

Background Report
Law and Regulation for the Reduction of Risk from Natural Disasters
in Hong Kong
A National Law Desk Survey
September 2012

Acknowledgements

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Law and Regulation for the Reduction of Risk from Natural Disasters in Hong Kong: A Desk Survey

Executive Summary

Hong Kong (“HK”) is located on China’s south coast, on the opposite side of the Pearl River Delta. It is surrounded by the South China Sea on the east, south and west, and borders of Shenzhen to the north over the Shenzhen River. The territory of HK consists of HK Island, the Kowloon Peninsula and the New Territories, and over 200 offshore islands.

Natural disasters that occur in HK are generally the result of severe weather conditions. This includes storm surges, thunderstorms and tropical cyclones. Although tsunami is a geophysical hazard that threatens many coastal communities, there is only a small chance for it to affect HK significantly. Further, as HK is a resourceful city, it is rarely threatened by drought, famine and other food security risk. According to the data related to human and economic losses from disasters that have occurred between 1980 and 2010, storm has affected the greatest number of HK citizens (15,000), followed by wildfire (9000) and flood (1994)¹.

There is no standalone legal document on Disaster Risk Reduction (“DRR”) in HK. Instead, law and regulation on the issue is spread out over a number of legal instruments and subject to constant change. One useful contingency plan for natural disaster is the Contingency Plan for Natural Disasters (“CPND”). It was published by the Security Bureau in 2007. The plan summarizes the government’s alerting systems and organizational framework for responding to common disasters in HK. It also sets out the functions and responsibilities of government departments and other bodies in the event of natural disasters including those resulting from severe weather conditions. In addition to this contingency plan, each governmental department has its own detailed operational instructions. For instance, the Hong Kong Observatory (“HKO”), as one of the departments of the HK Special Administrative Region (“HKSAR”)

¹ See <http://www.preventionweb.net/english/countries/statistics/?cid=219>

government, monitors weather conditions closely and initiates issue of all warnings of severe weather conditions, indicating where and when the event will occur, how long it will last and what consequences are expected.

We understand that the scope of DRR is much broader and deeper than conventional emergency management, and that legal framework such as land laws, urban planning, telecommunication laws and other legal rights are also crucial in the management of natural disasters. However, the concept of DRR cannot be easily or directly found in these laws. This reflects clearly that no comprehensive DRR program has been integrated into the laws of HK. Indeed, DRR has never been a priority for the HKSAR government. Further, community involvement in DRR has not been significant. There are schemes for training the communities and organizing forces to respond to natural disasters generally (such as public lectures and campaigns), but they have limited impact in enhancing the region's disaster preparedness.

It should be noted further that although HKSAR is a local administrative region of the People's Republic of China ("PRC"), it enjoys a high degree of autonomy. Since the HKSAR has its own legal system and enacts its own laws and regulations, it is regarded as an independent region with no hierarchy of laws between the central government and the local government. The HKSAR therefore has not adopted any disaster management law of the PRC region.

It is hoped that the outcome and deliverables of this this National Law Desk Survey Report ("Report") will serve as a useful guide to later researchers on the disaster management in HK.

Lists of abbreviations

ADRR	Aviation-weather Disaster Risk Reduction
AFCD	Agricultural, Fisheries and Conservation Department
BA	Building Authority
BD	Building Department
BO	Building Ordinance (Cap. 123)
CESC	Chief Executive's Security Committee
CPG	Central People's Government
CPND	Contingency Plan for Natural Disasters
CSO	Census and Statistics Ordinance (Cap. 316)
DSD	Drainage Services Department
EMSC	Emergency Monitoring and Support Centre
EIAs	Environmental Impact Assessments
FSD	Fire Services Department

FSO	Fire Services Ordinance (Cap. 95)
FCO	Forests and Countryside Ordinance (Cap. 96)
GEO	Geotechnical Engineering Office
HAD	Home Affairs Department
HKSAR	Hong Kong Special Administrative Region
HKO	Hong Kong Observatory
HKPSG	Hong Kong Planning Standards and Guidelines
LC	Legislative Council of the HKSAR
LR	Land Registry
LRO	Land Registration Ordinance (Cap. 128)
MBIS	Mandatory Building Inspection Scheme
MWIS	Mandatory Window Inspection Scheme
NTEH	New Territories Exempted Houses
NTO	New Territories Ordinance (Cap.97)

PRC	People's Republic of China
SMO	Survey and Mapping Office
SSS	Slope Safety System
TPO	Town Planning Ordinance (Cap. 131)
UBWs	Unauthorized Building Works
WSD	Water Supplies Department

1) Introduction

We understand that DRR is a systematic approach to identifying, assessing and reducing the risks of disaster. It aims to minimize socio-economic vulnerabilities to disaster as well as dealing with the environmental and other hazards that trigger them. The purpose of the Report is to create a country profile of the law and regulation for DRR in HK. Section 2 below summarizes the few main natural hazards in HK while Section 3 explains the special relationship between HK and the mainland China under the “One Country Two Systems” and the law making process in HK. A detailed table of DRR related issues and regulations based on the research questions can be found in Section 4. Finally, a bibliographic list can be found in Section 5 with links to various department websites and copies of relevant regulations cited.

This Report is a ‘desk survey’, in which the researcher has answered the set of questions in Section 4 only using online and library sources as reference. It consists of an analysis of the text of the relevant laws and regulations in HK against a given set of questions and does not include a study of their implementation or application in practice.

2) Summary of main natural hazards and risks in Hong Kong

Tropical Cyclones

Each year, about 30 tropical cyclones are formed over the northwest Pacific and the South China Sea. Of these, about one sixth come close to the south China coast and pose a threat to HK. Tropical cyclones normally occur during the months of May to November, and are particularly prevalent during September.

Tropical cyclone advisory bulletins and warnings are issued by the HKO whenever a tropical cyclone centered within 800 km of HK poses a threat to the territory. Information on other hazards associated with the tropical cyclone will be included in warning bulletins. When necessary, separate warnings of heavy rain, flooding and landslips will be issued.

Rainstorm

The rainy season in HK is between April and September. In particular, rain can be heavy and persistent during May and June. Severe rain can cause serious traffic disruptions and major floods and landslips resulting in casualties. The Amber-Red-Black color coded warning system is operated by the HKO to give warnings of heavy rainstorms which may bring about major disruptions. Further, the system is designed to ensure a state of readiness within the essential services to deal with emergencies. It is independent of other severe weather warnings such as tropical cyclone warning, which will be issued separately if necessary.

Flooding

When the Amber Rainstorm Warning Signal is issued, it indicates that there may be flooding in some low-lying and poorly drained areas. The Red and Black Rainstorm Warning Signals indicate more serious flooding which could cause major disruption. A special announcement on flooding in the northern New Territories will be issued by the HKO whenever heavy rain affects the area and flooding is expected to occur or is occurring in the low-lying plains of northern New Territories. Also, the Drainage Services Department (“**DSD**”) has installed 21 River Stage Gauges covering flood prone areas in northern and north-western New Territories. When any river stage exceeds its alert level, DSD will alert all relevant government departments.

Fire

Over 10,000 fire incidents occur in HK each year on average. Most of the fires are caused by carelessness or negligence. Under the influence of dry continental air brought by the northeast monsoon, humidity level is relatively low during the autumn and winter months. The environment becomes dry, leading to a higher chance of fire outbreaks. The HKO runs the Fire Danger Warning System which aims at alerting the public to conditions in which fires may start and spread easily.

3) Governmental & Law-making structure

The relationship between the HKSAR and the mainland China

The Sino-British Joint Declaration was signed between the Chinese and British Governments in 1984 and sets out the basic policies of the PRC regarding HK. Under the principle of 'One Country, Two Systems', the PRC's socialist system and policies shall not be practiced in the HKSAR and HK's previous capitalist system of life style shall remain unchanged for 50 years². The Joint Declaration states that these basic policies shall be stipulated in the Basic Law, the constitutional document for the HKSAR.

Therefore, although HKSAR is a local administrative region of the PRC, it enjoys a high degree of autonomy – it enjoys executive, legislative and independent judicial power, including that of final adjudication³. Also, the laws previously in force in HK, including the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained under the Basic Law⁴. Meanwhile, it also states that PRC national laws will not be applied in the HKSAR except to those related to defence and foreign affairs⁵.

Law making structure in HK

² See <http://www.basiclaw.gov.hk/en/facts/index.html>

³ Basic Law Article 2

⁴ Basic Law Article 8

⁵ Basic Law Article 18

The Legislative Council (“LC”) is the law-making body of the HKSAR. The HKSAR government is primarily responsible for proposing new legislation or amendments to existing legislation in the form of Bills which will be considered by the LC for enactment. Members of the LC may also introduce Bills subject to certain conditions.

A Bill will be first published in the Gazette before it is introduced into the LC. It has to be given 3 readings for its passage by the LC. The first reading involves a formality check, while in the second reading, members of the LC will debate and present their views on the Bills. A vote will be taken by the members to decide whether the Bill can proceed further or not. If it is passed, the Bill is given second reading and the LC members will go through clauses of the Bill and make amendments when necessary. Finally, LC members will consider the finalized version of the Bill and decide whether to support its passage by giving it the third reading. When a Bill has been given 3 readings, it becomes an Ordinance enacted by the LC. It will take effect after it has been signed by the Chief Executive of HKSAR and published in the Gazette.

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1. Background information

Using secondary and legal sources, identify and describe briefly in the table below the governmental structure of the subject country to assist readers understand how the different levels of law and regulation relate to each other.

1. BACKGROUND INFORMATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
Identify laws that indicate the structure of government, including the number of levels of government and the extent of decentralisation of governmental functions, such as: constitutional framework for different levels of government (e.g. national/provincial/local), and specific laws on decentralisation.			
1. How many levels of government are there, and what are they called? How many administrative areas are there (e.g. provinces, local government areas)?	The Basic Law.	Art. 2, Art. 11	<p>The HKSAR is a local administrative region of the PRC and comes directly under the Central People’s Government (“CPG”).</p> <p>The National People’s Congress authorizes the HKSAR a high degree of autonomy, and the HKSAR government has wide discretion in exercising its executive, legislative and independent judicial powers.</p>
2. Is there a separate law on decentralisation of government functions? How does it decentralise? For example, does it establish new institutions or delegate powers to provincial/local government?	The Basic Law.	Art. 2, Art. 8, Art. 17, Art. 19	<p>The HKSAR still adopts the common law system previously in force prior to the handover which is totally different from the civil law system adopted in the PRC.</p> <p>The HKSAR is vested with independent judicial power, including that of final adjudication. The courts in the HKSAR have jurisdiction over all cases in the region except acts of the state such as defence and foreign affairs.</p> <p>Moreover, the legislature of the HKSAR enacts its own laws. Although laws of the HKSAR must be reported to the Standing</p>

1. BACKGROUND INFORMATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>Committee of the National People’s Congress, such reporting is for record-keeping purpose and does not affect the entry into force of such laws.</p> <p>Therefore, the laws and regulations discussed in this Report, including laws referred at the ‘national level’, relate only to the laws currently adopted in the HKSAR but not the laws in the PRC.</p>
3. Looking at the Constitution and/or decentralisation law, is there any mention of allocation of responsibility at the different levels for reducing risks related to natural disasters?	The Basic Law.		There are no specific provisions in the Basic Law on the management of natural disasters. However, since the HKSAR enjoys a high degree of autonomy in managing administrative affairs of the region, the HKSAR government has the power and responsibility for reducing risks related to natural disasters and has formulated its own policies to cope with the consequences of natural disasters.
4. Is this country a member of any regional organisation(s) that make(s) regulations or agreements or issues guidelines for member states that could impact on disaster management or risk reduction? Is so, please name the organisation(s).			<p>While the PRC is a member of the United Nation, the HKSAR, as a dependency, is currently not a member of the United Nation.</p> <p>However, the HKSAR recognises the importance of disaster risk reduction. For instance, the HKSAR has launched the ‘Safer Living - Reducing Natural Disasters’ in 2005-2006 in order to echo the strategy of the ‘International Strategy for Disaster Reduction of the United Nations.</p>

