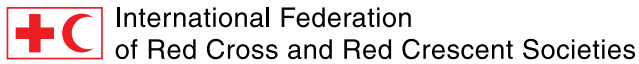




The Checklist on Law and Disaster Preparedness and Response

About the IFRC Disaster Law Programme

The International Federation of Red Cross and Red Crescent Societies (**IFRC**) Disaster Law Programme (**DLP**) 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 Red Cross Red Crescent National Societies (**National 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: The Checklist on Law and Disaster Preparedness and Response (**DPR Checklist**), provides a prioritized list of ten key questions that lawmakers, implementing officials, and those supporting them, such as National Societies, are recommended to consider in order to ensure that their laws provide the best support for DPR.



The Checklist on Law and Disaster Preparedness and Response

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Thanks are also owed to those who contributed to the Law and Disaster Preparedness and Response Global Synthesis Report, upon which this Checklist is based. Those individuals are acknowledged in that report.



Acronyms

ADB	Asian Development Bank
CDEMA	Caribbean Disaster and Emergency Management Agency
CSO	Civil Society Organization
DLP	Disaster Law Programme
DPR	Disaster preparedness and response
DRM	Disaster risk management
DRR	Disaster risk reduction
EWS	Early warning system
FbA	Forecast-based action
FbF	Forecast-based finance
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
HLP	Housing, land and property rights
IASC	Inter-Agency Standing Committee
ICRC	International Committee of the Red Cross
IDRL	International Disaster Response Law
IFRC	International Federation of Red Cross and Red Crescent Societies
ISO	International Standards Organization
MCII	Munich Climate Insurance Initiative
MHM	Menstrual hygiene management
MHPSS	Mental health and psychosocial support
SGBV	Sexual and gender-based violence
SoD	State of Disaster
SoE	State of Emergency
UAS	Unmanned Aircraft Systems
UASC	Unaccompanied and separated children
UAV	Unmanned Aerial Vehicle
UNDP	United Nations Development Program
UNFPA	United Nations Population Fund
UNOPS	United Nations Office for Project Services
UNU-EHS	United Nations University – Institute for Environment and Human Security
US	United States
VAT	Value Added Tax
WB	World Bank
WHO	World Health Organization

Terminology

Children refers to people under 18 years of age. This category includes infants (children up to 1 year old) and adolescents (persons aged 10 to 18 years old).¹

Child protection refers to ‘the prevention of and response to abuse, neglect, exploitation and violence against children’.² The term ‘child protection’ does not, therefore, refer to the protection of all children’s rights, but refers instead to a subset of these rights.³

Disaster refers to ‘a serious disruption of the functioning of a community or a society at any scale due to hazardous events interacting with conditions of exposure, vulnerability and capacity, leading to one or more of the following: human, material, economic and environmental losses and impacts’.⁴

Disaster preparedness refers to ‘the knowledge and capacities developed by governments, response and recovery organizations, communities and individuals to effectively anticipate, respond to and recover from the impacts of likely, imminent or current disasters’.⁵

Disaster preparedness and response activities (DPR activities)⁶ is an umbrella term for any facilities, services, processes, distributions, resources, training, education or information that are conducted or provided for the purpose of preparing for and/or responding to disaster. The term ‘regular DPR activities’ refers to activities that are designed for the general public, rather than specifically for one or more of the vulnerable groups discussed in Chapter 9.

Disaster preparedness and response actors (DPR actors) is an umbrella term for all actors that are involved in providing DPR activities including governmental and non-governmental actors, and domestic, foreign and international actors. DPR actors include (but are not limited to) government disaster management institutions, sectoral agencies (e.g. health, housing), the military and the police, United Nations entities, civil society organizations (CSOs), National Red Cross Red Crescent Societies (**National Societies**), private sector entities, academic or research institutions, and foreign government entities.

Disaster response refers to ‘actions taken directly before, during or immediately after a disaster in order to save lives, reduce health impacts, ensure public safety and meet the basic subsistence needs of the people affected’.⁷

Emergency shelter assistance is an umbrella term for any activities designed to assist disaster-affected persons to access safe and dignified shelter in the immediate aftermath of a disaster. It includes the provision of cash grants, tools, materials and technical support for repairs or reconstruction. It also includes access to evacuation centres, rental assistance and host family programs.

Evacuation is the moving of people and assets temporarily to safer places before, during or after the occurrence of a hazardous event in order to protect them. Evacuation plans refer to the arrangements established in advance to enable the moving of people and assets temporarily to safer places before, during or after the occurrence of a hazardous event. Evacuation plans may include plans for return of evacuees and options to shelter in place.⁸

Forecast-based financing is an approach which enables access to humanitarian funding for early action, that can be taken based on meteorological forecast information, combined with risk analysis, to prepare for extreme weather events. The goal is to anticipate disasters, prevent their impact, if possible, and reduce human suffering and losses.⁹

Hazards are a dangerous phenomenon, substance, human activity or condition that may cause loss of life, injury or other health impacts, property damage, loss of livelihoods and services, social and economic disruption, or environmental damage. These are categorized into: climatological, biological, geophysical, meteorological, technological and man-made, and non-technological and man-made.¹⁰

Migrant means ‘persons who leave or flee their habitual residence to go to new places — usually abroad — to seek opportunities or safer and better prospects. Migration can be voluntary or involuntary, but most of the time a combination of choices and constraints are involved’.¹¹ This definition includes (but is not limited to) labour migrants, stateless migrants, and migrants deemed irregular by public authorities. It also includes refugees and asylum seekers, notwithstanding the fact that they constitute a special category under international law’.¹²

People with disabilities are those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.¹³

Planned relocation is a planned process in which persons or groups of persons move or are moved away from their homes, settled in a new location, and provided with the conditions for rebuilding their lives. Planned Relocation is carried out under the authority of the state, takes place within national borders, and is undertaken to protect people from risks related to disasters and environmental change, including the effects of climate change.¹⁴

Protection refers to ‘all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. International Human Rights Law (IHRL), International Humanitarian Law, International Refugee law (IRL)’.¹⁵

Sexual and gender-based violence (SGBV) is a composite term used within the Red Cross Red Crescent Movement to refer to two distinct but overlapping phenomena: (i) sexual violence; and (ii) gender-based violence.¹⁶ This Checklist adopts the Red Cross Red Crescent Movement’s working definitions of these phenomena, as outlined below.¹⁷

- **Sexual violence** refers to ‘[a]cts of a sexual nature committed against any person by force, threat of force or coercion. Coercion can be caused by circumstances such as fear of violence, duress, detention, psychological oppression or abuse of power. The force, threat of force or coercion can also be directed against another person. Sexual violence also comprises acts of a sexual nature committed by taking advantage of a coercive environment or a person’s incapacity to give genuine consent. It furthermore includes acts of a sexual nature a person is caused to engage in by force, threat of force or coercion, against that person or another person, or by taking advantage of a coercive environment or the person’s incapacity to give genuine consent. Sexual violence encompasses acts such as rape, sexual slavery, enforced prostitution, forced pregnancy or enforced sterilization’.¹⁸
- **Gender-based violence** refers to ‘any harmful act that results in, or is likely to result in, physical, sexual or psychological harm or suffering to a woman, man, girl or boy on the basis of their gender. Gender-based violence is a result of gender inequality and abuse of power. Gender-based violence includes but is not limited to sexual violence, domestic violence, trafficking, forced or early marriage, forced prostitution and sexual exploitation and abuse’.¹⁹

Sexual and gender minorities (SGM) refers to people with diverse sexual orientation, gender identity/expression, and sexual characteristics.²⁰

Unaccompanied and separated children (UASC) is a composite term that encompasses two groups of children: (i) unaccompanied children; and (ii) separated children.

- **Unaccompanied children** are children who have been separated from both parents and other relatives and are not being cared for by an adult who, by law or custom, is responsible for doing so.²¹
- **Separated children** are children separated from both parents, or from their previous legal or customary primary caregiver, but not necessarily from other relatives. Separated children may, therefore, be accompanied by other adult family members.

