



# Disasters in the Americas

The case for legal preparedness

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## Introduction

Disasters are an all-too-common feature of life in the Americas. Recent catastrophic events, such as Hurricane Mitch in Central America in 1998, the earthquakes in Peru in 2007 and in Haiti and Chile in 2010, have wreaked a colossal toll on the lives, communities and development prospects of the stricken countries. The Haiti earthquake alone claimed a staggering 220,000+ lives and displaced over 1.5 million people. Climate-related events also continue to wreak havoc, currently affecting over 3 million people across Colombia as widespread 'super-floods' submerge the country.

However, it is not just the mega-disasters that are spreading misery around the continent. Experts believe that small, localised disasters affect even more people continent-wide than the larger high-visibility events. A stark example was the tornado that struck the small town of Joplin in the United States in May 2011, tracing a nearly 10-kilometre path of destruction and killing over 100 people.

Experts also point to further trouble ahead. Climate change is contributing to a marked increase in hydro-meteorological events. With 189 million people living in poverty and the highest rate of inequality in the world, vulnerability to disasters is also increasing in the Americas. Poverty is forcing people into more risk-prone areas with greater exposure to hazards. Unplanned urbanization, environmental degradation and irregular migration are also joining to create a deadly cocktail of risks.

Still, there is nothing inevitable about the disasters looming on the horizon. There is much that communities, civil society and the private sector can do to mitigate today's risks. However, they cannot succeed alone. Governments can and must play a critical leadership role. To do so, they need effective laws.

## Why is legal preparedness important?

Often overlooked in preparedness planning, solid legal frameworks are fundamental to how societies reduce their exposure to risk, as well as guiding their preparation and response to disasters.

Good legal frameworks and policies are essential to the protection of vulnerable populations. Strong laws can move people out of harm's way and strengthen vital public infrastructure. They can assist communities to understand the risks that they face and to make themselves safe when a disaster strikes. They can also ensure that vital humanitarian assistance reaches affected families during relief, recovery and rehabilitation phases. Weak legislation, on the other hand, can increase peoples' vulnerability to disasters,

as well create bottlenecks that impede life-saving assistance from reaching those most urgently in need.

This report addresses three key areas where positive legislation can make a difference and where National Red Cross Societies and governments are working together to develop and roll out effective disaster laws. It does so mainly through case studies from the Dominican Republic, Colombia and Chile. In light of the massive impact of the 2010 Haiti earthquake, moreover, brief reflection is devoted to how the three areas are being addressed there.

## Reducing disaster risk: how law can ensure community action

Many governments in the Americas have moved well beyond the traditional approach to disaster management, which mainly emphasized preparing for the worst. Now, most are integrating coordinated approaches to reducing disaster risks into their policies and legislation, including in rules governing land-use, urban planning, environmental management, building and education. Still, a critical gap often remains between the ambitions of national laws and real action at local level. “In the long run, we will not be successful in reducing risks if our standard frameworks merely distribute responsibilities among dedicated agencies and expert groups,” comments IFRC Secretary General Bekele Geleta. “Communities must also be empowered to take responsibility for reducing their own risks and in influencing decision-making and planning in disaster management.”

This is important for several reasons.

Communities have a unique understanding of the risks that they face and can often build capacity to reduce their own vulnerability with only moderate outside support. In the face of any crisis, people can protect and make themselves safe; they can sustain their communities despite of loss and they can ensure that their exposure is reduced in the future.

Empowered communities and civil societies can also push for the provision of services that are better targeted to meet local needs, as well as stimulating the momentum required for decisive action in keeping disaster risk reduction on national agendas.

National Red Cross Societies have been working with vulnerable communities across the continent for many years to strengthen frontline capacity and to ensure that community-centred disaster risk reduction is included as a part of a comprehensive approach to disaster management.

Good legislation can empower and integrate communities and civil society organisations in disaster management in different ways, as the disaster risk management law of the Dominican Republic shows.

