Inception Workshop on Developing a Disaster Risk Reduction Checklist for Lawmakers – Summary report

Château de Penthes, Geneva
12 October 2012

Background

The “Inception Workshop on Developing a Disaster Risk Reduction Checklist for Lawmakers” was the first step in a consultative process intended to explore the guidance that can be offered to lawmakers with regard to developing effective legislative frameworks for disaster risk reduction (DRR). The checklist project aims to identify the key issues that lawmakers, at all levels of government, need to consider in to generate the best legal framework for DRR in their country. It is not intended to be prescriptive, but to serve as a commonly agreed set of criteria for good law and regulations on DRR at the national, provincial and local levels in each country. This first consultation with 25 experts from different backgrounds and different parts of the world was an opportunity to define the scope of the project and the form the process should take.

This initiative is founded in both the Hyogo Framework for Action 2005-2015 (HFA) and a specific mandate from Resolution 7 of the 31st International Conference of the Red Cross and Red Crescent in November 2011. The first HFA priority is to “ensure that disaster risk reduction is a national and a local priority with a strong institutional basis for implementation,” notably through “policy, legislative and institutional frameworks for disaster risk reduction.” Resolution 7 of the International Conference encouraged states, with support from their National Red Cross and Red Crescent Societies, the International Federation of Red Cross and Red Crescent Societies (IFRC), the United Nations Development Programme (UNDP), and other relevant partners to review the existing legislative frameworks in light of the key gap areas identified in the IFRC report to the Conference.

Opening remarks

Elise Baudot, IFRC Legal Counsel, and Cécile Molinier, UNDP Geneva Office Director, welcomed participants and thanked them for dedicating a day of their time to the workshop.

Ms. Baudot stressed that, while recognising that law and regulation are just one tool in supporting DRR, and that law’s effectiveness depends on good implementation, it is increasingly clear that many aspects of DRR need a regulatory framework, whether through national or local legislation. She emphasised that the aim of the workshop was to build on the expertise of participants to discuss what areas of law could enhance DRR. In contrast to its work on International Disaster Response Laws, Rules, and Principles (IDRL), the IFRC was not looking to draft a model act on this topic, but rather to look at mainstreaming DRR criteria into the various areas of law relevant to DRR. Ms. Baudot underlined how pleased the IFRC was to be working in partnership with the UNDP on a project of such broad scope, and that both partners looked forward to involving many others in the process.
Ms. Molinier also expressed her satisfaction with the partnership between the IFRC and UNDP on this project. She called attention to the importance of using law to mitigate, and prevent disasters, and to the great potential for an innovative tool to support legislators around the world in strengthening DRR law. She highlighted the work of the UNDP on DRR in supporting more than 80 countries, bringing DRR to the centre of development practice, and how UNDP seeks to take advantage of recovery situations to build resilience. Ms. Molinier ended her intervention by wishing the participants success, and in line with the theme of this year’s Internal Day for Disaster Reduction, ‘Women and Girls: the Invisible Force of Resilience’, she expressed her hope that the checklist would also ensure adequate recognition of women and girls as agents and promoters of disaster reduction for a more resilient future.

**Presentation of the IFRC-UNDP Research Project and the Checklist Concept**

David Fisher, Global Coordinator of the IFRC Disaster Law Programme, first outlined the involvement of the IFRC in both IDRL over the last decade and, more recently, law and DRR. He noted that, throughout the process of developing the “Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance” (IDRL Guidelines) adopted by the International Conference of the Red Cross and Red Crescent in 2007, there were many questions raised about legal issues in DRR. Thus in 2011, at the last International Conference of the Red Cross and Red Crescent, a resolution was adopted calling on states to work with the Red Cross and Red Crescent Movement, UNDP and other partners to provide support in the area of law and DRR.

Mr. Fisher stressed that although there was a consensus that law is important for DRR, as expressed in the first priority of the Hyogo Framework for Action, so far, little comparative research was available on the subject and gaps in implementation at the national and community level remained considerable.

Mr. Fisher summarised the preliminary work already realized: regional consultations on DRR and law; desk-based research; legal case studies as well as research on community-based DRR and community resilience. He underlined key problem areas, specifically:

- Lack of a risk reduction focus in many laws, which remain response-focused
- Lack of community engagement and information
- Lack of integration of community organizations and the private sector
- Gaps in authority, capacity and funding
- Gaps in community-level implementation
- Lack of accountability

He also gave examples of good practices, which could inspire similar efforts in different context, such as Brazil’s “Statute of the Cities,” which provides for a process of gradual recognition of informal settlements allowing, in turn, for DRR regulatory efforts to be pursued in these communities.

