



INTERNATIONAL DISASTER RESPONSE LAW IN DOMINICA

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International Disaster Response Law in Dominica

June 2022

ABOUT THIS REPORT

This Report was commissioned by the International Federation of the Red Cross and Red Crescent Societies (IFRC). It was authored by Tania Chambers, Legal Consultant, supervised and reviewed by Jessie Jordan, IFRC Dutch and English-speaking Caribbean Delegation Disaster Law Officer, based on the guidance and technical inputs of Sophie Teyssier, IFRC Americas Disaster Law and Legislative Advocacy Coordinator.

This Report analyses the legal and institutional frameworks relevant to facilitating and regulating the entry of international disaster relief against the *“Checklist on the facilitation and regulation of international disaster relief and initial recovery assistance”* (also known as the “IDRL Checklist”) with a view to identifying gaps in these frameworks and formulating policy recommendations for their improvement.

ACKNOWLEDGEMENTS

The author wishes to express appreciation to all contributors who kindly gave of their time and insights during the consultation process. A list of participating organisations is included at Appendix 2.

The IFRC wishes to thank and acknowledge the support of the U.S. Agency for International Development (USAID) through its Bureau of Humanitarian Assistance, which provided financial assistance for the development of this document. The views expressed herein can in no way be taken to reflect the official opinion of USAID’s Bureau of Humanitarian Assistance.



Front cover photo: © Nina Svahn / Finnish Red Cross

Dominica Red Cross volunteers and IFRC staff offload tarpaulins, blankets and items donated by citizens and organizations from the nearby island of Saint Lucia, after Hurricane Maria, Dominica, Roseau, September 2017.

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When the extremely strong hurricane Maria hit Dominica it severed all communications networks on the entire island.
© Nina Svahn / Finnish Red Cross

ACRONYMS

ACP	African, Caribbean and Pacific States
CARICOM	Caribbean Community
CDB	Caribbean Development Bank
CDEMA	Caribbean Disaster and Emergency Management Agency
CDM	Comprehensive Disaster Management
CIPO	Companies and Intellectual Property Office
CMU	Crisis Management Unit
DEXIA	Dominica Export-Import Agency
GFDRR	Global Facility for Disaster Risk Reduction and Recovery
IDRL	International Disaster Response Law
IFRC	International Federation of Red Cross and Red Crescent Societies
IOM	International Office of Migration
NEEC	National Emergency Executive Committee
NEOC	National Emergency Operation Centre
NGO	Non-Governmental Organisation
ODM	Office of Disaster Management
OECS	Organisation of Eastern Caribbean States
PAHO	Pan-American Health Organisation
PPE	Personal Protective Equipment
SOPs	Standard Operating Procedures
UN	United Nations
UNDP	United Nations Development Programme
UWI	University of the West Indies
WFP	World Food Program
WHO	World Health Organisation



Joan Barnes, 48yrs: "it was difficult and devastating, we could not sleep for a couple of days" The village of Layou, home to 90 families, was badly destroyed along with rest of Dominica when hurricane Maria struck. © Nina Svahn /Finnish Red Cross

EXECUTIVE SUMMARY

On September 18, 2017, the Commonwealth of Dominica's national and regional support systems became overwhelmed by what has arguably become its most impactful disaster event to date. Hurricane Maria hit Dominica as a category 5 storm and had a devastating effect on infrastructure, housing, water and sanitation, telecommunications, utilities, health, education and other social services and every aspect of the island's economy. Over 30 lives were lost and more declared missing. Damage was estimated at EC\$2.51 billion (US\$930.9 million), in addition to losses of EC\$1.03 billion (US\$380.2 million).¹ This amounted to over 200% percent of the country's Gross Domestic Product (GDP). Government services were suspended for days - in some cases weeks - and the Emergency Operations Centre and its back-up centre were both damaged to the point of being inoperable. The damage that ensued had long-term implications for Dominicans. The majority of housing stock and all crops were destroyed, resulting in the near destruction of the tourism, manufacturing and agricultural sectors. This set of events created conditions to test Dominica's capacity to facilitate and regulate international disaster relief systems from outside of the Caribbean region.

With this crisis has come the opportunity to review systems and determine the major policy and programming gaps that increase national risk, particularly in the event of a major disaster event. Among the issues to evaluate is the question of whether the processes for facilitating and regulating inflows of international disaster relief goods, equipment and personnel is efficiently and effectively addressing the country's needs.

IFRC Model for Evaluating International Disaster Response Laws

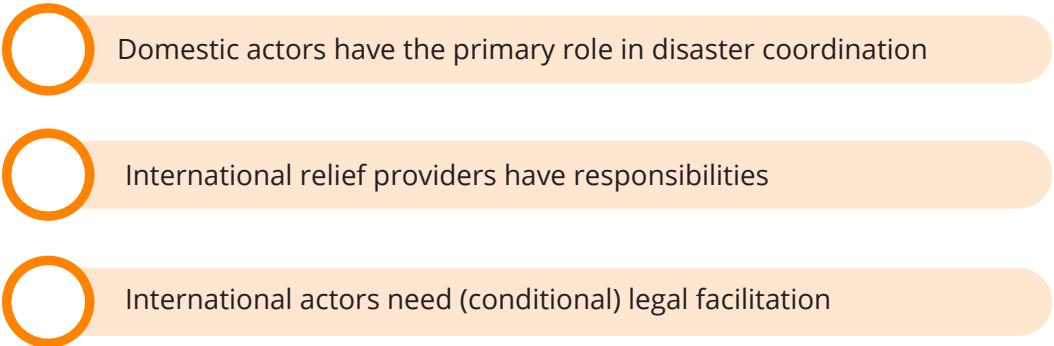
The International Federation of Red Cross and Red Crescent Societies (IFRC) has led the global development of the body of principles referred to as International Disaster Response Law (IDRL). This area of analysis is founded on a set of principles and guidelines for facilitating and regulating international disaster relief in a predictable and efficient manner. The IFRC approach to IDRL is outlined in its *"Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance"* or *IDRL Guidelines*. The *IDRL Guidelines* reflects extensive research from different countries and analysis of incidents in which national systems have been compromised by the scope and extent of a disaster. They address a common set of legal problems that arise in international operations, due to a lack of legal and regulatory preparedness at the national level. In 2007, the *IDRL Guidelines* were adopted by states party to the Geneva Convention at the 30th International Conference of the Red Cross and Red Crescent.

¹ Government of the Commonwealth of Dominica, Post Disaster Needs Assessment, 2017

The IFRC defines the *IDRL Guidelines* as a set of recommendations to governments on how to prepare their disaster laws and plans for the common regulatory problems in international disaster relief operations. They are non-binding best practice guidelines on legal and policy-based methodologies for regulating and improving the effectiveness of processes by which international relief enters nations in crisis.

The Guidelines address both barriers to access (including issues with visas, customs clearance and duties, taxes and charges and legal personality problems) as well as gaps in the regulation of the quality, coordination and complementarity of international relief. They are founded on a recognition of the sovereignty and autonomy of recipient countries, as well as the importance of imposing duties and responsibilities on donor partners and volunteers. This mutuality of roles and responsibilities is captured in the diagram below, which summarises the fundamental underlying principles of the *IDRL Guidelines*.

Figure 1: Key principles that inform and are reflected in the IDRL Guidelines



In 2017, the IFRC, based on its past 10 years’ experience in applying the *IDRL Guidelines* in a range of country level analyses, developed the “*Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance*” or the *IDRL Checklist* (see diagram below). The Checklist provides a more synthesized and cross-sectoral approach to evaluating national systems for compliance with core IDRL principles. This report matches Dominica’s laws, policies and practices against the *IDRL Checklist* and its 10 areas of enquiry. This is the first national assessment conducted in the English-speaking Caribbean that will utilise the *IDRL Checklist* as the benchmark for both the assessment process and the report.

In preparing this report, the responses reflect Caribbean governance practices and realities. While the *IDRL Guidelines* and Checklist make multiple references to disaster laws and the organisations mandated by law to enforce and implement them, in the Caribbean, much of the detailed aspects of the Disaster Law Framework is fleshed out at the level of plans, policies and programmes, rather than in primary legislation. This reflects a law-making tradition in which laws set high level boundaries within which policies and procedural documents are used to iterate the application of legislative principles.

Figure 2: Ten Questions of the IDRL Checklist (Nov 2017)

1

Does your country have a clear legal framework for disaster risk management which includes procedures relating to international disaster assistance?

6

Do your country's laws and regulations set out quality standards for international assisting actors?

2

Do your country's laws and regulations clearly set out a focal point for coordinating international disaster assistance?

7

Do your country's laws and regulations set out eligibility requirements for international assisting actors to receive legal facilities?

3

Do your country's laws and regulations outline the roles and responsibilities of different institutions relating to international disaster assistance?

8

Do your country's laws and regulations establish a specialized unit for expediting the entry of international disaster assistance?

4

Do your country's laws and regulations outline a process for requesting/welcoming offers of international disaster assistance, and for terminating international assistance?

9

Do your country's laws and regulations provide adequate transparency, safeguards and accountability mechanisms governing international disaster relief and initial recovery assistance?

5

Do your country's laws and regulations provide for necessary legal facilities to be provided to international assisting actors?

10

Do your country's laws and regulations outline procedures for international disaster assistance sent form, and transiting through your country?

Methodology

The preparation of this review involved three main streams of information gathering:

A **Legal and Policy Review** process was conducted through desk research, and a number of laws and policy documents were reviewed and analysed against the requirements of the *IDRL Checklist*. While the *IDRL Checklist* focuses on disaster legislation, other types of laws were included in the review. A list of the main laws under consideration is included at Appendix 1.