## Case study: Dominican Republic law encourages civil society empowerment

The Dominican Republic is regularly struck by hurricanes, floods, landslides, drought and wild-fires. Located in a small 'ring of fire' compared by experts to the zone surrounding the Pacific Ocean, it is also at great risk from earthquakes and tsunamis. Since the 1960s, over 2000 small, medium and large events have hit the country. Over half of these calamities were in the 1990s, caused by a sharp rise in hydro-meteorological events. Nothing, however, has compared to the wrath of Hurricane Georges, which made landfall in 1998 and changed the landscape of disaster management in the country.

Causing massive damage nation-wide, Hurricane Georges was the single largest disaster in living memory. Larger than the country itself, Georges entered from the south-east as a category three hurricane striking 70% of the country before crossing into northern Haiti. Winds of up to 130 mph flattened everything in their path. Homes, crops and vital infrastructure were destroyed. Heavy rains led to widespread flooding, as rivers burst their banks. Rain water and mudslides destroyed bridges, schools, health centres, homes and livelihoods. An estimated 500 people lost their lives and 2000 people disappeared, presumably washed away by floods and mudslides. Over 400,000 homes were

**The Dominican Republic Red Cross Society and the IFRC distribute food and kitchen utensils to people affected by Hurricane Georges.**



destroyed and around 865,000 people were displaced, with their homes and livelihoods in ruins.

In the face of such widespread human and economic loss, work began on rebuilding the country, with minds clearly focused on the urgent need to reduce the country's exposure to future hazards. "The brutal impact of Georges highlighted what had to be done to prevent future suffering," recalls Gustavo Lara, Executive Director of the Dominican Red Cross (DRC). "We lacked proper coordination mechanisms and early warning systems. Ultimately, the population was not prepared."

Although recognition of the need to reduce the country's vulnerability to disasters was not new and some steps had been taken to address disaster risk through earlier preventative measures, the country's legal and institutional frameworks still focused mainly on providing relief once a catastrophe occurred. Georges brought the required momentum for real and urgent reform.

Moves to modernize national disaster legislation quickly ensued. The government opened a broad dialogue with the DRC and other national and international partners to create the legislative basis for a new and more rounded approach to disaster management. In 2002, the Risk Management Act (Law No. 147) found its way onto the statute books. The law created a new national system for the prevention, mitigation, response and rehabilitation of disasters. "The problem was that our previous approach was reactionary," notes Lara. "The new law facilitated a proactive approach based on minimising disaster risk and in ensuring that we are better prepared to respond to future events."

The law has created an enabling environment, bringing together institutions, civil society and the private sector to ensure that risk reduction is addressed in policy and plans. With a solid system in place, coordination has improved and opportunities have been created to maximise resources to greater overall effect. Importantly, principal responsibilities for disaster risk reduction are decentralised to municipal authorities, the lowest level political units. "Our principal focus is now on strengthening the local capacity of municipal disaster prevention, preparedness and mitigation committees, and in ensuring that communities are involved" says Major General Luís Luna Paulino, President of the Dominican Republic's National Emergency Council and Director of the Civil Defence.

The law also clearly requires that the government promote the engagement of communities and civil society in disaster risk reduction issues. Citizens are given a clear and specific right to be protected from disasters, opening up space for public pressure to ensure that disaster risk reduction remains a national priority. Civil society input is also clearly outlined in the legislation. Community representatives and civil society organisations are encouraged to participate in decision-making and implementation bodies, from the National Council for Disaster Prevention, Mitigation and Response to the municipal-level committees allowing for grass roots advocacy so that, ultimately, community voices can be heard within the national disaster management system.

Important advances have followed. Disaster risk, environmental management and climate change adaptation are now core components of the country's proposed national development strategy for the next 20 years. Efforts are being made to include disaster risk considerations into wider national development, including land-use planning, building and construction, and environmental management. Steps are being taken to ensure school safety and to include

teaching on disaster risks to primary school children. Innovative approaches are being taken in recovery, rehabilitation and longer term development programmes to provide incentives to encourage community involvement in environmental protection and local level risk reduction initiatives.

After nine years hard work, the results clearly show. Despite being faced with a rising number of threats, the number of disaster casualties has remained at an all-time low. “Communities are no longer passive actors waiting for assistance to arrive. They take measures to reduce their risk. They are prepared to respond and they can respond before teams arrive from outside,” explains Lara. “Community participation has been critical in reducing overall losses.”