Vulnerable groups: The following groups may be disproportionately impacted by disasters: women and girls; children, particularly unaccompanied and separated children; adolescents and young adults; older persons; persons with disabilities; migrants, displaced persons and refugees; indigenous groups; ethnic and racial minorities; and sexual and gender minorities. For brevity, these groups are collectively referred to as ‘vulnerable groups’, notwithstanding the fact that, depending on the circumstances, it may be more accurate to describe them as having ‘specific needs’, being ‘at risk’ or being ‘vulnerable’.

Checklist on Law and Disaster Preparedness and Response

- 1** Do your country's laws establish a strong institutional framework for disaster preparedness and response? 
- 2** Do your country's laws support the implementation of an effective disaster risk financing strategy? 
- 3** Do your country's laws provide clear mandates and resources to undertake contingency planning and awareness through training, education and drills? 
- 4** Do your country's laws facilitate effective early warning and early action to reduce the impacts of disasters? 
- 5** Do your country's laws establish 'states of emergency' and 'states of disaster' that are tailored and proportionate to differing degrees and types of risk? 
- 6** Do your country's laws provide appropriate legal facilities for disaster preparedness and response? 
- 7** Do your country's laws establish a comprehensive framework for addressing disaster displacement and planned relocation? 
- 8** Do your country's laws contain measures to address common problems that arise in the context of shelter assistance in relation to housing, land and property rights? 
- 9** Do your country's laws contain measures to ensure that vulnerable groups are included in, and protected by, disaster preparedness and response activities? 
- 10** Do your country's laws contain measures to promote quality and accountability, and to prevent fraud and corruption, in disaster preparedness and response? 

Introduction

Disasters cause massive human suffering and losses. In 2018 alone, 315 geophysical and climate-related disaster events were recorded in the International Disaster Database with 11,804 deaths, and over 68.5 million people affected across the world and causing US\$131,7 billion in economic damages.²² Despite continuing improvements in domestic disaster preparedness and response (**DPR**) systems over many decades, countries still face many challenges in managing the human and economic impacts of disasters, a phenomenon likely to worsen with the impact of climate change.

Laws, policies and institutional arrangements have a crucial role to play in supporting all aspects of disaster risk management (**DRM**) including disaster risk reduction, preparedness and response, as well as facilitating international assistance when the scale of a disaster exceeds national capacities. This has been recognized in key international instruments, such as the *Sendai Framework for Disaster Risk Reduction 2015–2030* (**Sendai Framework**).

The IFRC has been working intensively on these issues for many years and has developed a number of important guidelines and tools to support decision-makers familiarity with international standards and legal frameworks, improve domestic legislation and address the legal barriers that can stand in the way of effective risk reduction and disaster management. Key among these include:

- Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (the **IDRL Guidelines**);
- IDRL Model Act (developed with IPU and OCHA) and Model Emergency Decree (developed with OCHA);
- Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (**IDRL Checklist**); and
- Checklist on Law and Disaster Risk Reduction (**DRR Checklist**) and Handbook on Law and Disaster Risk Reduction (both developed with UNDP).

Following numerous requests from National Red Cross Red Crescent Societies (**National Societies**), IFRC embarked on this project to develop a Checklist on Law and Disaster Preparedness and Response (**DPR Checklist**), to support governments, National Societies and other stakeholders with technical assistance for the strengthening of laws relating to DPR, which were not covered in previous tools. The topic of recovery is intended as the subject of future research, and as such is not included here.

This Checklist is supported by a Global Synthesis Report on Law and Disaster Preparedness and Response (**Synthesis Report**), which provides the detailed legal basis and practical examples which form the basis of the Checklist questions. The Synthesis Report was informed by two specific inputs:

- **Literature Review:** A literature review on 10 topics that are integral to DPR, which identifies and briefly summarizes the key resources on each topic including international legal materials, academic books and articles, reports and case studies, and existing guidelines, standards and recommendations; and
- **Desktop Reviews:** Desktop reviews of the domestic laws relevant to DPR from 20 sample countries²³ which reflect a broad spectrum of geographic regions, disaster risks and human development levels.

The Synthesis Report and Literature Review are available on the Disaster Law Program website www.ifrc.org/dl.

Purpose of the checklist

The DPR Checklist provides a prioritized list of ten key questions that lawmakers, implementing officials, and those supporting them, such as National Societies, are recommended to consider in order to ensure that their laws provide the best support for DPR. It covers not only dedicated DRM laws but also other sectoral laws and regulations that are critical for managing essential functions such as institutional arrangements across different levels of government, finance and resource management, legal facilities and protection.

Specifically, the DPR Checklist is designed to:

- provide clarity on a number of key legislative issues impacting the timeliness and effectiveness of DPR activities;
- serve as an assessment tool to guide a review process of national and local level laws and policies for enhancing DPR; and
- provide guidance on how to improve national legal and policy frameworks and bring them in line with existing international standards, including the *Sendai Framework*.

It is important to recognize this checklist is not comprehensive, and there are many variations in the structure of legal and policy frameworks between different countries. The DPR Checklist is not prescriptive in the nature of the amendments or reforms required but rather highlights some of the legislative issues to be addressed.

In particular, its questions and recommendations about what should be included in “the law” do not necessarily refer to a single act, but rather to any applicable legislation (i.e., the relevant legal framework as a whole). This will often include sub-national (e.g. state or provincial) legislation, in particular in federal states, where significant powers relevant to disaster preparedness and response may be reserved to this level of government. In addition, depending on the country context and legal tradition, some of the recommendations on a particular topic may be more appropriate for inclusion in policy, procedures or plans rather than law. Some suggestion has been made in the questions below about which areas tend to be more specific to legal rather than policy tools, but these should be checked against the national context.

The Checklist also offers suggestions for broader sectoral instruments that should be considered as part of the review process and refers to the relevant sections of the Synthesis Report where additional recommendations and useful tools and references are provided.

How and when to use the checklist

The considerations and recommendations contained in the DPR Checklist are relevant for all DPR actors and can be used in several ways:

- by national authorities and supporting individuals and organizations to review and strengthen the relevant national laws, policies, plans and procedures which relate to DPR at the domestic level;
- as part of preparedness planning, simulation exercises, or to inform operations of the legal barriers that may be encountered; and
- as a stand-alone product, to guide discussions and consultations in this area, whether by governments, local authorities, National Societies or local and international actors.

More specifically the DPR Checklist will help countries to identify:

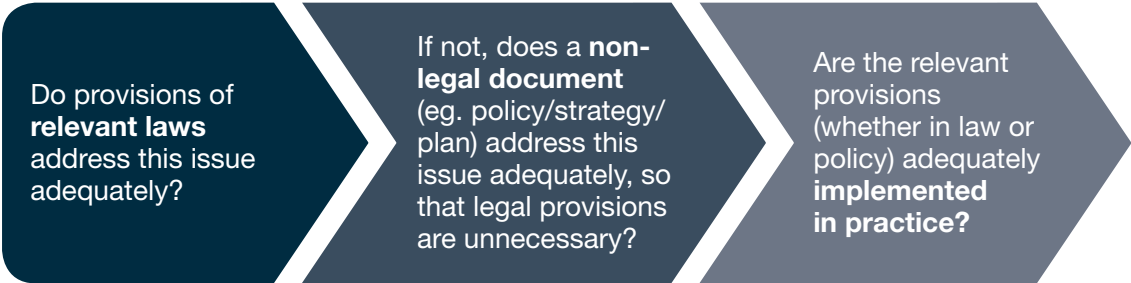


The methodology for using the DPR Checklist should be tailored to each country context, its constitutional framework and its respective needs. Though one individual or organization may initiate the process, comprehensively answering the DPR Checklist questions will require a thorough analysis and consultative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

How to answer the checklist questions

The DPR Checklist consists of ten broad questions that will guide a comprehensive analysis for a country’s legal framework for DPR. Each section provides a brief rationale, together with a list of guiding sub-questions and a list of possible sectoral laws and policies to include in the review process.

For each of the sub-questions, 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 considered in light of the local context, including differences at national and local level. Particular needs and gaps that are identified through the assessment of the issues can be flagged for further consideration.

Follow-up actions

Every legal framework for DPR will have both strengths and weaknesses. Using the DPR Checklist will help law-makers and other organizations review their laws and identify areas where laws and policies need updating or where gaps need to be filled with new legislation.

Where gaps and weaknesses have been identified, the following activities may be helpful to consider:

- further research into the particular issues or area of law;
- consultations with a wide range of stakeholders, particularly at local levels;
- amendments of existing laws and policies to better address DPR issues or to ensure consistency between different laws and policies; and
- development of new laws and policies to fill any gap areas.

