



UPDATING THE JAMAICA RED CROSS ACT TO FACILITATE ITS AUXILIARY ROLE

A POLICY BRIEF



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Address: Chemin des Crêts 17, Petit-Saconnex, 1209 Geneva, Switzerland

Postal address: P.O. Box 303, 1211 Geneva 19, Switzerland

T +41 (0)22 730 42 22 | **F** +41 (0)22 730 42 00 | **E** secretariat@ifrc.org | **W** ifrc.org

Cover photo: Red Cross volunteers in Jamaica prepare to respond to the damages that Hurricane Elsa might cause on the island, organizing prepositioned stock.

ABOUT THIS REPORT

This report examines the legal foundations of the auxiliary role of the Jamaica Red Cross Society and how this is operationalized in practice. It analyses the challenges faced by the National Society to fully optimize the recognition of its auxiliary status and proposes recommendations to address these challenges including recommendations to amend the Jamaica Red Cross Society Act.

This report is based on research and data collected in 2022. The findings and information presented herein are reflective of the state of knowledge as of that year. However, please note that this report is being published in 2023, and subsequent developments or changes may not be accounted for. Readers are advised to consider the timeframe of the research when interpreting the content.

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The Jamaica Red Cross hosted an enhanced Vulnerability and Capacity Assessment and Nature Navigator Training of Trainers, as part of the Greening Red Cross and Red Crescent Disaster Risk Reduction: Saving Lives through Working with Nature Project. Photo: IFRC/Jamaica Red Cross

CONTENTS

1. Background: International Humanitarian Law, the Geneva Conventions and the origins of the Red Cross Movement	6
2. Obligation to recognise and facilitate the auxiliary role of the Red Cross National Society	8
3. Track record of the Jamaica Red Cross and its fulfillment of its auxiliary role	10
4. Issues Emanating from the Absence of Legal Facilities for the Jamaica Red Cross	17
5. Global Standards and Benchmarks in Red Cross Legislation	20
6. Fiscal Benefits and Implications of a Globally Compliant Red Cross Act	26
7. Summary of Recommendations for Legislative Reform	28
ANNEX 1: Red Cross/Red Crescent Model Law	30

1. Background: International Humanitarian Law, the Geneva Conventions and the origins of the Red Cross Movement



In 1964, at the start of its independence journey, Jamaica became a signatory to the Geneva Conventions. The Jamaican government thereby recognized and cemented its obligation to adopt humanitarian principles in times of war and peace, and to support the international humanitarian mechanisms designed by the Geneva Conventions to ensure its implementation.

Among these mechanisms designed to support and sustain the global commitment to the Geneva Conventions and its humanitarian principles are the international and national structures collective known as the Red Cross Movement. The Movement dates back to the formation of the International Committee of the Red Cross by the first Geneva Conference of 1863 and is so intertwined with the 1949 Geneva Conventions and their subsequent protocols that Red Cross functions can be considered fundamental to public international law, international humanitarian law and the law of armed conflicts. The humanitarian obligations of state parties under the Geneva Conventions are therefore inextricably and indivisibly intertwined with governmental roles and responsibilities in relation to the Red Cross Movement.

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These governmental responsibilities are captured in the Geneva Conventions and their Protocols and have been extrapolated over time in a compendium of Resolutions and Guidelines issued by the International Conference of the Red Cross. For the purposes of this brief, Jamaica's obligations to the Red Cross as one of the over 190 state parties to the Geneva Conventions includes the following:

Participation in the International Conference of the Red Cross and contribution to debates, decision-making processes and resolutions. The International Conference is the main deliberative and decision-making mechanism for the governance of the Red Cross Movement and provides State parties, through their delegations, with the opportunity to influence and be informed of the evolution of the Red Cross and any impact that is subsequently made on norms of international humanitarian law.

Facilitation of the National Society, through the recognition of its role as an auxiliary to the government and an essential element of every signatory country's humanitarian framework in times of war and peace.

The latter obligation of the state to recognize and facilitate the auxiliary role of the Jamaica Red Cross Society is the subject of this brief.



The Jamaica Red Cross, with supported from Clarks, donated gas stoves to flood victims in Bull Bay, St. Thomas, who were still on the rebound after being affected by multiple tropical storms over a two year period.
Photo: Jamaica Red Cross

2. Obligation to recognise and facilitate the auxiliary role of the Red Cross National Society



Under the Geneva Conventions, it is understood that government authorities will have a duty to provide humanitarian assistance to the most vulnerable persons in their society. The role of the Red Cross is to supplement or complement this fundamental duty. This is referred to as **the auxiliary role** of the Red Cross. This auxiliary role of a Red Cross National Society can encompass a range of services fulfilled in support or substitution of a national government's humanitarian obligations. They comprise the humanitarian services provided directly by the National Society to the population under a general framework of agreement with the national government. They are built on a system of mutual responsibilities and shared benefits between national societies and national authorities and are grounded in international and national laws. It is understood that the Red Cross' auxiliary functions are provided with a government's agreement, while maintaining the neutrality and independence that are inherent to the Red Cross' operations. The Red Cross' obligation to its Fundamental Principles (see Annex 2) will supersede its commitment to state partnership, in the event of any conflict arising between the two positions.