Nevertheless, it is also clear that there is progress yet to be made. One of the key remaining challenges is to ensure that all system partners fully integrate disaster risk considerations into their work, in light of a tendency that still leans towards an exclusive attention to providing relief once a catastrophe has occurred. “We will continue to build a real risk reduction culture until we all speak one language” affirms Major General Paulino.

## **Empowering communities to reduce risk in Haiti**

Even before the January 2010 earthquake, Haiti was extremely vulnerable to hurricanes and storms. In 2001, a National Disaster Risk Management System (NDRMS), responsible for managing risk and disaster management activities, was signed into effect by ten key line ministers and the president of the Haitian Red Cross.

Hurricane Jeanne in 2004 and four storms in 2008 (Fay, Gustav, Hanna, and Ike) were devastating for Haiti but in terms of disaster management it seemed progress was being made. Although more people were affected by the storms in 2008 than 2004, much fewer lives were lost.

The earthquake in 2010, however, impacted everything. The vulnerability of hundreds of thousands of earthquake survivors dramatically worsened, as families and communities were forced to seek refuge under tents and tarpaulins. While the transitional shelter programme continues to build momentum, 680,000 people remain in camps, living under emergency shelters that offer little protection against storms, flooding and landslides.

In this context, the government is developing a legal framework for disaster risk reduction which would lead to a more stable and strategic approach to disasters in Haiti. To support this, the Red Cross is working with the Directorate for Civil Protection to create teams within communities who can develop local emergency plans and early warning systems. These community teams, supervised by the Red Cross, will be linked with the local structures of the national system and serve as an important way of ensuring community level engagement is recognised within national disaster and risk management plans.

Lara confirms that the DRC will also continue to support and encourage its authorities to do more. “Advocacy is possibly the most important tool that we have, he explains, “Only through continuous dialogue can we ensure much-

needed resources for community initiatives from the national system,” and in effect, the long-term sustainability of disaster risk initiatives nation-wide.

## Legal preparedness for international assistance: easing the way for relief

When a truly major disaster strikes, even the wealthiest of states may require international assistance when domestic capacities are overwhelmed. Such assistance can mean the difference between life and death, misery and dignity for stricken populations. As yet, however, few governments in the Americas are sufficiently prepared for handling incoming international assistance for future disasters.

The absence of well-prepared regulatory frameworks at the national level can lead to bureaucratic nightmares. Over-regulation can lead to bottlenecks, slowing down the entry and distribution of international relief. Under-regulation, on the other hand, can lead to poor coordination and bad quality in relief efforts.

These problems are greatly complicated by the increasing number of international actors that are appearing in today’s disasters. The Haiti earthquake operation is an extreme example – with its hundreds of foreign organizations and thousands of international personnel involved – but it is certainly not alone. Governments in the region can no longer count on ad hoc approaches to resolve operational problems in light of the growing complexities that international assistance presents.

Since 2001, the IFRC and its National Societies have been working with governments and relief specialists to address the most common operational problems by studying how regulatory frameworks – known as International Disaster Response Laws, Rules and Principles (IDRL) - can facilitate international operations. Based on this research, and on discussions with over 140 governments and humanitarian organizations in 2006-07, the IFRC led the development of the Guidelines for the Domestic Facilitation and Regulation of International Relief and Initial Recovery Assistance (also known as the “IDRL Guidelines”).

The IDRL Guidelines are a set of recommendations to governments on how to prepare their disaster laws and plans for the regulatory problems that arise in international relief operations. Based on existing international legal and policy frameworks, the Guidelines provide advice on the minimum quality standards in humanitarian assistance as well as the legal facilities that international assistance providers need to be able to work effectively. They are also useful for the development of bilateral and regional agreements, and agreements between governments and aid agencies.

In 2007, the state parties to the Geneva Conventions and the components of the Red Cross and Red Crescent Movement unanimously adopted the IDRL Guidelines at the 30<sup>th</sup> International Conference of the Red Cross Red Crescent. Since this time, governments around the world have been collaborating with their National Red Cross or Red Crescent Societies to assess how their own legal frameworks can be improved. On April 27 of this year, 21 governments

meeting in Quito for the 4<sup>th</sup> Regional Meeting on International Mechanisms for Humanitarian Assistance in Latin America and the Caribbean committed to cooperate in the development of a compendium of information on their national laws relative to the issues and recommendations raised in the IDRL Guidelines.