Where new legislation is required, there are a number of suggested approaches for its development and monitoring which will help to ensure effective implementation:

- involvement of a wide range of stakeholders in the development process including the active participation of all relevant ministries and levels of government, subject matter experts/practitioners, civil society organizations, the private sector and individuals, through a process which is inclusive of participation from women, youth, people with disabilities and vulnerable groups;
- development of an implementation plan that includes the identification of resources, training and capacity development, key milestones and timeframes;
- identification of roles and responsibilities, particularly in the monitoring and evaluation of progress to document implementation challenges and achievements; and
- activities at all levels to promote greater awareness and improved implementation of new and existing legal and policy provisions, such as public information sessions, communication products and events.

Checklist questions

1. Do your country's laws establish a strong institutional framework for disaster preparedness and response?

Effective all-hazard DPR requires a strong institutional framework. Each DPR institution should have a mandate that clearly describes its roles and responsibilities, and how these relate to other institutions' roles and responsibilities. If DPR institutions exist at the sub-national level, the law should grant them sufficient powers and resources to fulfil their mandates. As noted above, the law setting out the relevant frameworks may be at the national or sub-national levels, or both, as appropriate to the constitutional system and traditions of each country.

The law should reflect an all-of-society and whole-of-government approach to DPR. It should facilitate the participation of all relevant governmental actors at all levels of government including sectoral agencies (e.g. health, housing, migration, agriculture, and development authorities), the military, civil protection agencies and the police, meteorological institutions, human rights institutions and ombudsmen. Further, it should facilitate the participation of all relevant non-governmental actors, including civil society organizations, National Societies, the private sector, the media, academic and research institutions, and, crucially, representatives of vulnerable groups.

Similar to governmental institutions, the law should clearly outline the roles and responsibilities of non-governmental actors, which should be granted the highest degree of participation and responsibility that is appropriate to their resources and capacity. In order to ensure a coordinated approach to DPR, the law should establish coordination mechanisms that include all relevant governmental and non-governmental actors. Coordination bodies should meet regularly, including when there is no active response.

Disaster laws should recognize specific needs relating to gender and vulnerable groups and include key humanitarian principles and human rights that are relevant to disaster-affected persons. This includes relevant human rights protections (i.e. rights to food, water and sanitation, housing), a right to humanitarian assistance, a prohibition on discrimination in all DPR activities, and a recognition of the specific needs of vulnerable groups.

To answer this question, consider the following:

A. Guiding sub-questions

i. Institutional mandate

- a. Does the law create institutions that have a clear mandate for DPR?
- b. Does the law clearly set out the roles and responsibilities of all-hazard DPR institutions?
- c. When viewed collectively, do the mandates of DPR institutions encompass:
 - all jurisdictions, from the local to the national level (both horizontally and vertically);
 - all types of hazards, including both slow- and sudden-onset hazards; and
 - all types of DRM functions (policy, operations etc)?





ii. Sub-national institutions

- a. Does the law establish DPR institutions in sub-national jurisdictions?
- b. Does the law grant sub-national institutions adequate powers and resources (assets, financial and human resources) to implement their mandates for DPR including resources for capacity building?

iii. Participation

- a. Does the law create multi-stakeholder entities or institutions for DPR such as consultation and coordination bodies, fora and platforms?
- b. Does the law mandate the participation of all types of stakeholders in multi-stakeholder institutions and the development of relevant policies and by-laws?
- c. Does the law clearly set out the roles and responsibilities of non-governmental actors and civil society in DPR?
- d. Does the law grant non-governmental actors and civil society the highest degree of participation and responsibility that is consistent with their resources and capacity?

iv. Coordination

- a. Does the law establish mechanisms for coordinating DPR activities?
- b. Does the law mandate that coordination mechanisms include representatives from all relevant governmental and non-governmental actors?
- c. Does the law require coordinating bodies to meet regularly, including when there is no active response operation?
- d. Does the law establish coordination mechanisms for all types of disasters, including nuclear and health emergencies?

v. Principles and protections

- a. Do disaster laws provide, or import by reference, relevant human rights protections?
- b. Do disaster laws provide, or import by reference, rights to humanitarian assistance and to essential relief supplies?
- c. Do disaster laws recognize and detail the specific needs of vulnerable groups in DPR?

B. Check laws and policies related to:

- Disaster risk management / emergency management / civil protection / humanitarian assistance
- Human rights / anti-discrimination / humanitarian assistance
- Health, nuclear and other types of emergencies

C. Further guidance

Synthesis Report on Law and Disaster Preparedness and Response, Chapter 1, Section G.

2. Do your country's laws support the implementation of an effective disaster risk financing strategy?

Adequate funding is a critical requirement to support DPR activities. Yet too often, governments, organizations and communities lack the necessary resources to cope with the growing number, frequency and scale of disasters they face. The international donor community is also facing challenges meeting critical funding gaps, with resources tending to prioritize immediate response, rather than longer term but more cost-effective measures to prevent or reduce the risk of disasters occurring.

To make the best use of limited resources, governments should develop a comprehensive disaster risk financing strategy which encompasses a range of measures to suit different levels of risk, spanning the full spectrum of disaster prevention through to recovery, and which also facilitate access to external financial risk mechanisms:

- for the lower cost/risk layer, which might include small scale or frequent disaster events, funding measures may include allocations from national and local government budgets, emergency reserves, special funds and national risk finance schemes;
- for the medium cost/risk layer, which might involve larger scale, less frequent disaster events, measures may include contingent credit, loans and grants from external sources; and
- for the high cost/risk layer, such as low probability but high impact disaster events, funding mechanisms may include international risk transfer instruments, such as risk pooling schemes and regional or global insurance schemes.

Crucially, disaster risk financing strategies should also be supported by legislation which enables the funding streams to be accessed in an efficient and timely manner with adequate safeguards to ensure transparency and accountability. Law and policy-makers should also consider how legislation can better support the growing use of cash and vouchers programmes in emergency operations, forecast-based financing (**FbF**) which enables the early release of response funding ahead of an event occurring, and Adaptive Social Protection, which uses existing social protection programmes and mechanisms to channel financial assistance to vulnerable people before and after disaster events. Governments seeking to benefit from regional or international insurance or risk pooling schemes will likely need to undertake an extensive legal review with potential reforms across a wide range of areas in order to meet eligibility requirements of insurers.

To answer this question, consider the following:

A. Guiding sub-questions

i. National and local budget allocations

- a. Does the law mandate the allocation of funding from the annual budget for disaster situations, and if so, does it:
 - allocate sufficient funding to meet, as a minimum, the ongoing costs of institutional arrangements and low level disaster risks;
 - identify separate funds for preparedness and response;
 - allocate funding to local government (or require local governments to allocate funds); and
 - allocate funding for use by communities, including a wide range of community stakeholder groups?





- b. Does the law establish special funds or reserves for disaster situations, such as emergency or contingency funds, and if so, does it:
 - identify separate funds for risk reduction, preparedness and response;
 - allow contributions from external sources; and
 - include provisions for replenishment?
- c. Does the law establish institutional arrangements with clear roles and responsibilities for the monitoring and management of DPR/Disaster Risk Management (**DRM**) funds?
- d. Does the law provide clear and streamlined procedures for FbF or the rapid release of funding in the event of a disaster, including in the absence of a State of Emergency or State of Disaster?
- e. Does the law provide adequate transparency and safeguards against the misuse of funds?

ii. National disaster risk financing

- a. Does the law and/or policy establish and facilitate risk-informed disaster risk financing mechanisms which support the costs of DPR/DRM through a combination of public and private sector sources, such as disaster insurance or reinsurance schemes and risk mitigation incentive schemes (taxes, levies, exemptions, subsidies, grants)?
- b. Does the law and/or policy recognize the specific needs of vulnerable groups in disaster risk financing?

iii. International grants, loans and credit

- a. Does the law and/or policy establish criteria for receiving international funds through grants, loans and contingent credit to support DRM activities?
- b. Does the law facilitate receiving international funds by ensuring robust financial management, accountability, reporting and audit systems?

iv. International risk financing

- a. Does the law and/or policy provide for participation in international risk financing schemes, such as risk pooling or reinsurance schemes?
- b. Does the law and/or policy require a comprehensive disaster and financial risk analysis as a pre-requisite for participating in international risk financing schemes?
- c. Does the law facilitate access to international risk financing schemes by ensuring robust DPR/DRM, institutional, financial, accountability, reporting and audit systems?

v. Financial response tools

- a. Does the law and/or policy provide for and facilitate the use of cash and vouchers programmes across all relevant sectors to assist affected people?
- b. Does the law and/or policy provide for and facilitate the use of anticipatory finance, including forecast-based triggers for the early release of response funding ahead of the impact of disasters?
- c. Does the law and/or policy provide for and facilitate the adaptation of social protection programmes and mechanisms to channel assistance before and after disaster events, in particular for meeting the needs of vulnerable groups?



