

How can Legislation Promote Disaster Risk Reduction at the Community Level?

Side Event at the Global Platform for Disaster Risk Reduction
May 10, 2011

Summary Report

The side event “How can Legislation Promote Disaster Risk Reduction at the Community Level” was convened by the IFRC in the course of the Third Session of the Global Platform for Disaster Risk Reduction on May 10, 2011. The event aimed to discuss best legal practices to promote positive action at the community level, and to discuss some preliminary findings of a larger study the IFRC is undertaking on such issue. Moderated by Mr. David Fisher, Coordinator of the International Disaster Response Laws, Rules and Principles (IDRL) Programme, the meeting saw the presence of approximately 50 participants; an open floor discussion followed presentations delivered by:

Priscilla Duque	Assistant Civil Defence Executive Officer, National Disaster Risk Reduction and Management Council, Philippines
Gustavo Lara	Director General, Dominican Republic Red Cross
Mette Lindahl-Olsson	Head of Natural Hazards & Critical Infrastructure Section, Swedish Civil Contingencies Agency
Mary Picard	Legal consultant, author of IFRC report on DRR/law in Nepal

Mr. Fisher welcomed participants and introduced the panellists; before leaving the floor to Mrs. Duque, he briefly explained the purpose of the event and outlined some of the findings of the IFRC research project on the role of law in the promotion of risk reduction practices at the community level. In particular, he noted that there was an important disparity between countries with regard to the degree to which their laws expressly promote and support community involvement and incentives related to disaster risk reduction (DRR).

Mrs. Duque followed up on the moderator’s point by describing the features of a new law adopted by the Philippines, the Republic Act 10121 of May 27, 2010. She highlighted that this act - which comprehensively strengthens the country’s disaster risk management system - was the product of a 21-year long consultation process, and reported that it contains provisions for both the development of policies and their implementation. She also stressed that the act covers all aspects of disaster risk reduction and management, including prevention, mitigation, preparedness, response, recovery and rehabilitation. Mrs. Duque highlighted that the “building blocks of successful legislative reform in the Philippines” were

represented by the multiple DRR and disaster management (DM) policies and instruments incrementally adopted throughout the years. These included the Hyogo Framework for Action, the ASEAN Agreement on Disaster Management and Emergency Response, and a number of national planning instruments such as the 1983 National Calamities and Disaster Preparedness Plan, the 2003 Local Disaster Coordinating Councils' Contingency Plans, the 2005 Four-Point Plan of Action on Disaster Preparedness, and the 2009 Strategic National Action Plan on Disaster Risk Reduction. After outlining some of the specific features of the Four-Point Plan of Action and of the Strategic National Action Plan, Mrs. Duque also reported that a number of general factors further contributed to the success of the legislative reform. These included clear leadership, a common vision of DM/DRR as a development rather than humanitarian assistance issue, reliance upon multi-stakeholder participation in the drafting process (which included a strong presence of the Philippine Red Cross), and the presence of a very active National Platform that "served as the focal point in the advocacy for the passage of Republic Act 10121". To conclude, Mrs. Duque reported that the Act has gone a long way in promoting community empowerment, enhancing the DRR mandate for local governments, clarifying roles and functions, and defining resources and funding allocation. Nevertheless, she also stressed that a number of challenges still had to be addressed: these included effective resource mobilization, the sustainment of DRR achievements across sectors, monitoring and evaluation, as well as a number of "perceived operational gaps" such as victims rights, the protection of volunteers from liability, and the development of guiding principles for emergency service sectors.

Mr. Lara continued the discussion by pointing out some of the major problems faced by the Dominican Republic, such as high levels of vulnerability to multiple natural hazards, an inconsistent process of urban development, and increasing migration fluxes. He stated that such issues have been previously addressed through sectoral legislation, and referred for example to specific acts concerning sustainable development, climate change, territorial responsibility, public investment planning and decentralisation. However, in 2002, the Dominican Republic also adopted DRR-specific legislation, the Law 147-02 on Risk Management. Mr. Lara stressed that this law was based on the principles of protection, prevention, capacity, coordination, participation and decentralisation. He also highlighted that the law promoted action through an array of specific policies, programmes and funds such as the National System for Prevention, Mitigation and Disaster Response, the National Plan for Risk Management, the National Emergency Plan, the National Integrated Information System, and the National Fund for Prevention, Mitigation and Disaster Response. Mr. Lara reported that Law 147-02 does include - as most laws in the Dominican Republic - specific provisions related to responsibilities and activities at the local level; nevertheless he stressed that in this context "local level means municipal, not people". At the same time he also reported general problems with the availability of resources, which appeared to be abundant at the central level, but limited at the community level. In order to solve this problem, Mr. Lara stressed the importance of "inverting the pyramid of investment" so as to increase investment in community networks and decrease spending in national agencies. To conclude, he briefly reiterated the importance of promoting mechanisms clearly defining the roles of the multiple actors involved in DRR, and the need to comprehensively work with multiple stakeholders.