The Red Cross globally has recognized the requirement to ensure that each State party provides the necessary legal recognition and facilitation that will enable each National Society the flexibility to implement its humanitarian mandate with due certainty. As is the case in Jamaica, legal recognition by the state is often in the form of a statute or other legislative instrument and is a precondition for a National Society being formally considered as the official representation of the Red Cross in country and a member of the International Federation of Red Cross Societies.

The Jamaica Red Cross Society Act, 1964 fulfills this role and outlines a mandate and authority that was consistent with the role played by the Jamaica Red Cross in Jamaica at the time. It recognizes and integrates the overall objectives of the Geneva Conventions in relation to the Red Cross and provides for the recognition of the Jamaica Red Cross as a Voluntary Aid Society within the meaning of those Conventions.

The legal facilitation of a National Society goes beyond the existence of legislation providing it with legal personality and status. The set of laws governing the National Society should ensure that the operations of the Red Cross are facilitated by such exemptions, waivers and special status recognition as are necessary to maintain the government-national society partnership that stands at the core of the Red Cross' identity.

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The IFRC's Guide to Strengthening the Auxiliary Role through Law and Policy includes some key recommendations that all countries ought to have within their laws. Jamaica has several of these provisions outlined in its legislation, or referenced indirectly. These include:

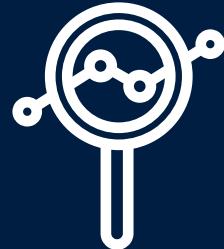
- Recognition of the Jamaica Red Cross as a national voluntary aid society as defined by the Geneva Conventions.
- Reference (albeit indirect) to state subventions and support for the Red Cross.
- Recognition of the Jamaica Red Cross as the only National Society of the Red Cross in Jamaica.
- Identifying some of the war-time humanitarian functions of the Red Cross.
- Identifying some of the peace-time humanitarian functions of the Jamaica Red Cross, including the provision of health support, public education and other social services.
- Regulated use of Red Cross emblems.

Despite these positives, the Jamaica Red Cross law stops short of providing some key elements of legal facilitation, including tax exemptions and duty waivers and the capacity to import international disaster relief goods, personnel and equipment in response to a major disaster event. The main gaps, when compared to the IFRC-developed models for reflecting the auxiliary role in law are as follows:

- No explicit provision of tax waivers and exemptions from duties, tariffs and other state -imposed fees or levies.
- No specially expedited services (such as for visas or legally required work permits), where necessary to facilitate the work of the Red Cross in Jamaica.
- No specially recognized legal right of movement to support access to vulnerable populations at all times, and particularly during times of humanitarian crisis.
- No legal warranties, provision of medical care or insurance, limitation of legal liability or other means of protecting Jamaica Red Cross volunteers and personnel when engaged in providing relief services to the most vulnerable.
- No access to logistics support when importing foreign disaster relief.

The gaps in legislation, when compared to international benchmarks and good practices, are further described in Section 5 below.

3. Track record of the Jamaica Red Cross and its fulfillment of its auxiliary role



The Jamaica Red Cross has remained faithful to its auxiliary role, raising funds through the international Red Cross movement and mobilizing local skilled volunteers for deployment in health, education, disaster relief, crisis intervention and other humanitarian aims. This section summarises several of the historic and current humanitarian and developmental benefits the Jamaica Red Cross has contributed to Jamaican families and communities since independence. It is important to note that these beneficial activities are not the result of a specific policy agenda or strategy, and therefore are not subject to change from time to time. Instead, they represent the fulfilment of the auxiliary role that the Jamaica Red Cross is required to play in support of the Government of Jamaica, by national law and international convention. The examples below show the many ways in which the government and people of Jamaica have been able to rely on the support of the Jamaica Red Cross in various areas of human and social development, through its globally entrenched mandate to alleviate human suffering.

Volunteer Mobilization and Community Leadership Structures: The Jamaica Red Cross has 13 active branches island-wide, mobilizing a network of volunteers including youth, first aid practitioners, psychosocial support and other skilled volunteers, shelter managers and a range of other community leaders. The branch structure supports and facilitates localized humanitarian relief and disaster management and assists with the deployment of volunteer aid during times of crisis.

Disaster Risk Management and Emergency Relief: Following the enactment of the Jamaica Red Cross Act, the Jamaica Red Cross Society was mandated to play a seminal role in National Disaster and Emergency Coordination. This preceded the existence of the Office of Disaster Preparedness and Emergency Management (ODPEM) (formerly the Office of Disaster Preparedness - ODP), which emerged out of the structures and functions pioneered by the Jamaica Red Cross. The functions of the Red Cross have included:

- i. Providing leadership, coordination and international resource mobilization in support of national response efforts to disasters occurring prior to the establishment of the ODP/ODPEM, including the 1979 June Floods.
- ii. Advocating for and supporting the establishment of a National Disaster Office, and providing guidance to the then Office of Disaster Preparedness in the coordination of disaster management systems. Additionally, the Jamaica Red Cross played a pivotal role in the post-Hurricane Gilbert relief and recovery efforts as the Office of Disaster Preparedness was relatively new at the time.



