

The Checklist on Law and Disaster Risk Reduction

An annotated outline, October 2015



About the IFRC Disaster Law Programme

The International Federation of Red Cross and Red Crescent Societies (IFRC) Disaster Law Programme seeks to reduce human vulnerability by promoting effective legal frameworks for disaster risk reduction and legal preparedness for disasters. It works in three main areas: collaboration with National Red Cross and Red Crescent Societies and other partners to offer technical assistance to governments on disaster law issues; building the capacity of National Societies and other stakeholders on disaster law; and dissemination, advocacy and research. E-mail: disaster.law@ifrc.org.



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Cover photograph: A training session for villagers on disaster preparedness at Natutu village, Fiji island. Rob Few, IFRC.

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The Checklist on Law and Disaster Risk Reduction

- 1** Does your country have a dedicated law for disaster risk management that prioritises disaster risk reduction and is tailored to your country context?
- 2** Do your country's laws establish clear roles and responsibilities related to risk reduction for all relevant institutions from national to local level?
- 3** Do your country's laws ensure that adequate resources are budgeted for disaster risk reduction?
- 4** Do your country's relevant sectoral laws include provisions to reduce existing risks and prevent the creation of new risks?
- 5** Do your country's laws establish clear procedures and responsibilities for conducting risk assessments and ensure risk information is considered in development processes?
- 6** Do your country's laws establish clear procedures and responsibilities for early warning?
- 7** Do your country's laws require education, training and awareness-raising to promote a whole-of-society approach to disaster risk reduction?
- 8** Do your country's laws ensure the engagement of all relevant stakeholders, including civil society, the private sector, scientific institutions and communities, in risk reduction decisions and activities?
- 9** Do your country's laws adequately address gender considerations and the special needs of particularly vulnerable categories of persons?
- 10** Do your country's laws include adequate mechanisms to ensure that responsibilities are fulfilled and rights are protected?

1. Introduction

Disasters caused by natural hazards represent one of the biggest threats to human safety and sustainable development today. In the last decade, disasters have caused approximately 75,000 deaths and affected almost 200 million people each year.¹ Furthermore, disaster-related damages have been estimated at, on average, US\$ 162.2 billion per year.²

Much more can be done to ensure that natural hazards do not turn into disasters, in particular, by reducing risks and strengthening community resilience. Laws and regulations serve as a foundation for building such resilience. They are essential to creating an enabling environment for reducing disaster risks, preventing new risks from arising and making communities safer.

The role of legal frameworks in providing the enabling environment for disaster risk reduction was recognized by 168 UN member states when they adopted the *Hyogo Framework for Action, Building the Resilience of Nations and Communities to Disasters 2005 – 2015* (HFA) and was accorded even greater recognition a decade later in the *Sendai Framework for Disaster Risk Reduction 2015-2030* (the Sendai Framework). The Sendai Framework lists ‘strengthening disaster risk governance to manage disaster risk’ as one of four Priorities for Action. A clear first step to promoting stronger governance for disaster risk reduction (DRR)³ is improving relevant laws and regulations as well as strengthening their implementation.

2. Purpose of the Checklist

The Checklist on Law and Disaster Risk Reduction (the Checklist) provides a prioritized 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 covers not only dedicated disaster risk management (DRM)⁴ laws but also other sectoral laws and regulations that are critical for building safety and resilience, as well as the environment, land and natural resource management. *The Handbook on Law and Disaster Risk Reduction* has been developed to provide further detail and practical guidance on how the Checklist can be used as a tool for strengthening laws and regulations and commitments made under the Sendai Framework.

The Checklist is designed to:

- Provide a simplified path through the discussion of what can sometimes be perceived to be a complex topic;

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1. International Federation of Red Cross and Red Crescent Societies, *World Disasters Report* (2015), Annex Disaster Data, 216-218.
 2. Ibid.
 3. Disaster risk reduction (DRR) refers to the concept and practice of reducing disaster risks through systematic efforts to analyse and manage the causal factors of disasters, including through reduced exposure to hazards, lessened vulnerability of people and property, wise management of land and the environment, and improved preparedness for adverse events, as set out in UNISDR *Terminology on Disaster Risk Reduction*, (United Nations Office for Disaster Risk Reduction, 2009).
 4. Disaster risk management refers to the systematic process of using administrative directives, organizations, and operational skills and capacities to implement strategies, policies and improved coping capacities in order to lessen the adverse impacts of hazards and the possibility of disasters, as set out in UNISDR *Terminology on Disaster Risk Reduction*, (United Nations Office for Disaster Risk Reduction, 2009).
-

- Serve as an assessment tool to guide a review process of national and local level laws and regulations for enhancing DRR;
- Provide guidance on how to bring national legal frameworks in line with existing international standards, in particular, the Sendai Framework.

