person in need, provided they are certified in basic or advanced first aid.⁶⁰ The law specifically states that this protection is available to volunteers for non-governmental humanitarian support organizations and the National Civil Protection System, both of which include Red Cross volunteers.⁶¹

Spain

In **Spain**, although military conscription was ended in 2000, when it was in force citizens could volunteer for the Spanish Red Cross in lieu of completing compulsory military service.⁶² This was subject to a quota and a requirement to have 6 months’ prior experience volunteering for the Spanish Red Cross.⁶³

United States

In the **United States** many states' emergency laws contain 'licensure reciprocity' provisions which recognize out-of-state medical licenses for the limited duration of a declared emergency or disaster.⁶⁴ These provisions are not specific to any organization, meaning that they are available to any doctors practicing interstate during a declared emergency, including doctors working or volunteering for the American Red Cross.

Vietnam

In **Vietnam**, the law provides that, if a person who is directly involved in Red Cross activities sustains an injury and does not have health insurance, government will provide funding at an equivalent rate to that which would have been provided by health insurance.⁶⁵ Government will also provide coverage for lost or reduced income.⁶⁶ Further, if the person has sustained an injury that reduces their working capacity by 21% or more, they will be considered for eligibility for the same benefits that are provided to soldiers wounded in action.⁶⁷



Vietnam, 2020. Nguyen Thi Anh, head of Viet Nam Red Cross Society's team in Nghia An Commune, is seen speaking to Mrs. Phan Thi Ton, a resident whose house was destroyed by Storm Molave © IFRC

B. Tax

1. Tax Exemptions for National Societies

There are a large number of taxes that National Societies may potentially incur in carrying out their activities, including taxes on:

- goods and services (e.g. Value Added Tax, Goods and Services Tax);
- imports of goods across national or sub-national borders (e.g. customs duties, tariffs or taxes);
- income or revenue from activities (e.g. income tax, corporate tax); and
- property (e.g. stamp duty, land tax, tax on rental income or capital gains).

It is also worth noting that National Societies may be liable to pay a variety of fees to government authorities, such as court fees, landing and docking fees, and various licence and registration fees. An exemption from taxes and fees is an important legal facility, which can permit National Societies to preserve much needed resources, fulfil their humanitarian mandate and provide support to the most vulnerable within society.

The RC/RC Model Law contains a sample clause which provides that the “assets of the National Society, including its financial resources and real estate as well as the revenue from its income-generating activities, shall be exempted from *all taxes and duties*”.⁶⁸ The Country Mappings indicate that, in a significant number of countries, the RC/RC Law does provide National Societies with this type of broad and comprehensive tax exemption. However, in some countries the RC/RC Law specifies that tax exemption is only available with respect to certain types of tax, or does *not* apply to certain types of activities such as ‘business activities’ or ‘profit-making activities’. Further, in a significant number of countries, tax exemption is governed by tax laws rather than by the RC/RC Law, and requires the National Society to establish or register itself as a ‘charitable organization’, ‘non-profit association’ or other similar type of entity.

Where possible, it is preferable for the RC/RC Law to provide National Societies with a comprehensive exemption from taxes, consistent with the RC/RC Model Law. Tax exemption should ideally be applicable to *all* of a National Society’s activities, including ‘business’, ‘profit-making’ or ‘income generating’ activities’, because National Societies often use proceeds from these activities to fund their non-profit activities or operational costs. Ultimately, however, any form of tax exemption is a valuable legal facility, which allows a National Society to preserve valuable resources for its humanitarian activities. Noting that the type of tax exemption that is achievable will vary depending on the country context, the list below provides a variety of examples of tax exemptions for National Societies.

Ecuador

In **Ecuador**, the RC Law provides that the Ecuadorian Red Cross is exempt from paying all taxes, including municipal taxes. The RC Law makes specific provision for the Ecuadorian Red Cross to be reimbursed for Value Added Tax that it pays on goods and services, whether acquired locally or imported.⁶⁹

Ireland

In **Ireland**, the Irish Red Cross Society holds a “charitable tax exemption”.⁷⁰ This exempts the Irish Red Cross from paying income tax, corporation tax, capital gains tax, capital acquisitions tax and stamp duty. The Irish Red Cross is not exempt from paying Value Added Tax, but it may claim a refund of a proportion of its VAT costs based on expenditure for goods or services used for its charitable purposes.

Nigeria

In **Nigeria** the Nigerian Red Cross Society is exempt from paying taxes on income derived from its primary registered activities including foreign and domestic grants, membership dues, donations, and endowments. It is, however, liable to pay tax on passive income and on income from its “commercial” activities.⁷¹

Philippines

In the **Philippines**, the RC Law provides that Philippine Red Cross is “exempt from payment of all direct and indirect taxes”.⁷² It specifies that this exemption includes value-added tax, as well as any taxes, fees or charges relating to: the use, lease or sale of its real property; provision of its services; and importations and purchases for its exclusive use.⁷³

Poland

In **Poland**, the Polish Red Cross is categorized as a “public benefit organization”, which means that it is exempt from corporate income tax, property tax, the tax on civil law transactions, stamp duty and court fees.⁷⁴

Sierra Leone

In **Sierra Leone** the RC Law provides that the “properties and assets of the Society, including its sources of funding such as revenue from income generating activities are exempted from all taxes and duties including import duties”.⁷⁵



Lebanon, 2020. Lebanese Red Cross volunteers distribute relief to the doorsteps of the people affected by the devastating explosion in Beirut Port
© Lebanese Red Cross



Guatemala, 2005. Hurricane Stan aftermath © Guatemalan Red Cross

2. Tax Exemptions for Donors

Tax exemptions for donors are also an important legal facility for National Societies. This type of tax exemption incentivizes donation, thereby increasing the amount of resources available to National Societies. The RC/RC Model Law contains a sample clause which provides for *all* donations made to the National Society, by *any* individual or body, to benefit from tax exemption.⁷⁶ The Country Mappings indicate that, in the Sample Countries, it is relatively common for donations to National Societies to be exempt from taxes. Two examples are provided below.

Liberia

In **Liberia**, the Red Cross Act provides that “[d]onations made to the Society by any individual or legal body shall benefit from tax exemption”.⁷⁷ This is a very broad tax exemption for donors, which is similar to the sample clause in the RC/RC Model Law.

Philippines

In the **Philippines**, the Red Cross Law provides that “all donations, legacies and gifts made to Philippine Red Cross to support its purposes and objectives shall be exempt from the donor’s tax and shall be deductible from the gross income of the donor for income tax purposes or from the computation of the donor-decedent’s net estate as a transfer for public use for estate tax purposes”.⁷⁸



The Netherlands, 2020. Volunteers of The Netherlands Red Cross are visiting 3,000 older people to check if they need any assistance during the heatwave. They also hand out leaflets with life-saving information about COVID-19. © Netherlands Red Cross

C. Funding

As discussed in [Chapter Two](#), article 5.6 of the RC/RC Model Law provides that “public authorities shall make provisions for covering the cost of any service or activity which they may entrust to the Society”. Article 5.6 provides a good template for a legal guarantee of funding for a National Society. A RC/RC Law may address funding in more detail than article 5.6, or it may provide for different or additional types of funding. For example, it may provide a National Society with an entitlement to an annual budget allocation (national and/or local level), payment of certain costs incurred by the National Society (e.g. IFRC membership fees) or payment of employee salaries. Some examples of good practice are provided below.

Azerbaijan

In **Azerbaijan**, the Red Crescent Law provides for government to fund the Red Crescent Society of Azerbaijan's IFRC membership dues, its contributions to the ICRC and the salaries of employees working in the Society's headquarters, regional centres and local branches.⁷⁹ The amount of funds for these purposes is determined annually in the state budget of the Republic of Azerbaijan.⁸⁰

Mongolia

In **Mongolia**, the Red Cross Law provides that the government of Mongolia shall allocate funding in the state and local budgets for the expenses of Mongolian Red Cross Society (**MRCS**) in relation to the activities specified in the RC Law, which includes disaster risk reduction, preparedness, relief and recovery.⁸¹ In turn, a government resolution implementing the Red Cross Law requires government at all levels, from local to national, to allocate appropriate funding to the MRCS in their annual budgets, in order to enable the MRCS to carry out the humanitarian activities delegated to it by the national government.⁸²

Tajikistan

In **Tajikistan**, the Red Crescent Law provides that the amount of state funding for the Tajikistan Red Crescent Society is established annually in the Law of the Republic of Tajikistan on the State Budget.⁸³ This state funding is for the payment of the Red Crescent Society of Tajikistan's membership fees of the IFRC, its contributions to the ICRC and for the implementation of public social care programs.⁸⁴ The Red Crescent Law also provides that government institutions and local governments have the right to finance regional and local organizations of the Red Crescent Society of Tajikistan from local budgets.⁸⁵

Vietnam

In **Vietnam**, the Red Cross Law provides that the Viet Nam Red Cross Society shall fund its activities from the Red Cross Operation Fund.⁸⁶ The sources of funding for the Operation Fund include “state budget support in case of need”.⁸⁷ A government decree implementing the Red Cross Law specifies that funds from the state budget will be provided to support the Viet Nam Red Cross Society's operating expenses at all levels.⁸⁸



Ukraine, 2020. Ukrainian Red Cross Society supporting low-income families, the elderly and people with disabilities with 519 food kits and information prevention campaign © Ilya Pshenichny / Ukrainian Red Cross

D. Legal Guarantee of Access or Freedom of Movement

In order to carry out their work, National Societies require access to vulnerable and affected populations and areas. However, securing access can be a significant challenge for National Societies. During and following a disaster, governments may restrict access to affected areas in order to manage risks to public safety. Even during normal times, governments may restrict or prevent access to certain populations, such as persons held in prison or detention, or residents of migrant or refugee camps. A legal guarantee of access is, therefore, an important legal facility for National Societies. A legal guarantee of access can also be framed as a right to freedom of movement at all times, including during disasters or emergencies.

It is generally preferable for a guarantee of access or freedom of movement to be included in the RC/RC Law, rather than in sectoral laws, so that it is not limited to particular activities or situations. Including a legal guarantee of access in the RC/RC Law also has the benefit that it will already be in place when a disaster occurs, and does not need to be negotiated in real-time as the disaster unfolds. As an example of good practice, in **Colombia**, the RC Law provides that the Colombian Red Cross Society will have the facilities for its displacement throughout the country and free access to the beneficiaries of humanitarian work.⁸⁹

It will not always be feasible for a guarantee of access or freedom of movement to be included in the RC/RC Law, in which case a guarantee of access in relevant sectoral laws is a good option. As an example, in **Peru** a national regulation on internal displacement states that all competent authorities must give actors that are providing humanitarian assistance rapid and unhindered access to internally displaced persons.⁹⁰ While this regulation does not specifically identify the Peruvian Red Cross, the regulation nonetheless guarantees the Peruvian Red Cross access to internally displaced persons because it qualifies as an “actor providing humanitarian assistance”.

The experience of the COVID-19 pandemic illustrates that, similar to natural disasters, public health emergencies can create serious access challenges for National Societies. In response to COVID-19, a very large number of states introduced laws establishing restrictions on freedom of movement such as curfews, ‘shelter-in-place’ orders and travel restrictions. While these restrictions created access challenges for some National Societies, there were also many examples of National Societies that were explicitly exempted from restrictions. Some examples are provided below.

Bahamas

In the **Bahamas**, an emergency order which took effect on 20 March 2020 established that a curfew, restrictions on business hours, restrictions on gatherings and a general direction to stay at home would be in force for 11 days.⁹¹ With effect from the same date, the Prime Minister, pursuant to powers under the Emergency Powers (COVID 19) Regulations 2020, exempted the Bahamas Red Cross Society from these new restrictions, thereby preserving its ability to conduct its humanitarian activities during this period.