The IFRC, in collaboration with the Jamaica Red Cross organised a Livelihoods Programming Course, facilitated by the Livelihoods Resource Centre in Kingston, Jamaica. Photo: IFRC

- iii. Supporting the National Emergency Operations structures. Under the Disaster Risk Management Act, 2015, the Jamaica Red Cross is a named member of national and parish level coordination structures, including the National Disaster Management Council, Emergency Operations Centre and Parish Disaster Committees. The role of the Jamaica Red Cross in shelter management, damage assessment and needs analysis, relief supply and distribution and related activities are underscored under the National Disaster Plan and its sub-plans and protocols.
- iv. Shelter management and support. The Jamaica Red Cross manages the 204 priority shelters island-wide, providing them with food, furnishings (e.g. cots), equipment, sanitary items and other support. In addition, the Red Cross mobilizes volunteers who facilitate the management and supervision of minor shelters island-wide. The Red Cross has provided shelter management training and the development and distribution of guidelines for the safe management of shelters.
- v. Compiling damage assessment and needs analysis data and reports. The Red Cross' damage assessment and needs analysis systems enable early quantification of disaster impact and related needs. This is implemented through the organization's trained volunteers deployed at the branch and community levels. The information garnered through the Red Cross damage assessment and needs analysis system is conveyed to government partners and supports the national capacity to provide immediate data on disaster relief needs.
- vi. Supporting and partnering with the Government of Jamaica in sourcing, storing, supplying and distributing disaster relief. The Red Cross is a major source of disaster relief and is embedded within the national disaster relief supply chain. The Red Cross prepositions stock through its warehouses, supporting the national capacity to respond to the most common emergency needs. Red Cross prepositioned stock is often integrated with those of the Office of Disaster Preparedness and Emergency Management for reporting purposes, providing a composite

listing of emergency supplies that are available through the Government of Jamaica disaster relief distribution systems. The Government coordinates its disaster relief and distribution systems with the Jamaica Red Cross and implements joint and/or integrated data management systems through shared forms and templates. Government of Jamaica-Red Cross communication and collaboration systems ensure that no community is served twice, and data on the communities and families served by the Red Cross is integrated into the Government of Jamaica's disaster relief records. These activities are supported by the National Society's appeals to the global Red Cross movement for disaster relief support, appeals which are usually met with favourable responses. In this way, the Jamaica Red Cross acts as a true auxiliary, supporting rather than competing with the Government for the optimal spread of disaster relief resources.

- vii. Supporting and partnering with the Government of Jamaica disaster recovery and community restoration and rebuilding efforts. The Jamaica Red Cross mobilises funding support from across the Red Cross movement, including skilled volunteers from around the globe, to participate in and support national disaster recovery efforts. These include restoration and construction of housing and livelihoods, ensuring that communities and families emerge from disasters with renewed economic, social and environmental resilience. Livelihoods support is a critical component of Red Cross relief efforts and includes skills training, small grants and support with entrepreneurship requirements.
- viii. Supporting localized emergency relief efforts. Based on the organization's branch structure and island-wide presence, the Red Cross is able to respond effectively to localized disasters, including floods, landslides, fires and other events that affect specific communities or families. Relief efforts may include support to financial recovery through livelihoods grants, ensuring that families are able to restore their independence, sustainability and resilience.
- ix. Building community resilience. The Jamaica Red Cross has engaged communities island-wide in disaster risk reduction and resilience efforts. This includes supporting training of community leaders and volunteers, including through programmes that partnered with the Office of Disaster Preparedness and Emergency Management.
- x. Supporting the training and capacity development of Jamaica's disaster management work force and sharing new systems and innovations from the global Red Cross movement with technical experts at ODPEM.

Health Interventions and Support Systems: The Jamaica Red Cross has, since its inception, provided a number of health-related social services, often in partnership with the Ministry of Health and Wellness and other Government of Jamaica stakeholders. It has done this under designated programmes targeting specific health issues, such as HIV-AIDS (including reducing the stigma and discrimination experienced by persons living with HIV), the Zika virus, Water and Sanitation projects, the SARS-COVID-19 virus and other public health concerns. Additionally, the Jamaica Red Cross has secured training for Jamaican nationals in specialist areas such as psychosocial first aid, field hospital services, blood transfusion techniques and other skills. The scope of its interventions in relation to the SARS-COVID-19 virus has included the following:

- i. Providing PPE, sanitation and other public health supplies.
- ii. Providing food and other relief items for persons directly affected by the virus, including persons residing in communities that were placed under quarantine.

- iii. Supporting the Government of Jamaica COVID-19 immunization drives by identifying and mobilizing persons within communities who are open to receiving the vaccine, transporting persons from communities (including rural and remote districts) to and from vaccination centres and providing them with masks, hand sanitizer and refreshments. The Red Cross directly supported 1,500 persons in receiving the COVID-19 vaccine and is continuing similar vaccination drives through schools.
- iv. Providing livelihoods support persons impacted by COVID-19, through small grants provided to micro-entrepreneurs. Beneficiaries included persons who came from sectors that may be otherwise overlooked, such as school-gate vendors, raft operators and shrimp vendors. Additionally, the organisation partnered with United Way to provide grants for micro-agricultural, beauty services and transportation enterprises in five parishes. To date, these programmes have brought independence and economic resilience to nearly 600 families.
- v. Providing psychosocial first aid training to the Ministry of Health and Wellness and other response teams.