Angelika Planitz, UNDP Bureau for Crisis Prevention & Recovery, then presented UNDP’s perspective on the project. During the last two decades, UNDP has worked towards reinforcing disaster risk governance by strengthening institutional systems and legislative frameworks, and by providing policy guidance for managing disaster risk. For UNDP,
legislation is one of the key elements within the wider framework of good risk governance to strengthen DRR.

Ms. Planitz expressed the hope that, through this partnership with IFRC, it would be possible to drill down on legislative issues in DRR at country level, both updating prior research and going into greater detail. She mentioned some of the key findings of the 2004 UNDP report, entitled, “A Global Review of UNDP Support to Institutional & Legislative Systems for Disaster Risk Management,” which were still relevant:  

- Uneven coverage of disaster preparedness, response, risk reduction & recovery
- Limited resources & capacities for implementation and enforcement
- Inadequate impact on risks in the informal sector
- Implementation hampered by multiple & conflicting legislation
- Weak social demand for DRR & legislative reform processes
- Weak accountability mechanisms for non/compliance
- Delays in the approval process of legislation
- Insufficient participation in legislative processes
- Little focus on multi-stakeholder approaches & coordination across sectors
- Not enough use of incentives and disincentives for DRR

Mr. Fisher and Ms. Planitz concluded their presentation with an overview of the scope of the DRR Law project, whose objective is to identify gaps and good practices in legislation at all levels of government, and recommend how legislation can better support DRR at country level:

- The research component of the project will examine international legal frameworks and will then analyze 28 national law desk surveys and 8 to 10 country case studies, in a global synthesis report.
- The advocacy component of the project, the proposed DRR Checklist for Lawmakers, will be based on wide-ranging consultations to develop a tool for lawmakers and others to assess national legislation from a DRR perspective. The aim is to spark focused discussion about law and DRR and to identify priorities specific to DRR and legislation. The global study will be launched in May 2013 at the 4th Global Platform, where an early draft of the Checklist will also be made available for discussion.

**Initial Feedback on the Checklist Project**

A number of participants welcomed the initiative of a checklist for lawmakers as a fundamental area they felt was sometimes left out of discussions on DRR. Some participants also wished to see included regulation of the social sector (health, water and sanitation, child protection, education), while others warned against stretching the project too thinly across many sectors.

Concerns were raised as to the definition of ‘DRR’. One participant would have preferred to use the term resilience, but, for others that term appeared to lack precision. It was clarified that DRR was understood as including risk assessment and risk communication, as well as climate change adaptation.

Regarding the form of the checklist, it was unclear for some participants whether the checklist should encourage the adoption of one single disaster management act or recommend the
mainstreaming of DRR into multiple sectoral laws. Some participants also wondered whether legislators had identified a checklist as the most useful tool for their work or if this was going to be an advocacy tool. Ms. Mary Picard, IFRC Senior Disaster Law Officer, clarified that the form of the document would be determined by the results of the consultations.

One participant proposed that the checklist take a rights-based approach. Another participant saw potential for the checklist in being used to raise awareness of DRR with communities in order to create bottom-up pressure on lawmakers.

It was suggested that a broader approach to DRR beyond law could be explored in the checklist. On the other hand, it was also asserted that the Hyogo Framework might already be seen as such a “checklist” and that this might also duplicate existing work on “governance” and more generally on best practice in DRR. It was nevertheless recommended that the project should look not only to the content of legislation but also to implementation issues.

The Role of Law in Supporting DRR

The four groups were asked to rank on a scale of 1 to 10, the importance of legislation for 16 DRR issues - 0 meaning ‘does not require legal regulation’ and 10 meaning ‘legal regulation essential’. Below is the result of their ranking.