B. Check laws and policies related to:

- Disaster management / emergency management / civil protection / humanitarian assistance
- Banking
- Insurance
- International monetary transfers
- Social protection
- Anti-corruption, fraud
- Administration at different levels of government

C. Further guidance

Synthesis Report on Law and Disaster Preparedness and Response, Chapter 2, Section E.



3. Do your country's laws provide clear mandates and resources to undertake contingency planning and awareness through training, education and drills?

Contingency planning is one component of broader disaster preparedness and is included within established processes such as disaster response planning and policy development. Legislation should provide a clear mandate for contingency planning, including the assignment of roles and responsibilities for the principal tasks to be accomplished at national and sub national levels. The development of contingency plans require input from all relevant sectors (inclusive of the community) as well as both public and private sector depending on the context and the nature of the different anticipated disasters. The legislation should also allocate resources for both the development and effective implementation of these plans and require the development of business continuity plans in particular for critical infrastructure owned by government and the private sector.

Sound contingency plans should be informed by a comprehensive risk analysis that recognizes the known residual risk, as well as a gender and vulnerability analysis. Contingency plans should involve all sectors and outline the management of human and financial resources, coordination and communications procedures. The plans should be sufficiently adaptable to deal with unexpected events and take into consideration evolving risks due to climate change.

A crucial component of preparedness is awareness across all levels of society, which can be addressed in part through training, education and drills. Legislation should define the entities bearing the primary responsibility for offering these programmes at all levels of society which may include government, local institutions, universities, private organizations and/or the National Society. In particular:

- **Training:** The law and/or policy should provide for and set out the minimum standards, content and resources required, including mandatory first aid training, in line with international best practice for training programmes for professionals, including disaster and rescue and relief personnel, and local community. Training programmes should provide the target audience with information about prevalent disaster risks, safety and emergency protocols and plans, what to expect during the disaster, the roles of different DPR actors as well as information about rights, roles and responsibilities before, during and after a disaster. They should also be designed to reflect the fact that it is not a one-time event by providing refresher courses for persons trained. It is important that any trainings include an equal representation of women, men and other identified vulnerable groups in a particular community.
- **Education:** Recognizing the important roles played by schools, children and youth, law and/or policy should also provide for DPR activities in schools at elementary, secondary and tertiary levels, including awareness raising and the creation of gender balanced school committees as well as school brigades, school risk analysis, action plans and school drills against possible threats. Other awareness and education programmes should also target out-of-school children and youth.
- **Simulations and drills:** Law and/or policy should provide for simulation exercises and drills involving professional rescue and relief personnel, schools as part of schools preparedness and the wider community respectively. Drills enforce the information shared to the community on the contingency plans through a practical exercise. Simulation exercises not only practically demonstrate to the rescue and relief personnel their roles during the disaster, they also offer a chance to evaluate the practicality of contingency planning.



To answer this question, consider the following:

A. Guiding sub-questions

i. Contingency planning

- a. Does the law provide clear mandates for government institutions to develop and regularly update contingency plans?
 - If yes, are contingency plans prepared and adequately resourced at all levels of government?
 - If yes, does the law mandate that the development of contingency plans include representatives from all relevant non-governmental actors and civil society?
 - If yes, are contingency plans based on inclusive and multi-hazard risk mapping, risk assessments and gender and vulnerability analysis, including climate risk assessments?
 - If yes, does the law require business continuity planning, in particular with regard to critical infrastructure and the private sector?

ii. Training, education, simulations and drills

- a. Does the law facilitate and ensure adequate resources and capacities for training on disaster preparedness, including on first aid?
- b. Does the law and/or policy facilitate awareness and DPR activities in schools at elementary, secondary and tertiary levels, as well as other awareness and education programmes targeting out-of-school children and youth?
- c. Does the law and/or policy facilitate drills and other simulation exercises
 - If yes, are these used to inform or improve contingency planning?
- d. Does the law and/or policy ensure that vulnerable groups equally benefit from capacity building, education, training, drills and other simulation exercises?

B. Check laws and policies related to:

- Disaster management / emergency management / civil protection / humanitarian assistance
- Laws regulating municipal authorities
- Administration Laws
- Education
- Child, disability and gender protection
- Risk Assessments / Risk Mapping / Monitoring / Evaluation
- Constitutional laws

C. Further guidance

Synthesis Report on Law and Disaster Preparedness and Response, Chapter 3, Section D.

4. Do your country's laws facilitate effective early warning and early action to reduce the impacts of disasters?

Since the mid-2000s, there has been growing international recognition of the importance of early warning systems (**EWS**) and early action to reduce the impacts of disasters. Effective EWS have four key interrelated components: (1) developing disaster risk knowledge through comprehensive hazard mapping and risk assessments; (2) monitoring and forecasting hazards using high-quality equipment and accepted scientific methodologies; (3) communicating and disseminating authoritative, timely, accurate, clear and actionable warnings; and (4) preparedness at all levels to respond to the warnings received.

Each of the four components of EWS is vital: a failure in relation to any element can lead to failure of the system as a whole. The development of EWS should include the engagement of vulnerable groups such as people with impaired, limited or restricted mobility, women and older persons to ensure their needs are adequately addressed.

The concept of 'early warning early action' is now a fundamental tenet of DRM. It refers to taking action *prior* to a hazard materializing on the basis of warnings, rather than responding only once the hazard materializes. The practical manifestation of 'early warning early action' is forecast based action (**FbA**) mechanisms that initiate early actions when a forecast event surpasses a pre-determined magnitude and probability (e.g. a 70 per cent chance of a category 3 cyclone). The underlying rationale for FbA is that pre-emptive, rather than responsive actions, are generally more effective at reducing the impacts of disasters, while also being more cost-efficient.

The positive results of pilot and small-scale FbA programmes warrant decision-makers to give serious consideration to whether, and how, to facilitate FbA through law and policy. Decision-makers should consider developing policies that formally adopt 'early warning early action' as a guiding principle of their DRM systems and identify FbA mechanisms as a key tool for implementing this principle. Decision-makers should also consider mandating relevant governmental actors to develop FbA mechanisms. In general, decision-makers should strive to do this in a manner that integrates FbA into existing planning processes, rather than creating parallel processes.

Evacuation is an important and well-established form of early action that is already commonly addressed in domestic disaster laws and policies. A persisting gap is, however, that domestic laws and policies often do not contain measures to ensure that evacuation assistance is provided for people unable to evacuate on their own. Such people may include: persons with disability or illness; young children and older persons; prisoners; and impoverished or vulnerable groups that have low levels of access to private transport. Domestic laws and policies also often fail to adequately address the evacuation of domestic animals and livestock, which can directly endanger human life, and have detrimental psychosocial and economic impacts on disaster-affected populations. Evacuation plans should address both issues, in order to ensure the safety of people and their animals during disasters. They should contain measures to protect disaster displaced persons, pre-empt sexual and gender-based violence in shelters and evacuation centres and be linked to other government efforts and plans to enable disaster displaced persons to return, locally integrate or resettle elsewhere after evacuation.