2. Institutional frameworks, resourcing and community participation in DRR:

The aim is to identify laws that establish the governmental institutions and structures relevant to DRR, and which set out their mandates, and resource allocation mechanisms, including the extent of involvement of communities and civil society. These may include specialist disaster management institutions, bodies established to implement the Hyogo Framework for Action, or authorities charged with planning for adaptation to climate change, as well as government bodies responsible for planning and oversight, public administration at all levels, land use planning, building controls, environmental management, and telecommunications. However, to avoid repetition, the sectoral institutions are not included in this question but are part of the data requested in the section on reducing underlying risks.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
Part One. Disaster Management Law & Institutions			
The key question in relation to DM laws is whether they exist and, if so, the extent to which they incorporate longer term disaster risk reduction, as well as prevention. Issues for investigation include: progress in the development of comprehensive DM legislation (at national level, provincial and local levels), what, if any, elements of existing DM laws and regulations relate to risk reduction and prevention for natural disasters; and whether there is a specified DM role for communities, civil society and the National Red Cross or Red Crescent Society (especially in recognition of its auxiliary status in humanitarian response).			
A. Disaster Management Institutions			
5. Is there a national disaster management (DM) or civil protection law or regulation? - or a group of regulations? Describe.	N/A.		Since the HKSAR adopts its own legal system which is totally different from the laws in the PRC and enacts its own laws and regulations, it is regarded as an independent region with no hierarchy of laws between the central government and the local government. The HKSAR government has not adopted any disaster management law of its own nor is it subject to any of the disaster management laws of the PRC.
6. Is there also a national disaster management policy? Is this established by a law? Provide details.	N/A.		There is no official disaster management policy applicable to the HKSAR. Nonetheless, various departments in the HKSAR government

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			together maintain a relatively comprehensive disaster management or response policy in relation to tropical cyclones, landslides, floods and hill fires, which are the most common natural disasters in HK. The policy is not established by law but is formulated by each department through the exercise of executive powers.
7. Is the DM law a national law applicable throughout the territory of the subject country? If so, does it establish an integrated national system with elements at provincial, local and/or community level?	N/A.		See answer to Question 5 above.
8. Are there separate provincial or local DM laws? Are these connected with the national DM law in any way? e.g., is there a hierarchy of laws between them, or a common institutional structure?	N/A.		See answer to Question 5 above. Also, please note that HK is geographically divided into 18 districts. Each district has a district council and district management committee. However, there is no separate set of laws adopted by the districts i.e. there is no legislation at district levels – the purpose of the geographical division is solely to achieve a more effective coordination of government activities in the provision of services and facilities at the district level.
9. Does the DM or other law establish one or more specialist DM institutions? What are they (i.e. what are their names and what type of body are they) and what are their mandates?	N/A.		See answer to Question 5 above. Various departments in the HKSAR together maintain a relatively comprehensive disaster management or response policy in relation to tropical cyclones, landslides, floods and hill fires which are the most common natural disasters in HK. However, there isn't any specialist DM institution in the region.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
10. Does the DM policy use the same or different implementing institutions from the DM law? Describe.	N/A.		See answer to Question 5 above.
11. Does the DM law or other law deal with: a. Disaster response ⁶ ? b. Disaster preparedness ⁷ ? c. Disaster mitigation ⁸ and prevention ⁹ ? d. Disaster risk reduction ¹⁰ (DRR)? e. If it includes DRR, how is it defined? (include definition)	N/A.		See answer to Question 5 above.
12. Does the DM law (or any other law) or policy allocate DRR responsibilities			Yes. Various departments in the HKSAR government are given DRR responsibilities. Examples are:

⁶ “The provision of emergency services and public assistance 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 “The knowledge and capacities developed by governments, professional response and recovery organizations, communities and individuals to effectively anticipate, respond to, and recover from, the impacts of likely, imminent or current hazard events or conditions.”

⁸ “The lessening or limitation of the adverse impacts of hazards and related disasters.”

⁹ “The outright avoidance of adverse impacts of hazards and related disasters.”

¹⁰ “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.”

Note: These definitions are taken from the 2009 UNISDR Terminology on Disaster Risk Reduction, obtained here: <http://www.unisdr.org/we/inform/terminology>.

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>in one or more government ministries? If so, which ministries? Describe their allocated roles.</p>			<p><u>The Hong Kong Observatory (HKO)</u></p> <p>The HKO monitors weather conditions closely and initiates issue of all warnings of severe weather conditions, indicating where and when the event will occur, how long it will last and what consequences are expected. Also, the Director of the HKO will be responsible for originating all weather-related warnings, tsunami warnings, and general precautionary announcements to the public and for providing meteorological or tsunami-related advice to various government departments.</p> <p><u>The Emergency Monitoring and Support Centre (EMSC)</u></p> <p>The EMSC will be activated if a Tropical Cyclone Warning Signal No.8 or higher, a Black Rainstorm Warning Signal, or a Tsunami Warning is issued. The EMSC Controller on duty will be responsible for:</p> <ul style="list-style-type: none"> i.) liaising generally with various government departments through their coordination centres/emergency control centres in order to obtain and collate information on the overall situation as it develops; ii.) obtaining and issuing policy directives on behalf of the Chief Executive's Security Committee (CESC) and the Chief Secretary for Administration; iii.) advising CESC in the event that emergency legislation needs to be enacted to deal with the situation; and iv.) co-ordinating the acquisition and mobilisation of civil resources and those of outside bodies if necessary (fire

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			services and police resources will be acquired and mobilised by their respective Commanders)
<p>13. Does the DM law or policy prescribe a role in DM institutions for civil society? If so, how defined and what is the role? At what levels?</p> <p>a. National?</p> <p>b. Provincial/state?</p> <p>c. Municipal/local?</p>			No. See answer to Question 5 above.
<p>14. Does the DM law or policy prescribe a role in DM institutions for the National Red Cross or Red Crescent Society? If so, how defined and what is the role? At what levels?</p> <p>a. National?</p> <p>b. Provincial/state?</p> <p>c. Municipal/local?</p>			<p>No. However, the HK Red Cross is the national Red Cross society of HK as part of the International Red Cross and Red Crescent Movement. It was established officially in 1950 as a branch of the British Red Cross Society in HK. Since 1 July 1997, upon the transfer of HK's sovereignty to the PRC, the HK Red Cross has changed its affiliation to become a special branch of the Red Cross Society of China, but remains autonomous from it.</p> <p>Unlike other Red Cross and Red Crescent societies worldwide, which are notable for their humanitarian effort, HK Red Cross is better known for blood transfusion in HK. Also, the society runs a range of humanitarian services to care for the underprivileged, such as schooling for children in hospitals, organising voluntary services in the aging communities, and conducting first aid courses. In the case of disasters in neighbouring regions, the society raises funding and sends relief forces.</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			The HKSAR government has been supportive of HK Red Cross – in 2011 the government has approved the grant of a site at Hoi Ting Road in Kowloon for the HK Red Cross to develop its new headquarters.
<p>15. Is there any provision in the DM law or policy to ensure that women have a role and a voice in the DM institutions? If so, how is this regulated or encouraged by law? At what levels does the law provide for women’s participation in DM institutions?</p> <p>a. National?</p> <p>b. Provincial/state?</p> <p>c. Municipal/local?</p>			No. However, the Equal Opportunities Commission is a statutory body set up in 1996 to implement various ordinances in HK related to discrimination (including the Sex Discrimination Ordinance). The Commission works towards the elimination of discrimination on the grounds of sex, marital status, pregnancy, disability, family status and race. It also aims at promoting equality of opportunities between men and women, between persons with and without a disability and irrespective of family status and race.
<p>16. Does the DM law or policy prescribe a role in DM institutions for communities? If so, how defined and what is the role? Does it specify any mechanisms to ensure a voice for all elements of the community in DRR, e.g.</p> <p>a. Women?</p> <p>b. Different cultural or ethnic groups?</p> <p>c. Vulnerable groups, including children, older persons, persons</p>			<p>No. There is no specific policy or law for community participation in DM. However, regular educational activities such as public lectures and campaigns are organized for the general public to promote DRR concepts. See answer to Question 174 for further details.</p> <p>Also, a citizen’s right to participate in community activities in general is protected under various legislations related to discrimination. Examples are:</p> <p>i. Sex Discrimination Ordinance</p> <p>It is unlawful under the ordinance to discriminate against a person on the grounds of sex, marital status or pregnancy in relation to</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
with disabilities? d. Socially isolated groups and the very poorest people?			employment, education, provision of goods, services or facilities, disposal or management of premises, eligibility to vote for/ be elected/ appointed to advisory bodies, participation in activities of the government etc.. ii. Race Discrimination Ordinance It protects people against discrimination, harassment and vilification on the ground of their race. Race in relation to a person means the race, colour, descent, national or ethnic origin of the person. Under the ordinance, it is unlawful to discriminate, harass or vilify a person on the ground of his/her race - it offers protection in the area of employment , education, provision of good, facilities or services and eligibility to vote for/stand for election to public bodies etc..
17. Describe the main differences in the scope of the DM law and the DM policy concerning prevention and disaster risk reduction.	N/A.		See answer to Question 5 and 6 above.
18. Does the DM law or policy, or other legislation, provide for oversight mechanisms on DRR implementation, including reporting and/ or parliamentary oversight?			Yes. The CPND is a contingency plan for natural disasters published by the Security Bureau in 2007. The plan summarizes the government's alerting systems and organizational framework for responding to common disasters in HK. It also sets out the functions and responsibilities of government departments and other bodies in the event of natural disasters including those resulting from severe weather conditions.
B. Hyogo Framework for Action & Climate Change Institutions			
19. Does legislation establish any			No. The Hyogo Framework for Action mechanism is not currently

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
institutions (including committees), or allocate to an existing body, implementation of the Hyogo Framework for Action? What institutions? What are their designated roles in DRR?			implemented in HK.
20. Does legislation establish any institutions (including committees), or allocate to an existing body, planning and implementation for adaptation to climate change? What institutions? What are their designated roles in DRR?			<p>Yes. The HKO is the government department responsible for studying the scientific basis of climate change. It has over the years been actively carrying out research on climate change in HK and educating the public in this respect.</p> <p>The HKO has a website which provides the public with a convenient means to access various information related to global and local climate change, including background on global climate change, observed climate change, future climate projections etc.</p> <p>Link to HKO website: http://www.hko.gov.hk/climate_change/climate_change_e.htm</p>
21. Do the implementation mechanisms for the Hyogo Framework, climate change adaptation and DM institutions intersect? If so, how? Are their mandates complementary or do they overlap? Describe.	N/A.		

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
C. DRR priority and resource allocation in government			
22. Does the budgetary process provide for any dedicated budget line items for DRR and/or minimum percentages for DRR expenditure by government institutions? If so, is there a budget allocated to DRR at national level? How is this prescribed?			No. However, a budget is allocated for the Disaster Relief Fund, which is to provide a ready mechanism for HK to respond swiftly to international appeals for humanitarian aid in relief of disasters that occur outside HK. See: http://www.admwing.gov.hk/eng/links/drfund.htm
23. Is there a budget allocated to DRR at provincial/state level (if relevant)? How is this prescribed?			No.
24. Is there a budget allocated to DRR at municipal or local level? How is this prescribed?			No.
Part Two. Responsibility, accountability and liability for natural disaster risk reduction			
The aim is to identify relevant constitutional or other guarantees that may underpin government responsibility, liability and affected persons' rights to compensation. These may include rights to: safety /life; not to be discriminated against; protection of livelihoods; health; compensation; and to information relevant to DRR. One specific issue on the question of liability, is whether governments are liable for failure to prevent natural disasters affecting the population, including for failure to warn, or for making an erroneous warning. A second, related, issue is whether private individuals are liable for damage caused to others from their property during natural disasters, or for faulty advice/warnings given. A third element is whether there is any system of compulsory insurance against the effects of natural disasters.			
A. Constitutional Rights & Guarantees for the Population			
25. Are there any guarantees in the constitution or another law relating	The Basic Law.	Chapter 3	There is no provision in the Basic Law that mentions DRR, right to neither food nor compensation for natural disasters. However, the

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>to individual or collective rights that may underpin government responsibility or liability, and affected persons' rights to compensation for damage from natural disasters? If so, do these relate to:</p> <ul style="list-style-type: none"> a. DRR in general? b. Safety /Life c. Right to Food? d. Right to adequate shelter or housing? e. Non-discrimination, (and other relevant civil and political rights)? f. Livelihoods, Health (and other economic, social and cultural rights)? g. Compensation for losses due to natural disasters? h. Information? 			<p>Basic Law sets out every citizen's rights in relation to safety/life, non-discrimination and livelihoods. The relevant articles are as follows:</p> <p><u>Article 25</u> All HK residents shall be equal before the law.</p> <p><u>Article 28</u> The freedom of the person of HK residents shall be inviolable. No HK resident shall be subjected to arbitrary or unlawful arrest, detention or imprisonment.</p> <p><u>Article 30</u> The freedom and privacy of communication of HK residents shall be protected by law.</p> <p><u>Article 31</u> HK residents shall have freedom of movement and emigration.</p> <p><u>Article 32</u> HK residents shall have freedom of conscience and religion.</p> <p><u>Article 33</u> HK residents shall have freedom of choice of occupation.</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p><u>Article 34</u> HK residents shall have freedom to engage in academic research, literary and artistic creation, and other cultural activities.</p> <p><u>Article 35</u> HK residents shall have the right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies.</p> <p><u>Article 36</u> HK residents shall have the right to social welfare in accordance with law.</p> <p><u>Article 37</u> The freedom of marriage of HK residents.</p> <p><u>Article 39</u> This article provides that the provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions are applicable to HK permanent residents.</p> <p>Some provisions in these Covenants provide for guarantees and</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>protection for the population. For example, Article 6 of the International Covenant on Civil and Political Rights states that ‘every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.</p> <p>Also, Article 3 of the same Covenant provides that the States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the Covenant.</p>
<p>26. Do the above constitutional or other guarantees give residents any personal right of action against the state if the government breaches these rights? E.g. access to a constitutional court, or a claim in a human rights court or tribunal? If so, explain how the law enables this to occur, and who has the right to make such claims. E.g.</p> <p>a. Is it an individual or a collective right?</p> <p>b. Can claimants represent themselves?</p> <p>c. Are there costs that mean the poorest people cannot access the remedy?</p>			<p>Yes. This is achieved through the judicial review mechanism. Judicial review in HK is conducted according to the Constitutional and Administrative Law List (Practice Direction 26.1).</p> <p>It comprises two different aspects: first, a review of domestic legislation as to their compatibility with the Basic Law; and secondly, judicial review of administrative decisions under administrative law.</p> <p>The claimants can represent themselves. There are costs involved in the application of judicial review, in particular when a lawyer is engaged in the matter. However a claimant can apply for legal aid subject to him meeting the necessary requirements. There is no limitation on the monetary amount of judicial review claims, but the government’s decision under review must affect the public interest.</p>