Two **Consultation and Sensitization Sessions** were conducted, providing an opportunity for local validation of desk review outcomes as well as the integration of stakeholder experiences in the understanding of how laws and plans are implemented in practice. A list of the organisations that participated in the Consultation process is given at **Appendix 2**. The recommendations outlined in this report emerged from the consultation process and reflects the perspectives of local state and non-state actors of ways in which IDRL gaps and programming anomalies should be addressed within the national context.

Individual Interviews were held with representatives of the Disaster Management, Development Planning, Health, Import/Export and Revenue sectors, in order to understand the internal systems and operations that lie behind the National Disaster Plan, as well as gain an understanding of how these systems functioned under the unusual conditions that followed Hurricane Maria.

Key Findings

While Dominica's systems incorporate several of the recommendations outlined in the *IDRL Checklist*, these are mainly accommodated within the realm of discretionary practices, rather than in established laws and policies. The key findings identified this report can be summarised as follows:

- There are overlapping roles and functions in the National Disaster Plan as regards the coordination of international disaster agencies, their personnel, goods and equipment. This can lead to lack of clarity.
- The Disaster Plan and related laws and systems are centred on the roles and responsibilities of government entities, and place insufficient focus on non-state entities. In the wake of a major disaster event, the number of non-state actors involved in a relief and recovery effort can therefore quickly overwhelm local coordination systems.
- Where non-state entities are mentioned, these are limited to active bilateral and multilateral agencies and the Red Cross; little accommodation is made for new and *ad hoc* donors.
- Waivers, exemptions and special permits are available to international assisting actors, but primarily on a discretionary basis. They require multiple applications to various government agencies, a process which can be bureaucratic and frustrating, particularly for those entities engaged in more long-term recovery projects.
- There is no system for regulating or providing temporary registration status to international assisting actors or their professional staff and volunteers. This limits the country's capacity to impose quality standards or enforce monitoring and accountability systems.
- There is no centralized, accessible source of information on available concessions or legal facilities available to international donors, leaving high levels of uncertainty among relief actors.

Key recommendations

The enactment of the Proposed CDM Bill will significantly improve Dominica's capacity to coordinate and facilitate international disaster relief goods, equipment and personnel in a more effective way. The Bill proposes the development of regulations to provide a detailed framework for how this will be implemented in practice. It is proposed that, in iterating these details, the following considerations should be included:

- Pre-requisites for qualifying for registration to access legal facilities and recommendations for organisations who do not qualify but wish to respond to a global request for assistance (including alternative procedures for partnering with a state organisation or recognized humanitarian partner, service club, faith-based organisation or NGO operating in Dominica).
- Detailed communications requirements built into the role of the International Humanitarian Assistance Coordinator, to ensure that both prospective and registered international assistance actors understand the standards and expectations of the Government of the Commonwealth of Dominica.
- Accountability requirements and sanctions and other consequences of breaching the laws of Dominica and the rules established for humanitarian relief organisations and their teams.
- Details of the state's powers to waive or expedite procedures and the terms under which these waivers will be issued. For example, the establishment of one-stop or single window facilities are recommended.
- Guidelines on the prerequisite standards for all pharmaceuticals, personal protective equipment and other health-related goods and supplies, including requirements regarding expiration timeframes, language of labelling, approval requirements and other global public health benchmarks.
- Regulations regarding the regulation of foreign military relief from non- Participating States of CDEMA. Consideration should alternatively be given to enacting a Visiting Forces Act, similar to those used in Jamaica, Trinidad and Tobago and Antigua and Barbuda, to regulate foreign military or similar groups.

The IFRC's **IDRL Model Act**² is a useful guide for the development of regulations on IDRL under the Proposed CDM Bill, and it is proposed that it should be used in tandem with the recommendations under this report to shape those regulations.

² <https://disasterlaw.ifrc.org/media/1772>



Hurricane Maria effected the capital of Dominica, Roseau. The main river flooded and water level did rise sholder high in some parts of the downtown. Flood water filled homes and businesses with mud, sand, wood and debris. The people living in the city did their best with cleaning but the work will last for long. © Nina Svahn /Finnish Red Cross

CONTEXT

The Commonwealth of Dominica is an English-speaking island in the Eastern Caribbean. While it retains some political systems, Westminster-style legislative traditions and models of governance from its British colonial heritage, it is a democratic republic with a President as its Head of State. The population of just under 70,000 black, mixed race, Amerindian and white Dominicans reside on 751 square kilometres of heavily-forested, mountainous, tropical terrain. With the interior of the country dominated by mountain ranges, towns and villages are clustered along the coast-line. Dominica's economy is largely agriculturally-based, but benefits from tourism and some manufacturing and service sector activities.

Dominica is a volcanic island, having more volcanoes (nine) than any other Caribbean country and experiences intermittent seismic and geothermal activity. Like many of its neighbours in the Atlantic hurricane belt, Dominica is vulnerable to tropical storms, flooding, landslides and other effects of intermittent heavy rainfall, particularly during the June-November hurricane season. The island records approximately 10,000 mm of rainfall annually.

The Caribbean Context for International Disaster Response Coordination

As a member of CARICOM, Dominica is party to the agreements and multi-country structures that make up the Caribbean Disaster Emergency Management Agency (CDEMA). CDEMA assists its Participating States³ through the comprehensive disaster management cycle, from the policy, planning and institutional development requirements of disaster management to the operational exigencies of relief and even long-term recovery efforts.

This has influenced the internal organisation of disaster preparedness and emergency management in Dominica, from the structure of its Office of Disaster Management (ODM) and National Disaster Plan to the nature and scope of regional involvement in emergency operations in the immediate aftermath of a disaster event. CDEMA's structures involve the coordination of relief supplies as well as the services and skills that are often required to support Emergency Operations, including Damage and Needs Assessment and Urban Search and Rescue teams. CDEMA's Regional Security System provides joint military support

Figure 3: Map of Dominica



Source: The World Factbook 2021

³ According to the Agreement Establishing CDEMA, a "Participating State" means a State Party to the Agreement.

to assist the network of police, fire and other disciplined forces providing stability, security and public order during an emergency period. Through its CDEMA membership, Dominica may be described as a participant in international disaster relief inflows and outflows originating from within the Caribbean. Dominica's national relief stocks can be (and have been) called upon to provide supplementary relief to other Caribbean nations, and it can expect immediate inflows of relief supplies from these neighbours when it is affected by a disaster event.

Dominica's inclusion in the CDEMA structure for regional and sub-regional disaster assistance is therefore key to understanding the construct of its international relief request mechanisms. In addition to direct intra-regional support, CDEMA can act as a broker or coordinator in the process of matching in-country needs with international donor funding through formal requests for aid. Additionally, from the pre-disaster planning stage, CDEMA coordinates regional cooperation mechanisms on comprehensive disaster management, setting the tone for the type and scope of relief provided by major bilateral and multilateral donor groups.

These CDEMA-based international disaster response coordination mechanisms will apply most directly to those international development partners that have an established presence in Dominica or the wider CARICOM region. They will not automatically guide micro-level donors including *ad hoc* volunteers, members of the diaspora or international NGOs who are not directly included in local or regional disaster coordination mechanisms. Additional processes for incorporating new and *ad hoc* donors and for communicating with potential donors will be needed in order to ensure more holistic coordination across all donor groups.

CDEMA Model Legislation and the Regulation of International Humanitarian Relief

Dominica has been engaged in a process of updating its national disaster law for some time. The process involves reviewing CDEMA's Model Legislation for national adaptation and use. This Model Legislation creates a context for regulating international humanitarian organizations and their personnel, goods and equipment in a manner that recognizes and integrates with both national and regional disaster coordination structures. While the CDEMA Model Legislation is compatible with the *IDRL Guidelines*, it does not address issues of coordination, facilitation and regulation in as great a level of detail. Instead, the Model Legislation considers that the regulations and plans giving effect to its provisions will capture those details as subsidiary law or policy instruments. This report considers Dominica's current laws, as well as the state of its legal framework should the CDEMA Model Legislation be implemented with the same terms and content outlined in the 2019 version of the Dominica Draft Comprehensive Disaster Management (CDM) Bill.

Hurricane Maria and its Lessons for International Disaster Relief

On September 18, 2017, Dominica's national and regional support systems became overwhelmed by what has arguably become its most impactful disaster event to date. Hurricane Maria hit Dominica as a category 5 storm with winds exceeding 260km/h and had a devastating impact on infrastructure, housing, water and sanitation, telecommunications, utilities, health, education and other social services and every aspect of the island's economy. Over 30 lives were lost and more declared missing. Damage was estimated at EC\$2.51 billion (US\$930.9 million), in addition to losses of EC\$1.03 billion (US\$380.2 million)⁴. This amounted to over 200% percent of the country's Gross Domestic Product (GDP) for 2016, and included the following:

- An estimated 63,000 of a population of 71,300 persons suffered loss of housing and/or livelihoods⁵.