To answer this question, consider the following:



A. Guiding sub-questions

i. Early warning systems

- a. Does the law clearly set out the roles and responsibilities of all actors that are responsible for hazard mapping, risk assessments, monitoring and forecasting hazards, and generating and issuing warnings?
- b. Does the law establish coordination mechanisms for the above-mentioned EWS actors?
- c. Does the law establish standards for the systematic collection, sharing and assessment of risk information and data relating to hazards, exposures, vulnerabilities and capacities?
- d. Do people with impaired, limited or restricted mobility, women and older persons feature in data collected and are they actively participating in the planning and design of EWS?
- e. Does the law clearly set out the linkages between EWS at all levels, national to local, as well as those applicable to transboundary hazards?

ii. Disaster risk knowledge

- a. Does the law mandate hazard mapping and risk assessments for all hazards in all geographical areas?
- b. Does the law require risk assessments to address the exposure, vulnerability and capacity of at-risk people, infrastructure and economic sectors?
- c. Does the law require that hazard maps and risk information are accessible to all?

iii. Monitoring and forecasting

- a. Does the law mandate monitoring and forecasting for all hazards in all geographic areas?
- b. Does the law allocate sufficient funding to allow monitoring and forecasting agencies to obtain and maintain high quality equipment, facilities and competent personnel?

iv. Early warnings

- a. Does the law and/or policy require the agencies responsible for generating warnings to include impact information and clear practical guidance?
- b. Does the law and/or policy establish standard processes for generating and issuing warnings which are accessible to all, especially the most vulnerable?
- c. Does the law and/or policy require the agencies that are responsible for issuing warnings to:
 - use a wide variety of communication channels to disseminate warnings;
 - implement feedback mechanisms to verify receipt; and
 - implement plans to reach the most at-risk and remote populations?
- d. Does law and/or policy establish community early warning programs?
- e. Does the law mandate private telecommunications companies to disseminate warnings upon request and at no charge?



v. Early action

- a. Does law and/or policy establish 'early warning early action' as a guiding principle for DRM?
- b. To the extent that the law and/or policy mandates or facilitates FbA, is FbA integrated into existing planning processes?

vi. Evacuation

- a. Does law and/or policy mandate governmental DPR actors to develop comprehensive evacuation plans using hazard maps and risk assessments?
- b. Does law and/or policy require evacuation plans to contain measures to ensure that people with disabilities and other vulnerable groups including pregnant women are assisted to evacuate?
- c. Does law and/or policy require governmental DPR actors to include domestic animals and livestock in evacuation plans?
- d. Does law and/or policy include the establishment of appropriate evacuation centres which include the protection of disaster displaced persons, the prevention of SGBV in evacuation centres and the support of durable solutions?

B. Check laws and policies related to:

- Disaster management / emergency management / civil protection / humanitarian assistance

C. Further guidance

Synthesis Report on Law and Disaster Preparedness and Response, Chapter 4, Section E.

5. Do your country's laws establish 'states of emergency' and 'states of disaster' that are tailored and proportionate to differing degrees and types of risk?

States of emergency (SoE) and states of disaster (SoD) are legal mechanisms for initiating disaster response. The declaration of SoE/SoDs causes a switch to an emergency legal modality characterised by special emergency powers and/or governance arrangements.

The power to declare an SoE is usually established by a country's constitution and vested in persons or entities at the highest level of government. SoEs are generally designed for extreme and/or unforeseeable situations that pose an existential threat, such as threats to national security, public order or the constitutional order. In contrast, SoDs are generally provided for in legislation, and the power to declare a SoD is often vested in sub-national governments or sectoral agencies. The precise nature of SoEs/SoDs depends, to a significant extent, on a country's political and constitutional structure, and its disaster risk profile.

Although it is not possible or appropriate to strictly prescribe the form that SoEs/SoDs should take in all countries, decision-makers should consider developing a range of SoDs that are tailored and proportionate to differing degrees and types of risk, rather than relying solely on an SoE. Further, the laws governing SoE/SoDs should clearly identify: (i) the legal trigger(s) for making a declaration; (ii) the person or entity that is responsible for making a declaration (i.e. the repository of the declaratory power); (iii) the consequences of the declaration; and (iv) when a declaration may be made (i.e. pre-emptively or only once a disaster has occurred).

It is vital for there to be safeguards in place during an SoE/SoD in order to promote governmental transparency and accountability, to maintain the rule of law, to preserve democratic institutions, and to protect human rights. The law should provide for judicial and/or legislative supervision of the declaration of an SoE/SoD and decisions or actions taken during an SoE/SoD. Further, the law should only allow the government to limit, or derogate from, human rights during an SoE/SoD to the extent permissible under international human rights law.

To answer this question, consider the following:

A. Guiding sub-questions

i. States of disaster and states of emergency

- a. Does the law establish a range of SoDs suitable for different disaster scenarios that are proportional and tailored to differing degrees and types of risk?
- b. Does the law establish an SoE to be used to respond to extreme and/or unforeseeable disasters?
- c. Does the law clearly specify:
 - the legal trigger(s) for making a declaration of each type of SoE/SoD;
 - the person or entity who has authority to make each type of declaration of SoE/SoD;
 - the governance arrangements and/or governmental powers that arise once each type of SoE/SoD has been declared; and
 - whether pre-emptive declarations may be made when a risk is sufficiently serious, likely and proximate as part of early action?





ii. Safeguards, transparency and accountability

- a. Does the law require a declaration of an SoE to specify the legal basis, territorial scope and duration of the declaration, and the emergency powers that will be available to government during the SoE/SoD?
- b. Does the law require the repository of a declaratory power to 'act on advice' or 'upon request' of another entity (e.g. disaster management institutions or sub-national governments)?
- c. Does the law prohibit government from limiting or derogating from rights during an SoE/SoD except to the extent permitted by international human rights law?
- d. Does the law provide for effective judicial and/or legislative supervision of the declaration of an SoE/SoD and of decisions or actions made under an SoE/SoD?

B. Check laws and policies related to:

- Constitutional laws
- Disaster management / emergency management / civil protection / humanitarian assistance
- Human rights / civil rights

C. Further guidance

Synthesis Report on Law and Disaster Preparedness and Response, Chapter 5, Section F.

6. Do your country's laws provide appropriate legal facilities for disaster preparedness and response?

Effective DPR requires a legal framework that facilitates the work of humanitarian actors and removes unnecessary cost burdens and bureaucratic barriers which may deter individuals and organizations from participating in this essential work. Key issues to be addressed through legislation include:

- Volunteers, a critical part of many disaster responses, and yet they may face many legal uncertainties in particular around their legal status, health and safety, insurance, liability, remuneration, access to training and proper management.
- Professional licensing requirements, which can pose a significant barrier to professionals' ability to provide assistance in an emergency, particularly where regulations differ across domestic state or local boundaries. Most common barriers are faced by medical professionals and their authorization to provide medical care and issue prescriptions, as well as issues of liability and medical insurance. However, similar issues could also apply to other types of professionals involved in disaster response such as engineers, building surveyors and teachers.
- Taxation, such as Value Added Tax (**VAT**) and customs duties, can be a significant and unnecessary drain on the resources and capacities of relief providers. Conversely, tax exemptions can also be used to benefit households, businesses and other entities which have been affected by disaster as part of relief and recovery or to incentivise risk reduction.
- Liability issues, which can act as a deterrent for the willingness of individuals and organizations to engage in life-saving humanitarian activities. Exposure to civil or criminal liability may arise from accidental damage, injury or death caused by response activities, or from failing to undertake a particular course of action. This protection from liability is crucial provided it is balanced with the need for persons affected to have proper legal recourse for losses suffered.
- Use of Unmanned Aerial Vehicles (**UAVs**) or drones, which are increasingly used as part of DPR as a rapid and cost-effective way of undertaking rapid damage assessments, identifying locations of displaced populations and sometimes considered for the transport of goods. Their use gives rise to a range of legal and regulatory issues including their registration, flight operation certificates, use of airspace and other safety and regulatory issues associated with the way in which UAVs are used, including the ethics of drone use in humanitarian contexts.
- Data protection and privacy, which is a key issue for the disaster management sector, raises legal issues about the process of data gathering, sharing and protection. The use of personal data is crucial for enabling effective preparedness and response but must be based on necessity and comply with national privacy regulations. Ideally, specific rules for disaster contexts should be developed.