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
d. Are there financial limitations on any such claims (minimums or maximums)?			See: http://www.hkcliv.org/en/topics/civilCase/judicial_review/
B. Liability & Insurance			
27. Does legislation (including case law, where applicable) make government agencies liable for failure to prevent natural disasters affecting the population?			No. There is no legislation that holds government agencies liable for failure to prevent natural disasters.
28. Are government agencies liable for failure to warn or for making an erroneous warning of natural disaster? If so, what kind of liability? – civil, criminal or both? If so, what are the legal mechanisms for injured parties to seek redress? Are these individual or collective actions, or both?			No. There is no specific liability for government agencies or departments which failed to warn or on making an erroneous warning. However, these agencies or departments are likely to subject to internal or the LC's scrutiny on the matter or face public criticism.
29. Do government agencies that fail to warn or make an erroneous warning have legal immunity? If governments have immunity from liability, how extensive is this and/or how and where in law is it defined? Does it apply to all levels of government?	N/A.		See answer to Question 29.
30. Are private persons (individual or			Depends on each case. Whether private persons will be liable for

2. INSTITUTIONAL FRAMEWORKS, RESOURCING AND COMMUNITY PARTICIPATION IN DRR

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>corporate) liable for faulty disaster-related advice or warnings given? Does this apply to volunteers? If so, what kind of liability? – civil, criminal or both? If so, what are the legal mechanisms for injured parties to seek redress? Are these individual or collective actions, or both?</p>			<p>giving faulty disaster-related advice will depend on whether that private person has committed a tort of negligence. This will be decided by the HK Court if a legal proceeding is commenced, and that no settlement is sought by the parties.</p>
<p>31. Are private persons (individual or corporate) liable for damage caused to others from their property during natural disasters? If so, what kind of liability? – civil, criminal or both? If so, what are the legal mechanisms for injured parties to seek redress? Are these individual or collective actions, or both?</p>			<p>Depends on each case. Whether private persons will be liable for damage caused to others from their property during natural disasters will depend on whether that private person has committed a tort of negligence. This will be decided by the HK Court if a legal proceeding is commenced, and that no settlement is sought by the parties.</p>
<p>32. Is there any system of compulsory insurance against the effects of natural disasters? If so, how is this established by law and what are the main elements of the scheme?</p>			<p>No.</p>

3. Early warning and reduction of underlying risk factors through regulation

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>Parts One and Two: Are there laws or regulations relating to preparedness, prevention and/ or risk reduction against the following specific natural hazards (if relevant)? Such regulations may include some specific laws on rapid-onset disasters – Part One – such as fire regulations and fire service, as well as building codes (e.g. earthquake, fire, hurricanes/cyclones), land zoning and land use planning regulations (e.g. flood plain exclusions, unstable land) , disaster management / civil protection laws, and environmental management laws concerning rivers and forests (flood mitigation, erosion prevention against landslides and floods). There may be similar or a different range of laws concerning slow-onset disasters such as drought and other food security issues – Part Two. There may therefore be some overlap with the subsequent sections, but the main aim of Parts One and Two of this section is to identify which risks have separate regulation in the subject country, and in which laws.</p>			
<p>Part One. Rapid-onset disasters, sectoral and specific regulation based on identified risks and community participation</p>			
<p>A. Cyclones, tornadoes, or storms?</p>			
<p>33. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?</p>	<p>The CPND.</p>	<p>P.7-10</p>	<p>There is no specific law. However, the CPND has issued guidelines/action plans in response to tropical cyclones and rainstorms.</p> <p><u>Tropical cyclones</u></p> <p>Tropical cyclone advisories and/or warnings will be issued by the HKO whenever a tropical cyclone is within 800km of HK and may affect HK. Such advisories and/or warnings include advice on the precautionary measures that the public should take, including, when appropriate, advice on the timing of possible sea flooding due to storm surges.</p> <p><u>Rainstorms</u></p> <p>The HKO operates the Amber – Red – Black colour coded warning system to give warnings of heavy rainstorms which may affect or</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			are affecting Hong Kong. This Rainstorm Warning System operates at all times and may be issued alongside other severe weather warnings, including Tropical Cyclone Warning Signals.
34. Does this law specify how management of this risk is financed? If so, describe.	N/A.		The CPND does not specify how the management of this risk is financed.
35. Does this law attribute liability for damage caused by: a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both?	N/A.		See answer to Question 34.
36. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?	N/A.		See answer to Question 34. Further, the HKO is responsible for issuing warnings/ signals and report on any latest developments of the weather conditions. It has its mandate from the HKSAR government as one of its departments.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>37. Does this law provide for consultation and/or participation about risk mapping, Early Warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 	N/A.		There is no consultation/participation of the public communities in risk mapping, early warning nor general DRR.
<p>38. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?</p>	N/A.		See answer to Question 34.
<p>39. If communities are involved in Early Warning Systems (EWS), does this law provide that they:</p> <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? 	N/A		<p>See answer to Question 34.</p> <p>In general, the communities at large are not involved in establishing a warning system or reporting on the development of cyclone or storm.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)?			
B. Earthquake/Tsunami?			
40. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?	The CPND.	P.55-58	<p>There is no specific law. However, the CPND has issued guidelines/action plans in response to tsunami.</p> <p>If a severe earthquake in the south China sea or the Pacific Ocean is expected to generate a significant tsunami in HK and the estimated time of arrival of the tsunami at HK is within 3 hours, the HKO will issue a tsunami warning to alert members of the public to take precautions. If a tsunami may reach HK but the tsunami height is not likely to be significant, or a significant tsunami is expected to arrive at HK but the estimated time of arrival is more than 3 hours away, then HKO will issue a Tsunami Information Bulletin to notify members of the public.</p> <p>The Tsunami Warnings and Tsunami Information Bulletin will be updated once every hour and every 6 hours respectively.</p>
41. Does this law specify how management of this risk is financed? If so, describe.	N/A.		The CPND does not specify how the management of this risk is financed.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>42. Does this law attribute liability for damage caused by:</p> <ul style="list-style-type: none"> a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both? 	N/A.		<p>There is no specific liability for government agencies or departments which failed to warn or on making an erroneous warning. However, these agencies or departments are likely to subject to internal or the LC's scrutiny on the matter or face public criticism.</p>
<p>43. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?</p>	N/A.		<p>See answer to Question 41.</p>
<p>44. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? 	N/A.		<p>There is no consultation/participation of the public communities in risk mapping, early warning nor general DRR.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>c. Vulnerable groups, including children, older persons, persons with disabilities?</p> <p>d. Socially isolated groups and the very poorest people?</p>			
<p>45. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?</p>	N/A.		See answer to Question 41.
<p>46. If communities are involved in EWS, does this law provide that they:</p> <p>a. Assist in the design of local and community EWS?</p> <p>b. Establish or maintain EWS?</p> <p>c. Provide information for the EWS?</p> <p>d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)?</p>	N/A.		In general, the communities at large are not involved in establishing a warning system or reporting on the development of earthquake/tsunami.
C. Fire?			
<p>47. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any),</p>			<p>Yes. The relevant legislations are:</p> <ul style="list-style-type: none"> - Fire Services Ordinance (“FSO”) (Cap. 95) - Fire Safety (Commercial Premises) Ordinance (Cap. 502)

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>and institutional responsibility. At what level(s) of government is this regulated?</p>			<ul style="list-style-type: none"> - Fire Safety (Buildings) Ordinance (Cap. 572) <p>The Fire Services Department (“FSD”) is within the executive arm of the HKSAR government and functions as an emergency service provider responsible for fire-fighting and rescue on land and sea.</p> <p><u>Core Functions of the HK Fire Services Department:</u></p> <p>Fire Suppression</p> <ul style="list-style-type: none"> - respond rapidly to fire calls and carry out effectively both land-based and marine fire-fighting operation. <p>Rescue Services - provide effective and efficient rescue services on land and at sea.</p> <p>Fire Protection</p> <ul style="list-style-type: none"> - advise the public on fire protection measures; promote public awareness of fire safety; enforce fire services legislations and handle licensing and certification issues. <p>Emergency Ambulance Services</p> <ul style="list-style-type: none"> - respond expeditiously to ambulance calls and provide effective, efficient and advanced emergency ambulance services. <p>Also, the HKO runs the Fire Danger Warning System which aims at alerting the public to conditions in which fires may start and</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>spread easily. The chance of fire outbreaks when fire danger warnings are issued is much higher than the average. There are two levels of warning: Yellow and Red.</p> <p>There are two levels of warning: Yellow and Red.</p>
<p>48. Does this law specify how management of this risk is financed? If so, describe.</p>			<p>No. The ordinances stated in answer to Question 48 do not specify how the management of the risk is financed generally. However, it is generally understood that the FSD is part of the HKSAR government and therefore receives funding directly from the HKSAR government.</p> <p>Also, the 'Fire Services Department Welfare Fund' is set up under the FSO S.18. The fund can be used for providing and maintaining amenities for the use and enjoyment of the beneficiaries of the fire services employees, and to compensate them for any extra services they provided.</p>
<p>49. Does this law attribute liability for damage caused by:</p> <ol style="list-style-type: none"> failure to warn, or false or faulty warnings of this risk? failure to take preventive action including by reducing this risk? If so, who may be liable - or immune? Is it civil or criminal liability, or both? 			<p>No. The ordinances stated in the answer to Question 47 do not attribute any liability for any damage as such.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>50. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?</p>	<p>The FSO.</p>	<p>S.8</p>	<p>The FSO regulates the collection and distribution of information on fire risks by granting the FSD the right to enter any premises to investigate on possible fire risk.</p> <p><u>FSO S.8</u></p> <p>The Director of the FSD or any person authorized by him has a right to enter any premises at all reasonable hours for the purpose of:</p> <p>(a) ascertaining whether there is, or has been, on or in connexion with the premises, any contravention of any of the provisions of the FSO;</p> <p>(b) obtaining information required for fire-fighting purposes with respect to the character of the premises, the available water supplies and the means of access thereto, and other material circumstances;</p> <p>(c) ascertaining whether or not there exists any fire hazard.</p>
<p>51. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <p>a. Women?</p> <p>b. Different cultural or ethnic groups?</p> <p>c. Vulnerable groups, including</p>			<p>No. There are no risk mapping or early warning systems. However, the general public can report incidents of fire and other possible fire risks identified by them to the 24 hour hotline.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>children, older persons, persons with disabilities?</p> <p>d. Socially isolated groups and the very poorest people?</p>			
<p>52. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?</p>			<p>No. However, the HKO runs the Fire Danger Warning System which aims at alerting the public to conditions in which fires may start and spread easily. The issuance of warnings are based on the weather conditions favouring the occurrence and spread of fires (e.g. low humidity), and information on the dryness of vegetation supplied by the AFCD.</p> <p>Where the fire danger warnings are issued, warning messages are broadcast on radio and the internet to remind the general public to implement necessary fire precautions.</p>
<p>53. If communities are involved in EWS, does this law provide that they:</p> <p>a. Assist in the design of local and community EWS?</p> <p>b. Establish or maintain EWS?</p> <p>c. Provide information for the EWS?</p> <p>d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)?</p>	N/A.		See answer to Question 52.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
D. Floods?			
54. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?	The CPND.	P.12	<p>There is no specific law. However, the CPND has issued guidelines/action plans in response to floods. A Special Announcement on Flooding in the northern New Territories of HK will be issued by the HKO whenever heavy rain affects the area and flooding is expected to occur or is occurring in the low-lying plains of northern New Territories.</p> <p>The Drainage Services Department (“DSD”) has installed 21 River Stage Gauges covering flood prone areas in northern and north-western New Territories. When any river stage exceeds its alert level, DSD will alert the FSD, Home Affairs Department (“HAD”) and the relevant HAD District Officer and Security Bureau Duty Officer / Emergency Support Unit.</p> <p>In the event that severe flooding is likely to occur in a particular district, the relevant District Emergency Co-ordination Centre will be activated. As flooding is more likely after a prolonged period of heavy rainfall, District Officers concerned will take into account local situations and weather conditions before deciding to step down any emergency response, even after the cancellation of Tropical Cyclone warning signals etc.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
55. Does this law specify how management of this risk is financed? If so, describe.	N/A.		The CPND does not specify how the management of this risk is financed. However, it is generally understood that the DSD and HAD are part of the HKSAR government and therefore receive funding directly from the HKSAR government.
56. Does this law attribute liability for damage caused by: a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both?	N/A.		The CPND does not attribute liability for damage caused by failure to warn nor failure to take preventive action.
57. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?	N/A.		See answer to Question 55.
58. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice	N/A.		No. There is no consultation/participation of the public communities in risk mapping, early warning nor general DRR. However, the general public can report incidents of floods and other possible flood risks identified by them to the police force.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>for all parts of those communities, including:</p> <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 			
<p>59. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?</p>	N/A.		See answer to Question 55.
<p>60. If communities are involved in EWS, does this law provide that they:</p> <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 	N/A.		However, the general public is encouraged to report incidents of floods to the police force or the FSD for assistance or rescue if necessary.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
E. Heat/cold waves?			
61. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			<p>No. However, the Cold and Very Hot Weather Warning will be issued by the HKO whenever Hong Kong is threatened by cold or very hot weather, to alert members of the public to the danger of low body temperature or the risk of heatstroke and sunburn due to cold weather or very hot weather respectively.</p> <p>Once issued, the warnings will be broadcast over radio and television. If necessary, the HKO will hold press briefings, through which members of the public are reminded to take necessary precautions.</p> <p>If cold or very hot weather persists, the HKO will repeat the special announcements while the corresponding weather warning is in force, to remind the public to take necessary actions.</p> <p>These warnings also alert relevant government departments, such as the HAD to consider the need to take actions, such as the opening of temporary shelters. (There are more than 80 community centres in HK that offer temporary shelters)</p>
62. Does this law specify how management of this risk is financed? If so, describe.	N/A.		The HKO does not specify how the management of this risk is financed. However, it is generally understood that the HKO is part of the HKSAR government and therefore receives funding directly from the HKSAR government.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>63. Does this law attribute liability for damage caused by:</p> <ul style="list-style-type: none"> a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both? 			<p>No. The HKO would not attribute liability for damage caused by failure to warn nor failure to take preventive action.</p>
<p>64. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?</p>	N/A.		<p>See answer to Question 62.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>65. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 			<p>No. There is no consultation/participation of the public communities in risk mapping, early warning nor general DRR.</p>
<p>66. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?</p>	N/A.		<p>See answer to Question 62.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>67. If communities are involved in EWS, does this law provide that they:</p> <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 	N/A.		
<p>68. Describe form of regulation, and institutional responsibility.</p>			See answer to Question 62.
<p>F. Insect Infestations?</p>			
<p>69. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?</p>	N/A.		There is no specific law. However, the Prevention and Control of Disease Ordinance (Cap. 599) briefly mentions insect related issues. Under S.7 of the ordinance, relevant health officers are granted the power to execute disposal, importation, transhipment, exportation or removal of insects.
<p>70. Does this law specify how management of this risk is financed? If so, describe.</p>	N/A.		