⁴ Government of the Commonwealth of Dominica, Post Disaster Needs Assessment, 2017

⁵ United Nations Central Emergency Response Fund, Resident / Humanitarian Coordinator Report on the Use of CERF Funds, Dominica Rapid Response Storm, 2017 p.4



Moses Lewis, 58yrs, empties a wheel barrow full of mud on the side of the road for the umpteenth time. He is busy cleaning up his small bakery in downtown Roseau together with an employee. © Nina Svahn /Finnish Red Cross

- The country's crops were effectively wiped out by wind and rain damage, as well as by the flooding and landslides that immediately followed the hurricane. The consequential loss of plant-life resulted in serious risks to agriculture, environmental conservation, climate change adaptation and food security.
- All public services were compromised. The country lost its capacity to provide families with electricity, clean water, sewage treatment, solid waste management and other basic services.
- The road network was severely compromised, leaving some communities effectively cut off for substantial periods.
- Nearly all housing stock and the majority of commercial buildings were left fully or partially roofless, which, in addition to displacement of families, had long term impact on manufacturing, tourism and other sectors, services and commercial operations.
- Overnight, approximately two-thirds of heads of households were unemployed or had lost their main source of income⁶, as the country's poverty rate plummeted from 28.8% to 42.8%. The effect was exacerbated in poorer and less economically resilient communities, including among the indigenous Kalinago population.

⁶ See World Food Programme Vulnerability Needs Assessment Report for Dominica, 2017

- The impact of damage to buildings was felt just as strongly within the public sector. Many public sector workers were personally displaced and left with limited means to survive and care for their families, in addition to being cut off from access to their places of work or tools of labour.
- The Kalinago, Dominica's and the Caribbean's largest remaining indigenous population who occupy the region's only reserve, were severely affected by Hurricane Maria. The Kalinago territory was among the most directly affected communities and their economic dependence on food crops and small-scale industries placed their livelihoods at an enhanced risk.
- The Princess Margaret Hospital – the country's main hospital – and many health facilities sustained significant damage. The Hospital lost over 42.8% of its beds as well as surgical wards, an Intensive Care Unit, a Blood Bank and other facilities⁷. Plans to refurbish and upgrade facilities that had been initiated prior to the hurricane were stalled indefinitely. Additionally, a total of 65 schools and educational facilities were severely damaged. The disaster affected the country's human development services and had wider implications for the maintenance of health and education indicators.
- Government services were suspended for days - in some cases weeks – and the Emergency Operations Centre and its back-up centre were both damaged to the point of being inoperable.

This set of events created conditions to test Dominica's capacity to facilitate and regulate international disaster relief systems from outside of the Caribbean region. The scope and level of damage would have been overwhelming for a country of greater size and wealth but would have appeared nearly insurmountable for a small island developing state. Thus, the necessity of issuing an appeal for support beyond the borders of CDEMA and its Participating States was evident.

With instruments of governance and communications compromised, appeals for assistance from Prime Minister Skerrett began within the informal space of social media and were quickly picked up by regional and international news stations. On September 23, armed with early damage assessment and needs analysis estimates and accompanied by CDEMA, Prime Minister Skerrett was able to make a live appeal before the 72nd Session of the UN General Assembly. These appeals, and the accompanying media images of an island destroyed, resulted in one of the most expansive and sustained hurricane relief and recovery efforts in the independent history of the English-speaking Caribbean. The depth and scope of response from existing international partners, such as UN agencies or the IFRC, was expansive, but in no way comparable to the sheer number of new and *ad hoc* groups that entered Dominica from all over the globe in the days following Hurricane Maria. This included hundreds of groups purporting to have humanitarian aims, from seasoned and experienced international NGOs to groups formed for the sole purpose of supporting Dominica's humanitarian effort.

The immediate and widescale influx of humanitarian personnel and goods has made Dominica a Caribbean case study of worst-case issues in the coordination of international disaster relief. One report compiled at the start of 2018 described the number of external agencies as 'eight UN agencies, 17 NGOs, and the IFRC'.⁸ Other estimates from interviews conducted in the preparation of this report suggest that there were hundreds of volunteers and personnel from dozens of *ad hoc* relief agencies present in the immediate aftermath of the disaster, and many of these remained to support the recovery and reconstruction exercises. Not all of these entities had practices and standards that were deemed to be of an acceptable quality. This scale of relief regulation and coordination effort is one that not many Caribbean territories have faced. It can therefore be said that the lessons from Dominica have application well beyond the country's borders.

⁷ CARPHA State of Public Health in the Caribbean Report 2017-2018 Climate and Health: Averting and Responding to an Unfolding Health Crisis p.155

⁸ ACAPS Lesson Learned Report on Hurricane Maria in Dominica, January 2018

Additionally, in 2021, this report was updated to give some consideration to the impact and emerging lessons from the COVID-19 public health emergency, and its implications for other areas of disaster management. These issues and considerations provide context to the content of this report and the direction of its recommendations.



Dominica Red Cross response to COVID-19. © Dominica Red Cross



The first relief items arriving to the port in Roseau, Dominica, to help the population cope with the destruction caused by hurricane Maria. © Nina Svahn / Finnish Red Cross

IDRL CHECKLIST ASSESSMENT



Does your country have a clear legal framework for disaster risk management which includes procedures relating to international disaster assistance?

REGULATORY FRAMEWORK

At present, Dominica's primary legislation governing disasters and emergencies is its **Emergency Powers (Disaster) Act, 1987⁹**. The law provides the President with the authority to declare a state of emergency in all or part of the country. The law provides a regulatory starting point for grounding emergency powers and disaster operations but does not reflect the breadth of scope of a comprehensive disaster risk management law. Specifically, the Act does not make reference to international disaster relief.

The **National Disaster Plan** has a far more comprehensive framework for disaster risk management and sets out the structure and functions of a National Emergency Executive Committee (NEEC) and its Task Forces. Among these is a Task Force on Foreign Assistance. The structure for disaster coordination and emergency planning reflects the inclusion of International Agencies and Organisations as sources of support to the local state and non-state actors engaged in Disaster Management.

Under the National Disaster Plan, the Foreign Assistance Task Force is led by the Cabinet Secretary and the Permanent Secretary in the Ministry of Foreign Affairs. The Red Cross is a named member, as are the Ministry of Finance, Comptroller of Customs, Chief Immigration Officer and the Office of Disaster Management (ODM). In listing the International Organisations expected to provide support to disaster operations, the Plan highlights UN, Regional and Bilateral entities in the disaster relief or development sectors¹⁰, and 'Foreign Military Units' as a broad group. International NGOs are not specifically referenced.

Other Task Forces within the NEEC interact with the importation of relief items, but the Plan appears to consider that items will be consigned to or under the control of the National Emergency Operation Centre (NEOC). For example, the Transport, Evacuation and Equipment Task Force has among its responsibilities:

"Distribution of relief and rehabilitation supplies from the docks and airport to storage areas, food kitchens and shelters."

⁹ CAP 15:03

¹⁰ Examples are UNDP, USAID's BHA (formerly known as OFDA) and CDEMA

Similarly, the Food and General Supplies Task Force has the duty to:

“Receive, sort and document relief supplies and donations at ports of entry if requested by the NEOC.”

PRACTICAL APPROACHES & CONSIDERATIONS

The NEEC and NEOC were integral aspects of the post-Hurricane Maria response effort, and in this regard received the support of CDEMA and Caribbean governments and volunteers. However, the initial dislocation of government services and destruction of government buildings had an impact on emergency operations and many of the contingency measures outlined in the National Disaster Plan were not immediately feasible to implement.

It should be noted that the COVID-19 pandemic response has somewhat shifted the legal and policy basis of disaster coordination and any other disaster event that may arise during a public health emergency would need to integrate health considerations in international disaster assistance standards.

PROPOSED COMPREHENSIVE DISASTER MANAGEMENT BILL

Dominica is in the process of developing Comprehensive Disaster Management (CDM) legislation. As with many Caribbean countries, Dominica has worked with CDEMA, whose Model Legislation on CDM sets a broad framework for upgrading the regulatory system. If the CDEMA Model Legislation is closely followed, Dominica’s new law will make reference to procedures related to International Humanitarian Assistance.

The Comprehensive Disaster Management approach is the basis of the **Proposed CDM Bill**, which makes specific reference to the coordination of international relief, including roles and responsibilities for international actors (including IFRC) in the Advisory Council and coordination system. The Bill additionally outlines roles for Dominica’s foreign affairs and diplomatic corps.

KEY CHALLENGES IDENTIFIED BY STAKEHOLDERS

- The current NEEC system is unduly complex, with overlapping roles and responsibilities for government task forces.
- The current system is government-centric, and under-estimates the potential scope, breadth, complexity and internal autonomy of international disaster assistance.
- Under the current system, there is no clear mechanism for integrating international disaster assistance actors in a coordination mechanism (either directly or indirectly, through communications, coordination and information-sharing activities) in the wake of a major event.

RECOMMENDATIONS

- Enact the Proposed CDM Bill, which is based on CDEMA’s Model Legislation on Comprehensive Disaster Management and has a simplified legal and policy structure for disaster management.

Include clear mechanisms for coordination of international disaster assistance in the national regulatory and policy regime. This can take the form of CDEMA’s recommended provisions for International Humanitarian Assistance under its Model Legislation but should be accompanied (either at the subsidiary legislation or policy level) by the scope of details outlined in IFRC’s IDRL Model Act.¹¹

- Given the current understanding of the requirements and best practices for coordinating relief during a public health emergency, these considerations should be integrated into the scope and content of the Proposed CDM Bill.

¹¹ <https://disasterlaw.ifrc.org/media/1772>

2

Do your country's laws and regulations clearly set out a focal point for coordinating international disaster assistance?

REGULATORY FRAMEWORK

The **Emergency Powers (Disaster) Act, 1987**¹² does not specifically reference the coordination of international disaster assistance.

