Overview

In 2012, the International Federation of Red Cross and Red Crescent Societies (IFRC) and the United Nations Development Programme (UNDP) commenced a collaborative project aimed at supporting the strengthening of domestic legislation for disaster risk reduction (DRR). The project envisaged the development of two products:

- a multi-country study of the DRR-related legislation of 31 countries and
- a ten-point “Checklist on Law and Disaster Risk Reduction”.

A synthesis report of the study, entitled *Effective law and regulation for disaster risk reduction: a multi-country report* (IFRC, UNDP 2014), was launched in June 2014, along with most of the country case studies on which it was based. Following the launch of the multi-country report, focus has now shifted to completion of the second product, the Checklist. The Checklist will draw on the findings of the study but also on the opinions and experiences of stakeholders, gathered through consultations held around the world. The Checklist will aim to provide a prioritized and succinct list of ten key questions that lawmakers, implementing officials, and those supporting them need to consider in order to ensure that their laws provide the best support for DRR. It will address not only flagship laws related to disaster risk management but also sectoral laws and regulations that are critical for building safety and resilience, land and natural resource management.

It is intended for the use of lawmakers and officials at the national, provincial and local levels of government, as well as for UNDP personnel, National Red Cross and Red Crescent Societies and other advocates of effective risk governance. The Checklist will be a very brief document to promote ease of use by busy lawmakers and officials, but it will be supplemented with a more detailed handbook providing explanatory information and guidance, including proposed measurement indicators and examples.

In addition to producing a helpful tool, one of the major outputs of the Checklist initiative is the development process itself – i.e. conversations with key stakeholders raising awareness and sharing information about the role of law in DRR at country level. The consultation process will seek to involve governmental policymakers, planners and legislators (national and sub-national levels), the private sector, as well as key advocates for improved DRR at country level, including the RCRC National Societies, UNDP, UNISDR and other UN agencies engaged in DRR-related humanitarian and development work, and both national and international NGOs.

Consultations along these lines commenced in September 2012 and will continue through 2015.

---

1 See www.drr-law.org
Where the project came from

This initiative is founded in both the Hyogo Framework for Action 2005-2015 (HFA) and a specific mandate from states at the 31st International Conference of the Red Cross and Red Crescent in November 2011 (Resolution 7).

The first HFA priority was 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.” In the years following, a significant amount of new legislation was adopted in various parts of the world aimed at strengthening the focus on risk reduction. However, mid-term reviews of the HFA indicated that important gaps still remained, particularly with regard to implementation at the community level.

In 2011, the state parties to the Geneva Conventions took up this issue at the International Conference of the Red Cross and Red Crescent. Their resolution 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 an IFRC report to the Conference. They were asked to assess whether their laws made DRR a priority (including through resource allocation and accountability), involved communities, civil society and the private sector, and promoted implementation of land use planning and building codes.

Consultations

The following consultations related to the Checklist project have been organized to date:

- Session at an “International Disaster Law Workshop for West African Stakeholders”, September 2012
- Expert “inception” workshop, Geneva, October 2012
- Permanent missions consultative group, Geneva, May 2013
- Session at the annual National Red Cross and Red Crescent Societies legal advisers meeting, Geneva, June 2013
- Expert workshop, Panama, October 2013 (considering a “zero draft”)
- Expert workshop, Kuala Lumpur, February 2014 (considering “draft 1”)
- Pre-conference Consultation at 5th Africa Regional Platform on Disaster Risk Reduction, “Consultation on DRR Legislation - Towards a Checklist for Lawmakers” (considering “draft 2”), Abuja, May 2014

Additional workshops are being carried out during the course of 2014-2015, including in the context of the launch of the multi-country study. It is anticipated that a pilot version of the Checklist and a draft handbook will be made available at the World Conference on Disaster Risk Reduction in March 2015 and a final version will be presented at the International Conference of the Red Cross and Red Crescent in November 2015.
Annex 1: Draft “Checklist on law and disaster risk reduction”

1. Do you have a holistic disaster risk management act?

A holistic act goes beyond preparedness to fully integrate disaster risk reduction. Among other things, it establishes key disaster risk reduction (DRR) principles and priorities, promotes a multi-hazard approach, and establishes clear institutional responsibilities from national to local level. Similar acts may also be needed at the state/provincial level. Consideration should also be given to how the disaster risk management law relates to and supports the implementation of other relevant sectoral laws.

2. Do your laws ensure that appropriate resources are budgeted for disaster risk reduction at all levels?

Risk reduction often comes up as the loser in budgeting processes. This might be addressed by requiring integration of risk reduction into development plans, earmarking percentages in annual budgets, mandating budget line items, or establishing dedicated funds. Particular attention should be paid to ensuring that any responsibilities that are decentralized to local authorities are properly resourced, including to develop local risk governance capacity. Insurance or similar risk-sharing mechanisms also need to encourage a risk reduction approach rather than subsidising risky behaviours.