Guatemala

In **Guatemala**, a governmental decree issued on 5 March 2020 declared a state of public emergency (SoE) and authorized the limitation of certain constitutional rights during the SoE, including the right to freedom of movement.⁹² On 21 March 2020, a governmental decree introduced specific restrictions on freedom of movement, including a curfew from 4pm to 4am each day.⁹³ The decree explicitly identified the staff and vehicles of the Guatemalan Red Cross as exempt from the newly introduced restrictions on freedom of movement.⁹⁴

Philippines

In the **Philippines**, a “strict home quarantine” was introduced for the entirety of Luzon on 17 March 2020, pursuant to which all households were required to stay at home, except to access basic necessities.⁹⁵ Health workers and volunteers of Philippine Red Cross were designated as “health and emergency frontline workers” for the purposes of these restrictions, preserving their ability to travel within Luzon and conduct their activities.⁹⁶ More generally, national legislation introduced to facilitate the response and recovery from the COVID-19 pandemic recognised the Philippine Red Cross as “the primary humanitarian agency that is auxiliary to the government in giving aid to the people, subject to reimbursement, in the distribution of goods and services incidental in the fight against COVID-19”.⁹⁷

E. Disaster-Related Goods, Equipment and Personnel

As discussed at the beginning of this Chapter, the IFRC's Disaster Law Programme has developed recommendations on legal facilities for actors involved in disaster preparedness, response and early recovery. In particular, the IDRL Guidelines provide recommendations about legal facilities for the rapid and cost-effective movement of disaster relief goods, equipment and personnel across international borders.⁹⁸ This type of legal facility is highly relevant to National Societies due to their role as a first responder to disasters within their country, and in supporting components of the Movement to prepare and respond to disasters in other countries. The main legal facilities in this category are as follows:

- **exemption** from customs duties, taxes, tariffs or governmental fees and expedited processes for applying for exemption;
- **access** to simplified and expedited customs clearance processes including priority clearance and waived or reduced inspection requirements;
- **exemption** from restrictions on the types or quantity of goods and equipment that can be imported or exported;
- **expedited** permission for the departure and arrival of land, marine and air vehicles carrying disaster-related goods and equipment;
- **waiver** of licensing requirements or fees for the use of imported vehicles, telecommunications equipment and other specialized items; and
- **expedited** visa processing for relief personnel entering or leaving the country to assist a National Society in its disaster response.

These legal facilities should be available not only during a disaster response, but also for pre-positioning goods and equipment in preparation for potential disaster or after a specific disaster warning. Some examples of good practice are provided below.

Panama

In **Panama**, in late March 2020 in the context of the COVID-19 pandemic, the Minister for Health granted the Red Cross Society of Panama import authorization and expedited customs clearance for humanitarian relief items, non-relief items and equipment.⁹⁹ Equally, the Minister for Health granted the Red Cross Society of Panama tax and duty exemptions for humanitarian goods and equipment moving internationally for humanitarian assistance.¹⁰⁰ The granting of these legal facilities was the result of advocacy efforts highlighting the important role that the Red Cross Society of Panama was playing in the COVID-19 response.

Vietnam

In **Vietnam**, the Red Cross Law contains a broad provision requiring government to facilitate the entry of people, funds, goods and equipment required for Red Cross activities in response to a natural disaster, catastrophe or dangerous epidemic.¹⁰¹ A government decree implementing the Red Cross Law specifies that relevant agencies, organizations and individuals have a responsibility to facilitate and promptly carry out import procedures for curative medicines, anti-epidemic drugs and medical equipment required for the Viet Nam Red Cross Society's activities.¹⁰² The decree also provides for expedited visas for foreign relief personnel assisting the Viet Nam Red Cross Society with its response to a natural disaster, catastrophe or epidemic.¹⁰³ Visa applications must be processed within 24 hours and visa applications may even be accepted at the border.¹⁰⁴

F. Assessment Questions

This section provides a list of assessment questions which National Societies can use to identify legal facilities that they do not currently have and may wish to advocate for. In answering the assessment questions, National Societies should consider the RC/RC Law as well as any potentially relevant sectoral laws. This may include laws relating to disaster risk management, health, migration, social welfare, tax, volunteers, workplace insurance, customs, military conscription, medical and telecommunications equipment, and border control.

1. Are National Society staff and volunteers legally entitled to access government-funded medical care, compensation and/or insurance for illness, injury or death sustained in the course of working or volunteering?
2. If military conscription is in force, do conscripts have a legal right to volunteer for the National Society in lieu of military service?
3. Do employees in the public and/or private sector have a legal right to spend a specified number of days per year volunteering for the National Society (e.g. 5 days per year, or 10 days in the event of an emergency)?
4. Does the law provide National Society staff and volunteers with limited legal liability for acts or omissions committed in good faith and/or for providing first aid in an emergency?
5. Do laws and/or policies provide appropriate tax concessions for National Society staff and volunteers (e.g. reduced income tax, tax exemption for volunteering allowances or stipends)?
6. During times of disaster, do National Society staff and volunteers have access to automatic or expedited recognition of professional qualifications across sub-national borders?
7. Are there any taxes that the National Society is *not* exempted from and which represent a significant financial imposition?
8. Does the law provide that donations made to the National Society are not taxable? If yes, does this apply both to individuals and bodies? Does it apply both to donations made by living persons and to bequests made in wills?
9. Does the National Society have a legal right to move freely throughout the country and access vulnerable populations at all times? Alternatively, does the National Society have a right to freedom of movement at all times?
10. Does the law provide the National Society with the following legal facilities for disaster-related goods, equipment and personnel (both during the response phase and for pre-positioning)?
 - a. exemption from customs duties, taxes, tariffs or governmental fees and expedited processes for applying for exemption;
 - b. access to simplified and expedited customs clearance processes including priority clearance and waived or reduced inspection requirements;
 - c. exemption from restrictions on the types or quantity of goods and equipment that can be imported or exported;
 - d. expedited permission for the departure and arrival of land, marine and air vehicles carrying disaster-related goods and equipment;
 - e. waiver of licensing requirements or fees for the use of imported vehicles, telecommunications equipment and other specialized items; and
 - f. expedited visa processing for relief personnel entering or leaving the country to assist a National Society in its disaster response.





Iraq, 2015. Iraqi Red Crescent Society volunteers distribute a truckload of relief items to be provided to IDPs in the Kurdistan Region of Iraq.

CHAPTER FIVE

A ROADMAP FOR STRENGTHENING THE AUXILIARY ROLE IN DOMESTIC LAW

This Chapter outlines a process that National Societies can follow in order to advocate to strengthen their auxiliary role in domestic law. Section A provides guidance on how National Societies can identify and prioritize areas for improvement, using the assessment questions in [Chapter Two](#), [Chapter Three](#) and [Chapter Four](#). Section B outlines the three key steps involved in developing and implementing an advocacy strategy. Section C discusses how the Model Pre-Disaster Agreement can form part of National Societies' advocacy efforts. Section D contains case studies of National Societies that have successfully advocated to strengthen their auxiliary role in domestic law.

A. Identifying and Prioritizing Potential Areas for Improvement

As a prerequisite to implementing an advocacy strategy, National Societies need to first identify and prioritize potential areas for improvement. National Societies can use the assessment questions in [Chapter Two](#), [Chapter Three](#) and [Chapter Four](#) to identify the areas where domestic laws could be strengthened. For ease of reference, all of the assessment questions are set out in [Annex 2](#). There may be several areas where improvements could be made, in which case it will be important to prioritize which areas to address first. When prioritizing, National Societies should evaluate to what extent they would benefit from a change in the law, and to what extent that change is likely to be achievable.

National Societies may wish to establish a working group that is responsible for identifying and prioritizing areas for improvement and, subsequently, developing and implementing an advocacy strategy. A working group may be more successful if its members have diverse knowledge and experience. For example, it may be a good idea for the working group to include volunteers, staff, and leaders of the National Society, as well as representatives from a variety of sectors (e.g. health, migration, disaster risk management).

It is important for the working group to consult with representatives of relevant teams within the National Society because they will be well placed to identify and evaluate areas for improvement. For example, a representative from the finance team will likely be able to identify whether the National Society has been granted the types of tax exemption discussed in [Chapter Four](#) and, if not, to evaluate to what extent the National Society would benefit if it were to be granted the relevant exemptions.

For disaster risk management, National Societies should consider undertaking not only a review of the applicable laws and policies, but also a broader review of their preparedness and response systems. [Preparedness for Effective Response](#) (PER) is an approach designed to be used by National Societies to systematically assess, measure and analyse the strengths and weaknesses of their response system in order to achieve continuous improvement. The PER approach can help National Societies to fulfil their auxiliary role in disaster risk management by strengthening their ability to provide timely and effective assistance.

B. Developing and Implementing an Advocacy Strategy

Once a National Society has identified one or more priority areas for improvement, it will need to develop and implement an advocacy strategy. This involves three key steps: (1) developing key advocacy messages; (2) identifying *who* to approach; and (3) identifying *how* to approach the person. The following sections provide guidance about these three key steps.



In addition to the guidance provided below, National Societies can refer to the online training course on advocacy on the IFRC [Learning Platform](#). The online training course, entitled **Getting Ready for RCRC Advocacy**, provides detailed guidance about how to develop and implement an advocacy strategy. National Societies can also refer to the **Legislative Advocacy Toolkit**, which is a training package on advocating for legal change. The Toolkit includes both a **Facilitators' Guide** and **Participants' Handbook**.

In their efforts to advocate to government National Societies should not hesitate to seek support from the Joint Statutes Commission, the IFRC's Disaster Law Programme, and the following IFRC Departments: National Society Development; Governance and Board Support; Health and Care; and Disaster and Crisis Prevention, Response and Recovery.

1. Developing Key Advocacy Messages

The **first step** in developing an advocacy strategy is to develop **key advocacy messages**. An advocacy message has three components: a problem, a solution and a request. The problem is the challenge faced by the National Society, the **solution** is the legal or policy reform that the National Society proposes, and the **request** is for the government or parliament to implement that reform.

To give a specific example: the problem could be that the National Society is spending a large amount of resources paying duty on the importation of relief supplies; the solution could be amending the Customs Act or the RC/RC Law to provide the National Society with an exemption from paying customs duty on relief supplies; and the request could be for government to introduce a bill to parliament which makes this change. As discussed throughout this Guide, a *law* will not always be the only way to achieve the practical outcome the National Society requires. Here, an alternative solution and request could be for the Customs Minister to issue a decree or official letter exempting the National Society from customs duty on relief supplies. Depending on the circumstances, this could be a faster or more achievable option.

National Societies will need to carefully consider how to frame and communicate the problem, solution and request. One of the most important things to consider is how the National Society can convince the relevant government ministers or parliamentarians that its solution and request are appropriate. The National Society may wish to emphasize the following points:

- its unique role as auxiliary to the public authorities in the humanitarian field, which entails a partnership with the public authorities characterized by mutual responsibilities and benefits;
- its contributions, experience, knowledge and capacity in relation to the relevant activity (e.g. community-based disaster preparedness, first aid training, assisting newly-arrived migrants);
- its presence in the whole country, access to vulnerable populations and adherence to the Fundamental Principles;
- its status as a voluntary aid society whose activities are carried out predominantly through a grassroots network of volunteers;
- examples of best practice from other countries, in order illustrate how the proposed solution could be implemented; and
- how government itself may benefit from the National Society's proposed solution.

2. Identifying Who to Approach

The **second step** in developing an advocacy strategy is to identify *who* to approach. This should be the person that is most likely to be willing and able to assist with the National Society's request. Some National Societies may have access to the President or Prime Minister, in which case this person is likely to be the best person to approach. Where this is not possible, there are a number of alternatives.

- **Line ministry:** Some National Societies have a line ministry, meaning a ministry which is officially responsible for liaising with and/or supporting the National Society. If the National Society has a line ministry, it will be appropriate to approach the Minister or high-level officials from the ministry to discuss the problem, solution and request.
- **Sectoral department:** If there is no line ministry, the National Society should approach the Minister or high-level officials of the sectoral department that is responsible for the relevant issue. For example, it is likely that the National Society should approach the Employment or Industrial Relations Minister in relation to a request for its volunteers to be covered by a government-funded workplace insurance scheme.