The **National Disaster Plan** includes a matrix of leadership and coordination roles and responsibilities split across Government agencies.¹³ It identifies The Ministry of External Affairs as responsible for 'Overseas Assistance' (supported by the ODM) and 'Liaison with Overseas Missions' (supported by the Cabinet Office); and the ODM as having Primary Responsibility for 'Coordination of International Response Teams' (supported by the Ministry of External Affairs). It is not clear how these functions may overlap or intersect with the work of the Foreign Assistance Task Force.

PRACTICAL APPROACHES & CONSIDERATIONS

During the Hurricane Maria Response, the Government divided the island into multiple regions. Each region was put under the coordination of a separate entity and international relief agencies and volunteers were each assigned to a specific region and coordinating body. At the request of the Government of Dominica, the eight UN entities that entered the country to support the response effort created a Crisis Management Unit (CMU) that became a hub for response coordination and communication. Over the course of the disaster response and recovery effort, cluster, sector-specific and cross-sectoral coordination meetings were a key strategy in maintaining communications and resolving delays and removing technical barriers. However, this level of organisation took some time to institutionalize, and recommendations have been made that clusters should be defined, and cluster leads identified prior to an event, to improve efficiency and reduce competition over limited resources.¹⁴ This adjustment can be made in future, as a pattern developed during the post-Maria response that has more long-term implications for future disaster events.

Additionally, some stakeholders have pointed out that coordination gaps and perceived delays in the supply of damage assessment and needs analysis data resulted in the lack of reliable baseline data and the duplication of efforts, which ultimately led to sub-optimal results.¹⁵

Some informal coordination occurred through the co-location of UN agencies, NGOs, government employees and other relief teams in shared offices within the first four months of the disaster response effort.¹⁶ This resulted in shared information and resources and improved communication and collaborative problem-solving.

Sharing the same physical space created a "response hub", where a majority of the actors were present, and a central information-sharing centre originated. This greatly aided collaboration and sharing of information between agencies. It reduced communication problems and helped facilitate the quick resolution of issues and coordination of certain activities.¹⁷

¹² CAP 15:03

¹³ Republic of Dominica National Disaster Plan, p. 34

¹⁴ United Nations Central Emergency Response Fund, Resident/Humanitarian Coordinator Report on the Use of CERF Funds, Dominica Rapid Response Storm, 2017 p.17

¹⁵ This concern was raised in interviews and is echoed in the ACAPS Lesson Learned Report on Hurricane Maria in Dominica, January 2018

¹⁶ See ACAPS Lesson Learned Report on Hurricane Maria in Dominica, January 2018

¹⁷ ACAPS Lesson Learned Report on Hurricane Maria in Dominica, January 2018 p.3

Additionally, some international volunteers were sent to work alongside their counterpart agencies. In this way, a volunteer team of firefighters might be sent to the Fire Department, and so on. It should be noted however, that while essential at the time, these models of coordination are not a sustainable platform for future relief coordination as the management of the deployment, housing and logistical support of international relief teams can become burdensome and interruptive to the resumption of functionality within the public services. As one manager interviewed noted, not only was he responsible for finding personal accommodations for his team members, but this responsibility was suddenly and unexpectedly extended to sourcing accommodation for relief teams that wanted housing in exchange for their services.

These factors would need to be adjusted for any state of disaster or emergency that is triggered by or which occurs during a public health emergency. In such instances, the disaster coordination roles and structures will need to take into consideration the health sector and its related policies and strategies.

PROPOSED COMPREHENSIVE DISASTER MANAGEMENT BILL

In future, if Dominica adopts the CDEMA Model Legislation in its current form, it will identify the ODM (or similar entity) as the Coordinator of International Humanitarian Assistance. In Dominica's Proposed CDM Bill, this is the function of the Director of the Disaster and Emergency Management Organisation, and has responsibilities for communication, coordination and facilitation of international humanitarian actors. This would address the gap in the current legislation.

KEY CHALLENGES IDENTIFIED BY STAKEHOLDERS

- There are overlapping focal point agencies with different but complementary responsibilities for international relief actors. With cluster and sectoral coordination systems, as well as coordination subgroups under the NEEC, there are several opportunities for international humanitarian organisations to collaborate with state entities and NGOs. However, no single entity is responsible for the facilitation or regulation of international humanitarian actors.
- The current system is not designed to manage the influx of *ad hoc* donors or inappropriate donations following a major disaster event.

RECOMMENDATIONS

- Incorporate the Proposed CDM Bill with its prescribed methodology for coordinating international humanitarian (disaster relief) assistance in national laws.
- Include in national laws or policies a clear institutional focal point for the coordination of international disaster assistance within the national regulatory and policy regime and communicate this information widely.
- Strengthen the ODM to include an International Disaster Relief Coordinator/International Humanitarian Assistance Coordinator whose functions will include coordinating and communicating with international assisting actors and their personnel.
- Establish within the framework of disaster plans clear guidelines and roles and responsibilities for international disaster relief actors.
- Ensure requirements for public health emergencies are included in all plans, standards and guidelines as a contingency measure.



The force of hurricane Maria cut off power and water supplies on Dominica and more than two weeks later these are still down across the island. By installing a water treatment system, Dominica Red Cross is together with the IFRC providing drinking water to a vulnerable community close to the capital Roseau that has lost almost everything. © Nina Svahn /Finnish Red Cross



Do your country's laws and regulations outline the roles and responsibilities of different institutions relating to international disaster assistance?

REGULATORY FRAMEWORK

The **Emergency Powers (Disaster) Act, 1987**¹⁸ does not detail roles relating to international disaster assistance. It gives the President the power, among other things, to make Orders to requisition or regulate the supply and distribution of food, clothing, water, fuel and other 'necessities of life'. While it does not identify international assisting actors, the power could, on the face of the law, be extended to any party operating within Dominica. This section and the framework created by the National Disaster Plan can be said to set the boundaries within which the coordination of and collaboration with international assisting actors occurs.

The role of the Foreign Assistance Task Force is described in the **National Disaster Plan** as follows:

5.4.11 FOREIGN ASSISTANCE TASK FORCE

General Responsibilities:

PRE DISASTER

- *Maintain liaison with overseas missions, donor agencies, private voluntary organizations etc.;*
- *Ensure that policies, procedures and protocols for obtaining international disaster relief are formulated and circulated to all departments;*
- *Arrange for the facilitation of the entry of government-approved relief and disaster response service personnel, of foreign governments and other organizations, and their gear.*

ALERT

- *Liaise with local, regional and international organizations regarding general information on the disaster, requests for assistance, pledges from donors, donations and receipts in association with the Ministry of Finance.*

RESPONSE

- *Arrangement for relief aircraft and ships, including customs and immigration clearance for relief supplies and personnel;*
- *Control of entry for non-essential visitors.*

This is the most detailed expression of a role assigned to a sub-component of the NEEC in relation to the coordination of international assisting actors. Additionally, the Recovery Task Force has among its duties to:

'Act as an information focal point for NGO's...

Facilitate and coordinate the operation of Governmental and non-Governmental agencies involved in the recovery operations...

Coordinate inquiries as well as pledges and donations from the International community.'

¹⁸ CAP 15:03

Similarly, the ODM has an ascribed duty to¹⁹:

'Make provisions in plans for CDERA, and other donor agencies with which mutual aid agreements have been developed...

Participate in local and international disaster management activities through UN, CDERA and other disaster management agencies with a view to improving the local systems, sharing information and facilitating a transfer of technology.

Identify ongoing bilateral and multilateral technical cooperation programmes that can facilitate development of national disaster programme objectives...

Collaborate with OCHA, CDERA, and similar bodies.'

The Ministry of External Affairs has specific responsibilities that appear to be geared toward providing a liaison point to foreign governments through overseas missions. Their duties under the National Plan include:

Primary Responsibility:

- *Liaison with overseas mission*
- *Facilitating and coordinating requests for, and responses to, emergency assistance from overseas Governments and donor agencies immediately after a disaster*
- *Coordination of all messages of pledges, dispatches and other interests from foreign governments and organizations to appropriate offices*
- *Arrangements for relief aircraft and ships*

Support Responsibility:

- *Tracking and clearance of incoming relief*

PRE-DISASTER

- *Ensure that overseas missions are informed about procedures for obtaining International disaster relief.*
- *Establish liaison with Red Cross Society to assist with tracing of missing persons.*

RESPONSE

- *Act as overseas liaison for the National Emergency Planning Organization in disaster situations (including the provision of information on the health and welfare of visitors).*

In reality the responsibility for the coordination of NGOs (including international actors) has been diffused across several NEEC Task Forces, and multiple entities may have a role to play. At the same time, the NEOC will practically carry responsibility for many coordination and information sharing tasks and may delegate these functions to specific entities as appears strategic or convenient in a given circumstance.

The Red Cross National Society's roles and responsibilities are as set out in the **Dominica Red Cross Society Act, 1983** which states:

5(1) The objects of the Society shall be...

(c) to organise, within the scope of the national plan, emergency relief services for the victims of disasters, howsoever caused

6. The Society is hereby recognised by the Government as a Voluntary Aid Society auxiliary to the public authorities and acting for the benefit of the civilian population...

¹⁹ National Disaster Plan p.

PRACTICAL APPROACHES & CONSIDERATIONS

Prior to Hurricane Maria, the Red Cross appeared to be the only organisation working within the disaster relief field that was **not** either an agency of the Government of Dominica or a foreign government or a regional or multi-lateral organisation. It is notable that a list of international organisations providing direct or indirect support to the NEEC did not include NGOs.