Jamaica Red Cross staff and volunteers assist with registration at a vaccination site. Photo: Jamaica Red Cross



Jamaica Red Cross staff member, Kimmoy Tulloch explains how to use a cash card to a shrimp vendor who lost her income due to COVID-19.
Photo: Jamaica Red Cross

Programmes for Children and Youth: The Jamaica Red Cross has mobilised Red Cross Clubs or Youth Links in schools and youth clubs island-wide. There are currently 361 active Youth Links in which 4,600 children and youth (3,550 F and 1050 M) are engaged in leadership development, first aid and safety training, volunteerism and other life skills. In addition, the Jamaica Red Cross runs a two-campus school in Central Village, St. Catherine and May Pen, Clarendon, targeting dropouts and other children who are not being served by the formal school system. Historically, the Jamaica Red Cross has supported many national and community-based social development projects. For example, at the request of the Government of Jamaica, the Jamaica Red Cross supported the construction of the Women's Centre Foundation of Jamaica premises on Trafalgar Road and assisted with the establishment of some of the organisation's branches.

Disaster Risk Reduction and Climate Change Adaptation Programmes: The Jamaica Red Cross has incorporated disaster risk resilience and climate change adaptation in its compendium of programmes designed to alleviate human suffering. The organization has worked in partnership with The Nature Conservancy and a number of Government of Jamaica agencies to support research and advocacy design to create a more enabling policy environment for disaster risk reduction and climate change adaptation.

Global Outreach and Regional Presence: The Jamaica Red Cross has mobilized Jamaican volunteers to support significant disaster relief efforts throughout the region, including providing technical support to disaster relief teams deployed in following the Haiti earthquake of 2010, the Hurricane Maria response in Dominica in 2018. Jamaica's psychosocial first aid teams are renowned across the region and have supported disaster response efforts and trained other teams across the region. These activities enhance the reputation of Jamaica in regional diplomacy. Additionally, Jamaica Red Cross volunteers and youth trained through Red Cross clubs have found careers in the global Red Cross movement, serving the International Federation of Red Cross and Red Crescent Societies in its Geneva and regional or sub-regional offices.

Support to Refugees: The Jamaica Red Cross is required, as a national branch of the Red Cross movement, to provide support to persons seeking refugee status in Jamaica. Over the years, the organisation has housed scores of individuals and families seeking refugee status, providing them with food and safe shelter over the months it takes to process refugee applications or make alternate arrangements. This has included *ad hoc* applicants from countries as near as Cuba and as far as on the African continent. Additionally, the Jamaica Red Cross was instrumental in housing large groups of political and economic refugees from Haiti, as well as disaster-displaced families from Montserrat awaiting relocation to the United Kingdom. Even during periods in which no refugees are being housed by the Jamaica Red Cross, the mere presence of a National Society and a refugee shelter programme allows Jamaica to remain compliant with its international treaty obligations.

Additional Roles Under International Law and Policy: The National Society serves the country and the international community in other ways. In fulfilment of its core humanitarian mandate, the Jamaica Red Cross deployed teams during the West Kingston Incursion of 2010, providing aid to communities, ensuring health needs of civilians were being addressed, filling prescriptions for the sick and elderly unable to leave the community and providing a neutral observer status where appropriate. Similar support has since been provided to communities under police curfews. Additionally, the Jamaica Red Cross is the point of contact for foreign military seeking to make arrangements to send home the remains of Jamaican soldiers who died in their service, as well as make contact with their families.

These services are often provided with support from the International Red Cross and Red Crescent Movement, support that the Jamaica Red Cross is often able to mobilise quickly and efficiently based on its sterling international reputation.

It should be noted that the presence of a sub-regional office of the IFRC in Jamaica, which was established in connection with the 1994 Legal Status Agreement between the IFRC and the Government of Jamaica, can strengthen the partnerships available to the National Society to serve the government and people of Jamaica.



Over 300 volunteers from the Jamaica Red Cross helped to clean over eight beaches across the island in the annual International Coastal Cleanup (ICC) Day. Photo: Jamaica Red Cross



Volunteers and staff of the Jamaica Red Cross pack food parcels to deliver to vulnerable families during the COVID-19 pandemic.
Photo: IFRC/Jamaica Red Cross

4. Issues Emanating from the Absence of Legal Facilities for the Jamaica Red Cross



Throughout the region, IFRC as the Secretariat of National Societies, has often been provided with the legal facilities required to implement the humanitarian mission and mandate of the Red Cross Movement. The IFRC's regional and sub-regional offices in Panama, Trinidad and Tobago and most recently, Central Village, St. Catherine, Jamaica, are all accorded diplomatic status for the purposes of the movement of their core staff, importation of equipment and supplies and the management of their assets within these jurisdictions. Through this recognition and in partnership with the Caribbean Disaster and Emergency Management Agency, Caribbean governments and National Societies, the Red Cross is often among the first 'boots on the ground' in responding to any national humanitarian crisis, disaster or other emergency.