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>71. Does this law attribute liability for damage caused by:</p> <ul style="list-style-type: none"> a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both? 	N/A.		
<p>72. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?</p>	N/A.		
<p>73. Does this law provide for consultation and/or participation about risk mapping, early warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? 	N/A.		

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<ul style="list-style-type: none"> c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 			
74. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?	N/A.		
75. If communities are involved in EWS, does this law provide that they: <ul style="list-style-type: none"> a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)? 	N/A.		
G. Landslides and avalanches?			
76. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any),			No. However, a comprehensive Slope Safety System (“SSS”) has been formulated under the policy direction of the Development Bureau. See: ‘Slope safety in Hong Kong January 2011” (written by

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>and institutional responsibility. At what level(s) of government is this regulated?</p>			<p>Head of the Geotechnical Engineering Office, Civil Engineering and Development Department’)</p> <p>The SSS is managed by the Geotechnical Engineering Office (“GEO”) of the Civil Engineering and Development Department (“CEDD”), with the overall target of minimizing landslide risk to the whole community through the 3 main strategies :</p> <ul style="list-style-type: none"> i.) Minimizing risk arising from new developments; ii.) Reducing risk by improving the stability of existing slopes; iii.) Reducing risk by minimizing the possible consequences of landslides. <p>Examples of measures to achieve landslide risk reduction:</p> <ul style="list-style-type: none"> i.) Investigation of serious landslides to continuously improve our knowledge and standards; ii.) Auditing the design and supervision of construction of all new slopes to ensure that they meet the required safety standards; iii.) Taking steps to ensure that private owners take responsibility for their own slopes through safety-screening by the GEO, through the issue of statutory orders by the Building Authority requiring investigation and rectification, and through sustained public education and assistance; iv.) Conducting an on-going programme to assess squatter villages for clearance of squatter huts on slope safety

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			grounds, and to provide guidance to the residents of squatter huts on landslide risk and protection of their own safety.
77. Does this law specify how management of this risk is financed? If so, describe.			No. However, in “Slope safety in Hong Kong January 2011”, it is stated that a total expenditure of about HK\$1,100 million each year is spent by the maintenance departments to properly maintain all government man-made slopes.
78. Does this law attribute liability for damage caused by: a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both?			No. The SSS does not attribute any liability.
79. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?			Yes. See ‘Slope safety in Hong Kong January 2011, by Head of the Geotechnical Engineering Office, Civil Engineering and Development Department’ at P.6: <i>“ The SSS aims to reduce risk by minimizing the possible consequences of landslides by promoting public awareness and response in slope safety through public education publicity, information services and public warnings such as: i.) Organizing public education campaigns, e.g. exhibitions</i>

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			<p><i>and school talks on slope safety;</i></p> <p><i>ii.) Operation of the Landslip Warning System;</i></p> <p><i>iii.) Maintaining a 24-hour year round emergency service by providing advice to Government departments on immediate or potential danger due to landslide incidents, and on measures to deal with them; and</i></p> <p><i>iv.) Providing information and community advisory services.”</i></p> <p>The GEO also publishes geotechnical standards which are extensively referred to and well respected internationally.</p>
<p>80. Does this law provide for consultation and/or participation about risk mapping, Early Warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 	N/A.		<p>However, the general public is encouraged to report incidents of landslides to the HK police force or the FSD for assistance or rescue if necessary.</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
81. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?	N/A.		See answer to Question 77.
82. If communities are involved in Early Warning Systems (EWS), does this law provide that they: a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)?	N/A.		
H. Volcanoes?			
83. Is there a specific law about this hazard (i.e. not the main DM law)? If so, describe the form of regulation to reduce the impact of this risk (if any), and institutional responsibility. At what level(s) of government is this regulated?			No.

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
84. Does this law specify how management of this risk is financed? If so, describe.	N/A.		
85. Does this law attribute liability for damage caused by: a. failure to warn, or false or faulty warnings of this risk? b. failure to take preventive action including by reducing this risk? c. If so, who may be liable - or immune? d. Is it civil or criminal liability, or both?	N/A.		
86. Does this law regulate the collection and distribution of information on hazards and risks (risk mapping) in relation to this risk? If so, what authority is responsible and what is their mandate?	N/A.		
87. Does this law provide for consultation and/or participation about risk mapping, Early Warning or general DRR regarding this risk by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities,	N/A.		

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including: a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people?			
88. Does this law provide for Early Warnings Systems (EWS) for this risk? If so, does it require community involvement in EWS?	N/A.		
89. If communities are involved in Early Warning Systems (EWS), does this law provide that they: a. Assist in the design of local and community EWS? b. Establish or maintain EWS? c. Provide information for the EWS? d. Have direct and timely access to relevant warnings and data on emerging risks (e.g. telephone, radio or internet access to meteorological or seismological data and analysis)?	N/A.		

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
Part Two. Slow-onset disasters, sectoral and specific regulation based on risks and community participation			
I. Drought and related famine?			
<p>90. Is there a specific law or institutional mandate for drought preparedness and risk reduction, especially for agriculture and related industries? In particular:</p> <p>a. Rain and river water storage, distribution and conservation measures?</p> <p>b. Development and maintenance of ground water extraction, storage and distribution?</p> <p>If so, describe the forms of regulation. At what level(s) of government is this regulated?</p>			No.
<p>91. Is there a specific law or institutional mandate for early warning and response to drought, to mitigate the effects of drought and help prevent famine? In particular:</p> <p>a. Is an institution legally mandated to issue drought early warnings? If so, how is this regulated?</p> <p>b. Is an institution legally mandated to impose water use restrictions? If</p>			No.

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<p>so, at what level(s) of government?</p> <p>c. Is there legal provision for diversion, piping or transporting water to drought-affected areas? If so, at what level(s) of government?</p>			
<p>92. Do the above laws or mandates specify how management of drought and famine risk is financed? If so, describe.</p>	N/A.		
<p>93. Do the above laws or mandates regulate the collection and distribution of information on drought and related famine risks? If so, what authority is responsible and what is their mandate?</p>	N/A.		
<p>94. Do the above laws or mandates provide for consultation and/or participation about drought and famine risk, early warning or general DRR regarding drought and famine by affected or at-risk communities? How? If so, does it provide for participation or a voice for all parts of those communities, including:</p> <p>a. Women?</p> <p>b. Different cultural or ethnic groups?</p>	N/A.		

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>c. Vulnerable groups, including children, older persons, persons with disabilities?</p> <p>d. Socially isolated groups and the very poorest people?</p>			
J. Other food security risks?			
<p>95. Is there a specific law or institutional mandate concerning threats to food security other than droughts? (e.g. predicted effects of climate change, such as inundation of agricultural land and/or mass migration).</p> <p>a. If so, describe the form of regulation to reduce the impact of these risks (if any), and institutional responsibility</p> <p>b. At what level(s) of government is this regulated?</p>	<p>The Food Safety Ordinance (Cap. 612)</p>		<p>The Food Safety Ordinance introduces a food tracing mechanism to help the government trace the source of the food more effectively and take prompt action when dealing with food incidents. The food tracing mechanism includes a registration scheme for food importers and food distributors and a record-keeping requirement relating to movement of food.</p> <p>Also, the Food and Environmental Hygiene Department of the HKSAR government ensures foods sold in HK are safe and fit for consumption through tripartite collaboration among the Government, food trade and consumers. In particular, the Centre for Food Safety under the department issues food alert when necessary. For example, in August 2012, it announced that four Japanese infant formulae were found to have low iodine content and may have potential adverse health effects on infants.</p> <p>See: http://www.cfs.gov.hk/english/press/2012_08_10_1_e.html</p> <p>Also, the Consumer Council conducts tests on consumer products (including food products) to provide unbiased comparative test results to help consumers make rational choices, to alert them to</p>

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			<p>product hazards and to induce improvements in product quality and safety. For instance, in April 2012, a survey conducted by the Consumer Council revealed that expired frozen and chilled food items were sold in some of the supermarkets and other retail outlets including frozen food stores and grocery shops. A total of 56 pre-packaged frozen and chilled food items were found to have various problems relating to labelling of expiry date.</p> <p>See: http://www.consumer.org.hk/website/ws_en/news/press_releases/p42602.html</p>
96. Does the above law or mandate specify how management of food security is financed? If so, describe.	N/A.		
97. Does the above law or mandate regulate the collection and distribution of information on hazards and risks to food security, particularly those relating to agricultural production? If so, what authority is responsible and what is their mandate?	N/A.		
98. Does the above law or mandate provide for community consultation and/or participation about risk reduction from threats to food security? How? If so, does it provide for participation or a voice for all	N/A.		