The case of Colombia highlights how the IDRL Guidelines have assisted one government in reviewing the preparedness of its existing frameworks.

### Core ideas of the IDRL Guidelines

- Domestic actors have the primary role. The government of the affected state is responsible for meeting humanitarian needs caused by a disaster within its borders. Other actors play a supporting role and international assistance should be designed to complement domestic efforts, rather than displace them.
- International assistance providers have responsibilities and should abide by minimum humanitarian standards such as those in the Code of Conduct of the Red Cross Red Crescent Movement and NGOs in Disaster Relief, and the Sphere Humanitarian Charter and Minimum Standards in Disaster Relief.
- Governments should provide international actors with the legal support to accelerate visa processing and customs clearance, facilitate relief transport, exempt humanitarian organizations from taxes, duties and fees, and simplify the means to operate legally in the affected country. States are also encouraged to reduce legal barriers to disaster relief originating within or passing through their territories to another country.

The IDRL Guidelines are available in over a dozen languages at <http://www.ifrc.org/idrl>.

## Case study: preparing Colombia to better manage international assistance

Colombia is one of the most vulnerable countries in the region when it comes to disasters. According to the Global Natural Disaster Risks Hotspots project developed by the World Bank and Columbia University, it has the 10<sup>th</sup> highest economic risk world-wide with at least 85% of its population and its assets exposed to multiple hazards, including earthquakes, volcanic eruptions, hurricanes, floods and landslides. A marked increase in climate-related disasters over the last decade also significantly contributes to rising uncertainty and risk nation-wide.

The many disasters striking Colombia have also drawn substantial international assistance. This was the case, for example, after the volcanic eruption and avalanche in Armero in 1985, the earthquake in Armenia in 1999, the avalanche caused by the Río Páez in 1994, and the recent floods that have affected communities throughout the country.

In many of these operations, the importance of an adequate facilitation and regulation of outside aid has become apparent. “Sending the wrong aid has resulted in a waste of resources and time in past disasters” notes Colombia

Red Cross (CoRC) Executive Director Walter Cotte. “In the avalanche caused by the Río Páez in 1994, improper clothing was sent to affected indigenous people, without taking into consideration their culture, customs and traditions, resulting in a waste of money, time and efforts. The affected population never used those items”. In the recent flooding, expired medicines were also sent by some humanitarian actors, medicines that were never used and had to be returned to the donors.

The CoRC has long been active in supporting the government to develop good disaster law and policy. As early as 2005, it also began to highlight the importance of well designed regulations for international assistance. Subsequent changes of government complicated matters, but the IDRL Guidelines were later recognised as a useful tool to address the barriers in legislation that have previously hindered relief operations.

In April 2010, a formal agreement was signed between the CoRC and the Directorate of Risk Management (DGR) from the Ministry of Interior and Justice. In collaboration with the IFRC, the CoRC has provided technical support to the government on legal preparedness issues in disasters requiring international assistance. In addition to detailed advice based on its extensive experience in response and community based risk management, the CoRC has provided

**Donations received from different countries after the 1999 Armenia, Colombia earthquake are sorted, packed and distributed by Red Cross volunteers.**



a set of recommendations from existing national, regional and international instruments, including the IDRL Guidelines.

The recommendations have been broadly discussed in the light of lessons learned from previous and on-going operations. “Teamwork has been vital to this process” notes Cotte. “The participation of all actors has been essential to ensure collective responsibility and ownership, and sustainability in the future.”

The recommendations have assisted in the development of a new draft bill to reform the national system. “The Guidelines have helped us to see the gaps that need to be addressed” notes DGR Director Carlos Iván Márquez. Key issues include aspects related to the request and coordination of international assistance, domestic inter-institutional coordination, as well as recommendations to refine existing internal systems to facilitate the entry and quality of humanitarian aid.