Box 1: What does the Sendai Framework for Disaster Risk Reduction say about legal frameworks?

It is important:

- 27(a) To mainstream and integrate disaster risk reduction within and across all sectors and review and promote the coherence and further development, as appropriate, of national and local frameworks of laws, regulations and public policies, which, by defining roles and responsibilities, guide the public and private sectors in: (i) addressing disaster risk in publicly owned, managed or regulated services and infrastructures; (ii) promoting and providing incentives, as relevant, for actions by persons, households, communities and businesses; (iii) enhancing relevant mechanisms and initiatives for disaster risk transparency, which may include financial incentives, public awareness-raising and training initiatives, reporting requirements and legal and administrative measures; and (iv) putting in place coordination and organizational structures;
- 27(d) To encourage the establishment of necessary mechanisms and incentives to ensure high levels of compliance with the existing safety-enhancing provisions of sectoral laws and regulations, including those addressing land use and urban planning, building codes, environmental and resource management and health and safety standards, and update them, where needed, to ensure an adequate focus on disaster risk management;
- 27(f) To assign, as appropriate, clear roles and tasks to community representatives within disaster risk management institutions and processes and decision-making through relevant legal frameworks, and undertake comprehensive public and community consultations during the development of such laws and regulations to support their implementation;
- 27(i) To encourage parliamentarians to support the implementation of disaster risk reduction by developing new or amending relevant legislation and setting budget allocations;
- 30(a) To allocate the necessary resources, including finance and logistics, as appropriate, at all levels of administration for the development and the implementation of disaster risk reduction strategies, policies, plans, laws and regulations in all relevant sectors;
- 33(p) To review and strengthen, as appropriate, national laws and procedures on international cooperation, based on the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance.

The Checklist also aims to foster a more integrated approach to DRR by taking into account climate change and sustainable development considerations within the review of legislation. It is mainly focused on disasters arising from natural hazards and does not cover all of the specific considerations appropriate to industrial accidents, public health emergencies, and situations of generalized violence.

It is also important to recognize that many countries have sought to address various aspects of the issues raised by the Checklist through policies, plans and strategies rather than through laws or regulations. The relationship between policy and law for DRR is complex and differs between country contexts. In some cases, policies set the direction for legal reform, and in other cases, policies, strate-

gies or plans are used to flesh out in detail the more general directives described in law.⁵ Non-binding documents are often more flexible and more easily updated than laws, but it is also true that firm legal mandates are often required to establish strong institutions, ensure that resources are allocated, and clarify roles and responsibilities. The complementary use of law and policy can thus often be particularly effective.

For these reasons, answering the Checklist's questions about the adequacy of laws will also require a review of relevant policies or strategies to determine whether they address the issues raised and whether implementation could be improved through a stronger legal backing.

3. Background

The initiative to develop *The Checklist* is founded in both the Sendai Framework and a specific mandate from states at the 31st International Conference of the Red Cross and Red Crescent in November 2011 (Resolution 7). The latter 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 existing legislative frameworks in light of the key gap areas. The resolution called for states to assess whether their laws made DRR a priority (including through resource allocation and accountability), involved communities, civil society and the private sector, and facilitated the implementation of land use planning and building codes.

Responding to this resolution, in 2012, the IFRC and UNDP embarked on a joint initiative aimed at supporting the strengthening of domestic legislation for DRR. The partnership envisaged the development of two products:

- a multi-country report on the DRR-related legislation of 31 countries, and
- a ten-point checklist on law and disaster risk reduction.