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<p>parts of those communities, including:</p> <ul style="list-style-type: none"> a. Women? b. Different cultural or ethnic groups? c. Vulnerable groups, including children, older persons, persons with disabilities? d. Socially isolated groups and the very poorest people? 			
Part Three. Early Warning, Hazard Mapping and Risk Information			
A. Early Warning			
<p>99. In addition to the sectoral laws above, is there any general obligation to establish early warning systems (EWS) in the disaster management law?</p> <ul style="list-style-type: none"> a. If so, does this include institutional mandates on EWS? b. Which institution(s) are involved and what are their mandates on EWS? c. Is there legal provision for financing of EWS? 			<p>Yes. The Fisheries Management and Red Tide Early Warning System for HK.</p> <p>The Agriculture, Fisheries and Conservation Department (“AFCD”) is responsible for monitoring the red tide early warning system. The AFCD is funded by the HKSAR government as one of its departments, hence there is no legal provision for financing of EWS.</p>
<p>100. Does EWS regulation include requirements for community</p>			<p>No.</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
consultation and participation in development of EWS? Describe.			
101. Does EWS regulation provide for community-based early warning data collection? Describe.			No.
102. Does EWS regulation provide for timely and reliable access for at-risk communities to EWS, meteorological or seismological data (as relevant)? Describe.			No.
<p>103. Does the law regulating telecommunications infrastructure and delivery include any DRR criteria in general, or any specific measures such as:</p> <ul style="list-style-type: none"> a. geographical coverage of telecommunications to include remote and/or at-risk areas? b. priority access to communications technology for at-risk communities and responders to disaster? c. access for vulnerable groups such as the elderly and persons with disabilities? d. Support for early warning systems? 			No. The law regulating telecommunications infrastructure and delivery in HK is the Telecommunications Ordinance (Cap. 106). However it does not include any DRR criteria nor concepts.

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
104. Does the above law impose, or allow for the imposition, of any restrictions on use of certain types of telecommunications equipment a. Generally throughout the territory? b. In specified areas? c. Under specified circumstances?	N/A.		See answer to Question 104.
B. Risk identification, assessment and monitoring			
105. In addition to the sectoral laws above, does the disaster management law regulate the collection and distribution of information on hazards and risks (risk mapping)? If so, what authority is responsible and what is their mandate?			No.
106. Does the disaster management law, or another law, regulate the collection and publication of seismological, meteorological and climatic data relevant to natural disasters? If so, what does it require and who is responsible for this, and under what law?	N/A.		However, the HKO launched the "Aviation-weather Disaster Risk Reduction" website and the "Meteorological Data Collection Programme" in April 2011. The Aviation-weather Disaster Risk Reduction website (http://adrr.caem.wmo.int) is a specially tailored website designed to serve the aviation community, developed by the HKO in its capacity as a regional World Meteorological Organization Pilot Project. The website seeks to assist the aviation community in the

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			<p>planning of airport operations and the reduction of risk and disruption due to bad weather, thus enhancing aviation safety.</p> <p>To further mitigate risks due to wind shear or turbulence, the HKO also launched the "Meteorological Data Collection Programme", a collaborative programme undertaken with the Government Flying Service to investigate wind shear, turbulence and other meteorological phenomena. A weather observation system has been installed on a fixed wing Government Flying Service aircraft for measuring wind and other meteorological elements at high resolution and accuracy.</p>
<p>107. Does the disaster management law, or another law, regulate the collection and publication of baseline population data, especially in high risk areas? If so, what does it require and who is responsible for this, and under what law?</p>	<p>The Census and Statistics Ordinance (Cap. 316).</p>	<p>S.4</p>	<p>The Census and Statistics Ordinance provides for the taking of a census of population and the collection, compilation and publication of statistical information concerning HK. The Ordinance also provides strict safeguards on the confidentiality of data pertaining to individuals or undertakings.</p> <p>The Census and Statistics Department is responsible for the enforcement of the ordinance.</p> <p>The Commissioner of the Census and Statistics Department makes arrangements for the taking of and carrying out of any census or survey. He must collect, compile, analyse, abstract and publish statistical information relating to the commercial, industrial, financial, social, economic and general activities and condition of the HK people.</p>

Part Four. Regulation of the Built Environment

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>The aim is to outline the laws and regulations that set out building and construction standards, relevant approvals and enforcement processes, as well as planning and construction of roads & bridges, and land use planning and zoning, such as: urban and rural planning and zoning, including prohibitions on development of high risk sites, public open space for evacuation, access for rescue services such as fire and ambulance, and including regulation of informal settlements; regulation and responsibility for water storage, distribution and quality control for human consumption, flood mitigation construction and other water management against flooding; land tenure, including mapping and registration of tenure rights (especially participatory land mapping with communities) and any recognition of indigenous land rights and occupiers' rights; regulation of emergency and transitional shelter; and regulation or treatment of informal settlements.</p>			
<p>A. Building Codes</p>			
<p>Identify building and construction codes, including fire, flood and earthquake safety, as relevant to identified risks, including any differences in regulation, such as between large urban construction and small residences in rural villages; building regulations, including approvals, inspection and enforcement; and any regulation of emergency and transitional shelter, and informal settlements.</p>			
<p>108. Is there a national building and construction law? If so, what authority is responsible for its implementation?</p>			<p>Yes. The national building laws include the following:</p> <ul style="list-style-type: none"> - Building Ordinance (Cap.123) ("BO") - Town Planning Ordinance (Cap. 131) ("TPO") - Hong Kong Planning Standards and Guidelines ("HKPSG") <p>(Note: this is only a guideline with no legal force)</p> <p>The authority responsible for the implementation of the BO is the Buildings Authority ("BA"), while the Town Planning Board of the Planning Department is responsible for the implementation of the TPO and HKPSG.</p>
<p>109. If there is not a national building and construction law, is this issue regulated at provincial/state or local level? If sub-national regulation only,</p>	<p>N/A.</p>		<p>Please see answer to Question 109.</p>

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can you find an example of such a law?			
110. Does the building and construction law include detailed building codes, regulations or rules? Are these codes mandatory and binding? What areas do they cover (e.g. fire, earthquake, general building design and construction, health requirements, water & sanitation etc.)? List these categories of regulation.			<p>The BO and TPO are mandatory and binding. However, the HKPSG has no legal force. List of categories that the BO covers:</p> <ul style="list-style-type: none"> - General building construction - Demolition works - Escalators and lifts - Planning - Private streets and access roads - Refuse storage and material recovery chambers and refuse chutes - Standards of sanitary fitments, plumbing, drainage works and latrines - Ventilating systems - Oil storage installations - Energy efficiency - Minor works <p>The TPO mainly regulates the rules and procedures regarding applications for land use developments.</p> <p>For regulations related to fire risks, see Fire Safety (Buildings) Ordinance and Fire Safety (Commercial Premises) Ordinance.</p>
111. Does this law include mechanisms for	The TPO.	S.4A(2)	All building constructions have to comply with the general

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>individual building approvals? If so, which institution(s) have responsibility for this?</p>		<p>and S9.</p>	<p>requirements as stated in the ordinances listed in the answer to Question 109.</p> <p>In relation to approval of developments in general, the relevant law is TPO S.9.</p> <p><u>S.9 extract: Powers of Chief Executive in Council upon submission</u></p> <p>(1) Upon submission of a draft plan the Chief Executive in Council may-</p> <ul style="list-style-type: none"> (a) approve it; (b) refuse to approve it; (c) refer it to the Board for further consideration and amendment. <p>(2) The Chief Executive in Council may approve a draft plan notwithstanding that any requirements of this Ordinance applicable thereto have not been complied with.</p> <p>(3) A draft plan approved as aforesaid is hereinafter referred to as an "approved plan".</p> <p>(4) The Chief Executive in Council may by notification in the Gazette correct any omission from or error in any approved plan.</p> <p>(5) On such approval being given the approved plan shall be printed and exhibited for public inspection at such place as the Board may consider suitable and the fact of such approval and exhibition shall be notified in the Gazette.</p>

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			<p>However, a special mechanism is provided for land developments in the 'Comprehensive Development Area':</p> <p>Pursuant to S.4A(2) of the TPO, and except as otherwise expressly provided by the Town Planning Board, an applicant for permission for development on land designated 'Comprehensive Development Area' shall prepare a master layout plan for the approval of the Town Planning Board.</p> <p>The master layout plan should be supported by an explanatory statement which contains an adequate explanation of the development proposal, including such information as land tenure, relevant lease conditions, existing conditions of the site, the character of the site in relation to the surrounding areas, principles of layout design, major development parameters, design population, types of GIC facilities, and recreational and open space facilities.</p>
<p>112. Does this law include mechanisms for building inspections? If so, which institution(s) have responsibility for this? Does it apply to:</p> <ul style="list-style-type: none"> a. New buildings? b. Renovations/extensions of existing buildings? c. Existing buildings where there is no building application, such as old buildings that may no longer be 			<p>No information provided</p>

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safe?			
113. Does this law include mechanisms for enforcement of codes, including sanctions? What type of sanctions (e.g. fines, whole or partial demolition orders)? If so, which institution(s) have responsibility for this?	The BO.	Chapter 123K	<p>The BA is responsible for the enforcement of the BO.</p> <p>Types of sanctions would vary according to the seriousness of the offence. Please see below an extract of a report from the BA as an example in relation to its enforcement of a closing order:</p> <p><u>“Buildings Department takes enforcement action against illegal sub-divided domestic cubicles in industrial buildings</u></p> <p><i>In order to step up enforcement action against illegal sub-divided domestic cubicles in industrial buildings to protect public safety, the Buildings Department (“BD”) was granted a closure order, applied for by the BD on March 7, by the District Court today (March 12) to close down certain floors of 78 and 78A Larch Street, Kowloon, in order to facilitate the BD's arrangement to clear the unauthorised building works (“UBWs”) on the floors concerned by government contractors. After receiving the closure order, the BD closed the floors concerned with the assistance of police officers. The closure operation was carried out smoothly as all the occupants of the subject premises had already moved out on or before March 7. The BD will make arrangements for government contractors to demolish the UBWs on the floors concerned shortly.”</i></p>
114. Do the building regulations have special standards or requirements			Yes. The HKPSG is a government manual of criteria for determining the scale, location and site requirements of various land uses and

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>for:</p> <ul style="list-style-type: none"> a. schools? b. hospitals? c. fire stations? d. other public buildings that may also be required as collective centres in case of disaster (e.g. ministries, sports complexes, churches, mosques etc.)? 			<p>facilities.</p> <p><u>Schools</u></p> <p>Various standards are designed for different types of schools. For primary schools for instance: The standard requirement is that, site reservation has to be at a minimum of 6200m² per school with a minimum acceptable width of 65m is required. For a 24-classroom school, a minimum of 4700 m² per school with a minimum acceptable width of 55m is required.</p> <p><u>Hospitals</u></p> <p>The requirement is that for regional and district hospitals , an average of 80m² per bed is required. For convalescent/infirmary hospitals , an average of 60m² per bed is required.</p> <p><u>Fire stations</u></p> <p>Various standards are designed for different types of fire service facilitates. For a standard divisional fire station, the floor area requirement is 2960m² with a minimum frontage of 47m. The frontage of the site will have to be widened if the run-in to the drill yard is not from the back.</p> <p><u>Other public buildings that may be required as collective centres</u></p> <p>For community halls, the requirement is 1260m² (32m x 39.5m) floor area and, preferably, with a minimum clearance height of 7.65m for joint-users buildings; or 2 100m² (60m x 35m) site area for stand-alone sites in exceptional circumstances.</p>

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			See: http://www.pland.gov.hk/pland_en/tech_doc/hkpsg/index.html
115. Do the building regulations or land use planning laws (or other special laws) include regulation of large commercial buildings and developments (such as multi-storey shopping centres, office buildings and factories)? Identify & describe.			Yes. See answer to Question 112. Also, pursuant to HKPSG 2.7.4, opportunity to provide building setback or create piazzas for greening and passive recreational use should be included at the planning and design stages to enhance the attractiveness of the public place around the commercial development. Further, In planning for new commercial areas, the minimum standard of 0.5m ² local open space per worker mainly for landscaping and passive recreation use should also be applied.
116. Do the building laws/regulations include large, multi-storey apartment buildings? Identify & describe.	The HKPSG.	S.6	Based on the shopping preferences of consumers identified from survey results, the HKPSG has identified a three-tier retail hierarchy as follows: <ul style="list-style-type: none"> (a) Territorial Shopping Centres - these serve the territory as a whole and provide the greatest variety of high order comparison goods and retail services. Three such shopping centres are identified and they are located in Mong Kok, Causeway Bay and Tsim Sha Tsui. (b) District Shopping Centres - these are medium sized shopping centres which serve the population within various districts. (c) Neighbourhood Shopping Centres - these are shopping areas within walking distance from residential neighbourhoods providing convenience goods and retail

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			<p>services to the local population.</p> <p>The Town Planning Board will assess the demand for retail facilities and two broad approaches are usually adopted including the econometric modelling approach and the expenditure-based modelling approach. As these demand assessments require specialist input, they are normally conducted as part of a special study in the planning process. Also, flexibility will be exercised in the application of the broad approach as the government upholds the view that retail development should be market-driven and that planning intervention should be kept to the minimum.</p>
<p>117. Do the building laws/regulations include small self-built constructions? Identify & describe.</p>			<p>Yes. All building constructions have to comply with the general requirements as stated in the ordinances listed in the answer to Question 109.</p>
<p>118. Do the building laws/regulations differ as between urban and rural settings? If building laws/regulations are different in rural settings, what are the main differences compared with urban settings? E.g.</p> <ul style="list-style-type: none"> a. the extent of regulation? b. the level of government at which it is regulated? c. other? 			<p>No. No distinction is made between urban and rural areas of HK in the application of the ordinances related to land use. However, the Buildings (application to the New Territories) Ordinance is a piece of legislation especially tailored for the New Territories (which contains most of the rural land of HK). In addition, the BA has recently taken special enforcements against the New Territories Exempted Houses.</p> <p>The BO (application to the New Territories) Ordinance provides exemption for buildings which met the specified criteria from the requirement under the Buildings Ordinance to submit plans for approval by the BA or to obtain the BA's consent for the</p>