Yet, despite the diplomatic recognition afforded to the IFRC, the National Society receives far less consistent treatment under Jamaican law. Initially, the Jamaica Red Cross Societies Act of 1964 created a framework for the discretionary and normative recognition of the National Society's tax-exempt status. The Act alludes to the Jamaica Red Cross's state subvention as well as the state-supportive functions that the Jamaica Red Cross fulfills in relation to disaster relief, humanitarian roles during war, health promotion and disease prevention and other humanitarian responsibilities. Based on this, for over 50 years the Jamaica Red Cross received exemptions under income tax, customs duties, general consumption tax and other levies and duties. For example, in former iterations of the Customs Act, the Jamaica Red Cross was a named organisation in the law whose imports were designated as duty free. While these exemptions and waivers were often accorded as a matter of course, there were occasions in which the Jamaica Red Cross had to employ advocacy skills, using letter-writing and other communications methods to remind the state of their obligations to facilitate the Red Cross in fulfilling their auxiliary role. This at times eroded the organization's capacity to provide swift and timely responses to natural disasters.

These limitations were exacerbated when the Jamaica Red Cross became a registered charity under the **Charities Act, 2013**. At the time, it was communicated that registration, would streamline the Jamaica Red Cross' access to tax exemptions and related waivers, particularly in the importation of relief items. The impact of the Jamaica Red Cross' charity status, however, has not worked in the way it was anticipated. Instead, it has resulted in a layer of bureaucracy not experienced before, as the Jamaica Red Cross is often required to prove its tax compliance prior to obtaining customs waivers, a factor which can cause undue delay in the emergency context within which the organisation typically functions.

The result has been that the Jamaica Red Cross, which was once a regional leader in the degree of partnership and collaboration experienced with the government of Jamaica, now trails behind other Caribbean National Societies in its capacity to access the relief stores and humanitarian response assets and equipment that are essential to its functions. Due to these limitations, goods and equipment destined for relief support have been stored for lengthy periods on the Jamaican wharves, incurring costly demurrage and storage fees, while the process of confirming the organization's charity status and compliance *at the point of consignment* are verified. While the organisation is accustomed to the accountability requirements of the Jamaica Red Cross Act, any gaps experienced in the timeliness of compliance requirements under the Charities Act now places its entire functionality in the time sensitive operations of disaster relief and emergency response at risk.

In the past, these issues have been resolved by re-consigning goods to the Office of Disaster Preparedness and Emergency Management or, more recently, to the IFRC sub-regional office co-located with the headquarters of the National Society, which enjoys automatic customs duty waivers by virtue of its diplomatic status. However, these options are unideal, as they result in a loss of the organization's flexibility and alacrity in responding to its mandate. Further, the process of reconsignment is time consuming and has resulted in delays cumulatively measured in months and years, which cost the organisation millions in related fees and expenses, as well as time lost in writing letters, engaging with bureaucratic application processes and maneuvering through a system that was not designed with a humanitarian organisation in mind.

The inability to import donated relief items without added costs creates a burden on the National Society that inhibits the organization's capacity to implement its mandate and obligations to the government and people of Jamaica, as well as to the wider Caribbean, since Jamaica Red Cross disaster relief stores are considered a key aspect of the country's internal readiness to respond to local disasters as well as those impacting our northern Caribbean neighbours.

The added layers of oversight provided by the Charities Act may be considered to be superfluous for the Jamaica Red Cross, as by virtue of the organization's statutory mandate and globally recognized status, it is required to maintain accountability of its records and finances, as well as ensure that all of its activities remain within the strict humanitarian boundaries created by the Fundamental Principles¹ and other guidelines of the Red Cross Movement.

¹ See Annex 2.



Jamaica Red Cross volunteers responded to communities affected by flooding and landslides as a result of Eta
Photo: Jamaica Red Cross

5. Global Standards and Benchmarks in Red Cross Legislation



There are 191 countries worldwide with a National Red Cross or Red Crescent Society. Each of these societies has a national law, regulation, charter or similar legislative instrument that establishes its national legal personality and status. The format of these laws is varied, as they would have been enacted at different times, reflecting different practices regarding what is considered essential to a Red Cross law, and facilitating the National Society's auxiliary role and its ability to function in accordance with the Fundamental Principles².

In 2018, the Red Cross, through the ICRC/IFRC produced *Guidance for National Society Statutes*³, which sought to create a common standard for what ought to be included in national Red Cross laws. The Joint Statutes Commission of the ICRC/IFRC has since been tasked with assessing national compliance with these standards and with the Red Cross Model Law on Recognition of National Societies (see Annex 1). Over the last few years, the IFRC has conducted multi-country research into the content of National Society laws, the extent of their compliance with the Model Law and Guidance, and any good practices implemented by different countries in facilitating the Red Cross auxiliary role. Based on the outcomes of this research, the IFRC produced a *Guide to Strengthening the Auxiliary Role through Law and Policy*⁴ in 2021, along with an updated Model Law and related legal instruments.