The multi-country report, entitled *Effective law and regulation for disaster risk reduction: a multi-country report* (IFRC, UNDP 2014), is the largest comparative study of legislation for disaster risk reduction undertaken to date, and was launched in June 2014, along with most of the country case studies on which it was based. The report found that there has been significant global progress in updating and adopting national disaster risk management laws to include more focus on DRR, and these efforts have helped to generate more national attention to the issue of DRR. At the same time, the report also found that there are recurring gaps and challenges in the implementation of legal frameworks common to many countries. These included a disparity in funding allocated for DRR, lack of rules to ensure the engagement of communities and civil society organizations in decision-making about DRR, gaps in accountability mechanisms, and a lack of DRR approaches in key sectoral laws, including those related to land use, building permits, environmental protection and natural resource management. The findings of the synthesis report and case studies, together with the opinions and experiences of stakeholders gathered through ten consultations held at the regional and global level, were then used to develop the Checklist. A full list of consultations that were held on the Checklist is set out in the

5. IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), 20.

Annex. The pilot version of the Checklist was released in Sendai, Japan at the World Conference for Disaster Risk Reduction in March 2015.

The pilot period commenced in March 2015 and consisted of country based initiatives, further consultations and the undertaking of research concerning ‘lessons learned’ from legislative reform processes. The country level initiatives involved supporting interested governments, National Red Cross and Red Crescent Societies and UNDP country offices to pilot the use of the Checklist. Methods of using the Checklist varied between countries. For example, **Indonesia, Cook Islands, Tunisia, Egypt, Mongolia, Colombia, Senegal and Ivory Coast**, used the Checklist to guide in-depth legal research projects to be discussed and considered through a multi-stakeholder dialogue. Other countries, such as **Armenia, Nigeria, Italy, Mauritius, Madagascar, and Laos PDR**, used the Checklist in workshops to guide an initial discussion with relevant stakeholders about their existing legal framework and to identify priority issues for their country in terms of legislative reform for DRR. In **Madagascar, Mauritius, Timor Leste and Mongolia**, the Checklist was also used to analyse and improve their respective draft national disaster risk management laws.

Consultations on the Checklist also continued through the pilot period, with consultation sessions held at country, regional and global levels, gathering feedback from representatives from National Red Cross and Red Crescent societies, government departments, regional organizations, non-governmental organizations, academia, the private sector, the United Nations and technical experts/consultants. At the same time, an additional research exercise was launched to extract ‘lessons learned’ and advice from over 10 countries that have recently undergone legislative reform processes. Feedback that was collected from the country based initiatives, consultations and research processes has been used to strengthen this final version of the Checklist and to develop a *Handbook on Law and Disaster Risk Reduction*.

4. The Handbook

As the Checklist itself provides only an introduction to the key issues to consider when reviewing domestic legal frameworks for DRR, a more detailed *Handbook on Law and Disaster Risk Reduction* (the Handbook) has been prepared to accompany the Checklist. The Handbook provides further guidance on how to answer the Checklist questions by providing a rationale for each question, a list of the types of laws and regulations that would need to be reviewed in order to answer the questions, examples of good practices from different countries, and a set of issues to consider when answering each question. In addition, the Handbook provides information and guidance on how to undertake a legislative review process based on lessons learned from a number of countries.



Participants in Nigeria assess their legal framework against the Checklist questions.

5. Why use the Checklist?

The Sendai Framework calls for a number of important actions to strengthen legal frameworks, as depicted in Box 1. The Checklist will support the implementation of commitments made under the Sendai Framework, and allow countries to benefit from over two years of comprehensive research set out within *Effective law and regulation for disaster risk reduction: a multi-country report*. More specifically, the Checklist will help countries to identify:

The **strengths and gaps** in the legal framework

If a greater focus is needed on **implementation**

If **drafting or revising** legislation is needed

The process by which the Checklist questions are discussed and agreed upon may be as important as the content of the answers themselves. Given the multi-sectoral and inter-disciplinary nature of disaster risk reduction, responding to the Checklist questions will require the engagement and contribution of a range of stakeholders from national to local levels, including government, civil society and community representatives. It is expected that the process of bringing these stakeholders together in a common dialogue to respond to the Checklist questions will contribute to longer term outcomes.

The expected outputs of using the Checklist are:

Analysis

A clear overview of the strengths and gaps in the existing legal framework, both in terms of the content of the legislation and its implementation

Priorities

An identification of priority areas to address in order to align the legal framework with the Sendai Framework

Dialogue

Strengthened dialogue and understanding between different actors involved in the regulation of disaster risk reduction

6. How and when to use the Checklist

The Checklist is intended to ensure that DRR is well integrated into and supported by legal systems. It is not designed to comprehensively address all issues related to law and disaster management and it does not specifically focus on disaster preparedness, response or recovery,⁶ although plans are underway to develop similar tools for these areas. Similarly, the Checklist is not a model DRM law. The guidance provided in this Checklist is designed to help prioritize DRR in dedicated DRM laws as well as sectoral laws. Both areas of legislation are equally important, and as highlighted in the Checklist questions, no single law is able to completely address all aspects of DRR.