Yemen, 2017. Yemen Red Crescent Society volunteer Hisham distributes leaflets to passersby to teach them about how to protect themselves from cholera. © Yemen Red Crescent Society

Another option is for the National Society to approach parliamentarians. This option may be appropriate where the solution to the problem requires legislation to be passed. In this case, the National Society should identify and approach the parliamentarians that are likely to be receptive to its advocacy messages. IFRC has published a [Guide for Parliamentarians to the International Red Cross and Red Crescent Movement](#), which is a helpful resource that National Societies can share with parliamentarians. National Societies may also wish to use the Guide to prepare key messages and talking points for meetings with parliamentarians.

Advocacy efforts are more likely to be successful in the context of a long-term relationship with government or parliamentarians. For this reason, it can be very beneficial for National Societies to invest in relationships with their line ministry and relevant sectoral departments, by scheduling regular meetings. As will be seen in one of the case studies below, National Societies may also benefit from fostering long-term relationships with parliamentarians by, for example, establishing a parliamentary working group to support their activities.

3. Identifying How to Approach the Person

The **third step** in developing an advocacy strategy is to identify *how* to approach the relevant person. A good starting point is for the President of the National Society (or a senior leader, such as the director for disaster risk management or health) to write a letter to the person. The letter should briefly outline the issue and request a meeting, which can be used to discuss the National Society's auxiliary role and its key advocacy messages. Where possible, it is best to approach and meet with the person directly. If a direct approach is not possible, National Societies should consider whether there is anyone who could either introduce them to the person, or who could advocate to the person on their behalf.

C. Model Pre-Disaster Agreement

The IFRC's Disaster Law Programme has developed a Model Pre-Disaster Agreement to be entered into by a National Society, its public authorities and the IFRC. The aim of the Model Pre-Disaster Agreement is to facilitate Red Cross Red Crescent work in country through pre-agreed roles and responsibilities, as well as legal facilities. The Model Pre-Disaster Agreement:

- **outlines** in detail the parties' respective roles and responsibilities with respect to disaster preparedness and response, including for public health emergencies;
- **provides** for the National Society to be included in any coordination and communication mechanisms established at national, regional or local level;
- **firmly establishes** the National Society's auxiliary role and its adherence to the Fundamental Principles and the Statutes of the Movement; and contains a detailed and comprehensive list of legal facilities for disaster preparedness and response.

The Model Pre-Disaster Agreement, which is set out in [Annex 5](#), can be adapted to the local context and tailored for a specific government agency or for multiple government agencies. It is likely to be most useful in contexts where national laws do not already provide the National Society with a strong and comprehensive legal base.

D. Case Studies

Advocating for a New Red Cross Law and a New Disaster Law in Mongolia

On 7 January 2016, the Mongolian Parliament passed the "Law on the Legal Status of the Mongolian Red Cross Society" (the **MRCS Law**). Subsequently, on 2 May 2016, the Mongolian Government adopted a Resolution on the enforcement of the new MRCS Law. Together, the MRCS Law and Resolution create a strong legal base for the Mongolian Red Cross Society (**MRCS**). The adoption of the MRCS Law and Resolution was the result of an organized and strategic advocacy campaign implemented by MRCS.

Advocating for a new Red Cross Law was first identified as a high priority when Madame Bolormaa Nordov began serving as Secretary General of MRCS in late 2013. At that time, MRCS was operating under NGO status, having the same legal rights and entitlements as NGOs. By way of background, Mongolia has two major political parties, which hold most of the seats in its single house of Parliament, the State Great Khural. MRCS astutely recognized that, in advocating to strengthen its legal base, it would be beneficial if members of Parliament from *both* major political parties were familiar with and supported its work. MRCS therefore approached members of Parliament from both major parties and invited them to join a new group, the “Parliamentarians for Red Cross” working group. The working group began to meet regularly as a forum to discuss humanitarian issues.

Once the working group was well established, MRCS proposed the idea of a new Red Cross Law. The working group was supportive of this idea and a separate drafting committee was established, comprising representatives from the working group, MRCS’ Governing Board, the IFRC and ICRC, and a government legislative drafter. Once a draft MRCS Law had been prepared, MRCS, in partnership with IFRC and with the support of the working group, took steps to raise parliamentarians’ awareness of the auxiliary role, the work of MRCS, and the International Red Cross and Red Crescent Movement. Representatives from IFRC gave a presentation to Parliament about the auxiliary role, and the Secretary-General of Fiji Red Cross also made an experience-sharing visit to Mongolia. In parallel, MRCS continued to actively engage with and support the Parliamentarians for Red Cross working group.

The draft MRCS Law was introduced by the speaker of Parliament on 21 August 2015 and passed on 7 January 2016. The law was co-proposed by both major parties, which reflected MRCS’ successful effort to achieve bipartisan support. Once the MRCS Law was passed, MRCS implemented awareness-raising activities to inform the general public about the new law. The awareness raising activities were designed to reach a broad segment of the population and included a short comic book and television appearances.

On 2 May 2016, the Government of Mongolia adopted a Resolution on the enforcement of the new Red Cross Law. Together, the MRCS Law and the Resolution create a strong legal base for the Mongolian Red Cross Society. The MRCS Law clearly outlines the status and mandate of MRCS, and provides it with legal protection of its independence and emblem. An important feature of the MRCS Law is that it requires government to support MRCS through annual meetings and budget allocations. In turn, the MRCS Resolution requires the Deputy Prime Minister to formally delegate certain humanitarian functions to MRCS. The Resolutions also requires national and local government to provide MRCS with annual budget allocations to perform its delegated humanitarian functions.

The MRCS Law and Resolution provided MRCS with the foundation to start working closely with the public authorities as a nationwide humanitarian organization and auxiliary to government. On an annual basis, MRCS updates and revises cooperation agreements with relevant authorities such as the Ministry of Labour and Social Protection, Ministry of Health, Ministry of Education and Science and National Emergency Management Agency. There is a national level State-Red Cross Cooperation Council which meets regularly, and meetings also take place at the local level. By virtue of the MRCS Law and Resolution, MRCS has ongoing, guaranteed access to national and local level budgetary support.

Shortly after the MRCS Law and Resolution were adopted, MRCS turned its focus to the revision of Mongolia’s main disaster law. This was an excellent opportunity for MRCS to cement its auxiliary role in relation to disaster risk management. In parallel, MRCS continued to engage with the Parliamentarians for Red Cross working group, which continued to meet on an ongoing basis.

There were a number of aspects of the existing disaster law which could be improved upon. For example, the law did not clearly distinguish between the different phases of disaster risk management, and also did not regulate the coordination of humanitarian assistance. MRCS, with support from the IFRC’s Disaster Law Programme, worked closely with the National Emergency Management Agency (NEMA) to support it to draft a new disaster law. A member of the Disaster Law Programme was seconded to NEMA for 2 weeks to provide intensive legal support.

The resulting draft law was in line with international best practice and clearly recognized MRCS’ role in relation to disaster risk management. MRCS was able to mobilize the Parliamentarians for Red Cross working group to support the draft law and, on 2 February 2017, the State Great Khural passed the Law on Disaster Protection.

The Law specifically acknowledges MRCS' roles in providing disaster protection training and in coordinating international humanitarian assistance from the IFRC, giving it a clear mandate to conduct these activities and further strengthening its legal base.

In tandem with the legal developments discussed in this case study, since 2016 MRCS has been systematically reviewing, assessing and strengthening its disaster preparedness and response systems. In 2019, MRCS implemented the PER approach, resulting in the development of a new multi-sectoral and multi-funded plan to further strengthen its response capacity. The [Mongolia National Society Preparedness Case Study](#) provides an overview of MRCS' recent efforts and achievements in this area.

Advocating for Clarification of the Legal Status of Pakistan Red Crescent Society

The Pakistan Red Crescent Society (**PRCS**) is the only statutory humanitarian organization in Pakistan and was established under an act of Parliament in 1947. PRCS was initially named the Pakistan Red Cross Society, however an amending act passed in 1974 changed PRCS' name to Pakistan Red *Crescent* Society. Having been established by an act of Parliament, PRCS has the legal status of a statutory body, a fact which distinguishes it from non-governmental organizations and reflects its auxiliary role of supporting and supplementing the government's humanitarian activities, consistent with its mandate and capacities.



Pakistan, 2016. Sadia Jamil, a volunteer with the Pakistan Red Crescent Society, shakes hands with a patient at a health clinic in KPK province. © IFRC

Despite the fact that the federal government has representation in the Managing Body of PRCS and the President of Pakistan is ex-officio President of the Society, PRCS' legal status as a statutory body and auxiliary to government is not always well known or understood by the public authorities or the general public, some of whom perceive PRCS and Movement components as non-governmental organizations (**NGOs**) or international NGOs (**INGOs**). In recent years, the public authorities' perception of PRCS as an NGO has caused it to experience regulatory barriers in relation to visas, foreign funding, importation of relief items and access to certain geographical areas within Pakistan. PRCS has experienced challenges in implementing humanitarian activities in some sensitive areas of Pakistan where it has not been granted access by the public authorities. As a result of this restriction, PRCS has been unable to provide assistance to the underserved and needy communities of those areas, which resulted in reduced donor support and a deficit of operational capacities.

During 2020, PRCS experienced difficulties receiving funding from Qatar Red Crescent because it was subject to stringent regulations applicable to INGOs. The financial protocols applied by the State Bank of Pakistan made it difficult for any organization to receive funds from a foreign source and PRCS was subjected to the same stringent regulations despite being a statutory body and auxiliary to the public authorities. The humanitarian activities that PRCS had planned with the financial assistance of the Qatar Red Crescent had to be put on hold due to this hindrance to the transfer of funds from Qatar Red Crescent to PRCS. PRCS was already experiencing many such challenges and this financial restraint served as the key motivating factor for PRCS leadership to establish its identity as a statutory body and auxiliary to government in the humanitarian field. The clarification of the auxiliary status would distinguish PRCS from national and international NGOs and even other humanitarian organizations in the country.

PRCS successfully advocated to its line Ministry, the Ministry of Health, for clarification of its legal status. On 31 August 2020, the Ministry of Health issued an official letter to the Economic Affairs Division confirming PRCS's status as a statutory body constituted and governed by the PRCS Act. In response to this letter, on 16 September 2020, the Economic Affairs Division issued a letter recognizing that PRCS is a statutory body, that it is *not* an NGO or international NGO, and confirming that it therefore has no objection to PRCS seeking and receiving foreign funding. The letter also noted PRCS' role as a humanitarian organization engaged in activities such as healthcare, disaster relief and livelihood promotion.

The letters issued by the Ministry of Health and the Economic Affairs Division are valuable documents for PRCS, as they are a recent, clear and official statement of PRCS's legal status. The letters resolve the regulatory barriers that PRCS was facing in relation to foreign funding, ensuring that it can receive funding from other Movement and non-Movement components without difficulty. More broadly, PRCS is able to present the letters to other public authorities in order to prove that it is not an NGO or INGO and should not be subject to laws and regulations applicable to NGOs and INGOs. PRCS anticipates that the letters will significantly reduce regulatory barriers in relation to visas and importation of relief items, and will also allow it to operate throughout the whole of Pakistan.

Having achieved clarification of its legal status, PRCS has identified the next steps in its journey to promoting understanding of its auxiliary role, building its relationship with the public authorities and strengthening its legal base. One priority is to raise awareness amongst other government Ministries about its auxiliary role and legal status. Equally, PRCS has identified a number of areas where its legal base could be strengthened, including the revision of its Act, Constitution and Statutes as well as legal protection of the emblem.

Advocating for a New Argentine Red Cross Law

“In our humanitarian world, one victory counts more than a thousand defeats.”