<table>
<thead>
<tr>
<th>DRR issues</th>
<th>Group 1</th>
<th>Group 2</th>
<th>Group 3</th>
<th>Group 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Early warning systems (EWS)</td>
<td>8.5</td>
<td>5</td>
<td>1 at the community level</td>
<td>8 at the government</td>
</tr>
<tr>
<td>Government institutions - mandates and responsibilities</td>
<td>8.5</td>
<td>10</td>
<td>1 at the community level</td>
<td>10 at the government</td>
</tr>
<tr>
<td>Resourcing for DRR</td>
<td>10</td>
<td>9.5</td>
<td>1 at the community level</td>
<td>8 at the government</td>
</tr>
<tr>
<td>A voice for communities and Red Cross Red Crescent in government DRR initiatives</td>
<td>8.5</td>
<td>8.5</td>
<td>7</td>
<td>10 for the auxiliary status and 1 for the community initiative</td>
</tr>
<tr>
<td>Reduction of risks from fire (urban and rural)</td>
<td>6.5</td>
<td>6</td>
<td>8</td>
<td>10 9 – mapping risks</td>
</tr>
<tr>
<td>Safe building and construction</td>
<td>10</td>
<td>8.5</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Involvement of women and girls</td>
<td>8.5</td>
<td>9</td>
<td>5</td>
<td>9</td>
</tr>
<tr>
<td>Reduction of risks from floods, storms and tsunamis</td>
<td>6.5</td>
<td>9</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td>Environmental impact assessments for new developments</td>
<td>10</td>
<td>10</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>Local government land use planning</td>
<td>10</td>
<td>8.5</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Community education and awareness</td>
<td>6.5</td>
<td>5</td>
<td>9</td>
<td>2.5</td>
</tr>
</tbody>
</table>
When reporting back to the plenary, a consensus emerged that, although many DRR activities could take place without legislation, effective legislation would often facilitate their realisation. However for some issues – for example early warning systems – technical issues were considered more central than legal ones.

It was suggested that some issues, such as safeguarding human rights to life and safety, and involving women and girls, would be best addressed through overarching constitutional rights rather than specific DRR legislation.

Participants felt it was essential to have legislation for safe building and construction as well as local government land use planning. The situation of illegal settlements was seen as particularly problematic, as their illegal nature prevents coherent regulation to reduce risks, even while there are many successful community level DRR initiatives. It was also felt that there was a strong added value in including in legislation DRR criteria for environmental impact assessment for new developments, disaster insurance and compensation, specific resourcing for DRR, and sanctions, liability and accountability. It was further suggested that law could also require certain private entities to develop disaster contingency plans.

**Implementation and Effectiveness of Legal Frameworks**

Recognising that legal frameworks are only useful if they are effective and implemented, groups were asked four questions concerning how effectiveness and implementation can be improved through legislation.

The first question asked participants to list the most important elements that would make for effective law/regulation in support of DRR. They identified the following:
- **Political will**
  - This is needed not only to obtain the passage of law but also to ensure that it is followed. It requires a broad understanding by lawmakers and stakeholders of the added value of regulation for DRR.
  - To achieve this understanding, one needs persuasive data, inclusive discussions (bringing in the private sector, grass-roots organizations and communities themselves – to create “social demand”)

- **Clear language and strong messages**
  - The relevant laws must be clear and well-written, especially when defining the term disaster risk reduction, when defining responsibilities and in establishing rules on liability. Only laws that are clear and built on existing practices can be expected to succeed.
  - The laws must also provide strong incentives and disincentives (including financial) to encourage safer development and behaviour.

- **Resources**
  - DRR-relevant laws will not be effective if adequate resources are not devoted to their implementation.

- **Oversight mechanisms**
  - To further ensure implementation of DRR laws, supervisory mechanisms should be established, such as ombudsmen, audit mechanisms, focal points, rights of access to court, etc.

The group was next asked to list the most common causes of poor implementation of laws relevant to DRR. They identified the following:

- **Complexity**
  - Difficulty in accessing and understanding the law, especially when there are contradictions between different regulations.
  - Technical ignorance regarding implementation.

- **Lack of ownership**
  - Lack of ownership of the laws because they are drafted without consultation and are thus not context-appropriate.

- **Lack of urgency**
  - Lack of long-term thinking preventing DRR from being a priority, as there is no sense of urgency except just after a disaster and sometimes knowledge is lost with changes of government (at all levels).

- **Corruption and impunity**
  - Issues of corruption and lack of transparency and lack of enforcement mechanisms.

In question 3, participants were asked to detail what they wished national or provincial legislators knew about DRR. They identified the following elements:

- **Risk and vulnerability basics**
  - Understanding hazards, vulnerability and risks and the importance of DRR in preventing risks. It was suggested that the strong international focus on climate change could help in this regard.

- **Role of DRR in development**
- Role of civil society
  o Understanding the benefits of promoting and harnessing the strength of civil society organizations, including Red Cross and Red Crescent Societies.

- International commitments
  o Understanding of international commitments made by their governments on DRR (such as in the Hyogo Framework)

For most participants, the answers to the fourth question proposed, regarding what mayors and local government officials should know about DRR, overlapped with their answers to question 3 above. However they also offered the following additional points specific to the local officials:

- Understanding of mandate
  o Awareness of their own legal responsibility and mandates under national, state and local government law.