### **Preparing for next time: developing regulatory frameworks for international assistance in Haiti**

Haiti is party to several international conventions relating to international disaster response, however the 2010 earthquake highlighted a series of legal issues which proved extremely challenging, both to the government and to the international community. These legal conundrums were exacerbated by the sheer scale of the devastation and the fact that the government itself suffered substantial losses.

In response to the massive international response, emergency customs procedures were introduced to support the arrival and distribution of assistance. Despite this, the sudden influx of humanitarian organizations, media and relief supplies, coupled with a decimated airport and sea port and reduced human capacity in the customs department, led to significant bottlenecks and delays.

Coordination was also an issue, in light of the many small NGOs, religious groups, individuals and even foreign governments arriving to help, many without experience in the Haitian context or international disaster response. The bypassing of official coordination mechanisms resulted in relief items arriving in country which did not meet the identified needs or international quality standards. Efficient registration mechanisms for humanitarian organizations, with supporting eligibility criteria, would help alleviate these problems in future emergencies.

The international response to the earthquake was significant, and certainly saved many lives. However Haiti is a country with a long history of disasters and to ensure better legal preparedness when disaster next strikes, the Red Cross is now working with the Haitian authorities to examine and strengthen the national regulatory framework for international disaster assistance.

“Fundamentally, the Guidelines have highlighted areas that strengthen the country’s role not only as a receiver, but also as a donor of international humanitarian assistance,” notes Márquez, including with regard to Colombia’s recent involvement as a donor in the Haiti earthquake, as well as crises in neighbouring Venezuela.

With a new government in place currently responding to the 2010-11 floods, one of the largest disasters the country has faced, momentum for reform is picking up speed. “Challenges in current approaches have been identified, including issues related to coordination, taxes, tariffs and the coordination of donations amongst others,” notes Márquez. “While we have been working on reform for a long time, there is an increased push by the government to ensure that improvements are made.”

“The recommendations have had a big influence on the new bill” affirms Márquez. With the draft currently under final revision, before being circulated for wider consultation, hopes are high that adequate provisions will be made to address core areas to strengthen the system, including the facilitation of international assistance.

“IDRL is a very strong advocacy tool for positive change,” observes Cotte. “It supports dialogue by sending strong, clear and systematic messages. It also has the power to unite different capacities, combining legal measures with strategic policy, administration and finance among others.”

Cotte admits that the CoRC has also learnt much in the process. “There is a double secret to IDRL” he says, “When you seek to change those outside, you realise the changes you have to make yourself.”

## Securing shelter: removing the regulatory barriers

In many recent disasters, property rights complications and procedural issues have frustrated efforts to provide shelter for people whose homes have been damaged or destroyed. A lack of clear measures to secure land for displaced families, the lack of formal property titles, conflicting claims to property, incomplete land-registrations, and the unequal treatment of home-owners and non-home-owners or against discriminated groups, are some of the pressing issues that hamper recovery for thousands of those affected by disasters in the Americas. These issues are very much at the forefront in Haiti, where hundreds of thousands still remain in outdoor camps a year and a half after the earthquake struck, partly due to property law issues.

Estimates indicate that as early as 2030, 84% of Latin America and the Caribbean will be living in urban areas. With little land available for urban growth, many poor families are forced into unplanned, informal settlements or slums in high-risk areas, such as flood plains or steep slopes that are subject to floods and landslides. Often with limited access to basic services and few formalities in place to secure occupation rights, these communities are at risk of the same fate of the currently homeless Haitians.

Land is critical to the rural and urban poor providing not only security, but also the means for economic and social development. In Latin America, highly unequal traditional land ownership and access to assets have made it difficult for growth patterns to include the poor, and have served to widen the gap of pre-existing inequalities. In many countries, unsecured land ownership reduces the possibility of securing investment incentives or improved access to credit. Post-disaster, this is critical as insecurity of land tenure can limit access to relief and recovery mechanisms.

Addressing secure land tenure can help to ease both relief and recovery for the millions affected by disasters. Legal measures can assist this process, as the Chilean experience following last year's earthquakes shows.

## Case study: earthquake law eases recovery in Chile

"27-F", or 27 February 2011, is a day that Chileans will never forget. At around three o'clock in the morning, an earthquake with a magnitude of 8.8 on the Richter scale struck some 630 kilometres of the country. The quake was followed within minutes by a major tsunami that swept over the coast closest to the epicentre. In total, more than 12.8 million people or some 75% of the total population were affected.