These combined factors meant that the influx of international NGOs and disaster relief actors that entered Dominica as part of the Hurricane Maria Relief effort presented new – and in some instances overwhelming – challenges to existing coordinating mechanisms.

UN entities entering Dominica for the first time after Hurricane Maria had to go through, at times, an unclear recognition process, as Dominica does not have overarching legislation providing legal facilities and tax exempt status to UN entities.

PROPOSED COMPREHENSIVE DISASTER MANAGEMENT BILL

The **Proposed CDM Bill** makes specific reference to international donor partners, as well as potential donors in the international sphere. One of the roles of the International Humanitarian Assistance Coordinator and the National Disaster Coordination Mechanism, as outlined in the Bill, is to interface with international NGOs and other international organisations, including collaborating in sharing information and expertise.

KEY CHALLENGES IDENTIFIED BY STAKEHOLDERS

- Limitations in national capacity to regulate or coordinate *ad hoc* donor groups meant most operated outside of the sight or monitoring capacity of the government.
- Limited coordination capacity post-Maria resulted in multiple points of enquiry, damage assessment, intervention etc., which in turn has led to duplicated efforts and donor and/or beneficiary fatigue.
- The Red Cross Act is silent regarding the nature and scope of legal facilities available to the Dominica Red Cross.
- Absence of a law providing appropriate legal status to all UN entities limits their ability to engage in relief and response efforts.

RECOMMENDATIONS

- A clear coordination point for new and *ad hoc* donors is needed, and should have the capability to implement effective information sharing and donor accountability systems.
- There should be a clear identification within the Red Cross Act of the auxiliary roles and functions of the organisation. This should be accompanied by a clear integration within the body of the law of the legal facilities (including tax exempt status) that the organisation should have.
- The establishment of a law or tax regulation granting legal status and appropriate exemptions to UN entities is needed. The law may name those entities that have regional operations and projects that impact Dominica but should be broadly framed to cover those entities that may be first introduced to the country in the aftermath of a disaster event.



Do your country's laws and regulations outline a process for requesting/welcoming offers of international disaster assistance, and for terminating international assistance?

REGULATORY FRAMEWORK

The **Emergency Powers (Disaster) Act, 1987**²⁰ does not set out procedures or requirements for requesting international assistance, nor for closing a relief effort. It does however provide to the President the discretionary power to declare a disaster, an act which for some donor agencies can be interpreted as providing the formal basis for initiating a relief effort.

The National Disaster Plan does not include a specific process for requesting international relief. However, the various methodologies outlined in the Plan for (a) conducting damage assessment and needs analysis processes, and (b) communicating relief and recovery needs to potential donors, could in practice include direct and indirect discussions with international donor partners.

Figure 4: CDEMA Model for Scaling up International Disaster Relief Requests



Dominica's inclusion in the CDEMA structure for regional and sub-regional disaster assistance is key to understanding the construct of its international relief request mechanisms. CDEMA can provide support to its Participating States with both the damage assessment and needs analysis systems, as well as to broker the process of matching needs with donor funding through formal requests for aid.

These mechanisms will apply most directly to those funding agencies – typically multi-lateral and bi-lateral development partners – who have an established presence in Dominica or the wider CARICOM region. They will not automatically guide micro-level donors including ad hoc volunteers, members of the diaspora or international NGOs who are not immediately included in local or regional disaster coordination mechanisms. Additional processes for incorporating new and *ad hoc* donors and for communicating with potential donors will be needed in order to ensure more holistic coordination across all donor groups.

There are no set procedures for terminating international relief.

PRACTICAL APPROACHES & CONSIDERATIONS

Following Tropical Storm Erika (2015) and Hurricane Maria (2017) respectively, the Government of Dominica prepared Needs Assessment Reports. The post Erika report was completed from a Rapid Assessment conducted by a mission team from the World Bank with the preliminary data provided by

²⁰ CAP 15:03

the Government of Dominica and funding provided by the ACP-EU funded GFDRR Programme. The report was completed within a month of Erika. A number of government agencies, telecommunications companies, CDEMA, OECS, UWI, CDB, UN Entities and the Red Cross representatives were credited for participating in the process.

A similar process was engaged post-Hurricane Maria, supported by the World Bank and a similar group of partner agencies. The report became the focal point of a UN-CARICOM High Level Pledging Meeting held in November 2017 which mobilised and targeted support to Dominica. The report was additionally used in the formulation of Dominica's recovery strategy, and guided World Bank Recovery programmes.

In the months that ensued, several of the more established humanitarian entities conducted specialized assessments and research activities designed to establish the evidentiary basis for their recovery interventions. The World Food Programme (WFP) conducted a Vulnerability Needs Assessment, surveying thousands of households in preparation for a Joint Emergency Cash Transfer Programme. The United Nations Development Programme (UNDP) conducted a Building Damage Assessment of approximately 30,000 buildings in 2017, which later led to their partnership with the Government of Dominica and Engineers Without Borders to make revisions to national building codes and train building professionals in new, more disaster resilient techniques. Similarly, UN's International Office of Migration (IOM) and Pan-American Health Organisation (PAHO) conducted an on the ground Displacement Tracking Matrix to collect data on displaced persons, shelter occupants and their pressing needs.

It is clear that post-disaster reports of this nature are an apt tool that can be used by bilateral and multi-lateral donor partners (including the World Bank and UN programmes) to inform their recovery projects. Requests and responses for donor aid made in this context can be structured around the official, state-issued assessment of loss and damages.

However, in the emotive and highly publicized immediate aftermath of a major disaster event, the guiding information that can accompany a generalized request for assistance can be far more vague and open-ended. This in part accounts for the large quantity of *ad hoc*, unsolicited and often inappropriate goods that flow in from donors.

PROPOSED COMPREHENSIVE DISASTER MANAGEMENT BILL

The **Proposed CDM Bill** makes specific reference to a request for international assistance being made either to CDEMA Participating States or in the wider international sphere. The Bill further speaks to the development of regulations for requesting and terminating international relief, indicating that this subject will be treated with further detail at the level of subsidiary legislation. S.64 of the Bill includes a requirement to protect Dominica's sovereignty and international disaster assistance must **ONLY** be provided in response to a state request or with state consent. The formal adoption of these provisions would address the gaps in the current legal framework.

KEY CHALLENGES IDENTIFIED BY STAKEHOLDERS

- The absence of a clear policy or set of criteria for declaring a state of disaster or requesting international assistance in relation to a disaster provides uncertainty to international humanitarian actors. This is exacerbated by limitations within the global rules for disaster relief funding, whereby Dominica's pre-Maria status as a 'middle income country' with relatively high human development indicators limits scope of funding available.
- Limitations in internal capacity to gather Post-Disaster Damage Assessment and Needs Analysis information expeditiously places limitations on the ability of humanitarian actors to respond to a disaster and can ultimately result in duplication of efforts.

- Limitations in communications systems established to convey needs to various international assisting actors, including *ad hoc* or diaspora groups, affected their capacity to respond accurately and strategically to national needs.

RECOMMENDATIONS

- Clear, evidence-based criteria for the declaration of a partial or full national disaster are needed. These criteria should be based on the nature and scope of the impact of a disaster on all or part of the population of Dominica. The number (or percentage) of households affected by a disaster is one possible rubric for determining whether an event should be categorized as a full or partial national disaster.
- Clear criteria and procedures should be outlined for requesting international assistance beyond the CDEMA regional and sub-regional mechanisms. This will lend certainty to both national and international actors regarding the circumstances in which IDR will ordinarily be deemed necessary.
- Establish an internet-based communications system to convey evidence-based needs analysis to various international assisting actors, including *ad hoc* or diaspora groups.
- Establish clear criteria for terminating requests for international assistance, and outline procedures to be followed by international donors after the relief period has been formally brought to an end.



As the country is prone to frequent tropical rains, materials to cover and fix the roofs are urgently needed. Dominica Red Cross has been supporting residents in the capital Roseau by distributing hundreds of tarpaulins. © Nina Svahn / Finnish Red Cross



Do your country's laws and regulations provide for necessary legal facilities to be provided to international assisting actors?

REGULATORY FRAMEWORK

There is no reference in either the **Emergency Powers (Disaster) Act, 1987**²¹ or the National Disaster Plan to the provision of legal facilities to international assisting actors.

Landing: Visa, Customs and Other Requirements

No laws or policies specify priority landing arrangements for humanitarian assistance aircraft; however, this becomes a necessary logistical strategy in the immediate wake of a major disaster event. The **Customs Act, 2010** gives the Comptroller of Customs the ability to waive some of the Act's import and export requirements in relation to 'any vessel or aircraft owned by or in the service of the government of any other country'.²² This supports the finding that many of the exemptions and special procedures available under various laws are directed towards government actors and do not, on the face of things, apply specifically to international assisting actors who act independently of government systems.

Additionally, certain arrival and departure requirements and protocols are deemed by the Customs Act to be inapplicable to a vessel or member of disciplined forces arriving or departing for the purposes of a disaster response, provided that key information on the arrival or departure is relayed to the Comptroller of Customs within a 24-hour period. This allows, for example, the departure or landing of military aircraft other than through a port of entry. While the law limits this exception to disciplined forces, experiences following Hurricane Maria suggest that a major disaster event can so compromise the ordinary operations of customs systems that the suspension of regulations regarding the usage of ports of entry may become a practical necessity.