Some illustrative examples of when to use the Checklist include:

- √ When determining next steps for the implementation of the Sendai Framework
- √ When embarking on a review of existing laws, plans and policies in the aftermath of a disaster
- √ Following the adoption of a new policy or strategy that aims to make disaster risk reduction a national priority
- √ Prior to drafting a new law or policy for disaster risk management
- √ When reviewing legislation for environmental protection, natural resource management and climate change
- √ As an initiative of a National Disaster Risk Reduction Platform to increase dialogue and multi-stakeholder engagement

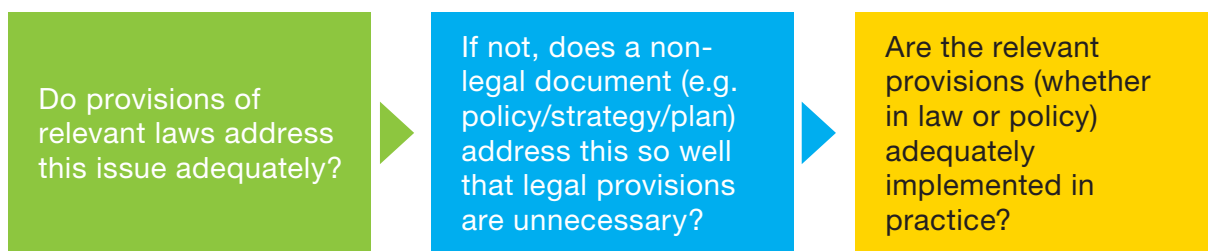
The methodology for using the Checklist should be tailored to each country context and its respective needs. Though one individual or organisation may initiate the process for using the Checklist, comprehensively answering the Checklist questions will require a thorough analysis and consultative process involving a range of stakeholders. In some cases, existing mechanisms such as a national DRR platform may choose to undertake this review, allowing different members to take part in the research and analysis. Disaster risk management committees, project teams, and programmes targeting DRR and resilience may also choose to incorporate the use of the Checklist as part of their activities.

The Checklist may be used to guide an initial multi-stakeholder discussion to identify key concerns and priorities, or it may involve a much more thorough legal review process. The steps involved in undertaking a legal review are explained in detail within the Handbook, drawing from country experience. Suggested steps include establishing a taskforce; engaging a wide range of expertise, disciplines and sectors; analysing the context; undertaking a thorough legal mapping exercise; discussing the outcomes of the research through a multi-stakeholder dialogue and developing recommendations based on the findings of the research. Examples of recommendations and follow up activities are set out in Part 9 of this document.

6. With regard to the regulation of international disaster assistance, see the “Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance” available at www.ifrc.org/dl.

7. How to answer the Checklist questions

The Checklist consists of ten broad questions that will guide a comprehensive analysis for a country's legal framework for DRR. This section provides a brief rationale for each question, together with a list of laws to review and issues to consider when answering them. Further explanation, examples and relevant references from the Sendai Framework are provided in the Handbook, together with a sample form for assessing each question and determining an answer. With regard to each of the issues that Checklist users are invited to consider, it is recommended that they undertake the following three-step analysis:



In order to determine the overall assessment of each question, the results for each issue will need to be weighed against each other in light of the local context. Particular needs and gaps that are identified through the assessment of the issues can be flagged for further consideration.

1

Does your country have a dedicated law for disaster risk management that prioritises disaster risk reduction and is tailored to your country context?

Most countries have found that an overarching, dedicated national DRM law is important for setting out key DRR principles and priorities, promoting a multi-hazard approach, recognizing rights of individuals, and clearly assigning responsibilities from national to local level. In countries with federal systems, it may be equally important to have laws of this kind also at the provincial level. When developing or revising a DRM law, consideration should be given to the country's risk profile, existing risk governance capacity and national development context, and how the law relates to, and supports the implementation, of other relevant sectoral laws. In light of the challenges often experienced in the full implementation of DRM laws, it may also be useful to establish mechanisms to measure success and implementation.