— *Diego Tipping, President of Argentine Red Cross*¹⁰⁵

Five years ago, and under a new governing board, the Argentine Red Cross (ARC) engaged in an analysis of its auxiliary role and designed an action plan identifying actions to be undertaken in the short, medium and long run to enhance its capacities as a National Society. The reform of its internal status was considered a priority in order to strengthen the ARC’s leadership capacities, increase resources through public funding and prioritize gender-related issues, among other key topics of relevance.

This led to an examination of how the ARC could work better with its national authorities. The ARC’s constitutive law dated 1893 was not considered protective enough of the Red Cross emblem,¹⁰⁶ nor of volunteering¹⁰⁷ or the ARC’s assets. The reform of the ARC Law was guided by three key considerations:

1. what was and could be the added value of the National Society for the public authorities?;
2. what kind of legal facilities were needed and should be advocated for to enhance the ARC’s capacities and auxiliary role? In this regard, a comparative analysis and a kind of “needs assessment” of other Red Cross laws was carried out; and
3. the need to reflect the ARC’s capacities as part of an international movement that can contribute to strengthening the logistical capacities of Argentina in case of an emergency.

One of the biggest challenges faced while advocating for the reform of the law was the lack of understanding of the Red Cross world by national stakeholders, who were not familiar with the humanitarian sector’s culture and language. The ARC undertook a proactive communications and advocacy campaign to convince Presidents of both chambers of the National Congress and get traditional and social media attention (through the hashtag “#leycruzroja”).

The advocacy efforts resulted in ARC obtaining 400,000 signatures, the threshold required by the Argentinian Constitution to be able to present a bill proposal initiative to Parliament. ARC eventually collected a million signatures, and presented the project to Parliament (“Dos Abrazos”). ARC’s advocacy strategy involved: an infographic of the content of the proposed law; key messages to be disseminated to the public and decision makers; and the creation of a special website that presented the signatures and messages of support from artists, ARC volunteers (under the banner “I want to be protected”) and partners. All relevant forums, both within (e.g. Inter-American Red Cross Conference of 2018, 33rd International Conference) and outside of the Red Cross Red Crescent Movement, became an opportunity to advocate for the new law.

The new ARC Law was approved unanimously on 8 June 2020. In the context of the COVID-19 pandemic, this was the first law ever approved through a remote session of the Congress. The new ARC Law has many strong features including (but not limited to) provisions: recognizing the auxiliary role; outlining the humanitarian activities that ARC conducts throughout Argentina; recognizing and protecting the emblem; recognizing and facilitating volunteering; and exempting ARC from paying taxes on imports. For example:

- with respect to **volunteering**, the new law recognizes that the ARC conducts its humanitarian activities primarily through voluntary work. It provides that volunteering activities for ARC should be considered as a ‘public charge’ for one’s employer (up to 5 days a year for educational purposes and 10 days for emergency response);
- with respect to the **emblem**, the new law authorizes ARC to use as its emblem the red cross on a white background and prohibits misuse of the emblem. The law also recognizes ARC’s emblem and name as a trademark and prohibits registration of any similar trademark.

Overall, the new law provides the ARC with a much stronger legal foundation, which will support and facilitate its auxiliary role.

ANNEX 1

RC/RC MODEL LAW

Model law

Law on the Recognition of the (name of the Red Cross or Red Crescent Society)

Commentary

The purpose of this “model law” on Red Cross/Red Crescent Societies is to encourage governments and National Societies to give due consideration to the legal aspects of supporting and protecting the functions of the National Societies and, at the same time, provide sample clauses covering the main areas of concern for the Movement and from which to draw inspiration for legislative work.

The reference to “recognition” in the Title means that the special legislation concerning the Red Cross or Red Crescent Society may, but does not always have to, constitute the act through which a government formally recognises its Society as an auxiliary to the public authorities in the humanitarian field on the basis of the Geneva Conventions. Such recognition may derive from other acts of government (legislative or executive branch).

Article 1

1.1 This law regulates the legal status of the (name of the Society) (hereinafter called “the Society”) and may be quoted as “The (name of the Society) Act”.

1.2 The Society is a voluntary aid society, auxiliary to the public authorities in the humanitarian field, recognised and authorised on the basis of the Geneva Conventions (and their Additional Protocols) to render assistance to the medical services of the armed forces in times of armed conflict.

1.3 The Society is the only National Society of the Red Cross or Red Crescent in (name of the country). It carries out its activities on the entire territory of (name of the country).

1.4 The Society shall at all times act in conformity with the Geneva Conventions (and their Additional Protocols), the laws of (name of the country) and the Fundamental Principles of the International Red Cross and Red Crescent Movement adopted by the International Conference of the Red Cross and Red Crescent.

1.5 The public authorities shall at all times respect the adherence by the Society to the Fundamental Principles of the International Red Cross and Red Crescent Movement as required by resolution 55(1) of the General Assembly of the United Nations.

Commentary

The sections in bold contain minimum legal requirements for the recognition of National Societies by the ICRC in conformity with the Statutes of the Movement. These Statutes as well as the Fundamental Principles have last been adopted by the 25th International Conference of the Red Cross and Red Crescent (Geneva, 1986).

In some countries, the definition of the Society’s legal rights and duties does not necessarily appear in one single piece of legislation concerning the National Society, but may be spread over various legal codes or laws such as e.g. the civil code, fiscal law, social security legislation, penal code, etc. The various clauses contained in this model law may therefore be used separately for integration in the specific legislation concerned.

Resolution 55(I) can be found in the Handbook of the International Red Cross and Red Crescent Movement (1994, p. 732).

Article 2

2.1 The Society is a corporate body with legal personality.

2.2 The Society shall at all times act in accordance with its statutes (Constitution, bylaws) adopted by the (relevant body of the Society).

Commentary

The legal nature of the National Society (e.g. private law association, public law institution, etc.) depends on the local legal system and its traditions and is therefore up for decision by each national government.

The legislator may also want to determine general principles regarding the branch structure of the Society as well as regarding the Society's governance (definition of its main governing bodies).

In order to allow the Society to adjust its structure, activities and administration to changing needs and circumstances, the law should be limited to essential principles and leave room for the Society itself to adapt its statutes. It is therefore not recommended to include the entire text of the Society's statutes as part of the law.

Article 3

3.1 In addition to rendering assistance to the medical services of the armed forces in times of armed conflict, the object of the Society is to prevent and alleviate human suffering with complete impartiality, making no discrimination as to nationality, race, gender, religious beliefs, class or political opinions.

3.2 In order to achieve its object as defined in the previous paragraph, the Society shall carry out the functions as defined in its statutes, international treaties to which (name of the country) is a party and the resolutions of the International Conference of the Red Cross and Red Crescent.

Commentary

In certain countries, the legislator may want to specify here that none of the Society's activities generating revenue that is exclusively allocated to the Society's object, shall be qualified as a transaction subject to the laws regulating trade and commerce, even if they are performed through contractual arrangements which stipulate a price for goods and services provided by the Society.

Article 4

The Society shall comply with its duties as a component of the International Red Cross and Red Crescent Movement and as a member of the International Federation of Red Cross and Red Crescent Societies.

Commentary

Once recognised by the ICRC, the Society, as a component of the Movement takes part in the decision-making of the statutory bodies of the Movement. When they become members of the International Federation of Red Cross and Red Crescent Societies which in itself is a legal body, the National Societies commit to respect the decisions taken by its governing bodies. The current provision allows a National Society at all times to respect the decisions taken within the framework of the Movement and the International Federation.

Article 5

5.1 The Society, within the limits laid down by its object and functions, may acquire, own, alienate and administer such property as it deems fit. It may accept any conveyance of real estate to its use or benefit.

5.2 The Society may, in accordance with its object and functions, accept unrestricted contributions and assistance in any form from individuals, the public authorities and private or public bodies. It may accept as agent or trustee

funds or property in trust or earmarked for particular use, provided that such use is within the general scope of its object and functions.

5.3 The Society may constitute and administer any reserve, insurance or other funds for its staff or any of its activities.

5.4 The assets of the Society, including its financial resources and real estate as well as the revenue from its income generating activities, shall be exempted from all taxes and duties.

5.5 Donations made to the Society by any individual or legal body shall benefit from tax exemption.

5.6 The public authorities shall make provisions for covering the cost of any service or activity which they may entrust to the Society within the scope of the Society's object and functions. The conditions for the implementation of such services or activities shall be laid down in agreements between the Society and the relevant public authority.

Commentary

The legislator may want to specify that all subsidiary bodies of the Society, including those with legal capacity or those set up under the auspices of the Society, shall benefit from the all or part of the provisions of this law, in particular those regarding the Society's fiscal status.

Article 6

6.1 The Society shall be authorised to use as its emblem a red cross (red crescent) on a white ground for all the purposes foreseen by the International Conference of the Red Cross and Red Crescent, in conformity with the Geneva Conventions of 1949, the present law and the Regulations on The Use of The Emblem by National Societies adopted by the International Conference of the Red Cross and Red Crescent.

6.2 Any use of the emblem of the red cross (red crescent) other than foreseen in the Geneva Conventions of 1949 or in paragraph 1, is prohibited and will be punished with (penalty)(in conformity with the relevant provision of the penal code or a specific law repressing abuse of the emblem).

Commentary

In countries where a separate law is in force to repress abuse of the emblems and designations of the red cross and red crescent, the civil defence sign and electronic signals provided for in Additional Protocol I, a reference to that specific law may be included in paragraph 6.1. In the absence of such a special law, this clause is to be regarded as the minimum legal protection of the emblem of the red cross or red crescent. It is recommended, however, that governments enact proper and detailed legislation on the use of the emblems of the Geneva Conventions.

The ICRC has published a model law for that purpose (International Review of the Red Cross, July-August 1996, No. 313, pp. 482-495) and the ICRC Advisory Service on IHL has examples of emblem legislation adopted in some 80 States.

The Regulations on the Use of the Emblem by National Societies were adopted by the International Conference in 1965 (and revised by the 1991 Council of Delegates after approval by the States Parties to the Geneva Conventions in a written procedure).

In some countries, the funds resulting from penalties mentioned in paragraph 2, are transmitted to the Society to contribute to its general financial resources.

Article 7

The present law shall come into force on (date) and shall replace from that date (the previous law in force).

ANNEX 2

ASSESSMENT QUESTIONS

A. RC/RC Law

1. Does the RC/RC Law:
 - a. recognize the auxiliary role of the National Society;
 - b. contain a definition of the auxiliary role that is consistent with Resolution 2 of the 30th International Conference;
 - c. describe the roles and duties of the National Society and the public authorities consistently with Resolution 2 of the 30th International Conference; and
 - d. require the public authorities to *at all times* respect the National Society's adherence to the Fundamental Principles?
2. Does the RC/RC Law establish that the National Society is the *only* National Society in the country and carries out its activities on the *entire territory* of the country?
3. Does the RC/RC Law provide for the National Society to act *at all times* in accordance with its Statutes?
4. Does the RC/RC Law recognize that the National Society has legal duties as a component of the Movement and as a member of the IFRC?
5. Does the RC/RC Law contain a provision:
 - a. authorizing the National Society to use as its emblem the red cross/crescent/crystal on a white ground in conformity with the Geneva Conventions of 1949 and the Emblem Regulations; and
 - b. prohibiting any other use of the emblem and establishing penalties for its misuse?
6. Does the RC/RC Law provide the National Society with legal personality and, if necessary, specify which legal acts (e.g. acquiring property, entering into contracts) it can perform?
7. Does the RC/RC Law contain a provision describing the National Society's object which is consistent with the Preamble to the Statutes of the Movement and article 3.1 of the RC/RC Model Law?
8. Does the RC/RC Law contain a provision outlining the main activities of the National Society in a high-level and non-exhaustive manner?
9. Does the RC/RC Law establish that government will provide funding for activities which it entrusts to the National Society?
10. Does the RC/RC Law provide the National Society and its donors with broad tax exemption?