To answer this question, consider the following:

A. Guiding sub-questions

i. Volunteers

- a. Does the law provide clarity around the legal status, facilities, insurance, exemptions and training standards applicable to volunteers in disaster contexts?





ii. Professional licensing

- a. Does the law enable automatic recognition or fast-track procedures for the recognition of professional qualifications across sub-national boundaries?
- b. Does the law provide exemptions from VAT and other taxes associated with the conduct of both DPR activities of domestic organizations, particularly with regard to goods, equipment, property and services?

iii. Tax exemptions

- a. Does the law provide tax exemptions to incentivise disaster preparedness and mitigate disaster losses for individuals and private organizations?

iv. Liability

- a. Does the law provide reasonable protection for individuals and organizations undertaking bona fide work in good faith, including limits on liability or placing a cap on damages or compensation, ensuring this is balanced with the ability for individuals and communities to seek reasonable recourse from loss and damage where this is justified?

v. Licensing of UAVs

- a. Does the law provide a clear legal framework for the humanitarian use of UAVs and/or refer to the *Humanitarian UAV Code of Conduct and Guidelines* and the International Civil Aviation Organization *Circular on Unmanned Aircraft Systems (UAS)*?

vi. Data protection and privacy

- a. Does the law provide clarity about the use and protection of personal data in disaster situations, including permission for specific organizations, including National Societies, to use and store such data as part of their essential operations?

B. Check laws and policies related to:

- Volunteering, employment, taxation, occupational health and safety, insurance, immigration, social welfare, charitable organizations
- Professional licensing requirements across different sectors including medical/health, engineering, teaching, legal services
- Taxation
- Civil/public liability, criminal codes
- Aerial, vehicle, transport
- Data protection, privacy

C. Further guidance

Synthesis Report on Law and Disaster Preparedness and Response, Chapter 6, Section H.

7. Do your country's laws establish a comprehensive framework for addressing disaster displacement and planned relocation?

Disasters and disaster risks are major catalysts for displacement, especially in a changing climate characterised by increasingly severe meteorological hazards.

Disaster displacement occurs when people are forced to leave their homes or places of habitual residence as a result of disaster, or in order to avoid imminent disaster. In 2018 approximately 17.2 million people were newly internally displaced by disaster as compared to 10.8 million people internally displaced by conflict.²⁴ Most people displaced by disasters are internally displaced, however some people do cross national borders in order to reach safety. At both the domestic and international level, there are significant legal gaps in the protection of disaster-displaced persons, particularly children and women. In order to address these gaps, decision-makers should develop a comprehensive legal and policy framework to reduce the risk of disaster displacement and to protect disaster-displaced persons.

In some situations, disasters or disaster risks are so severe that they necessitate the planned relocation of persons, or groups of persons, away from their homes or places of temporary residence to a new location. The experience of communities with planned relocations is predominantly negative due to a lack of community participation, the selection of inappropriate sites and under-budgeting of relocation costs. In order to address the unique and complex challenges posed by planned relocations, decision-makers should develop a comprehensive legal and policy framework for undertaking successful and dignified planned relocations in a manner consistent with international law.

To answer this question, consider the following:

A. Guiding sub-questions

i. Disaster displacement

- a. Does the law and/or policy address the reduction of the risk of disaster displacement?
- b. Do the laws and/or policies relating to internal displacement include persons displaced by disasters and the effects of climate change?
- c. Does law and/or policy mandate contingency planning for internal displacement caused by disasters and the effects of climate change?
- d. Does the law include the identification, entry, stay and entitlements of cross-border disaster-displaced persons in a way which is consistent with human rights law?
- e. Does the law and/or policy provide for cross-border disaster-displaced persons, including vulnerable displaced groups, to receive protection and assistance to meet their basic needs during their stay?
- f. Does the law establish criteria for determining when and under which circumstances cross-border disaster-displaced persons may be returned?
 - If yes, are those criteria consistent with international human rights law?
 - If no, is there a law or policy regulating durable solutions for cross-border disaster-displaced persons?

ii. Planned relocation

- a. Does the law and/or policy establish a comprehensive framework for undertaking planned relocations?





- b. If so, does that framework include provisions:
- establishing that planned relocation should be used as a measure of last resort and be conducted in accordance with relevant human rights;
 - entitling potentially relocated persons to legally challenge a planned relocation;
 - mandating a participatory approach to planned relocation involving all affected persons, including relocated persons and host populations;
 - requiring that planned relocations improve, or maintain, the livelihood opportunities and living standards of relocated persons and host populations; and
 - requiring that planned relocation mitigates adverse impacts on persons who live in close proximity to the areas from which persons are relocated?

B. Check laws and policies related to:

- Disaster management / emergency management / civil protection / humanitarian assistance / climate change
- Immigration / refugees and asylum seekers
- Internal displacement / relocation
- Land use planning / informal settlements / urban settlements
- Human rights

C. Further guidance

Synthesis Report on Law and Disaster Preparedness and Response, Chapter 7, Section D.

8. Do your country's laws contain measures to address common problems that arise in the context of shelter assistance in relation to housing, land and property rights?

Disasters have a propensity to both create and aggravate problems relating to housing, land and property rights (HLP).

One problem is that humanitarian and governmental actors sometimes use 'secure tenure' as an eligibility criterion for emergency shelter assistance. This focus on secure tenure is problematic because it discriminates between potential beneficiaries on the basis of their pre-disaster tenure status, rather than on the basis of need. To the greatest extent possible, law and/or policy should not require disaster-affected persons to provide proof of secure tenure in order to be eligible for emergency shelter assistance.

In circumstances where an assessment of tenure security is deemed necessary, the method for doing so should reflect the local HLP system. In circumstances where formal land title is not the predominant or only form of secure tenure, or in circumstances where land title documents and property boundaries have been destroyed, law and/or policy should permit tenure security to be assessed using community verification, community-based land mapping and indicia other than formal land tenure documents (e.g. payment of rent or land tax).

Humanitarian and governmental actors also often require potential beneficiaries to provide personal identity documents or land title documents as a prerequisite to receiving emergency shelter assistance. This can be impractical in a disaster context where many people may have had their documents damaged, lost or destroyed. In order to address this problem, the law should establish procedures to expedite the replacement of disaster-affected persons' land title and personal identification documents.

Another HLP-related problem that often arises in disaster contexts is a lack of land for emergency and transitional shelter. Decision-makers should consider introducing powers that permit government to rapidly and temporarily requisition land and buildings for this purpose if essential, following a disaster. Importantly, however, any such power should be subject to the application of relevant constitutional and human rights protections and include strict controls designed to preclude arbitrary and unjust interference with private property rights.

A further HLP-related problem that may arise during disasters is the use of schools as evacuation centres or post-disaster shelters. This not only disrupts educational continuity but may also have negative impacts on children's physical and psychosocial well-being. Decision-makers should, therefore, consider requiring that schools may only be used for emergency shelter as a last resort for the shortest time possible where there is no feasible alternative.

To answer this question, consider the following:

A. Guiding sub-questions

i. Equitable access to emergency shelter assistance

- a. Does the law and/or policy governing emergency shelter assistance discriminate on the basis of tenure status?
- b. Does the law expressly allow tenure to be demonstrated or verified using community verification, community-based land mapping and indicia other than land title documents (e.g. payment of rent and land taxes)?





- c. Does the law establish procedures to regularise undocumented or informal land tenure, particularly as regards women? If so, are these procedures widely accessible? Are they simple and fast?

ii. Maintaining access to important documents

- a. Does the law and/or policy mandate educating the general public about practical measures for maintaining access to important documents during disasters?
- b. Does the law and/or policy establish procedures to expedite the replacement of personal identification and land title documents that are lost, damaged or destroyed during disaster?
- c. Does the law and/or policy mandate that replacement documents are provided to disaster-affected persons free of charge?
- d. Does the law establish procedures for recognizing, at least on a temporary basis, land ownership and use rights that are identified and documented through community verification and community-based land mapping processes?

iii. Land and buildings for emergency and transitional shelter

- a. Does the law empower government to temporarily requisition land and buildings for emergency and transitional shelter during disasters?
- b. If so, is the government's power to requisition land and buildings subject to strict controls that minimize interference with private property rights?

iv. Use of schools as emergency shelters

- a. Does the law provide that schools may only be used for emergency shelter as a last resort for the shortest time possible where there is no feasible alternative?
- b. Does the law identify alternative sites to be used for emergency shelter?
- c. Does the law contain practical measures to promote educational continuity in situations where it is not possible to avoid using schools for emergency shelter?