To answer this question:

a. Check the broadest law relating to disaster risk management, which may cover:

- disaster risk management/emergency management/civil defence law (as applicable)
- specific hazards (such as laws on storms and floods, seismic protection/earthquakes, fires, droughts)
- the establishment of disaster management agencies or authorities

b. Consider whether:

- i. the approach of the relevant law is well tailored to your country's natural hazards risk profile and disaster risk governance capacity
- ii. principles and priorities that guide your country's approach to risk reduction are set out

- iii. links to legislation and institutions related to climate change adaptation are established
- iv. coordination with key sectoral laws is addressed
- v. ways to measure success and implementation are included

2

Do your country's laws establish clear roles and responsibilities related to risk reduction for all relevant institutions from national to local level?

To be effective, laws must clearly assign roles and responsibilities to specific ministries and levels of government for their implementation. Mandating departments, agencies, committees and other institutions to carry out specific tasks related to disaster risk reduction gives effect to ambitions or principles that are set out within legislation and promote accountability and transparency. An overarching DRM law often sets out the main distribution of such roles and responsibilities, but as the wording of this question suggests, it is generally not the only legal document to do so. Likewise, policies rather than laws are sometimes relied on for this function, though this approach may provide less authority and certainty to the arrangements than legislation.

To answer this question:

a. Check laws and regulations related to:

- *disaster risk management/emergency management/civil defence at the national, provincial and local levels (as applicable)*
- *local government and decentralization*
- *specific hazards (such as laws on storms and floods, earthquakes, fires, droughts)*

b. Consider whether:

- i. a national inter-ministerial/multi-sectoral committee that meets frequently enough to be effective is established
- ii. a national focal point agency for disaster risk reduction with sufficient institutional authority to exercise effective leadership has been assigned
- iii. cooperation and information exchange between relevant ministries and levels of government with the national focal point agency is promoted
- iv. national to local level institutions are consistently assigned the necessary authority and resources to carry out their mandates and responsibilities
- v. responsibilities among different ministries and levels of government are clearly assigned

3

Do your country's laws ensure that adequate resources are budgeted for disaster risk reduction?

A lack of resources is perhaps the biggest challenge to the successful implementation of laws and regulations relevant to DRR. Funding for risk reduction often has to compete with funding for other government priorities, especially emergency response and development projects. Even if allocations

are made, ensuring that funding reaches the local level, and is distributed between all the different departments and actors responsible for risk reduction, is extremely challenging. There are many ways to approach the issue of funding. Similarly, determining what will constitute 'adequate' funding for DRR will depend on national and local plans for disaster risk reduction and comprehensive risk assessments. Particular attention should be paid to ensuring that any responsibility that is decentralized to local authorities is properly resourced, including to develop local risk governance capacity, and that budgets are not only assigned but accounted for.

To answer this question:

a. Check laws and regulations related to:

- *disaster risk management/emergency response/civil defence*
- *local government*
- *development planning*
- *national budgetary policies and processes*
- *insurance*
- *taxation*
- *investment*
- *private sector*

b. Consider whether:

- i. adequate resources for DRR are allocated, through mechanisms such as:
 - *development plans*
 - *earmarking percentages in annual budgets*
 - *dedicated budget lines*
 - *establishing dedicated funds*
- ii. resources are allocated to enable sub-national authorities to fulfil their responsibilities
- iii. there is a sustained flow of financial resources for DRR and reduced competition with response funds

4

Do your country's relevant sectoral laws include provisions to reduce existing risks and prevent the creation of new risks?

No single law can fully address disaster risk reduction. Sectoral laws, especially those for development planning, infrastructure, construction, building, land use, environmental protection and resource management, climate change, social welfare and education (whether at national, provincial or local levels), should also include provisions to reduce risk, prevent the creation of new risks and make people and their assets safer, based on up-to-date country risk profiles and assessments. These laws are especially important because they can reduce exposure and underlying vulnerability, particularly by preventing the creation of new risks. 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 related laws, or between national authorities and city governments). At the same time, legal provisions should facilitate the implementation of these laws, particularly where they affect human safety and major development investments.