Dominica allows nationals from a wide range of countries to enter its borders without a visa. Nationals of CARICOM and Commonwealth countries, the USA and an additional 13 EU and Eastern European countries can enter and remain without a visa if they do not intend to remain beyond 6 months. Nationals of an additional 24 European, South and Central American countries can remain for 3 months without a visa. Further, any in transit passenger or tourist with a return ticket can be allowed entry if they do not intend to stay beyond 21 days. With these restrictions in mind, entry requirements for many disaster relief workers will be limited to a valid passport, a return ticket, and proof of the ability to sustain oneself while in the country.

Work and Extended Stay Permits

To obtain an extension of stay, a visitor resubmits these entry documents to the Passport and Immigration Department, along with requisite fees. Based on the fee structure, an extension can be granted for either 1 or up to 3 months. For more extensive recovery operations, disaster workers will need to fill in an application for a permit to reside/work in Dominica or apply to waive same. A work permit is valid for a year and is renewable. In addition to a Passport and return ticket, the applicant will need to submit a Medical Certificate, Marriage Certificate, Banker's Statement, Letter of Employment, Police Record and two testimonials. Under the **Immigration and Passports Act**, diplomats and employees of a UN or other international or regional organisation to which Dominica is a member state do not need a work permit. Other persons exempt include non-nationals working for a Ministry or department of the Government of Dominica (whether paid by the Government or another entity) and persons registered under the **CARICOM Skilled Nationals Act, 1995**.

²¹ CAP 15:03

²² Customs Act, 2010, CAP: XXX, s.3(2)(b)

Registration of International Disaster Relief Organisations

A donor not registered or otherwise recognized under the laws of the Government of Dominica will encounter difficulties in conducting ordinary business, including opening a bank account, clearing goods, signing contracts, hiring employees etc. The **Companies Act, 1994** sets out the procedures for registering companies, non-profit organisations and external companies seeking to do business in Dominica. Applications are made on different Forms to the Companies and Intellectual Property Office (CIPO). Whereas any adult can apply to start a business, a non-profit organisation must meet the criteria of being:

“of a patriotic, religious philanthropic, charitable, educational, scientific, literary, historical, artistic, social, professional, fraternal, sporting or athletic nature, or the like, or to the promotion of some other useful object”²³

While many international assisting actors will perhaps meet the criteria of being of a charitable or social nature, their applications must first be approved by the Minister with responsibility for companies. The imposition of a discretionary authority makes the process and its timing unpredictable.

An externally registered entity can apply to have their registration recognized in Dominica, thereby obtaining the legal capacity to do business locally. This is an alternative to registering a new non-profit company in Dominica and may be an attractive option for an international organisation desiring legal status to facilitate short to medium term operations. The application process involves registering the company's incorporation or constitutional documents from its jurisdiction of origin, along with a Power of Attorney and attorney at law's statutory declaration.

Once an entity is registered as a company, it automatically acquires tax registration status with the Inland Revenue Division.

PRACTICAL APPROACHES & CONSIDERATIONS

Post-Maria Facilitation of Humanitarian Organisations

During the Hurricane Maria Response there was an influx of donor entities into Dominica. Many, including UN organisations, established international NGOs and bi-lateral groups that did not previously have an established presence in Dominica, encountered difficulties in organizing their ordinary relief efforts. Unable to open accounts without local legal status, organisations had to resort to using remittance services to fund their operations and purchase supplies.

Over a year after Maria, the research process revealed ongoing challenges were still being faced in the registration and legal recognition provided to humanitarian organisations. While officials of the Government of Dominica organized informational sessions intended to guide international NGOs in becoming locally registered persons, it is clear that the ordinary scope of local systems were overwhelmed by the demand. As this coincided with the closure, relocation or compromised operations of many government buildings, as well as loss of files and inadequate electricity, telecommunications and other basic services, the general breakdown of registration systems was a foreseeable outcome.

This points to the need for a pre-registration system or offshore registration system (e.g. through Dominica's foreign offices and consular or through partnership with CDEMA or the OECS) could be used instead to provide temporary legal recognition to foreign organisations wishing to do business in Dominica for the sole purpose of disaster relief aid. This system could be patterned on company laws, which allow registration of foreign companies to do business in Dominica, once they are lawfully registered entities in another jurisdiction and can supply some general 'due diligence' information, such as the names and addresses of directors and shareholders, copies of their incorporation documents and other similar proof of good governance.

²³ The Companies Act, s.328

Post-Maria Facilitation of Humanitarian Personnel

While the entrance requirements for disaster relief personnel was fairly seamless, most were allowed to remain in country for 4-6 weeks at a time and needed to submit paperwork for renewal of leave to remain on a month-by-month basis. Similar time limitations were applied to work permit waivers. Given the scope of the rebuilding and recovery effort, this process seems destined to result in undue effort and frustration for both state workers processing applications and humanitarian workers making applications. Selected labour and immigration law waivers for certain categories of humanitarian staff could replace this system, and should be based on approved plans of the humanitarian organisations and the relative availability of local staff. This could be done with certain quotas applicable to both the number of organisations and the number and type of personnel imported, so that the number of organisations and personnel in country at any point in time is guided by the stated needs and requirements of the government of Dominica.

This evidence-based facilitation of personnel can be linked to a wider effort at streamlining the supply of skilled and non-skilled labour in a post-disaster context. As Maria's impact resulted in loss of livelihood and employment for two-thirds of the country's heads of households, a national emergency employment programme was instituted to assist the population. At least one humanitarian agency pointed out the potential for utilizing this as a platform for staffing humanitarian and private sector recovery and reconstruction teams.²⁴ It could therefore be used to rationalize the type and number of skilled persons that will need to be brought in by international entities, based on local gaps in the labour market.

PROPOSED COMPREHENSIVE DISASTER MANAGEMENT BILL

The **Proposed CDM Bill** includes several references to legal facilitation of international humanitarian actors, including the provision of exemptions under the Customs Act and facilitating the entry of field teams. Further, the Bill speaks to the ministerial power to make detailed regulations for other waivers and immunities to be provided to international humanitarian actors.

KEY CHALLENGES

- Mechanisms for registration and provision of legal status to international organisations are not designed for international disaster assisting actors whose operations must be established quickly and efficiently, but perhaps for a temporary (relief and initial recovery) period.
- There is no procedure for reviewing the type and scope of legal facilities available to those international groups that remain in country for a lengthier recovery and reconstruction period, or providing them with more long-term waivers.

RECOMMENDATIONS

- A registration (or pre-registration) mechanism is needed to allow international disaster assisting actors to apply for and receive legal status to operate temporarily in Dominica. Registration should be accessible off-shore, either through CDEMA or other CARICOM or OECS arrangement, or through Dominica's foreign missions and consulates, in the event that local systems are compromised by the impact of a disaster event.
- The Ministry of Foreign Affairs should be included in the registration process or the establishment of registration requirements, in order to ensure that any treaty-based organisation receives appropriate legal facilities.
- The law should facilitate more lengthy work and stay permits for the mission teams of registered or recognised disaster relief actors. These should be able to go up to a year in length, based on the

²⁴ United Nations Central Emergency Response Fund, Resident/Humanitarian Coordinator Report on the Use of CERF Funds, Dominica Rapid Response Storm, 2017



As the country is prone to frequent tropical rains, materials to cover and fix the roofs are urgently needed. Dominica Red Cross has been supporting residents in the capital Roseau by distributing hundreds of tarpaulins. © Nina Svahn / Finnish Red Cross

nature and scope of the organisation's relief and recovery implementation plans, provided these plans are approved by the ODM or another appropriate agency.

- The law should facilitate temporary legal status for disaster relief entities.
- A monitoring and accountability mechanism and procedure should be put in place for reviewing the type and scope of legal facilities available to those international groups that remain in country beyond a year following a disaster event.
- Clarifications are needed on the approved listing of types and quantities of disaster relief medications and medical equipment that will ordinarily be allowed entry into the country in the wake of a disaster event.
- Clear guidelines and process maps for port and other logistic services are needed, to enable international donors to navigate the importation of relief goods seamlessly. This should include information on possible alternatives for storage and security, in the event that national systems become overwhelmed by the scope of the relief effort.
- Specially expedited procedures and systems for the clearance of relief goods, personnel and equipment should be clearly established in SOPs, using 'one-stop' clearance facilities when the nature of the disaster event makes this necessary



Do your country's laws and regulations set out quality standards for international assisting actors?

REGULATORY FRAMEWORK

The **Emergency Powers (Disaster) Act, 1987**²⁵ does not incorporate or make reference to quality standards for international assisting actors, their teams, supplies or equipment. The National Disaster Plan is equally silent on the details of the type of organisations, personnel and supplies that should ordinarily be included in an international relief effort.

In the area of medical supplies and pharmaceuticals, while Dominica adheres to international standards and is guided by WHO/PAHO regulations and directives, these are not captured in any national law, regulation or policy. This leaves the country open to the dumping of unusable, inappropriate or unwanted goods following a major disaster event.

PRACTICAL APPROACHES & CONSIDERATIONS

It has been estimated that following Tropical Storm Erika and Hurricane Maria respectively, about one third of all pharmaceutical supplies received had to be dumped. This does not include those supplies that were refused prior to landing. The cost of dumping medical supplies is borne by the Government of Dominica. There is currently no system in place for sanctioning expired or otherwise unusable goods received in the aftermath of a major disaster event.

Within the context of the COVID-19 response the scope of health-related goods and supplies will include personal protective equipment (PPE), vaccinations, sanitary supplies and related equipment. Guidelines for the importation of these goods should be widely circulated among both state and civil society agencies.