3. Do your key sectoral laws at the national, provincial and local levels incorporate provisions to increase safety and reduce vulnerability?

No single law can fully address disaster risk reduction. Sectoral laws, especially those for development planning, construction, building, land use, environmental protection and resource management, social welfare and education, should also include provisions to reduce risk and make people safer, based on up-to-date country risk profiles and assessments. Care should be taken to avoid duplication and improve coordination between sectoral ministries and different levels of government (for instance, between climate change and disaster laws, or between national authorities and city governments).

4. Do your laws establish clear procedures for risk mapping and early warning?

A clear and current understanding of the specific hazards and vulnerabilities facing your country is indispensable. Legislation should provide for regularly updated risk and vulnerability mapping and require that risk information is considered in all development planning and construction. It should also set out a system for early warning, including roles not only for technical ministries but also communities, local authorities, private media companies and civil society organizations.

5. Do your laws require education, training and awareness-raising to promote a whole of society approach to DRR?

To be resilient, communities must be informed about and engaged in reducing their own risks. Legislation should mandate training on disaster risk in school curricula, require disaster preparedness drills in high risk areas, and establish or promote special training
facilities for public sector workers and professionals. Provisions relating to public awareness and understanding of DRR should include specific guidance for implementation.

6. **Do your laws ensure community-wide participation in risk reduction decisions and activities?**

Most governmental officials readily acknowledge that they cannot prevent disasters alone. However, good intentions to collaborate with civil society and private sector actors, and to seek better representation of communities, women and vulnerable groups, have often proven insufficient to ensure their sustained engagement in decision-making processes and in the implementation of risk reduction activities. Legislation should guarantee this engagement. Specific provisions may be needed to ensure meaningful engagement of women, minorities, people with disabilities and older persons.

7. **Do your laws adequately address the special needs of marginalized and/or particularly vulnerable categories of persons?**

It now widely acknowledged that natural disasters predictably have disproportionate impacts on certain categories of persons, either due to special vulnerabilities and/or the influence of social structures and practices. Naturally, these categories can vary between countries and localities, but they commonly include women, the very poor, older persons, and people with disabilities, among others. Laws can ensure an adequately disaggregated analysis to detect the categories facing increased risk and require that certain measures be undertaken to increase their safety and resilience. For example, legislation may require that evacuation centres are made accessible to people with disabilities, or that gender differences are taken into account when developing DRR strategies or contingency plans.

8. **Are your laws realistic in their goals and approach in light of local capacity and culture?**

While legislation certainly can be a tool for establishing new priorities, it must also be realistic and tailored to available resources, capacities and social needs. Ambitious and progressive text on paper achieves little if those responsible for its implementation are unable to meet its requirements. For example, building codes that require unaffordable materials and engineering skills that are not available in the local market are unlikely to be met. Particularly where enforcement capacities are low, strategies for prioritizing among potential mandates and establishing incentives rather than only penalties should be considered.

9. **Do you have adequate mechanisms to ensure that responsibilities are fulfilled and rights are respected?**

Legislation can set out enforceable incentives and disincentives for individuals and companies to dissuade them from putting themselves or others at unacceptable risk. It can also set out pertinent rights of vulnerable persons, including the right to disaster information, and establish accessible mechanisms for them to hold officials to account. Consideration should also be paid to mandating parliamentary oversight and transparency measures, such as annual reporting.
10. Have you decided that you need new or amended laws? If so, who will you involve?

Legislation related to disaster risk reduction should be developed through an inclusive process, with active promotion of the participation of all relevant ministries and levels of government, as well as civil society organizations, the private sector, academics and individuals, including women. While major disasters often create a political opportunity to improve legislation rapidly, consultations should not be neglected.

I. Introduction
II. Why is law important for reducing disaster risk?
III. How to use the checklist
IV. Explanatory guide for the ten checklist questions

1. Do you have a holistic disaster risk management act?
   a. Why is this important?
   b. Guiding questions:
      i. Does your act set out key principles and priorities guiding your country’s approach to disaster risk reduction? Are these principles reflected throughout the text of the act?
      ii. Does your act promote a multi-hazard approach to disaster risk reduction?
      iii. Does your act mandate a national focal point agency for disaster risk reduction with sufficient institutional power (is it placed in a strong ministry or the office of the head of state)?
      iv. Does you act set out roles and responsibilities across relevant ministries, departments and levels of government?
      v. Does the act include ways to measure success and implementation?

2. Do your laws ensure that appropriate resources are budgeted for disaster risk reduction?
   a. Why is this important?
   b. Guiding questions:
      i. Do your laws ensure sufficient resource allocation for DRR, through mechanism such as:
         • Through development plans?
         • Earmarking percentages in annual budgets?
         • Mandating budget line items?
         • Establishing dedicated funds?
      ii. If your laws decentralise responsibilities to sub-national authorities, are there provisions that ensure a commensurate allocation of resources to these authorities to fulfil their responsibilities (such as capacity building initiatives or national/local co-funding incentives)?
      iii. Are there measures or provisions in place to reduce implementation challenges for DRR financing, such as ensuring a sustain resource base and reducing competition with response funds?