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			<p>commencement of the building works. They may be occupied without having to obtain occupation permits from the BA. They are also exempted from the regulations made under the BO.</p> <p>The New Territories Exempted Houses generally refer to those village houses situated in the New Territories which by virtue of the BO (Application to the New Territories) Ordinance are exempted from certain provisions of the BO and its subsidiary regulations (including the need for obtaining approval and consent to the commencement of works from the Buildings Department) .</p> <p>Recently, as many UBWs have been widely found among village houses in certain NT districts, the BA has decided to take immediate enforcement action against those UBWs constituting obvious hazard or imminent danger to life or property.</p>
<p>119. Do the building/planning laws/regulations include emergency and transitional shelter? If so, what form of regulation and which institution(s) have responsibility for this?</p>			<p>No. See answer to Question 129.</p>
<p>120. Do the building laws/regulations include:</p> <ul style="list-style-type: none"> a. Inspections? b. programmes and/or incentives for making existing buildings safe (e.g. 	<p>The BO.</p>	<p><u>Inspectio</u> <u>n</u> S.5(4C), Part IIA, S.53</p>	<p><u>BO S.5(4C)</u></p> <p>This section relates to the appointment and powers of disciplinary board.</p> <p>It states that a disciplinary board may be appointed to order inspection of premises.</p>

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<p>retro-fitting for earthquake resistance, addition of fire escapes, condemning unsafe buildings including demolition orders, tax or funding incentives for owners to fortify buildings)?</p> <p>If so, what form of regulation and which institution(s) have responsibility for this?</p>			<p><u>BO Part IIA</u></p> <p>This section relates to the inspection and Repair of Building</p> <p><u>BO s.53 extract</u></p> <p><i>(1) The Appeal Tribunal may, for the purpose of determining an appeal at any reasonable time—</i></p> <p><i>(a) enter and inspect any land or premises it considers relevant for the purposes of the appeal; and</i></p> <p><i>(b) make any opening on such land or premises or take such samples as it considers necessary.</i></p> <p><i>(2) The Appeal Tribunal may, as regards any appeal, direct a public officer to do anything which the Appeal Tribunal may do under subsection (1).</i></p> <p><i>(3) A public officer directed under subsection (2) may enter any land or premises which the Appeal Tribunal considers relevant for the purposes of an appeal and remove anything obstructing—</i></p> <p><i>(a) his access to or inspection of the land or premises and make such openings or take such samples as the Appeal Tribunal considers necessary for the purposes of the appeal; or</i></p> <p><i>(b) the access of the Appeal Tribunal to such land or</i></p>

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		<p><u>Demolition</u> s.24</p>	<p><i>premises for the purposes of subsection (1).</i></p> <p>Extract s.24(1)</p> <p><i>(1) Where any building has been erected, or where any building works or street works have been or are being carried out in contravention of any of the provisions of this Ordinance the Building Authority may by order in writing require—</i></p> <p><i>(a) the demolition of the building, building works, or street works; or</i></p> <p><i>(b) (Repealed 43 of 1993 s. 6)</i></p> <p><i>(c) such alteration of the building, building works or street works as may be necessary to cause the same to comply with the provisions of this Ordinance, or otherwise to put an end to the contraventions thereof, and in every case specify the time within which the demolition, alteration or work required by such order shall be commenced and the time within which the same shall be completed.</i></p>

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121. What if any provision is there for planning , approval and construction of public roads, bridges and related public works? – describe the authority(s) & mandate(s).			<p>The Roads (Works, Use and Compensation) Ordinance regulates publication of proposals as to works in relation to roads, objections to the proposals, authority to carry out the works and for the use of roads, powers in relation to the works on and the use of roads, compensation and connected matters.</p> <p>The Highways Department undertakes the planning, design, construction and maintenance of the public road system as well as planning and implementation of the railway system. The department is also responsible for issuing Excavation Permits and conducting audits of the excavation works on public roads.</p> <p>See:http://www.hyd.gov.hk/eng/public/publications/factsheet/doc/e_highways.pdf</p>
122. Are there other matters relevant to DRR that are regulated in the building and construction laws of the subject country?			No. In general, the concept of DRR is not incorporated in the building and construction laws of HK.
B. Land Use Planning Laws			

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<p>The aim is to identify whether there are national laws and statutory authorities with responsibility for land zoning and/or land use planning. If there is not a national law or authority, the issue may be regulated at provincial/state or local level and examples of these laws may not be available. However, although land use planning is frequently regulated at local government level, the underlying principles or institutional responsibilities may be included in national or provincial laws. Also, many major cities now have planning law overlays that cross local government boundaries, and may be determined under national or provincial/state laws. In other cases, special regimes have been established to manage the course of a major river that crosses many local boundaries (and these laws may also refer to bilateral treaties about cross-boundary water management - for DRR as well as water use – which may bring them under national law through the treaty powers).</p>			
123. Are there national laws and statutory authorities with responsibility for land zoning and/or land use planning?			Yes. The TPO.
124. Is this issue regulated at provincial/state or local level? If so, can you find an example of such a law at each level?	N/A.		See answer to Question 3 above.
125. Does the land use planning and/or zoning law include processes for: a. Formal release of land for new developments? b. Approval of each new urban development? c. Approval of major commercial developments?			Yes. See answer to Question 112 and 116.

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126. Does the land use planning and/or zoning law include prohibitions on development of high risk sites (e.g. unstable land prone to subsidence, flood plains, and contaminated sites)?			No. Although there is no specific prohibition on development of high risk sites, an applicant seeking permission for any land development needs to provide either a draft plan or a master lay out plan to the Town Planning Board for approval (See answer to Question 112). Hence, approval for any land use planning on high risk sites will be difficult to obtain, unless strongly justified.
127. Does the planning / zoning law include public open space for evacuation?			<p>No. However, open space is required under HKPSG S.4 to meet both the active and passive recreational needs of the populations, either within the residential neighbourhood ('Local Open Space') or centrally located to serve a wider area ('District Open Space'). "Regional Open Space" at prominent locations in the urban areas, serves the catchment area larger than that served by 'District Open Space' and 'Local Open Space'.</p> <p>It is also a requirement under HKPSG S.9 for any land use planning to provide adequate buffer from road network and industrial area.</p>
128. Does the planning / zoning law allocate or require allocation of land for emergency or transitional shelter in preparation for potential disaster?			No. Sheltered workshops are required to be built under HKPSG S.3. However, it is not stated specifically that the workshops are to be used as emergency shelter for potential disaster.
129. Does the planning / zoning law include provisions for infrastructure installation (water and drainage, sewers, telecommunications, energy)	The HKPSG.	S.7	S.7 states that the planning of utility services should be integrated into the overall planning of new development areas such that the efforts between various government departments and utility companies can be co-ordinated.

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in new developments?			<p>For example, the standard for water supply is as follows:</p> <p>(a) service reservoirs</p> <ul style="list-style-type: none"> - as near as possible to the area served - at level where water can be fed by gravity to the supply zone <p>(b) pumping stations</p> <ul style="list-style-type: none"> - reasonable proximity to the source of supply - adequate vehicular access - away from noise sensitive uses - minimum clear distance of 100m from sea water intake of salt water pumping stations <p>(c) treatment works</p> <ul style="list-style-type: none"> - follow the procedures laid down by the Coordinating Committee on Land Use - Planning and Control related to Potentially Hazardous Installations <p>(d) water mains</p> <ul style="list-style-type: none"> - normally placed underground and routed along carriage ways. - adequate separation from power cables and other services

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130. Does the planning / zoning law include street width regulations for future traffic flow and to ensure access for emergency services such as fire and ambulance?	The HKPSG.	S.8	S.8 states the recommended minimum carriageway widths in accordance with the Transport Planning and Design Manual. For instance, for primary distributor road, the dual carriageway is 6.75m for 2-lane, 10m for 3-lane and 13.5m for 4-lane.
131. Does the planning / zoning law differ as between urban and rural settings? If different in rural settings, what are the main differences compared with urban settings? E.g. a. the extent of regulation? b. the level of government at which it is regulated? c. other?			No.
132. Does the planning / zoning law include any other matters relevant to disaster risk reduction?			No.
C. Land tenure			
133. Is there a national system of land title registration established under law? a. If sub-national regulation, at what level of government does this occur, if at all? If sub-national, can you find an example of such a law? b. Does the legal mandate for this	The Land Registration Ordinance (Cap. 128) ("LRO")		<u>Answer for (a)</u> Please see answer for Question 5. <u>Answer for (b)</u> The legal mandate for this system does not require central record at the national level i.e. the PRC central government.

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<p>system require computerisation and/central record at national level? If not, how and where does it require records to be kept?</p>			<p>The Land Registry (“LR”) has launched the Strategic Change Plan in 1998 with an aim to advance the Land Registry into the 21st century, which was based on two key Change Drivers, namely, a Central Registration System and a Title Registration System.</p> <p>To implement a Central Registration System, the LR has developed an Integrated Registration Information System in 2005 to replace the then separate core IT systems, namely, the Land Registration System, the Direct Access Services, and the Document Imaging System. IRIS provides IT support to the existing deeds registration system. A new search system has also been implemented to provide improved search services for properties to the public.</p> <p>See: http://www.landreg.gov.hk/en/about/lrback.htm</p>
<p>134. Are there institutions mandated to survey land and/or register title? Does this mandate:</p> <ol style="list-style-type: none"> require or allow community participation in land mapping or surveying for the purpose of establishing titles and/or occupancy and/or usage rights? establish a timeframe for the conclusion of land mapping? allocate resources for land 			<p>Yes. The Survey and Mapping Office (“SMO”) and the LR are responsible for the survey of land and registry of title respectively.</p> <p>However, their mandates do not require or allow community participation in land mapping and/or the survey of land. The mandates of SMO and LR are as follows:</p> <p><u>For the surveying of land</u></p> <p>The SMO of the Lands Department is the central authority for land surveys and all types of mapping in HK.</p> <p>The major responsibilities of SMO are as follows:</p>

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mapping?			<ul style="list-style-type: none"> - establishment and maintenance of a geodetic network; - provision of land boundary (cadastral) surveys, photogrammetric survey as well as cartographic and reprographic services; - maintenance of a computerised land information system for mapping data and land boundary records; - production and revision of maps and plans at different scales for different purposes; and - administration of the Land Survey Ordinance (Cap. 473). <p><u>For the registration of title</u></p> <p>The LR is responsible for title registration. It aims to maintain an efficient and effective land registration system to facilitate the orderly conduct of land transactions. Its main duty includes the registration of documents affecting land under the LRO. This includes the provision of facilities for search and supply of copies of the Land Registers and related records, and the registration of owner's corporations under the Building Management Ordinance.</p> <p>See: http://www.landreg.gov.hk/en/home/index.htm</p>
135. Does the land title system allow anyone to purchase or own land, or does it exclude anyone? E.g. can the following own and inherit land under this system: a. Women?			The LRO does not exclude anyone from any race or gender from owning land.