To answer this question:

a. Check laws and regulations related to:

- *environmental management and protection (including related to biodiversity and protected areas)*
- *environmental impact assessments and strategic environmental assessments*
- *natural resource management*
- *water resource management (including wetlands management)*
- *river basin or watershed management*
- *coastal zone management*
- *forestry*
- *land use planning*
- *urban development planning*
- *infrastructure*
- *construction*
- *building*
- *climate change adaptation and mitigation*
- *social welfare*
- *insurance*
- *education*

b. Consider whether:

- i. provisions address DRR
- ii. there is duplication or conflicting provisions between laws
- iii. sufficient financial resources are allocated for implementation of the DRR mandates set out in sectoral legislation

For laws relating to the environment consider whether:

- iv. natural hazards and climate change risks are addressed
- v. DRR criteria is included in environmental impact assessments for planned development (taking into account a changing climate)
- vi. ecosystem approaches to disaster risk reduction are adopted

For laws relating to natural resource management and fire control consider whether:

- vii. there are provisions aimed to reduce the risk of water-related hazards
- viii. forest or urban fire prevention and management is linked with DRM laws and institutions

For laws relating to land use planning, urban development and building consider whether:

- ix. coordination with disaster risk management institutions and mechanisms is promoted
- x. building codes and land use planning regulations are updated and priority is given to critical infrastructure such as schools, hospitals and other public buildings
- xi. incentives or legal sanctions, where appropriate, are established in cases of non-compliance leading to unsafe buildings or developments
- xii. the safety of people living in informal settlements is improved, consistent with their human rights

For laws relating to climate change consider whether:

- xiii. links with disaster risk management institutions and systems are established

For laws relating to insurance consider whether:

- xiv. disaster insurance and/or other risk finance mechanisms are available

5

Do your country's laws establish clear procedures and responsibilities for conducting risk assessments and ensure risk information is considered in development processes?

A comprehensive risk assessment provides the foundation for risk informed development. A clear and current understanding of the specific hazards and vulnerabilities facing your country is indispensable, both to government authorities as well as to the private sector, communities and individuals. As recognised in the first priority of the Sendai Framework, laws, policies and practices “should be based on an understanding of disaster risk in all its dimensions of vulnerability, capacity, exposure of persons and assets, hazard characteristics and the environment.”⁷ Ensuring that there is accurate baseline data on risk in each locality, and that this information is used to guide decision making about planning and construction, can have an enormous impact on the safety and sustainability of livelihoods, homes and infrastructure.

To answer this question:

a. Check laws and regulations on:

- *disaster risk management/emergency response/civil defence*
- *land use planning*
- *building and construction*
- *water management*
- *meteorology*
- *climate change*
- *environmental impact assessment*

b. Consider whether:

- i. regular hazard and vulnerability mapping and risk assessment is required, including both disaster and climate risks, and these tasks are clearly assigned to appropriate authorities
- ii. at-risk communities, civil society as well as the private sector are involved in the risk assessment process and informed of the outcomes
- iii. risk information must be considered in development planning, budgetary allocations and construction

6

Do your country's laws establish clear procedures and responsibilities for early warning?

Early warning is one of the most crucial functions of any DRM system, given its life-saving impact. This is recognised in one of the seven targets of the Sendai Framework to “substantially increase the availability of and access to multi-hazard early warning systems and disaster risk information and assessments to people by 2030.”⁸ To ensure that accurate information reaches people in time to save

7. Sendai Framework for Disaster Risk Reduction 2015-2030, para 23.

8. Sendai Framework for Disaster Risk Reduction 2015-2030, para 18 (g).

lives, livelihoods and property, it is important that procedures are clear and roles and responsibilities of all those involved are well understood, including those who are on the receiving end of the information. This can be done by, for example, integrating community-based early warning systems (EWS) with official/national EWS and assigning community representatives with maintenance or oversight responsibilities.

To answer this question:

a. Check laws and regulations on:

- *disaster risk management/emergency response/civil defence*
- *disaster management and response plans*
- *contingency plans*
- *climate change*

b. Consider whether:

- i. responsibilities for all steps of the early warning process from assessing the hazard, to making decisions to issue warnings, to initiating early action are clearly assigned
- ii. roles for technical ministries as well as communities, local authorities, scientific institutions, private media companies and civil society organizations in early warning systems are set out
- iii. EWS is established for the most frequent and serious hazards



Do your country's 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. As referred to in the Sendai Framework, laws and regulations can be important for assigning responsibilities and requiring public awareness-raising and training initiatives.⁹ More specifically, and as set out below, legislation can establish or promote special training facilities and education through various means and for public sector workers and professionals, mandate training on disaster risk reduction and response in school curricula, and require disaster preparedness drills in high risk areas. To be effective, provisions relating to public awareness and understanding of DRR should include specific guidance for implementation. Where relevant, attention should also be paid to building upon or formally recognising existing customary laws and practices that promote community understanding and ownership of DRR initiatives.