B. Check laws and policies related to:

- Disaster management / emergency management / civil protection / humanitarian assistance
- Housing / land / property / land use planning / spatial planning
- Constitutional laws / human rights

C. Further guidance

Synthesis Report on Law and Disaster Preparedness and Response, Chapter 8, Section E.

9. Do your country's laws contain measures to ensure that vulnerable groups are included in, and protected by, disaster preparedness and response activities?

The following groups may be disproportionately impacted by disasters: persons with disabilities, women and girls, older persons, persons living in informal and unmapped settlements, indigenous peoples, homeless persons, migrants, displaced persons, refugees and stateless persons. For brevity, these groups are collectively referred to as 'vulnerable groups', notwithstanding the fact that, depending on the circumstances, it may be more accurate to describe them as having 'specific needs', being 'at risk' or being 'vulnerable'.

Law and/or policy should contain measures to ensure that vulnerable groups are fully included in, and protected by, DPR activities. These measures include (but are not limited to): prohibiting discrimination; mandating governmental actors to identify, plan, budget, monitor and evaluate the specific needs of vulnerable groups; collecting and disaggregating data by sex, age and disability as well as by context (rural, urban, peri-urban); mandating participation of vulnerable groups in all aspects of DPR; and mandating contingency planning for sexual and gender-based violence (**SGBV**), child protection, and the care of unaccompanied and separated children (**UASC**). Additionally, in the understanding that restoration of social links soon after a disaster is vital for enhancing resilience in communities, legislation should include provision for family tracing and reunification processes.

Mental health and psychosocial support (**MHPSS**) is an important need of all disaster-affected, not only for vulnerable groups. This is because disasters cause widespread emotional suffering, both in the form of mental health problems (e.g. anxiety, depression) and non-pathological distress (i.e. grief, fear, anger). The law should mandate contingency planning for MHPSS during disasters, including psychological first aid, basic clinical mental healthcare and uninterrupted supply of essential psychotropics.

To answer this question, consider the following:

A. Guiding sub-questions

i. General measures to include and protect vulnerable groups

Non-discrimination

- a. Does the law guard against all forms of discrimination in all aspects of DPR?
- b. Does the law contain a recognition of the rights and specific needs of vulnerable groups during disasters?
- c. Does the law create a general obligation for disaster responders to protect and include vulnerable groups in DPR activities?

Needs of vulnerable groups

- a. Does the law and/or policy mandate that risk, needs and vulnerability assessments as well as contingency plans identify vulnerable groups and their specific needs?
- b. Does the law and/or policy mandate that planning processes outline key actions, resources and responsibilities for meeting the needs of vulnerable groups?
- c. Does the law and/or policy mandate that assessment and planning processes include the participation of vulnerable groups?
- d. Does the law and/or policy ensure restoring family links is an element of disaster response, including by making use of the services of the National Society, in its role as auxiliary to the public authorities in the humanitarian field?





Collection and protection of disaggregated data

- a. Does the law and/or policy mandate collection and protection of sex-, age- and disability-disaggregated data in risk, vulnerability and needs assessments?
- b. Does the law and/or policy mandate collection and protection of sex-, age- and disability-disaggregated data in relation to participation in DPR, disaster displacement, disaster impacts and the incidence of SGBV?
- c. Does the law and/or policy mandate the collection and protection of risk, vulnerability and needs assessment data disaggregated by context (rural, urban, peri-urban)?

Training and awareness-raising

- a. Does the law and/or policy require all government emergency responders (including sectoral agencies, the police and the military) to participate in training about the specific needs of vulnerable groups?

Participation of vulnerable groups

- a. Does the law mandate multi-stakeholder institutions to include representatives of vulnerable groups?
- b. Does the law mandate DPR actors to directly consult with vulnerable groups and promote their meaningful participation in relation to the design, planning, implementation, monitoring and evaluation of all aspects of DPR?
- c. Does the law and/or policy create quotas or targets for the recruitment of members of vulnerable groups as civil servants in DPR institutions?
- d. Does the law and/or policy mandate monitoring, evaluation and public reporting on the participation and inclusion of vulnerable groups in DPR?

SGBV Protection

- a. Does the law and/or policy mandate contingency planning for SGBV during disasters?
- b. Does the law and/or policy require post-disaster shelter to be designed and managed in a manner that prevents and mitigates SGBV?
- c. Does the law and/or policy require all government emergency responders to participate in training about SGBV?

ii. Specific measures to include and protect vulnerable groups

Women, girls, adolescents and young adults

- a. Do disaster contingency plans identify key actions, resources and responsibilities in relation to sexual and reproductive health and menstrual hygiene management?
- b. Does the law and/or policy promote gender equality and encourage women and girls in leadership and decision-making roles?



Children

- a. Does the law and/or policy mandate contingency planning for child protection during disasters?
- b. Does the law and/or policy mandate contingency planning for the care of UASC during disasters, including the following key actions:
 - mitigating the risk of parent-caregiver separations;
 - locating, identifying and documenting UASC;
 - providing and monitoring alternative care arrangements for UASC;
 - conducting family tracing and verification; and
 - facilitating family reunification and integration?

Older persons and persons with disabilities

- a. Does the law mandate that all DPR activities are implemented in a manner that is accessible to people with physical, sensory, intellectual or psychosocial impairments?
- b. Do disaster contingency plans identify key actions, resources and responsibilities for providing disaster assistance in a manner that is adapted and appropriate for older persons and persons with disabilities?

Sexual and gender minorities

- a. Does the law and/or policy require information about sexual and gender identity to be collected, stored and disposed of securely?
- b. Do disaster contingency plans identify key actions, resources and responsibilities for ensuring that SGM have safe access to post-disaster shelter and water, sanitation and hygiene facilities?

Migrants, displaced persons and refugees; racial and ethnic minorities

- a. Does the law and/or policy require DPR activities to be implemented in a variety of languages, formats (e.g. print, audio, infographics) and media (i.e. formal, informal)?
- b. Does the law and/or policy demand participation of migrants, displaced persons and refugees in the elaboration of plans and strategies preventing, preparing for and recovering after disasters?

Indigenous groups

- a. Does the law prohibit indigenous groups from being removed from their land, except with their free, prior and informed consent?

iii. Mental health and psychosocial support (MHPSS)

- a. Does the law and/or policy mandate contingency planning for MHPSS during disasters?
- b. Do contingency plans provide for the following key actions:
 - conducting assessments of mental health and psychosocial issues;
 - training all staff and volunteers in MHPSS;
 - disseminating information about coping methods to the general population;
 - providing psychological first aid to survivors of an extreme stressor;
 - providing basic clinical mental healthcare for survivors presenting with pathological distress; and
 - providing an uninterrupted supply of essential psychotropics?



B. Check laws and policies related to:

- Disaster management / emergency management / civil protection / humanitarian assistance
- Health / medicines
- Child protection / child labour / child marriage / child abduction / child trafficking / child abuse
- Adoption / foster care / orphans
- Education
- Immigration / refugees and asylum seekers
- Prevention of sexual violence / domestic violence / violence against women
- Privacy / data protection
- Human rights / anti-harassment / anti-discrimination

C. Further guidance

Synthesis Report on Law and Disaster Preparedness and Response, Chapter 9, Section D.

10. Do your country's laws contain measures to promote quality and accountability and to prevent fraud and corruption, in disaster preparedness and response?

The urgency and chaos created by disasters can pose serious challenges to quality and accountability in DPR, requiring the implementation of minimum quality standards as well as robust assessment, monitoring evaluation systems. Disasters can also create opportunities for unscrupulous individuals to commit fraud or corruption, requiring adequate but not unnecessarily restrictive controls.

All actors involved in disaster response should strive and, importantly, plan for attaining minimum quality standards in the provision of assistance during disasters. Domestic decision-makers should consider developing minimum standards for the provision of food, water, sanitation, hygiene, healthcare and shelter during disasters. Such standards should reflect the *Sphere Minimum Standards*. Indeed, decision-makers may wish to use the *Sphere Minimum Standards* as a starting point and adapt them to be culturally appropriate and realistic.

Rigorous and timely assessments of post-disaster needs, losses and damages are vital to ensuring the quality of disaster response and recovery. This is because accurate information about the nature, magnitude and geographic location of needs, losses and damages is necessary to plan and execute an effective response and recovery operation. Law and/or policy should mandate and assign institutional responsibility for: rapid needs assessments to be conducted immediately after disaster; assessments of damages and losses; and on-going needs assessments to be conducted throughout the response phase. Assessments should take into account gender and diversity, ensure consistency and coherence between sectors and also be used to monitor response for the purposes of adjusting plans as needed.