B. Sectoral Laws, Policies, Plans and Agreements

In order to assess whether sectoral laws, policies, plans and agreements adequately support the auxiliary role, National Societies should first:

- a. prepare a list of the National Society's key activities in relation to health, disaster risk management, migration, social welfare and any other key sectors;
- b. search for all laws, policies, plans and agreements which relate to those key activities (e.g. Blood Donor Act, Disaster Response Plan, Policy on Irregular Migration).

The questions below can then be used to evaluate whether the identified instruments adequately support and reflect the National Society's auxiliary role.

1. Do the identified sectoral laws, policies, plans and agreements clearly allocate the National Society roles and responsibilities?
2. If 'yes', are those roles and responsibilities commensurate with the National Society's experience, capacity and resources?
3. Do the identified sectoral laws, policies, plans and agreements provide for the National Society to be a member of relevant decision-making and coordination bodies?

C. Legal Facilities

1. Are National Society staff and volunteers legally entitled to access government-funded medical care, compensation and/or insurance for illness, injury or death sustained in the course of working or volunteering?
2. If military conscription is in force, do conscripts have a legal right to volunteer for the National Society in lieu of military service?
3. Do employees in the public and/or private sector have a legal right to spend a specified number of days per year volunteering for the National Society (e.g. 5 days per year, or 10 days in the event of an emergency)?
4. Does the law provide National Society staff and volunteers with limited legal liability for acts or omissions committed in good faith and/or for providing first aid in an emergency?
5. Do laws and/or policies provide appropriate tax concessions for National Society staff and volunteers (e.g. reduced income tax, tax exemption for volunteering allowances or stipends)?
6. Are there any taxes that the National Society is not exempted from and which represent a significant financial imposition?
7. Does the law provide that donations made to the National Society are not taxable? If yes, does this apply both to individuals and bodies? Does it apply both to donations made by living persons and to bequests made in wills?
8. Does the National Society have a legal right to move freely throughout the country and access vulnerable populations at all times? Alternatively, does the National Society have a right to freedom of movement at all times?
9. Does the law provide the National Society with the following legal facilities for disaster-related goods, equipment and personnel (both during the response phase and for pre-positioning)?
 - a. exemption from customs duties, taxes, tariffs or governmental fees and expedited processes for applying for exemption;
 - b. access to simplified and expedited customs clearance processes including priority clearance and waived or reduced inspection requirements;

- c.** exemption from restrictions on the types or quantity of goods and equipment that can be imported or exported;
 - d.** expedited permission for the departure and arrival of land, marine and air vehicles carrying disaster-related goods and equipment;
 - e.** waiver of licensing requirements or fees for the use of imported vehicles, telecommunications equipment and other specialized items; and
 - f.** expedited visa processing for relief personnel entering or leaving the country to assist a National Society in its disaster response.
- 10.** During times of disaster, do National Society staff and volunteers have access to automatic or expedited recognition of professional qualifications across sub-national borders?

ANNEX 3

RESOLUTION 2 OF THE 30TH INTERNATIONAL CONFERENCE

30th International Conference Geneva, 26 to 30 November 2007

Resolution 2 — Specific nature of the International Red Cross and Red Crescent Movement in action and partnerships and the role of National Societies as auxiliaries to the public authorities in the humanitarian field

The 30th International Conference of the Red Cross and Red Crescent,

acknowledging that strong partnerships between States, the components of the International Red Cross and Red Crescent Movement (Movement) and other humanitarian actors, such as international organizations, nongovernmental organizations and civil society, are essential to address effectively the needs of vulnerable people worldwide, in the spirit of the slogan of the Conference “Together for humanity”,

acknowledging the different mandates of the various components of the Movement,

recalling the Movement’s Fundamental Principle of independence as well as Articles 2.3, 3 and 4.3 of the Statutes of the Movement whereby National Societies are recognized by all governments as auxiliaries to the public authorities in the humanitarian field,

recalling Articles 24, 26 and 27 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, of 12 August 1949, Articles 24 and 25 of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, of 12 August 1949, as well as Article 63 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

noting the resolution of the General Assembly of the United Nations (A/RES/49/2 of 27 October 1994) which recalls that National Societies are recognized by their respective governments as auxiliaries to the public authorities in the humanitarian field on the basis of the Geneva Conventions of 12 August 1949,

recalling the Agenda for Humanitarian Action adopted at the 28th International Conference, whereby States, recognizing the importance of the independent and auxiliary role of National Societies, agreed, inter alia, to negotiate clearly defined roles and responsibilities with their respective National Societies in risk-reduction and disaster-management activities, as well as in public-health, development and social activities,

recalling Resolution 1 of the 28th International Conference which welcomed the study carried out by the International Federation of National Red Cross and Red Crescent Societies (International Federation) as Auxiliaries to the Public Authorities in the Humanitarian Field and contained the concept of the “characteristics of a balanced relationship,” and noting the work done by the International Federation in consultation with the International Committee of the Red Cross (ICRC) pursuant to that resolution,

recognizing that the cooperation and dialogue of National Societies with their respective governments includes the key role and responsibilities of National Societies in the fields of promotion, dissemination and implementation of international humanitarian law,

recognizing that National Societies represent reliable partners for national and local public authorities that provide service through their diverse volunteer base and their unique capacity to mobilize human and material resources at the community level,

noting with appreciation that the Council of Delegates, in its Resolution 3 of 2007, endorsed the concept of a toolbox for use by National Societies when concluding partnership arrangements, including those relevant to auxiliary relationships,

reaffirming the obligation of all the components of the Movement to act at all times in conformity with the Fundamental Principles, the Statutes of the Movement and the rules governing the use of the emblems and to take full account of the relevant Movement policies

acknowledging that the autonomy of National Societies and their commitment to neutrality and impartial assistance provide the best available means to gain the confidence of all in order to have access to those in need,

recalling Article 2.4 of the Statutes of the Movement adopted by the 25th International Conference of the Red Cross at Geneva in 1986, as amended in 1995 and 2006, which stipulates that “the States shall at all times respect the adherence by all the components of the Movement to the Fundamental Principles”,

1. *reaffirms* that it is the primary responsibility of States and their respective public authorities to provide humanitarian assistance to vulnerable persons on their respective territories and that the primary purpose of National Societies as auxiliaries to the public authorities in the humanitarian field is to supplement them in the fulfilment of this responsibility;
2. *calls upon* National Societies and their respective public authorities to consolidate a balanced relationship with clear and reciprocal responsibilities, maintaining and enhancing a permanent dialogue at all levels within the agreed framework for humanitarian action;
3. *recognizes* that the public authorities and the National Societies as auxiliaries enjoy a specific and distinctive partnership, entailing mutual responsibilities and benefits, and based on international and national laws, in which the national public authorities and the National Society agree on the areas in which the National Society supplements or substitutes for public humanitarian services; the National Society must be able to deliver its humanitarian services at all times in conformity with the Fundamental Principles, in particular those of neutrality and independence, and with its other obligations under the Statutes of the Movement as agreed by States at the International Conference;
4. *emphasizes* that
 - a. National Societies as auxiliaries to the public authorities in the humanitarian field have a duty to consider seriously any request by their public authorities to carry out humanitarian activities within their mandate,
 - b. States must refrain from requesting National Societies to perform activities which are in conflict with the Fundamental Principles or the Statutes of the Movement or its mission, that National Societies have the duty to decline any such request and underlines the need for the public authorities to respect such decisions by the National Societies;
5. *invites* National Societies and governments to clarify and consolidate the areas in which National Societies as auxiliaries cooperate at all levels with the public authorities;
6. *stresses* that the National Society, whilst acknowledging that its personnel and assets are provided to the medical services of the State's armed forces in accordance with Article 26 of the First Geneva Convention of 1949 and are thus subject to military laws and regulations, must respect the Fundamental Principles, including that of neutrality, and at all times maintain its autonomy and ensure that it is clearly distinguishable from military and other governmental bodies;
7. *invites* the International Federation and the ICRC, in consultation with States and National Societies, to make available and further develop relevant information material for National Societies, the public authorities and other interested bodies, including guidelines, legal advice and best practices, in support of partnerships between National Societies and the public authorities in the humanitarian field.

RESOLUTION 4 OF THE 31ST INTERNATIONAL CONFERENCE

31st International Conference Geneva, 28 November to 1 December 2011

Resolution 4 — Furthering the auxiliary role: Partnership for stronger National Societies and volunteering development

The 31st International Conference of the Red Cross and Red Crescent,

In terms of

(I) Furthering the auxiliary role and strengthening National Societies:

recalling Resolution 2 of the 30th International Conference of the Red Cross and Red Crescent (Geneva, 26-30 November 2007) whereby States and National Societies, the latter as auxiliaries to their public authorities in the humanitarian field, enjoy a specific and distinctive partnership at all levels, entailing mutual responsibilities and benefits, and based on international and national laws, in which the State and the National Society agree on the areas in which the latter supplements or substitutes for public humanitarian services;

recalling that National Societies, in the fulfilment of their auxiliary role, may provide valuable support to their respective public authorities, including in the implementation of their obligations under international law (in particular, international humanitarian law), and by cooperation in related tasks, such as health and social services, disaster management and restoring family links.

- 1.** *calls upon* National Societies and their respective public authorities at all levels to pursue and enhance balanced partnerships with clear and mutual responsibilities,
- 2.** *encourages* National Societies to initiate or pursue a dialogue, as required, with their national authorities with a view to strengthening their legal base in domestic law, in accordance with Movement standards, through sound Red Cross/Red Crescent laws, so as to strengthen their auxiliary role in the humanitarian field and to formalise the commitment of national authorities to respect the duty and ability of National Societies to abide by the Fundamental Principles, in particular the principle of Independence;
- 3.** *requests* States, National Societies, the ICRC and the International Federation to enhance their work to strengthen the legal base of National Societies, specifically in regard to the statutes of NS in view of creating more effective, accountable and transparent National Societies who are able to adhere at all times to the Fundamental Principles, and welcomes the continued commitment of National Societies to achieve this goal;
- 4.** *calls upon* States to create the conditions for more favourable and effective access by National Societies to people in need, which is a primary challenge in organizing a sustainable response.
- 5.** *encourages* relevant government departments and other donors are encouraged to provide a predictable and regular flow of resources adapted to the operational needs of their National Societies;
- 6.** *stresses* in this regard the importance of States' long-term support and resourcing to contribute to the good functioning and development of National Societies as their auxiliaries in the humanitarian field as appropriate to ensure relevance of National Society activities within their national context, ability to undertake core

functions, such as emergency response, as well as National Society stability, adaptability, accountability through sustainable organisational development;

7. *invites* the International Federation and the International Committee of the Red Cross (ICRC), in consultation with States and National Societies, to make available and further develop relevant information material for National Societies, the public authorities and other interested bodies, including guidance on partnerships with public administration, legal advice and best practices on Red Cross/Red Crescent law with examples of tax exemptions and specific provisions on resource distribution.