Over 200,000 homes were severely damaged or destroyed. Five cities, 45 towns and more than 900 rural and coastal communities were damaged. Losses to public services were equally acute with over 6000 schools and 40 hospitals damaged or destroyed. Damages to principal livelihoods, including agriculture, forestry, fishing and mining were severe. By any standards, the earthquake was an absolute catastrophe. Chile's losses are estimated to be in the region of US\$30 billion. Yet, notably, only 524 people died with 31 people missing and presumed dead in the tsunami.

Comparisons between the Haitian and Chilean earthquakes are frequently and easily made. The earthquake that hit Chile was 500 times stronger than the 7.0 quake that killed over 220,000 and left 1.5 million Haitians in need of shelter assistance early last year. Despite being the fifth-largest earthquake ever recorded, Chile's losses were exponentially smaller.

While many factors influence the amount of damage caused in each case, including rule of law, accountability and good governance, as well as each nation's general level of preparedness, many experts acknowledge that Chile's rigorous and enforced building codes played a major role in the performance of its built environment.

Around 800,000 people were displaced by the Chilean earthquake and tsunami. In the immediate aftermath of the disaster, most people took shelter in or around their original homes, while others sought sanctuary with family or friends. The government, with the support of the Red Cross and other non-governmental organisations, began establishing temporary emergency shelter measures through the distribution of *mediaguas*, or small wooden cabins. In total, 80,000 *mediaguas* were delivered, of which 75,000 were placed on beneficiaries' land beside their damaged or destroyed homes. 106 *aldeas* or emergency camps were also built on public and private land, housing those who had lost everything.

In parallel, the government has developed solutions for longer term housing under its broader reconstruction plan. Subsidies have been offered to 220,000 affected families extending existing housing programmes. Those whose houses had reparable damage have been offered help to buy tools and other supplies. Others, whose homes needed to be completely rebuilt, have been offered subsidies to rebuild either on existing or new land, or for the purchase of a new property. Work is also on-going to re-design communities in areas impacted by the tsunami, removing housing from low-lying coastal areas at-risk..

Around 60% of all government subsidies are for families who own their own properties. “Over half of these property-owners have no formal land titles,” notes David Morales from the Chilean Association of Municipalities. “The problem is that without proof of ownership, families do not meet the criteria for government subsidies.”

For many, first and foremost is the desire to remain in the place that they called home, despite all challenges. Ownership issues in tsunami-affected areas are particularly acute. “All reference points have disappeared. It is very difficult to finalise land titles when everything is upside down,” comments Martin Bravo, Head of Property Purchases for the Ministry of National Property. People have created their own make-shift boundaries, even placing named letter-boxes to mark the space where they once lived. The relocation of communities is clearly the last resort, but reconstruction on-site depends on solving the land ownership problem.

There is a lack of official statistics regarding the exact number of ‘irregular’ land ownership cases. According to pre-earthquake estimates from the Ministry of National Property, there were between 150,000 – 200,000 cases in urban areas alone in 2005, including squatters as well as families that for different reasons could not legalise ownership, notes Paola Siclari, Coordinator of Housing and Urban Studies from the Ministry of Housing and Urban Planning.

**Caleta Tumbes, Talcahuano: Recipients of disaster aid from the German Red Cross and European Commission Humanitarian Aid Office.**



“The area that was affected is very traditional. Property is often passed down through families and although people know it is theirs, they don’t have land titles” explains Nelson Hernández, Disaster Risk Management Director of the Chilean Red Cross (ChRC).

The ChRC has been providing shelter support, including *mediaguas* and grants for the purchase of tools and other materials to repair homes to vulnerable families, many of whom do not qualify for government subsidies. The ChRC has also supported the Ministry of Planning and Cooperation in the collection and systematisation of data during the response and recovery operation. Work has included the design of an information management system, and in the analysis of community-level data to ensure that assistance can be allocated where it is most needed.