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b. All ethnic or religious groups? c. Non-nationals?			
136. If there is no standardised land title, is there another way to legally recognise land tenure rights (e.g. indigenous title based on ancestral lands, or established occupation or use, or other traditional rights to use resources such as gathering or hunting or water rights)? Describe.			<p>Yes. The indigenous inhabitants in HK refers to the residents in the New Territories, whose ancestors were inhabitants there before the commencement of British rule in 1898 and have special rights to preserve their customs. When the sovereignty of HK was transferred from the UK to China in 1997, these special rights were preserved under the Basic Law.</p> <p>Article 40 of the Basic Law states that the lawful traditional rights and interests of the indigenous inhabitants of the "New Territories" shall be protected by the HKSAR government. Further, Article 8 states that laws previously in force in HK, including customary law, shall be maintained.</p> <p>In order to protect the tradition of villages, male indigenous inhabitants have the right to apply for what is termed as small house. As a result, the New Territories Small House Policy was developed and has been implemented since December 1972. It is formulated to allow an indigenous villager to apply for permission to erect for himself during his lifetime a small house on a suitable site within his own village.</p> <p>See: http://www.landsd.gov.hk/en/legco/house.htm#exnotes</p>
137. Is there any legal recognition of	The New Territories	Part II	<u>Part II NTO</u>

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<p>traditional or customary law and practice regarding land occupation or ownership, or community or collective management of land? If so, describe the relevant legislation or case law.</p>	<p>Ordinance (“NTO”) (Cap. 97)</p>	<p>S.13</p>	<ul style="list-style-type: none"> - It preserves and applies Chinese customary law to the land i.e. law in force in the imperial China and the local customs of New Territories in 1898 continue to apply - S.13: <ul style="list-style-type: none"> (1) <i>Subject to subsection (2), in any proceedings in the Court of First Instance or the District Court in relation to land in the New Territories, the court shall have power to recognize and enforce any Chinese custom or customary right affecting such land.</i> (2) <i>In subsection (1), "proceedings" does not include proceedings in respect of or in relation to the Probate and Administration Ordinance (Cap 10), the Intestates' Estates Ordinance (Cap 73) or the Inheritance (Provision for Family and Dependants) Ordinance (Cap 481).</i>
<p>138. Is there legislation or case law that recognises land tenure as a result of occupation, such as:</p> <ul style="list-style-type: none"> a. adverse possession (use and occupation of land over a certain period of years in the absence of the legal owner, resulting in a change of ownership)? b. ‘squatters’ rights’ (including any rights to continue inhabiting land and/or vacant buildings or to be 			<p>Yes.</p> <ul style="list-style-type: none"> a) <u>S.7 Limitation Ordinance : Limitation of actions to recover land</u> <p>Actions to recover land and rent</p> <ul style="list-style-type: none"> (1) <i>No action shall be brought by the Crown to recover any land after the expiration of 60 years from the date on which the right of action accrued to the Crown or, if it first accrued to some person through whom the Crown claims, to that person.</i> (2) <i>No action shall be brought by any other person to recover</i>

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<p>given notice of eviction if contested by the legal owner)?</p>			<p><i>any land</i></p> <p><i>after the expiration of 12 years from the date on which the right of action accrued to him or, if it first accrued to some person through whom he claims, to that person:</i></p> <p><i>Provided that, if the right of action first accrued to the Crown through whom the person bringing the action claims, the action may be brought at any time before the expiration of the period during which the action could have been brought by the Crown, or of 12 years from the date on which the right of action accrued to some person other than the Crown, whichever period first expires.</i></p> <p><u>S.8(1) Limitation Ordinance: Accrual of right of action in case of present interests in land</u></p> <p><i>Where the person bringing an action to recover land, or some person through whom he claims, has been in possession thereof, and has while entitled thereto been dispossessed or discontinued his possession, the right of action shall be deemed to have accrued on the date of the dispossession or discontinuance.</i></p> <p><u>Cases</u></p> <p>Chung Yeung Hung & Others v Law Man Nga & Another (1997 HKLRD 1022)</p>

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			<ul style="list-style-type: none"> - It was established that the plaintiffs had established an arguable case for a prescriptive right to use an access road to their lot <p>Sze To Chun Keung v Kung Kwok Wai David & Another (1997 HKLRD 885)</p> <ul style="list-style-type: none"> - It was held that the grant of a Crown Land Permit issued by the government in 1961 up until 1988 to the defendant did not interrupt the period of adverse possession. - The grant of this permit may have transferred possession to the Crown but it did not stop the running of the limitation period <p>Kan Kam Cho v Kan Chiu Nam (2008 HKEC 1807)</p> <ul style="list-style-type: none"> - Two houses were built side by side and sharing a wall. The owner of one of them admitted that the house had encroached onto the neighbouring owner's land. The Limitation Ordinance was pleaded as a defence. The plaintiff had tried to counter the adverse possession claim on the basis that there had been tenancies of the house during that period and that the grant of these tenancies had stopped time running for the purposes of the Limitation Ordinance. This failed. The grant of a tenancy after a squatter has gone into possession does not stop the limitation period from running. The leases are subject to the squatter's rights.
139. If there are parallel systems for recognition of land tenure, such as customary law vs. registered freehold			This will depend of facts of each case. If the right of ownership claimed under customary law is registered, priority will be determined according to the LRO. According to S.3 of the LRO,

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<p>title, does one type of legal claim take precedence over the other?</p>			<p>where 2 or more instruments are registered, priority will be determined according to the priority of their respective dates of registration.</p> <p>However, note also that under S. 3(2), all deeds which are not registered will be void as against a subsequent bona fide purchaser for valuable consideration of the same premises. Thus, an unregistered title under customary law might not be given priority over registered title, subject to other factors such as whether the registered title holder had notice prior to purchase, whether the customary law at issue is well recognized etc..</p>
<p>140. Is there any law or legal mechanism that allows government authorities to compulsorily purchase or requisition land for public purposes? If so, do these purposes include:</p> <ul style="list-style-type: none"> a. risk reduction from natural disasters? b. land to be kept for evacuation or emergency or transitional shelter? 			<p>Yes. The government may acquire private land by resumption for public purposes such as a road scheme, a flood protection, a drainage improvement project, a new market, an open space, a fire station, a public housing development or any item in the Public Works Programme. Resumption proceedings may be instituted mainly under the provisions of :</p> <ul style="list-style-type: none"> (a) the Lands Resumption Ordinance, Chapter 124; (b) the Roads (Works, Use and Compensation) Ordinance, Chapter 370; (c) the Electricity Networks (Statutory Easements) Ordinance, Chapter 357; (d) the Railways Ordinance, Chapter 519; (e) the Land Acquisition (Possessory Title) Ordinance, Chapter 130.

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<p>141. Is there a land tribunal or other dispute resolution mechanism that provides for resolution of land tenure disputes? If so, is this accessible to communities? – to individuals?</p> <p>a. Can people without financial means access this system? E.g. are there fees, or requirements to engage lawyers?</p> <p>b. Are such tribunals or mechanisms available throughout the territory, including in rural areas?</p>			<p>Yes. The Lands Tribunal is a tribunal in HK that deals with legal disputes over land. It is established under the Lands Tribunal Ordinance (Cap. 17).</p> <p>a. People without financial means can apply for Legal Aid to obtain financial assistance from the government.</p> <p>b. The service that the tribunal provides is accessible to every HK citizen.</p>
D. Informal and precarious settlements			
<p>Informal settlements (also called slums or shanty towns) are areas of housing constructed on land to which the occupants had no prior legal claim. The housing is generally constructed by the occupants from available materials and does not comply with building and planning laws. These unplanned settlements are not served with public infrastructure such as water, sewers/drainage, roads or telecommunications, or public services such as schools and medical facilities. They are especially vulnerable to the effects of natural disaster, as they are often built on high-risk land (precarious settlements), with poor construction materials and methods, and the residents are not protected from the effects of, for example, water contamination during flooding. Informal settlements sometimes arise from mass migrations to the outskirts of large cities following disaster (including slow-onset disasters such as drought and famine). However, many of these settlements exist for many years and become established townships. Approaches taken by governments tend to follow one of three paths: (1) ignore informal settlements for the purpose of regulation, (2) relocate residents either through forced evictions and demolition, or planned resettlement schemes, or (3) regularize them. The latter approach has been taken in Brazil under its Statute of the City administered by the Ministry of Cities, which seeks to progressively regularize and integrate under local government, existing informal and precarious settlements.</p>			
<p>142. Is there a law that mandates clearing of slums / informal or precarious settlements?</p>			<p>UBWs have to be cleared under the BO. UBWs include the following:</p> <ul style="list-style-type: none"> - Building works outside a building and additions and

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>a. If so, what is the policy reason given (if any) for such clearance?</p> <p>b. Does it require or empower government authorities to evict or resettle residents? Or to demolish such settlements?</p> <p>c. If residents are to be moved, does this law require the provision of alternative housing? If so, how is this financed?</p> <p>d. If mandated, is there a process for eviction? E.g. notice periods, dispute resolution through land tribunals?</p> <p>e. Are there any other protections for the human rights and livelihoods of residents who are evicted or relocated?</p>			<p>alterations inside a building involving the structure of the building, carried out without the prior approval and consent of the BA; or</p> <ul style="list-style-type: none"> - Small-scale building works that are designated as minor works carried out without complying with the simplified requirements of the Minor Works Control System under the BO; or - Addition and alteration works carried out inside a building not involving the structure of the building but do not comply with the building standards laid down for building works in the Building Regulations. <p><u>Policy reason for such clearance</u></p> <p>UBWs constitute a high risk to public safety or an obvious or imminent danger to life or property (such as metal cages and flower racks on external walls and legal rooftop structures on single staircase buildings etc.)</p> <p><u>Demolishment of such settlements</u></p> <p>The BA may serve a statutory order requiring the building owner to remove the UBWs or rectification of the contraventions of regulations within a specified time and may register the order against the title of the property in the Land Registry.</p> <p>If the required works have not been carried out by the specified time, the BA may take prosecution action against the building owner who fails without reasonable excuse to comply with the order. The offender shall be liable on conviction to a fine of \$200,000 and imprisonment for one year, and a fine of \$20,000 for</p>

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			<p>each day during which it is proved to the satisfaction of the court that the offence has continued.</p> <p>The BA may also employ a government contractor to carry out the works, and subsequently recover the cost of the works, plus supervision charge, from the building owner.</p> <p>Provision of alternative housing</p> <p>Property owners with financial difficulties may apply for loans under the Building Safety Loan Scheme administered by BD to cover the cost of the required works for compliance with the removal orders.</p> <p>Unauthorized roof structures in industrial buildings should not be converted into domestic use which is incompatible with the use of the buildings. Under the current policy, the Housing Department would not make rehousing arrangement to the affected occupants as a result of BD's enforcement action against unauthorized roof structures used for habitation in industrial buildings. Nevertheless, BD will liaise with the Housing Department to arrange bed spaces in the transit centre for those in urgent need of accommodation. Besides, the affected occupants may also approach the Social Welfare Department for assistance.</p> <p>Process of eviction</p> <p>A recipient of an order issued by the BD may apply in writing to BD stating your grounds for extension of time. However, BD normally will not accede to such request (e.g. reason that the premises is subject to a tenancy agreement) except in very special cases.</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>Further, a receipt of a BD order may make a statutory appeal under BO S.44. The recipient should serve a Notice of Appeal in writing directly on the Secretary to the Appeal Tribunal to be received by him not later than 21 days after the date notification of the BA's decision is sent to him.</p> <p>Not complying with the order is a criminal offence with a maximum penalty of one year's imprisonment and a maximum fine of HK\$200,000. For continuing offences, there is a further daily fine of HK\$20,000.</p>
<p>143. Is there a law that mandates recognition and/ or regularization of slums / informal settlements?</p> <p>a. If so, describe the legal regime for regularization, including the responsible institutions.</p> <p>b. Does regularization include the introduction of building codes? Are these mandatory and binding?</p> <p>c. Does regularization include the construction of public infrastructure? If so, how is this financed?</p>			<p>No.</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>d. Does this law authorise or mandate the provision of social services to informal settlements?</p> <p>e. Does this law include any other regulatory measures to address the vulnerability of such settlements to risk from natural disasters?</p>			
<p>144. Does any law require that informal settlements are included in</p> <p>a. Early Warning stems?</p> <p>b. Community based DRR education and training?</p>			No.
<p>145. Does any law provide a mechanism for recognition of tenure for residents of informal settlements?</p> <p>a. If so, what types of tenure (e.g. full title, right to occupy or use, right to purchase, tenancy)?</p> <p>b. If so, and such settlements are on privately owned land, is there provision for compensation of those with prior legal tenure?</p>			No.

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
E. Urban Water and Flood Management			
<p>146. Is there one or more national laws regulating and allocating institutional responsibility for water storage, distribution and quality control for human consumption? Is urban water management principally a national, or provincial/state or local responsibility?</p>	<p>The Water Works Ordinance (Cap.102).</p>		<p>The Water Supplies Department (WSD) is responsible for the administration and enforcement of the Water Works Ordinance and related regulations. The WSD also carries out design and supervision of construction of waterworks projects which includes catch water, tunnels, reservoirs, water treatment works, access roads, pumping stations and pipe works.</p> <p>It further monitors water storage, operation and maintenance of catch water, intakes, impounding reservoirs, pumping stations, water treatment works, service reservoirs, trunk and distribution mains to ensure a reliable water supply to the customers.</p> <p>Urban water management is a local responsibility.</p>
<p>147. If there is a national water authority, does its mandate include risk reduction or preparedness for safeguarding the water supply in the face of natural disasters?</p>			<p>No. However, in general, WSD plans water resources, prepares outline proposals for new water supply schemes and improvements to the existing system to meet growth of demand in existing and developing areas, monitors the adequacy of water resources and installations and collates hydrological information necessary for the management and development of the waterworks.</p>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
148. Does a national law allocate responsibility for flood mitigation construction and other water management against urban flooding (if relevant to the subject country)? If so, what authority is responsible?			No. However, the DSD is responsible for the management of flood mitigation construction and other water management against urban flooding. The DSD has installed 21 river stage gauges covering flood prone areas in northern and north-western New Territories. When any river stage exceeds its alert level, DSD will alert other relevant departments.
149. If flood mitigation and water management against urban flooding is regulated at the sub-national level, at what level of government does this occur? Can you find an example of such a law?			The flood mitigation and water management against urban flooding is regulated solely by the HKSAR government. However, there is frequent cooperation between the HKSAR government and the mainland authorities. For example, the Shenzhen Authority has agreed to give pre-warning to HK when water discharge from Shenzhen Reservoir is being considered. As far as possible, the decision on water discharge will be passed to HK 3 hours before the discharge.