Monitoring and evaluation of DPR activities is critical to accountability and learning. It generates the information and analysis required to: (i) hold actors accountable to stakeholders for the impacts and results of their activities; (ii) improve future policy and practice by drawing on lessons from past experience; and (iii) adapt DPR as needed. Law and/or policy should facilitate both learning-oriented and accountability-oriented evaluations as well as provide for public grievance mechanisms. It should require DPR actors to regularly commission and publish external evaluations of their activities and programmes, while also permitting DPR actors to undertake internal evaluations that do not need to be made publicly available.

During disaster response there is a tension between acting urgently to save lives and implementing anti-corruption and anti-fraud controls. It is, however, possible to strike a balance between urgency and prudence by fostering institutional resilience to corruption and developing appropriate controls prior to disaster occurring. Law and/or policy should mandate DPR actors to implement function-specific (e.g. finance, procurement) controls, and to implement measures to minimize the need for rapid hiring and procurement during disasters.

To answer this question, consider the following:

A. Guiding sub-questions

i. Quality

- a. Does the law and/or policy establish minimum standards for the provision of food, water, sanitation, hygiene, health care, shelter and other critical services and assistance during disaster response?
- b. If yes, does and/or policy the law require DPR actors to use such minimum standards when developing and reviewing disaster contingency plans?





- c. If yes, does the law and/or policy require DPR actors to use such minimum standards when monitoring and evaluating DPR activities?
- d. Does the law and/or policy establish a process for managing mass casualties during a disaster?

ii. Post-disaster assessments

- a. Does the law mandate and assign institutional responsibilities for:
 - rapid and ongoing needs assessments, which are also used to inform the ongoing response?
 - assessments of losses and damages?
- b. Does the law and/or policy mandate assessments to take into account vulnerability, gender and diversity?
- c. Does the law and/or policy establish a coordinated, harmonized approach to post-disaster assessments across sectors?

iii. Monitoring and accountability

- a. Does the law and/or policy require DPR actors to conduct monitoring and evaluation at the activity and program levels, taking into consideration vulnerable groups opportunities to equally benefit from services? Are there gender specific indicators included in M&E frameworks?
- b. Does the law and/or policy require the establishment of public grievance mechanisms?
- c. Does the law and/or policy require all DPR actors to regularly commission and publish external evaluations of their activities and programs?
- d. If yes, does the law also permit DPR actors to undertake internal evaluations, which do not need to be made publicly available, for the purpose of institutional learning and improvement?

iv. Prevention of fraud and corruption

- a. Does the law mandate DPR actors to adopt measures to promote institutional resilience to corruption and fraud, such as codes of conduct, whistleblowing mechanisms and training?
- b. Does the law mandate DPR actors to implement function-specific controls to prevent fraud and corruption in finance, human resources, procurement, asset management and transport?
- c. Does the law and/or policy mandate DPR actors to implement measures designed to minimize the need for rapid hiring and procurement for DPR activities?



B. Check laws and policies related to:

- Disaster management / emergency management / civil protection / humanitarian assistance
- Fraud / corruption
- Monitoring / evaluation

C. Further guidance

Synthesis Report on Law and Disaster Preparedness and Response, Chapter 10, Section F.

Further information and support

Further information, tools, reports and updates on disaster law can be found at www.ifrc.org/dl

In case of any questions or requests for technical disaster law assistance, the IFRC Disaster Law Programme team can be contacted at disaster.law@ifrc.org

Endnotes

- 1 Child Protection Working Group, 'Minimum Standards for Child Protection in Humanitarian Action' (2012) <<http://cpwg.net/?get=006914|2014/03/CP-Minimum-Standards-English-2013.pdf>> 221; *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) art 1.
- 2 Child Protection Working Group, Minimum Standards for Child Protection in Humanitarian Action (cited above), 13.
- 3 Ibid.
- 4 United Nations Office for Disaster Risk Reduction, 'Terminology' (2 February 2017) <<https://www.unisdr.org/we/inform/terminology>>.
- 5 Ibid.
- 6 The abbreviated terms 'DPR actors' and 'DPR activities' are used throughout this Report, with the acronym 'DPR' standing for 'disaster preparedness and response'. The acronym disaster preparedness and response is used for brevity only; this Report does not intend to introduce a new acronym or concept into the disaster management lexicon. Instead, this Report adopts the UNISDR's definitions of 'preparedness' and 'response'.
- 7 Ibid.
- 8 United Nations Office for Disaster Risk Reduction, 'Terminology' (2 February 2017) <<https://www.unisdr.org/we/inform/terminology>>.
- 9 International Federation of Red Cross and Red Crescent Societies, *Forecast-based action by the DREF* <<https://media.ifrc.org/ifrc/fba/>>.
- 10 International Federation of Red Cross and Red Crescent Societies, *Public awareness and public education for disaster risk reduction* (2013), pp 8-9.
- 11 International Federation of Red Cross and Red Crescent Societies, *Policy on Migration* (November 2009) <<https://www.ifrc.org/Global/Governance/Policies/migration-policy-en.pdf>> 2.
- 12 Ibid.
- 13 Convention on the Rights of Persons with Disabilities (2008).
- 14 Sanjula Weerasinghe and others, 'Planned Relocations in the Context of Climate Change' (UNHCR, Brookings and Georgetown University, Bellagio Consultation, 18–22 May 2015) (Bellagio Consultation) <<http://www.brookings.edu/about/projects/idp/planned-relocations>>
- 15 Inter-Agency Standing Committee, 'Inter-Agency Standing Committee Policy on Protection in Humanitarian Action' (2016) <https://interagencystandingcommittee.org/system/files/iasc_policy_on_protection_in_humanitarian_action_0.pdf>.
- 16 Mary Picard, 'Global Study: Effective Law and Policy on Gender Equality and Protection From Sexual and Gender-Based Violence in Disasters' (International Federation of Red Cross and Red Crescent Societies, December 2017) <<https://redcross.eu/positions-publications/effective-law-and-policy-on-gender-equality-and-protection-from-sgbv-in-disasters-new-research-from-ifrc>> 49–51 (the *SGBV Global Study*) 7.
- 17 See 32nd International Conference of the Red Cross and Red Crescent. 2015. Sexual and Gender-Based Violence: Joint Action on Prevention and Response (Resolution 3, Geneva, Switzerland, 8-10 December 2015); ICRC and IFRC. 2015. Sexual and Gender-Based Violence: Joint Action on Prevention and Response, Background Report. (Geneva, October 2015). P.1, n.1; Picard, *SGBV Global Study* (cited above), 7.
- 18 Joint Action on Prevention and Response (Resolution 3, Geneva, Switzerland, 8-10 December 2015); ICRC and IFRC. 2015. Sexual and Gender-Based Violence: Joint Action on Prevention and Response, Background Report. (Geneva, October 2015) 2–3.
- 19 Ibid 3.
- 20 This Report adopts the definition of 'sexual and gender minorities' used by Edge Effect, an organization that assists humanitarian and development organizations to work in genuine partnerships with sexual and gender minorities. See Edge Effect, 'About Edge Effect' (2018) <<https://www.edgeeffect.org/about-edge-effect/>>.
- 21 International Federation of Red Cross and Red Crescent Societies, 'Protection and Assistance for Children on the Move' (Position Paper, November 2017) <<http://media.ifrc.org/ifrc/wp-content/uploads/sites/5/2017/11/IFRC-Position-Paper-Children-on-the-Move-LR.pdf>> 4.
- 22 CRED, *Disasters 2018: Year in Review*, www.cred.be
- 23 The 20 sample countries are: Australia, Brazil, Colombia, Ecuador, Finland, Italy, Jordan, Kazakhstan, Kenya, Korea, Kyrgyzstan, Madagascar, Mexico, Palestine, Paraguay, Philippines, South Africa, Senegal, the United Kingdom and Viet Nam.
- 24 Internal Displacement Monitoring Centre, *Global Report on Internal Displacement 2019* www.internal-displacement.org/global-report/grid2019/

Notes

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.