PROPOSED COMPREHENSIVE DISASTER MANAGEMENT BILL

The **Proposed CDM Bill** does not directly address quality standards in international humanitarian assistance, but these could be part of the subsidiary regulation mechanism for international humanitarian assistance.

KEY CHALLENGES IDENTIFIED BY STAKEHOLDERS

- The absence of a clear standard or set of requirements for humanitarian relief can result in a wide variation in standards of care by various groups.
- The absence of clear standards on type and quality of personnel, equipment and supplies to be included in a disaster relief effort can compromise the 'build back better' underlying aim of humanitarian response efforts.
- The absence of a quality control or accountability mechanism for monitoring humanitarian standards presents risks to humanitarian projects and their beneficiaries.
- There are insufficient mechanisms in place for vetting relief supplies, particularly during the response mechanism that follows a large-scale disaster event.
- Lack of clarity on standards for specially regulated goods, such as pharmaceuticals, creates administrative, human resource, storage and waste disposal burdens on regulatory bodies.

²⁵ CAP 15:03

RECOMMENDATIONS

- Integrate humanitarian (e.g. SPHERE) standards in national disaster risk management policy framework, setting clear principles and guidelines for the operation of international disaster relief actors within the country.
- Establish a clear communications mechanism to ensure that new or ad hoc donors are aware of the standards applicable to donations and relief efforts.
- Establish a monitoring mechanism or accountability and reporting requirements applicable to international assisting actors, to ensure that standards and requirements are met.
- Define a clear methodology for sanctioning breaches in international standards related to pharmaceuticals (e.g. the donation of expired drugs). Any special status or legal facilitation available should be suspended or voided for any entity that contravenes international standards in pharmaceutical relief.
- Lists of eligible medical and pharmaceutical items should be published and distributed among donors, in order to minimize unwanted and unsolicited donations.
- Clarified protocols are needed for processing medical items at ports of entry, including duty and fee exemptions only for items that meet the national requirements and needs lists.
- Ensure that minimum standards and guidelines are published for a wide range of health-related supplies used by state and civil society actors during a public health emergency, including PPE, sanitation supplies and other related equipment.



The first relief items arriving to the port in Roseau, Dominica, to help the population cope with the destruction caused by hurricane Maria. © Nina Svahn / Finnish Red Cross



Do your country's laws and regulations set out eligibility requirements for international assisting actors to receive legal facilities?

REGULATORY FRAMEWORK

Neither the **Emergency Powers (Disaster) Act, 1987**²⁶ nor the **National Disaster Plan** make mention of eligibility requirements for international assisting actors. This issue is not captured by another piece of national legislation or regulatory instrument.

PRACTICAL APPROACHES & CONSIDERATIONS

No eligibility requirements have been established in practice during any recent disaster event. However, during the Hurricane Maria Response the coordination teams around specific sub-sectors (e.g. health or construction) became points of coordination for international assisting actors and may have provided some informal sifting regarding which organisations were included in high level decision-making.

In practice, the Government of Dominica sought to include all major international assisting actors but lacked the capacity to establish eligibility requirements or other standards and criteria for smaller, less developed or *ad hoc* NGOs.

In the absence of established mechanisms, the bureaucratic systems used to register international NGOs and grant leave to remain for their international staff could in principle be used to exclude any group contravening international humanitarian standards or the laws of the country.

During a public health emergency or for countries facing an epidemic, special requirements may need to be issued surrounding the vaccination or testing status of international relief personnel.

PROPOSED COMPREHENSIVE DISASTER MANAGEMENT BILL

The **Proposed CDM Bill** does not specify eligibility requirements but requires the maintenance of a directory of disaster relief actors (s.15), including international organisations. The Bill further limits international assistance to a response to a state request or an initiative implemented with state consent.

KEY CHALLENGES IDENTIFIED BY STAKEHOLDERS

There is no eligibility criteria or other mechanism for sanctioning international assisting actors, which limits the capacity of the state to enforce standards and ensure compliance with directives and guidelines.

RECOMMENDATIONS

- Establish clear eligibility criteria for international assisting actors, based on international humanitarian (SPHERE) standards.
- Establish de-registration procedures or other mechanisms for sanctioning international assisting actors found non-compliant with international humanitarian standards or the laws of Dominica.
- Ensure that requirements are appropriately communicated to new and *ad hoc* donors, e.g. through online information portals on international disaster relief.
- Ensure appropriate public health considerations guide the standards applied to international relief teams during a global public health emergency or localized epidemic. This may include vaccination or testing requirements, developed in consultation with the World Health Organisation.

²⁶ CAP 15:03



Do your country's laws and regulations establish a specialized unit for expediting the entry of international disaster assistance?

REGULATORY FRAMEWORK

The **Emergency Powers (Disaster) Act, 1987**²⁷ does not make reference to a special one stop facility for processing and expediting international relief. The closest reference in the National Disaster Plan is to the Food and General Supplies Sub-Committee of the NEEC, which is led by the Dominica Export-Import Agency (DEXIA). This entity provides assistance in marshaling designated relief goods through the ports of Dominica.

PRACTICAL APPROACHES & CONSIDERATIONS

Typically, some steps and procedures for customs are waived in the aftermath of a major disaster event, and disaster relief teams are allowed to enter without undue difficulty. However, as time progresses beyond the initial relief period of the disaster, logistical problems will ensue, including:

- Logistical capacity for processing relief goods can be overwhelmed by the scope of donations.
- Warehousing, storage, transportation and other support systems are limited, and can become overwhelmed by the scope of donations.
- Lack of information can hamper the viability or smooth implementation of international disaster relief programmes.
- *Ad hoc* donations may benefit from customs relief, but there is often no procedure in place to collate or distribute such donations.

Post-Maria Facilitation of Importation and Logistics

In the aftermath of Maria, some donors utilized cash transfers as part of Dominica's relief and recovery effort, however, the scale of the disaster made this strategy limited in its effectiveness. Instead, there was a mass importation of disaster relief goods. In the early days of the response there was an immediate and pressing need for food and non-food items and clean water. The UN²⁸ and other entities, supplied thousands of dignity kits, water, health and sanitation kits, school-in-a-box kits and other items necessary for day-to-day survival. As the disaster unfolded, there was a near inexhaustible need for building supplies and related equipment.

The sheer scope of these relief imports quickly became physically overwhelming in all ports and port-adjacent facilities, and in some ways, compromised their safety and security. This further slowed the process of logistics, warehousing and transportation of goods, all of which were already affected by the impact of the disaster on port services and port staffing. While not all of these issues can be addressed by legal facilities, a coordinated and regulated system of international disaster relief facilitation could include specific instructions regarding logistical, warehouse and security alternatives to be used in the event of a large-scale disaster event. These alternatives should be selected with a view to optimizing port security and reducing congestion in the vicinity of the ports.

CDEMA's role in supporting disaster coordination among its Participating States was visible in the area of logistics management. Both in country, as well as through a sub-regional team in Barbados, CDEMA

²⁷ CAP 15:03

²⁸ See United Nations Central Emergency Response Fund, Resident/Humanitarian Coordinator Report on the Use of CERF Funds, Dominica Rapid Response Storm

was able to support supply chain management and the resolution of key logistical issues. The Barbados centre facilitated interface with international humanitarian organisations, including UN entities, bilateral organisations and military groups providing support to Dominica and other Caribbean territories impacted by Hurricane Maria and the other Hurricane events that caused damage throughout the Eastern Caribbean in 2017.

Due to the overwhelming impact of the disaster on the logistical capacity of both state and non-state entities, other humanitarian entities used pooled resources and collaborative approaches to transport relief goods and humanitarian teams. The UN, in its Central Emergency Response Fund report outlined its own roles in providing logistics support to other humanitarian actors in Dominica and other Caribbean countries impacted by the 2017 hurricanes, as the following quote outlines:

WFP provided essential logistics and telecommunications services. Due to the nature of the Special Operation response (supply chain and emergency telecommunications augmentation and coordination), WFP reached beneficiaries as international organizations, NGOs, UN agencies, donors and the private sector managing the relief items information of 40 organizations, and their cargo movement to the affected countries in the Caribbean region. A total of 836 passengers, and 10,096 kg of cargo were transported to 17 destinations throughout the Caribbean region, serving 31 humanitarian entities.²⁹

This experience of coordination to optimize logistical resources and information was a common thread in the interviews conducted in the preparation of this report and represents an area of good practice that can be replicated in future.

PROPOSED COMPREHENSIVE DISASTER MANAGEMENT BILL

The **Proposed CDM Bill** references the powers of the Director of Emergencies or International Humanitarian Assistance Coordinator, but does not necessarily specify the use of those powers to establish or implement a consolidated or expedited procedure for receiving and processing the entry of relief goods or equipment.

KEY CHALLENGES IDENTIFIED BY STAKEHOLDERS

- Special or expedited systems are not documented or predictable, but rather are introduced on a discretionary basis and may not be consistent from one disaster event to another.
- There are no clear communications mechanisms for conveying information on any special or expedited procedures for international disaster relief to new and *ad hoc* donors.

RECOMMENDATIONS

- A clarified and simplified 'one-stop' mechanism is needed for processing international disaster relief. These should apply to all ports (including seaports and ferry stations) and a clear process should be established for collating information on all organisations, personnel, equipment and supplies that enter or exit the country utilizing these mechanisms.
- Integrate private logistics service providers in the disaster planning cycle, as their services inevitably become critical to an effective disaster relief process. Use incentives and other strategies to encourage the participation of the private sector in disaster relief planning and response efforts.