(II) Volunteering Development

Recognizing that volunteers have been at the core of the International Red Cross and Red Crescent Movement since it was first conceived of in 1859 and that today, as ever, they are central to all activities of the Movement, contributing to the success of National Societies, and assisting millions of vulnerable people in times of greatest need;

acknowledging thereby that volunteer development is a key prerequisite to strengthening National Societies, an essential element of their operational efficiency and of the role they play as auxiliaries to the public authorities in humanitarian field;

recalling the Fundamental Principle of Voluntary Service, and the centrality of volunteering and the spirit of voluntary service within the Movement;

recognising the outstanding contribution of 13.1 million Red Cross and Red Crescent volunteers to meeting the needs of vulnerable people, and the opportunity for public authorities at all levels to take positive actions to understand and improve the environment within which volunteers operate in order for National Societies to be able to increase the scale and the scope of volunteer service delivery;

recalling the Youth Declaration adopted by the Red Cross and Red Crescent volunteers at the commemoration of the 150th anniversary of the battle of Solferino in 2009; reiterating their commitment to promote the cause of humanity worldwide;

recognising the wider benefits of volunteering within society, and that public authorities have a responsibility to deepen the understanding of the value of and take practical measures to encourage volunteering;

understanding that one such practical measure includes developing applicable legal and policy contexts in which volunteering occurs;

recalling that the 27th International Conference in 1999 recognized the importance of volunteers for national societies, and Resolution 1, Annex 2, Final Goal 3.3 para. 13(b) placed the responsibility on states to “review and where necessary, introduce or update legislation so as to facilitate the efficient work of relevant voluntary organisations.”;

recalling the pledge by International Federation at the 27th International Conference to inter alia, “cooperate with governments to broaden the existing legal, fiscal and political bases for volunteering, and to mobilize increased public support”;

recalling the guidance document issued in 2004 by the IFRC, Inter-Parliamentary Union and United Nations Volunteers the “Volunteerism and Legislation: a Guidance Note” and its valuable contribution;

noting with appreciation the work done by United Nations Volunteers in undertaking a study in 2009, “Law and Policies Affecting Volunteerism since 2001” culminating in United Nations Volunteers 2010 guidance note on “Drafting and Implementing Volunteerism Laws and Policies”;

noting also with appreciation the IFRC complementary study on the specific legal issues arising in regard to the particular context of volunteers working in emergency and disaster situations;

understanding that in order to ensure a protective and enabling legal environment for volunteering to function, in all settings including emergencies and disaster situations, the following aspects of national volunteering law and policy are critical;

1. Appropriate legal recognition of volunteers/volunteering activities;
2. Clarity in regard to employment and volunteering;
3. Laws facilitating volunteering from all sectors of society, regardless of employment status, gender, age, and any other forms of discrimination;
4. Appropriate protection for volunteers including clarity in responsibilities and liabilities and assurances for the health and safety of volunteers;

noting the Declaration of the 1st Global Volunteer Conference jointly organised by United Nations Volunteers and the IFRC as part of the 10th Anniversary of the International Year of Volunteers recognising the role of volunteers in contributing toward the Millennium Development Goals (MDGs) and sustainable development;

1. *In this regard calls upon* States and National Societies to create and maintain an enabling environment for volunteering. In particular, respective public authorities at all levels are encouraged to:
 - a. in light of the work done by United Nations Volunteers and IFRC, undertake a review of relevant national law and policies and work to strengthen such frameworks as appropriate;
 - b. ensure safe access for Red Cross and Red Crescent volunteers to all vulnerable groups in their respective countries;
 - c. integrate volunteer capacity into domestic emergency response plans at all levels;
 - d. promote volunteering through measures encouraging citizens' engagement in such activities,
 - e. deepen their understanding of the role and impact that Red Cross/Red Crescent volunteers have in national social and economic development, as well as in responding to crises.
 - f. facilitate the voluntary work of their National Society and support its efforts to mobilize recruit, train and retain volunteers;
2. *encourages* National Societies to include adequate provisions defining the status, as well as the rights and duties of volunteers within their statutory and constitutional base instruments.

MODEL PRE-DISASTER AGREEMENT

Pre-Disaster Agreement

between

the Government of [Country]

and

the [Country Red Cross or Red Crescent Society]

and

the International Federation of Red Cross and Red Crescent Societies

Preamble

Recognizing the intention of the Government of [Country] (henceforth, the **Government**), and the **[Country Red Cross or Red Crescent Society]** and the International Federation of Red Cross and Red Crescent Societies (henceforth, the **IFRC**), together 'the Parties', to cooperate in *[disaster preparedness and response, including for public health emergencies]* with the aim to prevent and alleviate human suffering and thereby contribute to the maintenance and promotion of human dignity and peace in [Country].

Acknowledging that the Government bears the primary responsibility to lead disaster preparedness and response, including for public health emergencies, on its territory.

Recognizing the unique role played by the **[Country Red Cross or Red Crescent Society]** as auxiliary to the public authorities of [Country] in the humanitarian field, as established by the *Statutes of the International Red Cross and Red Crescent Movement*, in resolutions of the International Conference of the Red Cross and Red Crescent and the **[Red Cross or Red Crescent] [Act or Law or Decree] [year]**, as set out in Annex I to this Pre-Disaster Agreement, and as provided.

Recognizing the established role of the [Country Red Cross or Red Crescent Society] in engaging and coordinating with the Government and relevant agencies on national and subnational *[disaster preparedness and response, including for public health emergencies]*.

Noting that international disaster assistance may sometimes be required and/or extended from the IFRC and its network of National Red Cross and Red Crescent Societies (collectively, the **IFRC Network**) in support of the [Country Red Cross or Red Crescent Society] to complement and supplement domestic efforts.

Recalling the Legal Status Agreement entered into by the IFRC and the Government of [Country] on [date], as set out in Annex II to this Pre-Disaster Agreement.

Respecting the Fundamental Principles of the International Red Cross and Red Crescent Movement (henceforth, the **Fundamental Principles**), namely Humanity, Impartiality, Neutrality, Independence, Voluntary Service, Unity and Universality.

The Parties hereby agree to enter into a Pre-Disaster Agreement.

I. Purpose and Scope of the Pre-Disaster Agreement

1. The Pre-Disaster Agreement (henceforth, the **Agreement**) establishes the framework for cooperation in disaster preparedness and response, including for public health emergencies, between the Government, the [Country Red Cross or Red Crescent Society] and the IFRC in [Country].
2. The Agreement establishes modalities and areas for cooperation among the Parties, including roles and responsibilities of all Parties in disaster preparedness and response, including for public health emergencies, as well as general provisions concerning governance and oversight of the Agreement.

II. Definitions

'Applicable international minimum standards' means minimum quality levels to be obtained in humanitarian assistance for disaster preparedness and response as set out in the *Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance*, in particular those in *The Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response*.

'Disaster' means a serious disruption of the functioning of society, which poses a significant, widespread threat to human life, health, property or the environment, whether arising from accident, nature or human activity, whether developing suddenly or as the result of long-term processes. For the avoidance of doubt, the term 'disaster' includes public health emergencies.

'Disaster preparedness and response activities' is an umbrella term for any facilities, services, processes, distributions, resources, training, education or information that are conducted or provided for the purpose of preparing for and/or responding to disaster. For the avoidance of doubt, the term 'disaster preparedness and response activities' includes preparedness and response activities for public health emergencies.

'Disaster relief' means the goods (including medication), equipment, services (including search and rescue) and internationally donated funds provided to meet the immediate humanitarian needs of disaster-affected communities.

'IFRC personnel' means national and international staff supporting IFRC's disaster preparedness and response activities.

'[Country Red Cross or Red Crescent Society]' means the [Country Red Cross or Red Crescent Society] established by the [Red Cross or Red Crescent] [Act or Law or Decree] [year].

'Public health emergency' means an occurrence or imminent threat of an illness or health condition, caused by bio terrorism, epidemic or pandemic disease, or a novel and highly fatal infectious agent or biological toxin, that poses a substantial risk of a significant number of human fatalities or incidents or permanent or long-term disability (WHO/DCD, 2001).

'IFRC Network' means the IFRC and its network of 192 National Red Cross and Red Crescent Societies. Members of the IFRC Network act at all times in accordance with the Fundamental Principles and cooperate with one another in carrying out their respective tasks in pursuit of their shared mission.

III. Roles and Responsibilities of the Parties

The [Country Red Cross or Red Crescent Society]

3. The present Agreement reaffirms the [Country Red Cross or Red Crescent Society]'s auxiliary role, as well as its engagement and coordination with the Government and relevant government agencies in relation to [disaster preparedness and response activities] being carried out within the territory of [Country].

4. The [Country Red Cross or Red Crescent Society] shall fulfil its roles and responsibilities recognized under the [Red Cross or Red Crescent] [Act or Law or Decree] [year], [as well as sectoral laws, regulations or policies, including those relating to disaster risk management and public health emergencies, which attribute roles and responsibilities to the [Country Red Cross or Red Crescent Society] at national, regional or local level]. The [Country Red Cross or Red Crescent Society], as auxiliary to government, will only accept to fulfil roles and responsibilities in line with the Fundamental Principles, the *Statutes of the International Red Cross and Red Crescent Movement*, its humanitarian mandate, and taking into account its capacities and expertise.
5. The [Country Red Cross or Red Crescent Society] shall work in compliance with national legislation, the Fundamental Principles, other applicable Movement commitments and frameworks, and applicable international minimum standards.
6. The [Country Red Cross or Red Crescent Society] shall provide regular updates to the Government on the observed humanitarian context, standard operating procedures and/or IFRC Network disaster and public health emergency contingency/response plans in [Country]. Additionally, the [Country Red Cross or Red Crescent Society] will also provide information on actions taken, including needs and capacity assessments.
7. The [Country Red Cross or Red Crescent Society] shall provide regular updates to the IFRC on the evolving humanitarian context, standard operating procedures, disaster and public health emergency contingency/response plans relevant for [Country]. Additionally, the [Country Red Cross or Red Crescent Society] will also provide information on actions taken, including needs and capacity assessments, by the Government, the [Country Red Cross or Red Crescent Society] and the humanitarian actors present in the country, as well as any information on any requests for international humanitarian assistance by the Government.
8. The [Country Red Cross or Red Crescent Society] will assess regularly its capacities to prepare and respond to disasters and/or public health emergencies, and will keep the Government and the IFRC informed of the results of such assessments.
9. The [Country Red Cross or Red Crescent Society] may request the IFRC to provide or coordinate international assistance from the IFRC Network prior to an imminent disaster (including a public health emergency) on the basis of reliable scientific forecasts and early warning information.
10. The [Country Red Cross or Red Crescent Society], through the IFRC, shall request or accept offers of assistance from the IFRC Network where the humanitarian consequences of a disaster (including a public health emergency) cannot be met by its resources or those of domestic partners in a timely manner, appropriate scale or in accordance with applicable international minimum standards.
11. The [Country Red Cross or Red Crescent Society] will take all necessary measures to ensure that its staff and volunteers comply with the provisions of this Agreement, and of all laws of [Country].
12. The [Country Red Cross or Red Crescent Society] will recruit, mobilize, train and manage volunteers as necessary for the implementation of this Agreement at national, regional and local levels. The [Country Red Cross or Red Crescent Society] will liaise with the Government to ensure that the mobilized volunteers have access to medical services.

The IFRC

13. The IFRC may provide support to the [Country Red Cross or Red Crescent Society] upon request or acceptance of an offer by the [Country Red Cross or Red Crescent Society].
14. According to the needs and context of [Country], the IFRC may support the [Country Red Cross or Red Crescent Society] in its disaster preparedness and response activities. This support may include, but is not limited to, the following:
 - a. facilitating capacity enhancement and training opportunities for the Government and the [Country Red Cross or Red Crescent Society] on disaster preparedness and response. This may include simulation exercises as appropriate;

- b. providing expert advice and assistance to the Government and the [Country Red Cross or Red Crescent Society] in the area of disaster preparedness and response. This includes the preparation of contingency plans and advice on cross-cutting topics such as protection, climate change, the strengthening of legal frameworks for climate-smart disaster risk management, and other relevant areas;
 - c. supporting the [Country Red Cross or Red Crescent Society] in prepositioning and distribution of disaster relief, and strategic warehousing;
 - d. initiating regional and/or global response mechanisms such as deployment of specialized and technical human resources surge support, equipment and assistance and mobilization of financial resources;
 - e. coordinating international support from the IFRC Network;
 - f. providing monetary support through existing financial mechanisms available to the [Country Red Cross or Red Crescent Society] ;
 - g. providing or facilitating the provision of other services requested by the [Country Red Cross or Red Crescent Society], provided the IFRC has resources available;¹ and
 - h. performing its role as set out in its Constitution.
15. The IFRC shall coordinate fully with the [Country Red Cross or Red Crescent Society]. The IFRC will share with the [Country Red Cross or Red Crescent Society] the results of relevant evaluations or assessments of the disaster.
16. The IFRC may carry out such activities as may be necessary for the exercise of its humanitarian mission, in conformity with its own *Constitution*, with the *Fundamental Principles*, the *Principles and Rules for Red Cross and Red Crescent Humanitarian Assistance*, the *Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations in Disaster Relief*, as well as other applicable international minimum standards.
17. The IFRC and IFRC personnel shall act in conformity with the laws of [Country], to the extent compatible with the Legal Status Agreement between [Country] and the IFRC [dated], as set out in Annex II to this Agreement.