- Local context
  o More practical knowledge of DRR in their own context.
  o Greater focus, interaction and understanding of community DRR initiatives.

- Finding support
  o Greater knowledge of whom to go to for help.

Presentation of the draft development/consultation process for the checklist

Ms. Picard presented the preliminary outline for the development of a DRR checklist. After this Inception Workshop, she indicated that a zero draft would be prepared and presented at stakeholder’s consultations, including an expert meeting, between October 2012 and March 2013. Based on these consultations, a draft 0.1 would then be consolidated and subjected to online feedback by April 2013, to be presented as draft 1 to the Global Platform in April-May 2013. Subsequent consultations would then be organised depending on the feedback during the Global Platform. However, Ms Picard indicated that the process was not yet formalized and that the organizers were open to other proposals regarding the form of the final outcome, the process and the stakeholders to involve.

Form: Questions were raised as to why the form of a checklist had been selected. One participant suggested the document should be a ‘policy framework’ which could include sections on the importance of the issue, the core principles of DRR, policy guidelines and some technical legal aspects. It was also proposed that a checklist might even be useful to donors, who could use the fulfilment of checklist criteria as triggers for staged assistance, thus fulfilling multiple objectives at once. It was felt that it should be clarified whether the objective of the checklist was to outline existing obligations in DRR or to be part of a persuasive document to advocate for the inclusion of DRR provisions in national law.

It was suggested that having a globally applicable document might be difficult and thus that the checklist might need to be region specific. It was also proposed that regional consultations could be achieved as side events attached to important regional DRR meetings (for example the Global DRR forum in Colombia in March 2013, the Asian Ministerial Meeting, etc.).
**Process:** Some participants were concerned that the process was as crucial as the outcome and would be too rushed with the timeline proposed. A consensus emerged that the checklist process should not be finalised until 2015. They suggested using the Global Platform as a forum for consultations, to present work in progress, maybe in the form of an outline rather than a first draft. Moreover, participants encouraged the organizers to base the process on the outcome of the preliminary desk and field research. Mr. Fisher proposed drafting a multi-year plan and submitting it to the group for further input.

**Participants:** Participants made clear that the process should involve all stakeholders, including the private sector, and especially the insurance industry, the finance industry and the building and construction industry. A suggestion was also made to involve governments that are active in promoting legislative support for DRR, who could act as champions. RCRC National Society representatives were also concerned to clarify their role in the overall advocacy process.

Participants showed enthusiasm for a reference group to be created, and many participants expressed interest in being part of that reference group. They suggested drafting a list of individuals to be involved, including donors. The need to formalize the reference group was recognised, but it was felt that the format of a thematic platform would not add any real value.

Mr. Fisher and Ms. Planitz concluded the meeting, expressing their profound thanks to the participants for the advice and support.
Participants

National Red Cross Societies

Thomaz Carlzon  Disaster Management Adviser, Swedish Red Cross
Miguel Gil Gil  Deputy Director, Directorate for National Relief, Colombian Red Cross
Bruno Haghebaert  Disaster Management Advisor, Netherlands Red Cross
Simon O’Connor  Legal Adviser, Norwegian Red Cross
Mabel Rammekwa  Secretary General, Botswana Red Cross

International Organisations

Norah Babic  Programme Officer, IPU
Hachim Badji  Senior Coordinator, CADRI
Garry de la Pomerai  Global Task Force for Building Codes / UNESCO / UNISDR
Aliou Dia  Africa Regional Programme Specialist Disaster Risk Reduction, UNDP
Daniel Kull  Senior Disaster Risk Management Specialist, World Bank/GFDRR
Leon Esteban  UNHABITAT
Cécile Molinier  Director Office in Geneva, UNDP
Angelika Planitz  Advisor - Disaster & Governance Disaster Risk Reduction Team, UNDP
Antony Spalton  Disaster Risk Reduction Specialist, UNICEF
Chiara Trincia  Consultant, FAO

NGOs

Vishaka Hidellage  Regional Director, Practical Action, Sri Lanka

Academia

Makane Mbengue  Professor of Law, University of Geneva

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Elise Baudot  Legal Counsel, IFRC
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Chang Hun Choe  Senior Officer Disaster Risk Reduction, IFRC
Sandra D’Urzo  Senior Officer Shelter and Settlements, IFRC
David Fisher  Disaster Law Coordinator, IFRC
Elyse Mosquini  Senior Disaster Law Officer, IFRC
Mary Picard  Senior Disaster Law Officer, IFRC
Caroline Renold  Intern, IFRC