Part Five. Regulation of the Natural & Rural Environment

Outline the laws and regulations concerning environmental management from the perspective of human safety, preservation of livelihoods and food security, including the regulation of exploitation of natural resources, water management, and reducing risks from natural events such as floods, earthquake, drought, landslides, and wildfires, such as: forestry regulation concerning wildfires, deforestation and erosion relevant to prevention of landslides and floods; environmental impact assessments; river and water catchment management relevant to flood prevention and mitigation, and water storage and distribution for human and agricultural consumption; prevention measures relating to drought, especially protection of people, livestock and crops in the face of drought, including water reserves against the risk of drought; and other prevention and risk management mechanisms to maintain food security, including measures to prevent desertification.

A. Human Risks in Environmental Change

150. Is there legislation on environmental protection? If so, what institution has responsibility?			Yes. The Environmental Protection Department of the HKSAR is responsible for the implementation of HK's environmental
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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			protection laws.
<p>151. Does the above mandate include environmental management from the perspective of:</p> <ol style="list-style-type: none"> human safety? preservation of livelihoods? food security, especially concerning protection of crops and livestock? 			<p>Yes. All of the environmental protection laws are related to preservation of livelihoods, and indirectly related to human safety. They include:</p> <ul style="list-style-type: none"> - Air Pollution Control Ordinance (Cap. 311) - Waste Disposal Ordinance (Cap. 354) - Water Pollution Control Ordinance (Cap. 358) - Noise Control Ordinance (Cap. 400) - Ozone Layer Protection Ordinance (Cap. 403) - Dumping at Sea Ordinance (Cap. 466) - Environmental Impact Assessment Ordinance (Cap. 499) - Hazardous Chemicals Control Ordinance (Cap. 595) - Product Eco-responsibility Ordinance (Cap. 603) - Motor Vehicle Idling (Fixed Penalty) Ordinance (Cap. 611)
<p>152. Does this law provide for environmental impact assessments (EIAs) of any proposed new private and public industrial developments?</p>	<p>Environmental Impact Assessment Ordinance (Cap. 499)</p>		<p>Yes. The Environmental Impact Assessment Ordinance is to avoid, minimise and control the adverse impact on the environment of designated projects through the application of the environmental impact assessment process and the environmental permit system.</p> <p>Designated projects, unless exempted, must follow the statutory EIAs process and require environmental permits for their construction and operation.</p>

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>153. If there are EIAs, do the criteria include:</p> <ul style="list-style-type: none"> a. human risk factors from changes to the environment, including life and health as well as livelihoods and food security? b. assessment in light of the known natural hazards affecting the relevant locality, or downstream communities (where relevant)? 	<p>Environmental Impact Assessment Ordinance (Cap. 499).</p>	<p>Annex 3</p>	<p><u>ANNEX 3 : FACTORS FOR CONSIDERATION IN IDENTIFYING ADVERSE ENVIRONMENTAL IMPACTS</u></p> <ul style="list-style-type: none"> a. Human risk factors <ul style="list-style-type: none"> - disruption of food webs - negative effects on human health, including increases in mortality or morbidity, and/or decreases in personal well-being - disruptions to normal learning, sleeping, and communication activities - reduction of the quality or quantity of recreational opportunities, amenities or perceived aesthetics - loss of, or damage to commercial species or renewable or non-renewable resources - foreclosure of future resource use or production - reduction in biodiversity and/or extinction of species in the area/region concerned - loss of or risk to human lives - obstruction of migration, or passage of wildlife - effects of deposits on materials, material corrosion and damage including nuisance and discomfort, reduction in visibility - disruption to social activities - temporary or permanent loss of recreational area - acute and chronic toxicity effects on biota especially on commercial food supplies

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION

Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<ul style="list-style-type: none"> - bioaccumulation and bio magnification of toxic substances in biota especially on commercial food supplies - long term and short term change on population size of biota including mortality, reproduction, maturity and distribution - temporal and spatial cumulative effect resulting from environmental changes b. Known natural hazards - negative effects on the quality and/or quantity of the biophysical environment e.g. soil, land and air - emissions, discharges or releases to the environment e.g, sediments. - threats to, loss of, or damage to flora and fauna and/or their habitats including habitat fragmentation - negative effects on the health of biota including flora and fauna - the removal of resource materials from the environment - reduction in productivity of operations involved in primary or secondary production - changes to existing landscapes
154. Is there a law that makes any authority responsible for the regulation of exploitation of natural resources from the perspective of			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
human safety during natural disasters? For example, preventing cross-contamination from industrial sites during flooding, or control of extraction methods to manage flooding and/or erosion?			
B. Forests			
155. Is there legislation on forest management (if relevant to the subject country)? If so, what institution has responsibility?	The Forests and Countryside Ordinance (Cap.96) ("FCO")		The AFCD is responsible for the enforcement of the FCO.
156. Does the above mandate include forest management from the perspective of natural disaster risk reduction, such as: a. prevention of wildfires? b. deforestation and erosion relevant to prevention of landslides and floods? c. other hazards, (such as encroachment by wildlife into agricultural land or villages)? Describe the scope.	The FCO.	S.16 and S.21	<u>a. Prevention of wildfires</u> S. 16: Lighting fires in forests <i>(1) Any person who-</i> <i>(a) has lit, or is using a fire which was lit, in or near any forest, plantation or</i> <i>area of open countryside; or</i> <i>(b) is in a group of persons using a fire which was so lit, whether or not by any person in the group, shall be guilty of an offence unless he shows that-</i> <i>(i) the lighting of a fire in the place in which the fire was lit was</i> <i>reasonable in all the circumstances; and</i> <i>(ii) he took all reasonable steps to prevent the fire from damaging or</i> <i>endangering anything growing in the forest, plantation or area of</i>

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Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p><i>open countryside.</i></p> <p><i>(2) For the purposes of this section, land shall not be treated as not being open countryside solely by reason of the fact that it is held under lease, licence or permit.</i></p> <p><u>b. Deforestation and erosion / c. other hazards</u></p> <p>S. 21: Acts prohibited in forests, etc.</p> <p><i>Any person who, without lawful authority or excuse, in any forest or plantation-</i></p> <p><i>(a) cuts grass, removes turf or earth, rakes pine needles;</i></p> <p><i>(b) plucks or damages any bud, blossom or leaf of any tree, shrub or plant;</i></p> <p><i>(c) trespasses or pastures cattle or goats or permits cattle or goats to trespass;</i></p> <p><i>(d) fells, cuts, burns or otherwise destroys any trees or growing plants,</i></p> <p><i>shall be guilty of an offence.</i></p>
157. Does the law recognize customary laws and practices as to the use and management of forests and their resources?			No.

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
158. Does the law provide for use, conservation or management of forests and their resources by communities?			No.
C. Rivers and watercourses			
159. Is there legislation on river and watercourse management (if relevant to the subject country)? If so, what institution has responsibility?			No.
160. Does the above mandate include river management from the perspective of natural disaster risk reduction, such as: a. Riverbed management relevant to flood prevention and mitigation? b. Water storage and distribution for human, agricultural and industrial consumption in rural areas? Describe the scope.	N/A.		
161. Does the law recognize customary laws and practices as to the use and management of rivers and their resources?	N/A.		

3. EARLY WARNING AND REDUCTION OF UNDERLYING RISK FACTORS THROUGH REGULATION			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
162. Does the law provide for use, conservation or management of rivers and their resources by communities?	N/A.		
D. Drought and food security			
163. Is there any legislation providing for risk reduction and prevention measures relating to drought (if relevant)? If so, does this include any institutional mandate or responsibility to protect people, livestock or crops in the face of drought?			No.
164. Does the above mandate include the construction and maintenance of water reserves, including against the risk of drought?	N/A.		
165. Is there any other legislation relevant to risk management to maintain food security in the face of natural disasters, including any special measures to prevent desertification (if relevant)?			No.

4. Information management and exchange, community level DRR education & awareness

Most elements of information, education and awareness will normally be done through policy rather than law, but the legal framework may require public institutions to make DRR information available to the public and/or to carry out public and school education and awareness on reducing risk from natural disasters. For example, there could be a Ministerial directive under the Education Act requiring the inclusion of DRR in the school curriculum.

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
<p>166. Is there a law that regulates the collection and publication of seismological, meteorological and climatic data relevant to natural disasters?</p> <p>a. If so, what does it require and who is responsible for this, and under what law?</p> <p>b. Does it provide for community level access to the data?</p>			<p>No.</p> <p>a. However, the HKO operates a set of 3-component long-period seismographs to detect distant earthquakes. Further, a network of three short-period seismograph stations was established in 1979 to monitor local earthquakes. In 1997, it was upgraded to an advanced digital network consists of eight stations.</p> <p>b. At the request of local and overseas scientific institutions, the HKO provides seismological information for their special studies and investigations. Technical reports on the seismology in HK were published. Topics covered include the seismicity of HK and the statistical analysis of earthquake occurrence in the vicinity of HK.</p>
<p>167. Is there a law that regulates the collection and publication of baseline population data, especially in high risk areas?</p> <p>a. If so, what does it require and who is responsible for this, and under what law?</p> <p>b. Does it provide for community</p>	The Census and Statistics Ordinance (“CSO”) (Cap. 316).		<p>a. The CSO provides for the taking of a census of population and the collection, compilation and publication of statistical information concerning HK and for matters connected therewith. The CSO also provides strict safeguards on the confidentiality of data pertaining to individuals or undertakings. The Commissioner of Census and Statistics is given power under CSO S.4 to make such arrangements and to do all such things as are necessary for the taking of any census of population or the carrying</p>

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
level access to the data?			<p>out of any survey, and to collect, compile, analyse, abstract and publish statistical information relating to the commercial, industrial, financial, social, economic and general activities and condition of the people.</p> <p>b. Yes. The CSO can be viewed by the general public.</p>
168. Does the education law or regulations require inclusion of DRR awareness in the school curriculum? Does this law or another law such as the DM law also require community DRR education?			No.
169. If there is a national disaster management policy, does this require any public authorities to conduct public education and awareness on DRR? a. If so, which authorities and what are they required to do? b. In particular does it require DRR education in schools?			No. The laws of HK do not require any public authority to conduct public education and awareness on DRR. However, departments such as the HKO regularly conducts public seminars and issue newsletter to educate the general public on DRR concepts. See answer to Question 174.
170. If the above law or the national disaster management policy requires public education, does this provide for community level DRR awareness? If so, does this make any provision for community participation in the development and delivery of public			No.

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
education and awareness campaigns?			
171. Does legislation provide for any designated role for the Red Cross or Red Crescent National Society as an auxiliary to government in DRR education and awareness at community level?			No.
172. Does legislation provide for any designated role for Civil Society in DRR education and awareness at community level?			No.
173. Does any law provide for community-level results in DRR, such as: a. Natural disaster warnings that extend to community level? b. Implementation of incentives to carry out community based DRR, or disincentives to ignore or increase risks from natural disasters? c. Community involvement in land-use and urban planning? d. Community involvement in and education concerning building codes?			<p>There is no specific law, however:</p> <p><u>Natural disaster warnings that extend to community level</u></p> <p>When necessary, the HKO will issue red rainstorm warning signals, black rainstorm warning signals, landslip warning, thunderstorm warning, tropical cyclone warning signals and tsunami warning to the general public.</p> <p>See answers to Question 34, 41, 55 and 62.</p> <p><u>Implementation of incentives to carry out community based DRR</u></p> <p>The general public is regularly educated on DRR through the following initiatives implemented by the government:</p> <ul style="list-style-type: none"> - Campaigns (e.g. guided tours are organized by the HKO to visit the HKO headquarter) and public seminars - Friends of the Observatory Newsletter (published by HKO) - Websites created and constantly updated by various

4. INFORMATION MANAGEMENT AND EXCHANGE, COMMUNITY LEVEL EDUCATION & AWARENESS			
Legal Research Questions	Short Title, no. & date of law / regulation	No.ss./ paras.	Answers, comments & extracts (please use quotation marks for all extracts)
			<p>departments</p> <p><u>Community involvement in land – use and urban planning</u></p> <p>Public consultation is often conducted for individual land project. For instance, The Planning Department and the Civil Engineering and Development Department have recently launched the Stage 3 Public Engagement for the North East New Territories New Development Areas Planning and Engineering Study on 19 June 2012. The main objective of the Stage 3 PE is to seek public views on the Recommended Outline Development Plans for New Development Areas. The public views received will be taken into account in refining the recommended development proposals before finalising the Study.</p> <p><u>Community involvement in and education concerning building codes</u></p> <p>Public consultation is conducted for individual projects by the BD.</p>

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