The aforementioned Guide outlined seven main elements to a Red Cross national law, as well as three additional, optional elements that aid in the completeness of the national law. The key components of these elements are outlined in this section, along with commentary on the extent to which Jamaica's Red Cross Act complies with the recommended standard.

Main Elements of a Red Cross Act, as Outlined in the RC Model Law

- a. **Relationship Between the National Society and Public Authorities:** The Red Cross Act should recognize the National Society's role as auxiliary to public authorities in the humanitarian field, recognize its status as the only National Society of the Red Cross in the country, and require public authorities to respect the National Society's adherence to the Fundamental Principles. Recommended wording for these provisions is provided in sections 1.2, 1.3 and 1.5 of the Model Law at Annex 1. When compared with these aspects of the Red Cross Model Law, the following strengths and limitations may be noted in Jamaica's Red Cross Act:

² See Annex 2

³ https://www.ifrc.org/sites/default/files/2021-08/IFRC_Guidance_A4_ENGLISH_WEB.pdf

⁴ <https://www.ifrc.org/document/guide-strengthening-auxiliary-role-through-law-and-policy-0>

- i. The Jamaica Red Cross Act contains similar provisions regarding the auxiliary role, albeit in language that is not as clear or concise as that which is used in the RC Model Law at Annex 1. For example, unlike the RC Model Law, the Jamaica Red Cross Act does not specify that it is the only National Society in Jamaica or that its functions cover the entire territory of Jamaica.
 - ii. Additionally, the Jamaica Red Cross Act does not specify the requirement for public authorities to respect the National Society's adherence to the Fundamental Principles of the Red Cross Movement⁵, as required by resolution 55(1) of the General Assembly of the United Nations.
- b. **Right of the National Society to Act at All Times in Accordance with its Statutes:** A Red Cross Act should make reference to the organisation's Statutes or Constitution, and its requirement to act in accordance with the terms and provisions outlined therein. Recommended wording for these provisions is provided in section 2.2 of the Model Law at Annex 1. When compared with this aspect of the RC Model Law, the following strengths and limitations may be noted in Jamaica's Red Cross Act:
- i. Jamaica's Red Cross Act makes extensive references to the organization's Central Committee and the rules made by the Central Committee for the operation of the National Society. It notes that the Central Committee has the right to make rules based on what it considers to be expedient from time to time, provided that a copy of these rules shall be furnished to the Minister with responsibility for Defence.
 - ii. The Jamaica Red Cross Act does not specifically include the National Society's requirement to act in accordance with the Rules of the Society, as made by its Central Committee.
- c. **Legal Personality:** The Red Cross Model Law outlines in sections 2.1 and 5.1 provisions securing the National Society's legal identity as a body corporate, as well as its capacity, within the limits laid down by its objects and purposes, to acquire, own, accept, bequeath or administer property as it deems fit. Jamaica's Red Cross Act makes adequate provision for the National Society's legal status and rights to deal with its own property.
- d. **Object, Mission or Purpose:** The Red Cross Model Law outlines in section 3.1 a synopsis of the object, mission or purpose of the National Society, which should include reference to rendering assistance to the medical services of the armed forces during times of conflict, as well as preventing and alleviating human suffering impartially and without discrimination. Jamaica's Red Cross Act contains similar provisions, albeit in language that is somewhat more dated. It makes reference, for example, to 'furnish(ing) aid to the sick and wounded both of armies and among non-belligerants (sic)⁶.
- e. **Duties of the National Society as a Movement Component and IFRC Member:** The Red Cross Act is required to include an obligation of the National Society to comply with its duties as a component of the International Red Cross Movement and a member of the IFRC. Recommended wording for these provisions is provided in section 4 of the Model Law at Annex 1. When compared with this aspect of the RC Model Law, the following strengths and limitations may be noted in Jamaica's Red Cross Act:

⁵ See Annex 2

⁶ See s4(1)(a) of the Red Cross Act

- i. Jamaica's Red Cross Act addresses the purpose of the Jamaica Red Cross "to perform all the duties devolving upon a national society of a nation which has acceded to the (Geneva) conventions"⁷. References to the Red Cross Movement are included in the preamble to the Act, however, the Act does not include provisions similar to those outlined in section 4 of the RC Model Law.
- ii. Jamaica's Red Cross Act makes reference to the 'League of Red Cross Nations', which has since been redesignated 'the International Federation of Red Cross and Red Crescent Societies' or IFRC. The Jamaica Red Cross Act will need to be updated accordingly.
- f. **Emblem Protection:** The Red Cross Model Law in sections 6.1 and 6.2 makes reference to the National Society's exclusive right to use the emblems of the Red Cross, which globally include a red cross, a red crescent and a red crystal. The red crescent and red crystal are used in countries having a non-Christian (e.g. Muslim or Hindu, respectively) history or heritage. Jamaica's Red Cross Act includes similar provisions to the RC Model Law, however it only makes reference to the cross. The Act would need to be updated to include references to the red crescent and red crystal.
- g. **Tax Exemption and Funding:** The Red Cross Act should include clear language securing on behalf of the National Society broad tax exemptions and a guarantee of funding. Specifically, the assets of the Society, its income, property and revenue, should be exempt from all taxes and donations to the national society should be tax exempt. Further the National Society should be provided with funding from public authorities "to cover the cost of any service or activity which they may entrust to the Society"⁸. Recommended wording for these provisions is provided in sections 5.4, 5.5 and 5.6 of the Model Law at Annex 1. When compared with this aspect of the RC Model Law, the following strengths and limitations may be noted in Jamaica's Red Cross Act:
 - i. Jamaica's Red Cross Act does not specify tax exemptions to be applied to the resources or assets of the Jamaica Red Cross.
 - ii. Jamaica's Red Cross Act does not include references to payment for services or activities entrusted to the Red Cross by the Government of Jamaica.