The Government

18. The Government bears the primary responsibility to lead disaster preparedness and response activities on its territory. This includes the review and development of inclusive and climate-smart legislation, policies, procedures and plans which regulate and facilitate disaster preparedness and response.
19. The Government will include the [Country Red Cross or Red Crescent Society] in all relevant coordination and communication mechanisms established at national, regional and local level to coordinate disaster preparedness and response activities.
20. The Government will promptly share with the [Country Red Cross or Red Crescent Society] early warning information about any event which has the potential to require the [Country Red Cross or Red Crescent Society]'s involvement or assistance.
21. Consistent with the [Red Cross or Red Crescent] [Act or Law or Decree] [year], the Government will make its best efforts to facilitate and support the work of the [Country Red Cross or Red Crescent Society] in [Country] in disaster preparedness and response.
22. Consistent with the Legal Status Agreement between the IFRC and the Government, the Government will likewise facilitate the work of the IFRC in support of the [Country Red Cross or Red Crescent Society].

¹ See ANNEX III: IFRC and National Red Cross and Red Crescent Societies General Emergency Response Capacities.

- 23.** The Government shall facilitate to the maximum extent possible the humanitarian activities of the [Country Red Cross or Red Crescent Society], and of the IFRC in support of the [Country Red Cross or Red Crescent Society] in its territory. In particular, the Government will provide the following facilities:
- a. Freedom of movement:** Grant freedom of movement to the [Country Red Cross or Red Crescent Society] and IFRC personnel and vehicles within the territory of [Country] at all times, including during a state of emergency or disaster and in circumstances where restrictions on freedom of movement are in force, in order to permit them to:
 - i.** access communities and areas affected by the disaster, to conduct prevention and life-saving activities, or any activity critical to the safety, protection and well-being of communities; and
 - ii.** access its premises such as offices and logistics warehouses, as well as ports, airports, government offices, hospitals, testing sites, field clinics and other key services or infrastructure.
 - b. Personnel and volunteers:**
 - i.** Classify personnel and volunteers of the [Country Red Cross or Red Crescent Society] and IFRC personnel as [*emergency workers* or *essential services* or *first responders*] for disasters in law, regulation, executive order or policing practice, allowing them to remain exempt from curfews, limitations on business opening hours and other general population control strategies.
 - ii.** Provide health care services free of charge, and life and medical insurance coverage, to the staff and volunteers of the [Country Red Cross or Red Crescent Society] for injuries incurred in the exercise of their function.
 - iii.** Provide tax exemption for any cash compensation received by [Country Red Cross or Red Crescent Society] volunteers for the exercise of their function.
 - c. IFRC international personnel:**
 - i.** Issue expedited [*humanitarian or equivalent visas*] for international IFRC personnel without a fee and renewable from within [Country] as often as necessary to support disaster preparedness and response activities;
 - ii.** Recognize the foreign professional qualifications of international IFRC personnel who may be required to perform specialized tasks within the territory of [Country].
 - iii.** Provide IFRC international personnel with a waiver on the application of any income taxes, duties, levies and social security contributions for their activities undertaken in the [Country].
 - d. Tax exemption and entry of funds in country:**
 - i.** Exempt the [Country Red Cross or Red Crescent Society] and the IFRC from any applicable taxes and duties.
 - ii.** Facilitate and waive limits for the entry of funds and currencies required for the [Country Red Cross or Red Crescent Society]'s and the IFRC's disaster preparedness and response activities including any limits and restrictions on humanitarian cash transfers and voucher programs.
 - e. Customs facilitation:**
 - i.** Provide expedited customs clearance procedures and priority landing rights for disaster relief and recovery consignments imported by or on behalf of the [Country Red Cross or Red Crescent Society] or the IFRC.

- ii. Waive restrictions and limitations on consignments of disaster relief and recovery assistance imported by or on behalf of the [Country Red Cross or Red Crescent Society] or the IFRC.
- iii. Facilitate the import, export and transshipment of disaster relief and recovery consignments as long as they comply with relevant laws of [Country] and applicable international minimum standards.

f. Registration and licensing:

- i. Waive any licensing requirements or fees for the use of any imported telecommunications equipment, vehicles and other specialized goods imported by or on behalf of the [Country Red Cross or Red Crescent Society] or the IFRC.
- ii. Grant temporary recognition to foreign registration plates on vehicles imported by the [Country Red Cross or Red Crescent Society] or IFRC pending the provision of local registration and plates.

24. Where necessary to implement any of the above listed facilities, the Government shall use its best efforts to adopt or modify the necessary regulatory instruments.

25. If requested by the IFRC, the Government shall seriously consider engaging in discussions with the Government of [closest location of IFRC logistics regional hubs] [under pre-existing Bilateral/Regional Arrangements] to address any potential barriers to the use of the IFRC logistics regional hub in supporting the [Country Red Cross or Red Crescent Society]'s [Country Red Cross or Red Crescent Society] disaster preparedness and response activities in [Country]. This may include facilities for the expeditious transit of RCRC disaster relief and recovery consignments, including the use of airports and logistical support as required, and waiver of taxes and fees on items that may transit through or be trans-shipped in its territory prior or during the disaster.

26. The Government shall issue appropriate instructions to relevant Ministries and Departments [Finance, Interior, Immigration, Customs, Foreign Affairs, Health, Telecommunication, MoFA - list as appropriate] as well as to regional and local authorities, to adopt and enforce timely and adequate measures [laws, regulations, protocols and/or procedures] to facilitate the implementation of this Agreement.

IV. Final provisions

Applicability

27. This agreement is valid from the date of signature by the Government, the [Country Red Cross or Red Crescent Society] and the IFRC.

Interpretation

28. This Agreement shall be interpreted in light of the Movement's humanitarian principles and its primary objectives, which are to ensure timely, effective humanitarian assistance and programming to meet identified humanitarian needs in [Country] and protect the most vulnerable when faced with crisis.

29. Nothing in this Agreement shall be interpreted to contravene or waive the privileges enjoyed by the [Country Red Cross or Red Crescent Society] pursuant to the [Red Cross or Red Crescent] [Act or Law or Decree] [year], or any other domestic or international instruments.

30. Nothing contained in this Agreement shall constitute or be deemed a waiver, express or implied, of any of the privileges and immunities of the IFRC.

Confidentiality

31. Any information exchanged between the Parties as a result of the cooperation contemplated by this Agreement and that may reasonably be considered to be confidential information, or explicitly classified by a Party as such, shall be kept confidential unless explicitly agreed by the Parties.

32. The obligation of confidentiality set out in this Article shall survive the termination of this Agreement for a period of [5 years].

Intellectual Property

33. Unless otherwise agreed in writing, each Party shall maintain its intellectual property rights including but not limited to patents, copyrights and trademarks, with regard to any product or material which bears a direct relation to, or is made in consequence of, activities under this Agreement.

Dispute Settlement

34. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be amicably settled within [90 days] by the Parties, otherwise the following rules will apply.

35. Any dispute between the Government and the [Country Red Cross or Red Crescent Society] arising out of the interpretation or application of this Agreement [*shall be submitted to arbitration/shall be submitted to negotiation between the Parties/as otherwise agreed*].

36. Any dispute between the Government and the IFRC arising out of the interpretation or application of this Agreement shall be resolved in accordance with the United Nations Commission on International Trade Law (UNCITRAL) arbitration rules, as in force at the time of the dispute, and of which the Parties have taken due notice. The language of arbitration shall be English and the place of arbitration shall be Geneva, Switzerland. The arbitral tribunal shall have no authority to award punitive damages. The arbitral award shall be binding and final.

37. Disputes between the [Country Red Cross or Red Crescent Society] and the IFRC arising out of the interpretation or application of this Agreement shall be brought to the attention of the Chair of the Compliance and Mediation Committee of the IFRC as per the IFRC Constitution,² unless agreement is reached otherwise.

Amendments

38. Changes and amendments to this Agreement may be achieved through an exchange of letters between the Parties.

Termination

39. This Agreement may be terminated by any Party by giving three (3) months' written notice to the other Parties.

40. In the event that: (i) a Party commits a material breach of this Agreement which has not been remedied within 30 days after written notice has been given by the aggrieved Party; or (ii) a Party becomes or can reasonably be expected to become insolvent, the aggrieved Party shall be entitled to terminate this Agreement immediately.

41. The IFRC may immediately terminate this Agreement if any Party does anything which in the reasonable opinion of the IFRC brings, or is reasonably likely to bring the IFRC, its name or logo, or any component of the International Red Cross and Red Crescent Movement into dispute or disrepute in any way whatsoever.

Governing Law

42. This Agreement shall be governed, construed, and enforced in accordance with the laws of [Country] without regard to its conflict of laws rules and principles.

² Article 31.3 of IFRC's Constitution

Liability

43. Each Party shall retain liability for the acts and omissions of their own personnel and agents in the performance of this Agreement.

Signed:

----- (Place and Date) -----

Name

Government of [Country]

[Ministry of XXX] and

[Ministry of XXX]

----- (Place and Date) -----

Name

[Country Red Cross or Red Crescent Society]

----- (Place and Date) -----

Name

International Federation of Red Cross and Red Crescent Societies (IFRC)

ANNEX I

[Red Cross or Red Crescent] [Act, Law or Decree] [year]

(...)

ANNEX II

Legal Status Agreement between [Country] and the IFRC [dated]

(...)

ANNEX III

[Country Red Cross or Red Crescent Society] and IFRC General Emergency Response Capacities

(...)