3. Do your key sectoral laws at the national, provincial and local levels increase safety and reduce vulnerability?
   a. Why is this important?
   b. Guiding questions:
      i. Are there provisions that address DRR relevant to your country risk profile in your laws and regulations for:
         • Urban development planning
         • Urban and rural land use
• Building and construction
• Environmental protection
• National resource management
• Climate change adaptation
• Social welfare
• Insurance

ii. Do your laws have provisions that seek to improve coordination between relevant sectors?
iii. Is there any duplication or conflicting provisions between these laws?
iv. Do your laws require environmental impact assessments for planned developments that include DRR criteria (taking into account a changing climate)?
v. Do you have specific laws to mandate improvements in the safety of people living in informal settlements, consistent with their human rights?
vi. Do your laws mandate disaster insurance and/or other risk finance mechanisms?

4. Do your laws establish clear procedures for risk mapping and early warning?
   a. Why is this important?
   b. Guiding questions:
      i. Do your laws require the undertaking of regular risk and vulnerability mapping and assessments and clearly assign these tasks to appropriate authorities?
      ii. Do your laws require risk information to be considered in development planning and construction?
      iii. Do your laws clearly assign responsibilities for assessing hazard and risk and making decisions to issue warnings?
      iv. Do your laws address the roles of technical ministries as well as communities, local authorities, private media companies and civil society organizations in early warning systems?

5. Do your laws require education, training and awareness-raising to generate a whole of society approach to DRR?
   a. Why is this important?
   b. Guiding questions:
      i. Do your laws or codes mandate training on disaster risk in the school curricula?
      ii. Do your laws establish or promote training for public officials and relevant professionals on DRR?
      iii. Do your laws include provisions on promoting public awareness and understanding of DRR with specific guidance for implementation?

6. Do your laws ensure community-wide participation in risk reduction decisions and activities?
   a. Why is this important?
   b. Guiding questions:
      i. Do your laws require community representation in DRR decision-making bodies and processes?
ii. Do your laws require representation of civil society organisations and your National Red Cross/Red Crescent Society in decision-making institutions and processes?

iii. Are civil society organisations and National Red Cross/Red Crescent Societies given specific roles or duties within your DRR laws?

iv. Are there legal provisions which ensure meaningful engagement and representation of women, children, people with disabilities and aged persons?

v. Do your laws address the participation of private sector actors in both decision-making bodies as well as DRR activities?

7. Do your laws adequately address the special needs of marginalized and/or particularly vulnerable categories of persons?
   a. Why is this important?
   b. Guiding questions:
      i. Do your laws ensure a proper analysis as to which categories of persons may be most vulnerable or exposed to disaster risks (taking into account the global experience showing that groups such as women, the elderly, persons with disability and the very poor are especially likely candidates)?
      ii. Are specific responsibilities assigned to institutions to take the needs of these groups into account?

8. Are your laws realistic in their goals and approach in light of local capacity and culture?
   a. Why is this important?
   b. Guiding questions:
      i. Are your laws and regulations realistic according to your resources, capacities and social needs?
      ii. Are measures (such as training and awareness-raising initiatives) in place to support implementation of standards and duties?
      iii. Are there legal incentives in place to promote compliance?
      iv. If implementation of building codes are a challenge, do your codes prioritise implementation for schools, hospitals and other public gathering places?
      v. Are there any other strategies to prioritise implementation of key laws or codes that are essential for public safety?

9. Do you have adequate mechanisms to ensure that responsibilities are fulfilled and rights are respected?
   a. Why is this important?
   b. Guiding questions:
      i. Do your laws establish public reporting or parliamentary oversight mechanisms for government agencies tasked with DRR responsibilities? Is this information required to be publicly available in an accessible format, such as through open websites?
      ii. What is the role of the judiciary in enhancing accountability for DRR?
      iii. Do your laws include incentives for compliance with laws and regulations for DRR?
      iv. Do your laws establish rights relevant to DRR, including the right to disaster information, and include detail on how they will be enforced?
v. Do your laws establish legal and/or administrative sanctions (as appropriate) for public officials, individuals and businesses for a gross failure to fulfil their duties?

10. Have you decided that you need new or amended laws? If so, who will you involve?
   a. Why is this important?
   b. Guiding questions:
      i. Have you considered how to solicit views from all relevant ministries and levels of government, as well as civil society organizations, the private sector, academics and individuals, including women?
      ii. How will you conduct consultations for the new law?
      iii. Do you have a plan for raising awareness and understanding of the law once it has been adopted?

V. Sample methodology for a Checklist Review from pilot process

Annex: Definition of key terms