²⁹ United Nations Central Emergency Response Fund, Resident/Humanitarian Coordinator Report on the Use of CERF Funds, Dominica Rapid Response Storm pp.12-13



Volunteers and staff with the Dominica Red Cross distribute food, hygiene and cleaning kits to vulnerable families as part of their COVID-19 response. © Dominica Red Cross



Do your country's laws and regulations provide adequate transparency, safeguards and accountability mechanisms governing international disaster relief and initial recovery assistance?

REGULATORY FRAMEWORK

There are no transparency or accountability safeguards, or mechanisms spelled out in the **Emergency Powers (Disaster) Act, 1987**³⁰ or **National Disaster Plan**.

PRACTICAL APPROACHES & CONSIDERATIONS

Some attempts were made to put in place accountability mechanisms but as these were being designed and deployed within the context of a large scale disaster event, stakeholders pointed to its limitations:

*Despite the presence of feedback mechanisms (hotline and consultations with beneficiaries), no formal protocol is in place for the use of feedback or how to respond to complaints. A better and more robust centralisation of complaints and coordination on how to attend to these should be made.*³¹

As part of the Hurricane Maria Response effort multiple agencies worked on the refurbishment or construction of houses, which was identified as a major critical need following the destruction of most of the island's buildings and infrastructure. Through partnership between the government of Dominica and the United Nations Development Programme, efforts were made to strengthen building codes, communicate new building standards to the construction sector and build capacity among trade technicians and building professionals in these new standards. However, no sanctions or monitoring mechanisms were established, and it is unclear what portion of new or newly reconstructed houses were designed to withstand another hurricane onslaught.

PROPOSED COMPREHENSIVE DISASTER MANAGEMENT BILL

The Proposed CDM Bill does not address this issue directly.

KEY CHALLENGES IDENTIFIED BY STAKEHOLDERS

There are no transparency safeguards or accountability systems for international disaster relief.

RECOMMENDATIONS

Clear transparency safeguards and accountability mechanisms for international disaster relief should be established and communicated using modalities that can be accessed by new and *ad hoc* donors.

³⁰ CAP 15:03

³¹ ACAPS Lesson Learned Report on Hurricane Maria in Dominica, January 2018 p.4



Do your country's laws and regulations outline procedures for international disaster assistance sent from, and transiting through your country?

REGULATORY FRAMEWORK

While the **Emergency Powers (Disaster) Act, 1987**³² makes no reference to exporting international relief, CDEMA systems include the use of national stores for provision of supplies to nearby islands. These systems are designed for government implementation. There is no clear reference to international assisting actors exporting stores from Dominica to other Caribbean territories.

Notably, as a member of the Organisation of Eastern Caribbean States (OECS), Dominica enjoys free movement of goods among its OECS neighbours. Goods that are exported from Dominica to any of the 14 OECS states will benefit from this regime.

PRACTICAL APPROACHES & CONSIDERATIONS

In 2017, Dominica supplied hurricane relief to islands affected by Hurricane Irma. This was done through DEXIA (Dominica's import and export facilitation agency and chair of the Food and General Supplies Sub-Committee of the NEEC), which facilitated the processing of goods through the ports.

PROPOSED COMPREHENSIVE DISASTER MANAGEMENT BILL

The Proposed CDM Bill does not address this issue directly.

KEY CHALLENGES

Procedures for the exportation of disaster relief goods are not clearly established.

RECOMMENDATIONS

Clear and expedited procedures for the exportation of disaster relief goods should be established and communicated to donors that have a multi-country presence in the region. This should allow any recognized international relief actors having a presence in Dominica to move relief to neighbouring countries in a manner that avoids the bureaucratic complexities of ordinary export regulations. These facilities may limit the type of goods to be exported for the purposes of a disaster and may be linked to a prerequisite that a disaster needs to have been officially declared in the recipient country.

³² CAP 15:03



Rouseau, the capital of Dominica, was badly shaken by hurricane Maria. Parts of the downtown were covered in mud and debris as a nearby river overflowed. Ten days later the main roads have been cleared and the residents work hard to clean up their homes and businesses. © Nina Svahn / Finnish Red Cross

CONCLUSIONS

The chart below outlines the six key findings of this report.



Dominica's National Disaster Structures are complex, with different organisations having overlapping roles in the coordination of international disaster relief.



Dominica's National Disaster Systems are focused primarily on government functions and do not sufficiently clarify or optimize the roles of non-government partners.



International partners named in national plans are limited to multilateral and bilateral organisations and the Red Cross. There is no significant mention of international NGOs or *ad hoc* groups.



Outside of the initial duty relief windows that immediately follow a disaster, waivers and exemptions are often discretionary and require multiple applications to various government departments.



There are no clear systems designed to regulate or provide temporary registration to international disaster agencies and their professionals (medical, engineering etc.), which limits monitoring and accountability.



While several legal and logistical concessions may be accessed by international donors, there is no centralized and readily accessible source of information on available legal facilities.

While Dominica's systems incorporate several of the recommendations outlined in the *IDRL Checklist*, these are mainly accommodated within the realm of discretionary practices, rather than in established laws and policies. The figure that follows identifies the aspects of Dominica's international disaster relief coordination framework that may be considered least developed within Dominica's laws and policies. They represent priority areas of action for policy makers – and advocates – as the country seeks to make its legislative and regulatory framework more resilient.

Figure 5: Aspects of IDRL Standards that are Least Developed in Dominican Law, Policy and Practices



The enactment of the Proposed CDM Bill will significantly improve Dominica's capacity to coordinate and facilitate international disaster relief goods, equipment and personnel in a more effective way. The Bill proposes the development of regulations to provide a detailed framework for how this will be implemented in practice. It is proposed that, in iterating these details, the following considerations should be included:

- Pre-requisites for qualifying for registration to access legal facilities and recommendations for organisations who do not qualify but wish to respond to a global request for assistance (including alternative procedures for partnering with a state organisation or recognized humanitarian partner, service club, faith-based organisation or NGO operating in Dominica).
- Detailed communications requirements built into the role of the International Humanitarian Assistance Coordinator, to ensure that both prospective and registered international assistance actors understand the standards and expectations of the Government of the Commonwealth of Dominica.
- Accountability requirements and sanctions and other consequences of breaching the laws of Dominica and the rules established for humanitarian relief organisations and their teams.
- Details of the state's powers to waive or expedite procedures and the terms under which these waivers will be issued. For example, the establishment of one-stop or single window facilities are recommended.
- Guidelines on the prerequisite standards for all pharmaceuticals, personal protective equipment and other health-related goods and supplies, including requirements regarding expiration timeframes, language of labelling, approval requirements and other global public health benchmarks.

- Regulations regarding the regulation of foreign military relief from non- Participating States of CDEMA. Consideration should alternatively be given to enacting a Visiting Forces Act, similar to those used in Jamaica, Trinidad and Tobago and Antigua and Barbuda, to regulate foreign military or similar groups.

The IFRC's IDRL Model Act is a useful guide for the development of regulations on IDRL under the Proposed CDM Bill, and it is proposed that it should be used in tandem with the recommendations under this report to shape those regulations.



The first relief items arriving to the port in Roseau, Dominica, to help the population cope with the destruction caused by hurricane Maria. Dominica Red Cross volunteers and IFRC staff offloaded tarpaulins, blankets and items © Nina Svahn / Finnish Red Cross



Recognizing the toll that not knowing and worrying takes on individuals, the Dominica Red Cross, supported by IFRC, provides people with the chance to call loved ones using satellite phones © Nina Svahn / Finnish Red Cross

APPENDICES

1. List of Main Laws and Policies Reviewed

- i. CARICOM Skilled Nationals Act, 1995
- ii. Companies Act, 1994
- iii. Constitution of the Commonwealth of Dominica, 1978
- iv. Customs Act, 2010
- v. Dominica Red Cross Society Act, 1983
- vi. Emergency Powers (Disaster) Act, 1987
- vii. Emergency Powers, 1951
- viii. Engineering Profession Act, 2002
- ix. Epidemic Diseases (Importation of Goods Prohibition) Act, 1888
- x. Excise Tax Act, 2005
- xi. Immigration and Passport Act, 1941
- xii. Medical Act, 1938
- xiii. National Disaster Plan
- xiv. Port Authority Act, 1987
- xv. Travel Tax Act, 2003
- xvi. Value Added Tax Act, 2005

2. List of Participating Organisations

- i. Dominica Air and Sea Ports Authority
- ii. Dominica Export Import Agency
- iii. Dominica Fire Service
- iv. Dominica Police Force
- v. Dominica Red Cross Society
- vi. Engineers Without Borders
- vii. Inland Revenue Department
- viii. International Federation of the Red Cross and Red Crescent Societies
- ix. International Organisation for Migration
- x. Ministry of Health
- xi. Ministry of Public Works
- xii. Office of Disaster Management
- xiii. Samaritan's Purse
- xiv. United Nations Development Program

THE FUNDAMENTAL PRINCIPLES OF THE INTERNATIONAL RED CROSS AND RED CRESCENT MOVEMENT

Humanity

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

Impartiality

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

Neutrality

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

Independence

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

Voluntary service

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

Unity

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

Universality

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



The International Federation of Red Cross and Red Crescent Societies (IFRC) is the world's largest humanitarian network, with 192 National Red Cross and Red Crescent Societies and around 14 million volunteers. Our volunteers are present in communities before, during and after a crisis or disaster. We work in the most hard to reach and complex settings in the world, saving lives and promoting human dignity. We support communities to become stronger and more resilient places where people can live safe and healthy lives, and have opportunities to thrive.

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