ENDNOTES

- 1 2011 Council of Delegates of the International Red Cross and Red Crescent Movement, "Resolution 4: Revision of National Society Statutes and Legal Base" (Geneva, 26 November 2011) paragraph 5.
- 2 31st International Conference of the Red Cross and Red Crescent, "Resolution 4: Furthering the Auxiliary Role: Partnership for Stronger National Societies and Volunteering Development" (Geneva, 28 November to 1 December 2011) paragraph 2.
- 3 The full title of the Joint Statutes Commission is the Joint ICRC/International Federation Commission for National Society Statutes.
- 4 The answers to the questions in this Chapter are largely based on the following source: IFRC, "Guide to the Auxiliary Role of Red Cross and Red Crescent National Societies – Europe" (2015) <https://media.ifrc.org/ifrc/wp-content/uploads/sites/5/2017/12/1294600-Guide_Europe_En_LR.pdf>.
- 5 30th International Conference of the Red Cross and Red Crescent Movement, "Resolution 2: Specific Nature of the International Red Cross and Red Crescent Movement in Action and Partnerships and the Role of National Societies as Auxiliaries to the Public Authorities in the Humanitarian Field" (Geneva, 26 to 30 November 2007) paragraph 3 (**Resolution 2 of the 30th International Conference**).
- 6 31st International Conference of the Red Cross and Red Crescent Movement, "Resolution 4: Furthering the Auxiliary Role: Partnership for Stronger National Societies and Volunteering Development" (Geneva, 28 November – 1 December 2011) (**Resolution 4 of the 31st International Conference**).
- 7 Statutes of the International Red Cross and Red Crescent Movement, article 4(3) (**Statutes of the Movement**).
- 8 Resolution 2 of the 30th International Conference, paragraph 1.
- 9 Ibid paragraph 4.
- 10 Ibid paragraphs 1 and 4; Statutes of the Movement, articles 1(2), 2(4), 3(1), 4(4) and 4(10).
- 11 United Nations General Assembly Resolution 55(I), "National Red Cross and Red Crescent Societies" (19 November 1946). This Resolution provides: "That at all times the independent voluntary nature of the National Red Cross and Red Crescent Societies be respected in all circumstances, provided they are recognized by their Governments and carry on their working according to the principles of the Geneva and The Hague Conventions and in the humanitarian spirit of the Red Cross and Red Crescent."
- 12 IFRC and ICRC, "The Fundamental Principles of the International Red Cross and Red Crescent Movement: Ethics and Tools for Humanitarian Action" (2015) <<http://ifrc-media.org/interactive/wp-content/uploads/2015/12/FP-brochure-2015.pdf>> page 55.
- 13 IFRC, "Legislative Advocacy Toolkit: Facilitators Guide" (2018) <https://www.climatecentre.org/downloads/modules/training_downloads/3a%20IFRC%20Legislative%20Advocacy%20Toolkit_Facilitators%20Guide.pdf> page 20.
- 14 Ibid.
- 15 Model Law on the Recognition of National Societies, articles 2.1, 5.1, 5.2 and 5.3 (**RC/RC Model Law**).
- 16 Regulations on the Use of the Emblem of the Red Cross or Red Crescent by the National Societies adopted by the 20th International Conference of the Red Cross and Red Crescent (Vienna, 1965) and revised by the Council of Delegates (Budapest, 1991).
- 17 RC/RC Model Law, article 6.
- 18 Ibid.
- 19 Resolution 2 of the 30th International Conference, paragraph 1.
- 20 Resolution 2 of the 30th International Conference, paragraphs 1 and 4.
- 21 Law of the National Red Cross Society, Law 27547 (8 June 2020) (Argentina), articles 4 and 5.
- 22 Ibid article 5(I).
- 23 Presidential Decree on the Finnish Red Cross, sections 3(7) and 3(8).
- 24 Law of Mongolia on Legal Status of the Mongolian Red Cross Society (7 January 2016), article 6.2.3.
- 25 Law of the Republic of Tajikistan about the Red Crescent Society of Tajikistan, article 6.
- 26 Ibid.
- 27 The importance of these two mechanisms in the context of disaster preparedness and response is recognized by the IFRC's Checklist on Law and Disaster Preparedness and Response, which was endorsed by the 33rd International Conference in 2019. Relevantly, the Checklist recommends that the law should clearly outline the roles and responsibilities of non-governmental actors, and establish coordination mechanisms that include all relevant governmental and non-governmental actors: IFRC, "Checklist on Law and Disaster Preparedness and Response" (2019) <https://media.ifrc.org/ifrc/wp-content/uploads/sites/5/2019/11/DPR_Checklist_Final_EN_Screen.pdf>.
- 28 IFRC, "Law and Disaster Preparedness and Response: Multi-Country Synthesis Report" (2019) <https://media.ifrc.org/ifrc/wp-content/uploads/sites/5/2019/11/DPR_Synthesis-Report_EN_Screen.pdf> 29.
- 29 Australia Country Mapping.
- 30 Standing Orders on Disaster (April 2010) (Bangladesh) page 176.
- 31 Ibid pages 176-178.
- 32 Ibid pages 177-178.
- 33 Emergency Operations Committee Manual (Ecuador) adopted by Resolución SGR 142-2017.

- 34 Ibid pages 35, 39.
- 35 Ibid pages 35-37.
- 36 Nepal Country Mapping.
- 37 Ibid.
- 38 National Disaster Response Plan (Nigeria) page 85.
- 39 Norway Country Mapping.
- 40 Norway Country Mapping.
- 41 Safe Blood Transfusion Act 2002 (Act No. 12 of 2002) (Bangladesh), articles 4, 5.
- 42 Ibid article 4.
- 43 Disaster Risk Management Act 2015 (Jamaica), sections 16 and 17, Schedule 2.
- 44 Ibid Schedule 2.
- 45 National Emergency Management Agency (Establishment) Act (Act No. 12 of 23 March 1999) (Nigeria).
- 46 Ibid section 2(2)(d).
- 47 Ibid section 8(2)(c).
- 48 Law No. 29664 creating the National Disaster Risk Management System (SINAGERD) (Peru), article 19c.
- 49 Supreme Decree approving the Regulation of Law No. 29664 (Peru), articles 41, 51.
- 50 Order PCI/842/2018 of August 3 2018 (Spain).
- 51 Disaster Risk Management Act No. 23 of 2019 (Vanuatu) sections 4, 5(c).
- 52 Ibid section 5(b), (e) and (f).
- 53 33rd International Conference of the Red Cross and Red Crescent Movement, "Resolution 7: Disaster Laws and Policies that Leave No One Behind" (Geneva, 9 to 12 December 2019); IFRC, "The Checklist on Law and Disaster Preparedness and Response" (2019) <https://media.ifrc.org/ifrc/wp-content/uploads/sites/5/2019/11/DPR_Checklist_Final_EN_Screen.pdf>.
- 54 Law of the National Red Cross Society, Law 27547 (8 June 2020) (Argentina), article 11(d).
- 55 Ibid article 11(c).
- 56 See Australian Tax Office, "FBT Exemption" (12 February 2020) <<https://www.ato.gov.au/non-profit/your-workers/your-obligations-to-workers-and-independent-contractors/fringe-benefits-tax/fbt-concessions/fbt-exemption/>>.
- 57 Volunteering Law (Law 1505 of 2012) (Colombia), article 1.
- 58 Article 9.
- 59 Circular 20/1395 dated 23 March 2020 entitled "Insurance Coverage - Occupational Injury Insurance - For Voluntary Rescue Teams during Actions, Exercises and Organized Training" (Norway).
- 60 Law 57 of 30 November 2016 (Panama), article 1(3).
- 61 Ibid article 1(2).
- 62 Royal Decree 31/1989 of January 13 Regulating the Voluntary Provision of a Service in the Spanish Red Cross by Personnel Subject to Military Service.
- 63 Ibid article 1.
- 64 Institute of Medicine of the National Academies, "Crisis Standards of Care: A Systems Framework for Catastrophic Disaster Response" (Washington D.C.: The National Academies Press, 2012), page 57. A large number of such provisions have also been recently introduced via emergency decrees in order to respond to the challenges posed by the COVID-19 pandemic: See Federation of State Medical Boards, "U.S. States and Territories Modifying Licensure Requirements for Physicians in Response to COVID-19" (26 May 2020) <<https://www.fsmb.org/siteassets/advocacy/pdf/state-emergency-declarations-licensure-requirements-covid-19.pdf>>.
- 65 Detailed Regulations and Measures to Implement the Law of Red Cross (Decree 03/2011) (Vietnam), article 3.
- 66 Ibid.
- 67 Ibid.
- 68 RC/RC Model Law, article 5.4 (emphasis added).
- 69 The Internal Tax Regime Law (Ecuador), article 73.
- 70 See Taxes Consolidation Act 1997 (Ireland), section 207.
- 71 Company Income Tax Act (Nigeria), section 23; Third Schedule to the Personal Income Tax Act 1993 (Nigeria), section 19, paragraph 13.
- 72 Republic Act No. 10072, An Act Recognizing the Philippine National Red Cross as an Independent, Autonomous, Nongovernmental Organization Auxiliary to the Authorities of the Republic of the Philippines in the Humanitarian Field, to be Known as the Philippine Red Cross, section 5(c).
- 73 Ibid.
- 74 Act of Law of April 24th 2003 on Public Benefit and Volunteer Work (Poland), article 24.
- 75 Sierra Leone Red Cross Act, section 5(3). In South Sudan, the Red Cross Act contains a similar provision: South Sudan Red Cross Act 2012, section 16.

- 76 RC/RC Model Law, article 5.5.
- 77 An Act to Establish the Liberian National Red Cross Society 2008, section 3.5.
- 78 Republic Act No. 10072, An Act Recognizing the Philippine National Red Cross as an Independent, Autonomous, Nongovernmental Organization Auxiliary to the Authorities of the Republic of the Philippines in the Humanitarian Field, to be Known as the Philippine Red Cross, section 5(c).
- 79 Law of the Republic of Azerbaijan on the Azerbaijan Red Crescent Society, article 7.2.
- 80 Ibid.
- 81 Law of Mongolia on Legal Status of the Mongolian Red Cross Society (7 January 2016), article 10.1.
- 82 Resolution of the Government of Mongolia (No 234, 2 May 2016), paragraph 3.
- 83 Law of the Republic of Tajikistan about the Red Crescent Society of Tajikistan, article 13(1).
- 84 Ibid.
- 85 Ibid article 13(2).
- 86 The Law on Red Cross Operation 2008 (Vietnam), article 22(1).
- 87 Ibid article 22(2)(b).
- 88 Detailed Regulations and Measures to Implement the Law of Red Cross (Decree 03/2011) (Vietnam) article 4(2).
- 89 Law No. 852 de 2003 (Colombia), article 30(3).
- 90 Supreme Decree No. 004-2005-Mimdes, Regulation of the Law on Internal Displacement (Peru), article 18.
- 91 Emergency Powers (COVID 19) (No. 1) Order 2020 (Bahamas), article 3(1),(2) and (6).
- 92 Governmental Decree No. 5-2020 (5 March 2020) (Guatemala), articles 3 and 4.
- 93 Governmental Decree No. 6-2020 (21 March 2020) (Guatemala), article 1(b).
- 94 Ibid article 1(c)(3).
- 95 See Community Quarantine over the Entire Luzon and Further Guidelines for the Management of the Coronavirus Disease 2019 (COVID-19) Situation (Memorandum from the Executive Secretary, Office of the President of the Philippines, 16 March 2020) article 3.
- 96 See Interim Guidelines for the Provision of Transport Vehicles to Health Workers and Health Facility Staff Under the Expanded Community Quarantine (Office of the Secretary, Department of Health, 24 March 2020) (Philippines).
- 97 Bayanihan to Heal as One Act (Philippines), section 4(l); Bayanihan to Recover as One Act (Philippines), section 4(v).
- 98 See IFRC, "Introduction to the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance" (2017) <<https://media.ifrc.org/ifrc/wp-content/uploads/sites/5/2017/12/1205600-IDRL-Guidelines-EN-LR.pdf>> (**IDRL Guidelines**); IFRC, The Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (2017) <<https://media.ifrc.org/ifrc/wp-content/uploads/sites/5/2017/12/IDRL-Checklist-EN-LR.pdf>> (**IDRL Checklist**). See also IFRC and UN OCHA, "Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (With Commentary)" (2011) <<https://www.ifrc.org/docs/IDRL/MODEL%20ACT%20ENGLISH.pdf>>; IFRC and UN OCHA, "Model Emergency Decree for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance" (2011) <https://media.ifrc.org/ifrc/wp-content/uploads/sites/5/2017/12/Model-Decree_EN-LR.pdf>.
- 99 Oficio DMS-1819-2020 (Minister for Health, Panama, 27 March 2020).
- 100 Ibid.
- 101 The Law on Red Cross Operation 2008 (Vietnam), article 18(1).
- 102 Detailed Regulations and Measures to Implement the Law of Red Cross (Decree 03/2011) (Vietnam), article 6(2).
- 103 Ibid article 8(1).
- 104 Ibid.
- 105 This case study was written by Sophie Teyssier, Americas Disaster Law Programme Coordinator. Thanks are owed to Argentine Red Cross President Diego Tipping and Director General Maria Cecilia Villafane, as well as to Alexandre Claudon, head of IFRC CONOSUR Cluster, for providing the information contained in this article over a special interview carried out on 5 Oct. 2020. If one word could describe the key for advocacy success, it would be: "perseverance".
- 106 The ARC emblem was oftentimes subject to misuse by third parties and the infraction was not properly sanctioned.
- 107 A working day per year was discounted by the employers of the 2 million volunteers that were rotating per year which could discourage volunteering.



The International Federation of Red Cross and Red Crescent Societies (IFRC) is the world's largest humanitarian network, with **192 National Red Cross and Red Crescent Societies** and around **14 million volunteers**. Our volunteers are present in communities before, during and after a crisis or disaster. We work in the most hard to reach and complex settings in the world, saving lives and promoting human dignity. We support communities to become stronger and more resilient places where people can live safe and healthy lives, and have opportunities to thrive