To answer this question:

a. Check laws and regulations on:

- *disaster risk management/emergency response/civil defence*
- *education*
- *local government*
- *specific hazards*
- *safety at work*

9. Sendai Framework for Disaster Risk Reduction 2015-2030 (27 a).

b. Consider whether:

- i. training on DRR in the school curricula is mandatory
- ii. training for public officials and relevant professionals on DRR is promoted
- iii. there are specific provisions on promoting public awareness and understanding of DRR

8

Do your country's laws ensure the engagement of all relevant stakeholders, including civil society, the private sector, scientific institutions and communities in risk reduction decisions and activities?

It is now widely recognized that DRR is a multi-stakeholder task that needs the involvement of many stakeholder groups, beyond government alone. Despite the best intentions of relevant authorities, efforts to be more inclusive of 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 by assigning clear roles and responsibilities. Specific provisions may also be needed to ensure meaningful engagement of women, minorities, people with disabilities and older persons.

To answer this question:

a. Check laws and regulations on:

- i. *disaster risk management/emergency response/civil defence*
- ii. *national Red Cross/Red Crescent Society*
- iii. *national Disaster Risk Reduction Platform*
- iv. *civil Society and NGOs*
- v. *local government*
- vi. *insurance*
- vii. *taxation*
- viii. *investment*

b. Consider whether:

- i. community representation in DRR decision-making bodies and processes is required
- ii. representation of civil society organizations and the National Red Cross/Red Crescent Society in decision-making institutions and processes is required
- iii. specific roles or duties for civil society organizations and National Red Cross/Red Crescent Societies are assigned
- iv. the meaningful engagement and representation of women, minorities, people with disabilities and older persons is ensured
- v. private sector actors are included in both decision-making bodies as well as DRR activities
- vi. the best available scientific resources and analysis inform development and DRR decisions

9

Do your country's laws adequately address gender considerations and the special needs of particularly vulnerable categories of persons?

Disasters can have disproportionate impacts on certain categories of persons, either due to their particular vulnerabilities and/or the influence of socio-economic and cultural systems and practices. These categories may vary between countries and localities, but they commonly include women, the very poor, older persons, migrants, children and people with disabilities, among others. Laws can ensure an adequately disaggregated analysis to detect groups 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. In most cases these groups may not have strong political voices or positions, so their needs may not be a focus of governmental planning for disasters unless it is required by law.

To answer this question:

a. Check the Constitution and laws and regulations on:

- disaster risk management/emergency response/civil defence
- disaster management and response plans
- disability
- human rights and equal opportunity
- health
- social welfare
- family law

b. Consider whether:

- i. a proper analysis as to which categories of persons may be most vulnerable or exposed to disaster risks is required
- ii. specific responsibilities are assigned to institutions to take the needs of these groups into account
- iii. gender specific needs or considerations must be taken into account
- iv. specific needs of other groups with particular vulnerabilities must be considered

10

Do your country's laws include adequate mechanisms to ensure that responsibilities are fulfilled and rights are protected?

Weak implementation of existing regulatory frameworks and a lack of effective accountability mechanisms are recurring issues in many countries. To address these challenges, legislation can set out enforceable incentives and disincentives to ensure that officials fulfil their responsibilities related to DRR and dissuade individuals and the private sector from putting themselves or others at unacceptable risk. Indeed, the possibility of being held to account for decisions or actions that result in

avoidable disaster losses can be an effective incentive for DRR. Such accountability mechanisms include financial penalties, supervision and periodic review, parliamentary oversight and transparency requirements, anti-corruption measures as well as legal and/or administrative sanctions for particularly egregious failures to fulfil responsibilities. Legislation can also set out pertinent rights, including the right to disaster information and the right to a safe and healthy environment, and provide necessary and accessible mechanisms for their protection and fulfilment, as well as reparation for losses and damages incurred.