A study produced by the University of Concepción and commissioned by the ChRC assesses the different reasons why families from rural areas have been excluded from emergency assistance and reconstruction benefits. A limited access to information regarding subsidies, the sheer geographical distances involved to reach relevant institutions, as well particular socio-cultural conditions, are all influencing factors. Among the problems are the demanding requisites and lengthy timeframes involved in the legal procedures related to land regularisation.

Since 2001, the government has sought to address the issue of land tenure through various programmes aimed at encouraging the formalisation of land ownership. With new momentum following the earthquake, the government moved quickly to introduce legal measures to simplify and accelerate the land tenure regularisation process for those affected.

A new act (Law No. 20.458) was passed in August 2010, modifying the norms for the regularisation of small properties in both rural and urban areas. Crucially, this law passes all related costs to the state. It seeks to speed up the overall regularisation process, which frequently can take up to two years, down to six months. In effect, its goal is to provide a fast track for those urgently requiring shelter assistance following the earthquake.

Another measure (Resolution 2965) modifies the conditions for the implementation of construction projects to encourage the participation of affected families in the construction of their own homes alongside approved contractors.

By the end of March 2011, 142,464 subsidies had been allocated with government projections to complete all allowances by the end of the year. Despite these efforts, 98 emergency camps remain and many people are still taking shelter with relatives or friends. Concerns remain high that many people continue to be excluded from emergency and reconstruction assistance.

“We will continue to deliver assistance to those[who], for whatever reason, have not received assistance from the state,” notes Hernández. “We are also continuing our support of government programmes, including the training of community members in reparation techniques following government guidelines.”

## Regulations and rubble: finding shelter solutions in Haiti

The January 2010 earthquake left 1.5 million Haitians homeless, with as much as 90 per cent of buildings destroyed in Leogane and up to 70 per cent destroyed in some districts of Port-au-Prince. Land law was already an important issue in Haiti, where no cadastral system exists, but the earthquake certainly exacerbated the problems.

With over 220,000 people killed by the earthquake, inheritance, occupation and the sale of land raise many questions which the system cannot adequately handle: Is the property owner dead? What are the rights of the children? What to do when markings and land boundaries have been destroyed along with the buildings, and many of the owners cannot be located? What can be done about the overwhelming majority of displaced Haitians who cannot show evidence of property title?

Thus far, the Red Cross has provided over 9,000 families with safe and improved shelter solutions but large-scale efforts to provide transitional shelter have been complicated by the legal uncertainty. In this context, the Red Cross is advocating for a settlement approach – one that opens up the possibility for localised community-base re-planning, working equally with person with provable title to property and those without. It has also encouraged the government to create incentives for land owners to make space available on the outskirts of towns in and around Port-au-Prince.

Safeguarding the stability of any housing solutions for the estimated 80 percent of Port-au-Prince residents who were renters or squatters before the earthquake will also be an important challenge. Accordingly, the Red Cross has called for policies providing long-term protection to renters.

## Conclusions

Natural hazards pose an ever-increasing threat to people in the Americas. Disasters, especially climate-related, are growing in both intensity and frequency. Laws and policies in the region need to be made ready for this rising challenge.

With the support of the IFRC, National Red Cross Societies throughout the region are already working with their authorities to meet this need. Over the last two years, formal assessment projects have already been launched in Colombia, Haiti and Peru to assist authorities in evaluating their legal preparedness for international assistance. Intensive studies of law and risk reduction have also been carried out in the Dominican Republic and Brazil.

The IFRC is also working with National Societies to study best practices in legislation for disaster risk reduction and shelter solutions for those affected by disasters. The results will be made available to states at the International Conference of the Red Cross and Red Crescent in November 2011.

In the meantime, this report offers the following recommendations to governments in the Americas:

## On Disaster Risk Reduction

Consider following the example of the Dominican Republic and collaborate with their National Societies to strengthen the focus on community-based disaster risk reduction in disaster management laws.

## On IDRL

Consider following the example of Colombia and collaborate with National Societies to use the IDRL Guidelines as a tool for assessing the preparedness of their existing legal and regulatory frameworks for international disaster assistance.

## On Shelter

Draw on experiences such as Chile's and collaborate with their National Societies to assess if they are prepared to overcome legal barriers to speedy, stable and equitable shelter solutions for disaster-affected households.



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

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

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

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

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

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

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

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



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