Additional Elements of an RC Law – Global Good Practices

- h. The RC Model Law outlines additional elements that can be included in an RC Act, which include the following:
 - i. A definition of the auxiliary role and the corresponding roles and duties of the National Society and public authorities. No such definition or description is included in Jamaica's Red Cross Act.
 - ii. A legal mandate for key activities. Jamaica's Red Cross Act outlines in section 4 the powers of the organisation, which include activities related to health (e.g. prevention of disease) and education (e.g. distribution of information). However, this description does not capture the breadth of activities that have since been implemented by the Jamaica Red Cross in fulfilment of its auxiliary role.
 - iii. Legal facilities or special legal rights to enable the organisation to conduct its activities efficiently

⁷ See s4(1)(b) of the Red Cross Act

⁸ See s.5.6 of the RC Model Law at Annex 1

and effectively. In other countries, the legal facilities provided by law to the Red Cross National Society may include:

- a. A legal right to move freely throughout the country and to access vulnerable populations at all times. It is notable that during the COVID-19 pandemic restrictions initiated under Disaster Risk Management Act in 2020, Jamaica Red Cross had to negotiate to be allowed free movement to access vulnerable populations as an exempt organisation under Disaster Orders.
 - b. A legal guarantee of government-funded medical care or insurance for volunteers.
 - c. Limited legal liability for staff and volunteers for activities conducted during an emergency response or while providing first aid.
 - d. Exemptions from customs duties, tariffs and fees payable to the government for importing relief goods.
- i. The legal facilities mentioned herein are not included in the Jamaica Red Cross Act, nor are they included as automatic rights of the Jamaica Red Cross in any other legislation in place in Jamaica at this time. Figure 1 below outlines examples of these legal facilities and how they are applied in the laws of other countries. These examples are taken from the Guide to the Strengthening of the Auxiliary Role through Law and Policy⁹.



The Jamaica Red Cross branches hosted various expositions and sensitization sessions across the island to raise awareness of the Red Cross. Photo: Jamaica Red Cross

⁹ <https://www.ifrc.org/document/guide-strengthening-auxiliary-role-through-law-and-policy-0>

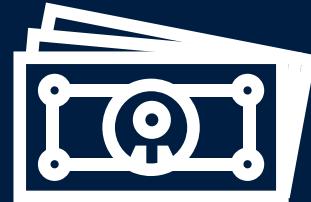
Fig.1: Types of Legal Facilities Available Under National Red Cross Laws – Some Good Practices

Legal Facilities Available to Staff and Volunteers by Law	Tax Exemptions Available to the National Society By Law	Funded Provided to the National Society by Law
<ul style="list-style-type: none">In Argentina, RC Volunteers can access payment for 10 days of emergency service and 5 days of RC training per yearThe law in Colombia gives RC Volunteers priority access to government subsidized health care schemesRC first aid responders are exempt from legal liability in PanamaRC Volunteers in Norway, who provide health and care services, have access to state supported occupational injury insurance scheme.If an RC volunteer in Vietnam gets injured during their duties and does not have health insurance, the government provides equivalent coverage for health care needs and related loss of income.	<ul style="list-style-type: none">The NS in Ecuador is exempt from all national and municipal taxes and can be reimbursed for any VAT paid on goods and services, whether acquired in Ecuador or imported.The law in Nigeria exempts the RC from all taxes on income derived from its primary registered activities, however the RC pays taxes on any 'commercial' activities.The NS in Poland is categorized as a 'public benefit organisation' and is therefore exempt from all taxes, as well as stamp duties and court fees.In Sierra Leone, the RC Law provides that the revenue from all property and assets of the RC, including income generating activities, are exempt from all taxes and duties, including import duties.In countries such as Liberia & Phillipines, donations to the RC are exempt from tax and can be deducted from gross income and/or treated as a tax-exempt portion of a deceased donor's estate.	<ul style="list-style-type: none">The government of Azerbaijan includes in its annual budget, payment for the NS contributions to ICRC and salaries for all employees. This is required under the RC Law.The RC law in Mongolia requires state funding for all RC activities covered in the RC Act, including humanitarian assistance and comprehensive disaster management activities.In Tajikistan the RC Law provides for an annual payment including the IFRC membership dues, contributions to ICRC and the implementation of public social care programmes.In Vietnam, the law establishes an RC Operation Fund into which state funds are placed for financing RC operations and activities.