To answer this question:

a. Check the Constitution and laws and regulations on:

- *disaster risk management/emergency response/civil defence*
- *criminal law*
- *civil liability*
- *tort law/negligence*
- *administrative law*
- *human rights*

b. Consider whether:

- i. public reporting or parliamentary oversight mechanisms for government agencies tasked with DRR responsibilities is established and such information is made publicly available
- ii. there is a role for the judiciary in enhancing accountability for DRR
- iii. legal and/or administrative sanctions (as appropriate) are established for public officials, individuals and businesses for a gross failure to fulfil their duties
- iv. there are incentives for compliance with laws and regulations for DRR
- v. rights relevant to DRR are established, including the right to disaster information, and enforcement mechanisms are provided
- vi. individual responsibilities for DRR are defined

8. Follow-up actions

No legal framework is perfect, and it is inevitable that there are gaps or improvements needed in the implementation of some laws or regulations in every country. Using the Checklist will enable an identification of existing strengths and gaps, prompt consideration of whether changes in law or practice are warranted and which issues are a priority within individual country contexts. In developing proposed activities to address key gaps or weaknesses, it may be helpful to consider the following activities:

- More in-depth research into a particular issue or area of law
 - Wider consultation with stakeholders, particularly at local levels
 - Awareness raising activities to address implementation challenges, such as public information sessions, trainings, development of communication products, and events or performances
 - Amendments to existing laws or regulations to address DRR concerns or to reduce overlap or conflict with other laws
 - Introduction of new laws or regulations in areas not currently covered by existing legislation
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If legislative reform is needed, there are a number of factors to take into account to enhance its implementation. Legislation supporting disaster risk reduction should be developed through an inclusive process, with active participation of all relevant ministries and levels of government, subject matter experts 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. Additionally, implementation of legislation can be enhanced through the development of an implementation plan that identifies resources to be used, trainings to be conducted, key milestones and timeframes. Responsibilities should be clearly identified, and progress reports required in order to keep track of implementation challenges and achievements.

9. Further information and support

Further information on law and DRR, including the study *Effective law and regulation for disaster risk reduction: a multi-country report* and the case studies and desk surveys upon which it was based, is available for download on www.drr-law.org. For organizations, agencies or individuals interested in using the Checklist, further support can be provided by contacting IFRC or UNDP through disaster.law@ifrc.org.

Annex: Consultations on the Checklist

The initial consultations on the content and structure of the Checklist which started in 2012 are listed below:

- Session at an “International Disaster Law Workshop for West African Stakeholders”, September 2012
- Expert “Inception” Workshop, Geneva, Switzerland, 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, Malaysia, 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, Nigeria, May 2014
- Regional Consultation Meeting on Law and Disaster Risk Reduction, Dakar, Senegal, October 2014
- Regional Consultation Meeting on Law and Disaster Risk Reduction, Nairobi, Kenya, November 2014
- Regional Consultative Meeting on Law and Disasters, Toluca, Mexico, November 2014

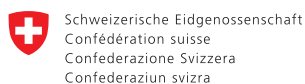
Consultation sessions were also conducted on the Pilot Version of the Checklist during the following meetings:

- The South East Asia/East Asia international humanitarian law conference, Kuala Lumpur, Malaysia, March 2015
 - IASC briefing on developments in international disaster law, Geneva, Switzerland, May 2015
 - Technical briefing and consultation: law, disasters and emergencies and the 32nd International Conference of the Red Cross and Red Crescent, Geneva, June 2015
 - Webinar: Group of experts on risk management in regulatory frameworks, Geneva, June 2015
 - National workshop on disaster and climate change law, Vientiane, Lao PDR, July 2015
 - Validation workshop on IDRL in Madagascar and project launching on law and DRR, Antananarivo, Madagascar, July 2015
 - Workshop on legal frameworks for disaster response and risk reduction in Nigeria, Abuja, Nigeria, July 2015
 - Law and disasters consultation meeting with the African Union, June/July 2015 Addis Ababa, Ethiopia
 - International humanitarian law commonwealth conference, Canberra Australia, July 2015
 - Workshop on legal frameworks for disaster risk reduction in Armenia, Yerevan, August 2015
 - ICRC’s 15th annual regional international humanitarian law seminar, Pretoria, South Africa, August 2015.
 - Central Asian consultative workshop on law and disasters, Almaty, Kazakhstan, September 2015
 - Belarussian disaster management summer school, Minsk, Belarus, September 2015
 - Workshop on law and disasters, Flic en Flac, Mauritius October 2015
 - Meeting of the National Platform for DRR, Rome, Italy, October 2015
 - Strengthening legal Frameworks for disasters in the Pacific: training workshop, Suva, Fiji, October 2015
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