Ms. Lindahl-Olsson followed up by describing the natural hazards that affected Sweden noting that, in that country, municipalities played the primary role in the promotion of comprehensive risk management programs. She stressed that those programs were based on three fundamental principles for emergency preparedness: responsibility, equality and proximity. Proximity in particular - referring to the tendency to manage the event "where it

happens” - was reported as a major strength of the Swedish system, and as the basic standard promoting the direct involvement of municipalities in DM and DRR practices. Ms. Lindahl-Olsson moreover highlighted that the principal municipal areas of responsibility supported by legislation were those related to land use planning and building permissions, the environment, civil protection, crisis management, and social welfare. Sweden favours a all-hazards inclusive legal framework promoting a bottom-up perspective; nevertheless, she also stressed that, in the end, effectiveness was directly related to the amount of resources available, and hence that often municipalities “can only implement what is strictly binding”. She therefore deemed legislation to be extremely important in the process of promoting DRR at the community level, through laws alone are not enough. They must also be supported by both the political power and the resources to implement them correctly. Before leaving the floor to Ms. Picard, Ms. Lindahl-Olsson suggested that municipalities could benefit from increased support from the private sector and the international level, as well as from increased coordination amongst each other.

Ms. Picard summarised some of the lessons learned from her research on the legal framework for DRR in Nepal - the findings of which were recently published by the IFRC in a detailed report - and discussed what law can do for DRR at both the macro and micro level. She reported that, at the macro level (e.g. national and state level), law appeared fundamental to prevent increased risk exposure through the promotion of practices such as land use planning, environmental protection, and building codes. She also highlighted that law was important to establish citizens’ rights to safety, information and compensation. The right to safety in particular was deemed to be a fundamental one, as “it gives a clear message that protection of residents is not simply an option for governments, but an obligation”. In relation to the micro level (e.g. local and community level), Ms. Picard reported that legislation played an important part in enabling community action and control, empowering locally-based groups, and providing dispute resolution mechanisms over the implementation of DRR measures. She then referred more specifically to the situation in Nepal, reporting that for example - in spite of the recognised importance for urban development planning laws in the context of DRR - the country had not consistently adopted and implemented such laws in the past. Nevertheless she also stressed that change was ongoing, as the Ministry of Physical Planning and Works had recently established a voluntary “land pooling” scheme for new developments. In relation to building codes Ms. Picard reported that Nepal - likewise most low income countries - was unable to successfully promote their implementation, as over 90% of the buildings appeared to have been constructed without any input from engineers or architects. She reported however that even in this context good practices were emerging, and described the development of building guidelines termed “Mandatory Rules of Thumb” as a pragmatic response to the existing gap.

Following the panellists’ presentations, the floor was opened to participants to share opinions and suggestion. It was reported that Norway was in the process of adopting two laws directly relevant to risk reduction: a first one which clarified the role of the civil protection and directly placed the responsibility for DRR and DM at the municipal level; and a second one - named the Plan and Building Act - which made it compulsory to undertake “serious risk assessment investigation” before commencing construction works. Another participant asked for further clarifications on the issue of ownership and responsibility; Ms. Lindahl-Olsson replied that in Sweden responsibility was placed directly upon the owner, that for example was required to be covered by insurance and be the first to address risk factors. Nevertheless, she also reported that responsibility was decided upon an individual basis, as individuals without apt capacities were often supported by the state. A last comment raised the issue of

liability, and questioned panellists as to whether some level of formal liability “could force those that do not do anything to wake up”. Mrs. Duque reported that the new law adopted in the Philippines clearly outlined the liabilities of those officials violating the rules, but more directly concerning DM rather than DRR. Mr. Lara stated that responsibility for DRR ultimately resided with the community and not only with the officials; as such he advocated for community participation in the creation of laws and for “increased investment in people, not only infrastructures”. Ms. Picard stressed that the fundamental mechanism to promote such changes appeared to be, beyond liabilities, the promotion of “a form of political responsibility” for risk reduction.