Red Cross volunteers in Jamaica prepare to respond to the damages that Hurricane Elsa might cause on the island, organizing prepositioned stock. Photo: Jamaica Red Cross

6. Fiscal Benefits and Implications of a Globally Compliant Red Cross Act



The inability to import donated relief items without added costs creates a burden on the Jamaica Red Cross that inhibits the organization's capacity to implement its mandate and obligations to the government and people of Jamaica, as well as to the wider Caribbean as Jamaica Red Cross disaster relief stores are considered a key aspect of the country's internal readiness to respond to local disasters as well as those impacting our northern Caribbean neighbours. Any loss in revenue from tax exemptions provided to the Jamaica Red Cross will be offset by the resources that the organisation is able to garner through increased flexibility and responsiveness in accessing international donations.

The level of funding and support provided by the Government of Jamaica to the Jamaica Red Cross is something that can be negotiated over time, having regard to the resources available to both the organisation and the state. However, in light of the organization's auxiliary role, it is important that in receiving any subvention from the Government of Jamaica, the Red Cross is not treated as competing for funding with other state or non-state entities. In this regard, it may be useful to identify support to the Jamaica Red Cross as a unique and distinct line within the national budget, not part of a pool of funding provided to charitable and community organisations, as is currently done.



The Jamaica Red Cross has started its agroforestry programme in the community of Rock River, Clarendon as part of the Greening Disaster Risk Reduction initiative, aimed at reducing the disaster risks of vulnerable communities mainly through the implementing of nature based solutions. Photo: IFRC/Jamaica Red Cross

7. Summary of Recommendations for Legislative Reform



- a. It is therefore recommended:
 - i. That the Jamaica Red Cross Act should be updated to include all the essential elements of the Red Cross Model Law, as described in section 5 above and as outlined in Annex 1.
 - ii. That the powers and purposes of the National Society and provisions related to its Central Committee and Rules, which are currently included in the 1964 Act, should be updated and included in the updated statute.
 - iii. That the powers ascribed to the Jamaica Red Cross under the 1964 Act should be updated to better reflect the auxiliary role of the National Society, using a synopsis of the types of functions outlined in section 4 above.
 - iv. That the revised Act should include a definition of the auxiliary role of the National Society.
 - v. That the revised Act should include specific reference to the organisation's tax-exempt status, as well as guarantee any other legal facilities necessary for the conduct of its functions, including waivers of fees and duties related to the importation of disaster relief items.
 - vi. That the revised Act should make reference to the duty of the Government of Jamaica to provide such additional legal facilities, subventions and financial or other support as it is within its power to do, having regard to the fulfilment of the organization's auxiliary role.
 - vii. That the revised Act may stipulate that the Red Cross Rules include such measures of accountability as are necessary to protect the organisation from malfeasance or abuse of privileges, including appropriate annual audits and standards of accounting, provided that nothing in the rules shall undermine the National Society's independence or impartiality.
- b. In light of the above, it is further recommended that the Jamaica Red Cross Society, subsequent to changes made to its legislation, be allowed to relinquish without penalty its status under the Charities Act.



The Jamaica Red Cross (JRC) has launched the Greening Red Cross Red Crescent Disaster Risk Reduction (Greening DRR) initiative in the community of Woodford, St. Andrew, the third of three communities in which the Greening DRR activities are being implemented. Photo: IFRC/Jamaica Red Cross

ANNEX 1: Red Cross/ Red Crescent Model Law



Red Cross/Red Crescent Model Law Law on the Recognition of the (name of the Red Cross or Red Crescent Society)

Commentary

The purpose of this “model law” on Red Cross/Red Crescent Societies is to encourage governments and National Societies to give due consideration to the legal aspects of supporting and protecting the functions of the National Societies and, at the same time, provide sample clauses covering the main areas of concern for the Movement and from which to draw inspiration for legislative work.

The reference to “recognition” in the Title means that the special legislation concerning the Red Cross or Red Crescent Society may, but does not always have to, constitute the act through which a government formally recognises its Society as an auxiliary to the public authorities in the humanitarian field on the basis of the Geneva Conventions. Such recognition may derive from other acts of government (legislative or executive branch).

Article 1

- 1.1** This law regulates the legal status of the (name of the Society) (hereinafter called “the Society”) and may be quoted as “The (name of the Society) Act”.
- 1.2** The Society is a voluntary aid society, auxiliary to the public authorities in the humanitarian field, recognised and authorised on the basis of the Geneva Conventions (and their Additional Protocols) to render assistance to the medical services of the armed forces in times of armed conflict.
- 1.3** The Society is the only National Society of the Red Cross or Red Crescent in (name of the country). It carries out its activities on the entire territory of (name of the country).
- 1.4** The Society shall at all times act in conformity with the Geneva Conventions (and their Additional Protocols), the laws of (name of the country) and the Fundamental Principles of the International Red Cross and Red Crescent Movement adopted by the International Conference of the Red Cross and Red Crescent.

- 1.5** The public authorities shall at all times respect the adherence by the Society to the Fundamental Principles of the International Red Cross and Red Crescent Movement as required by resolution 55(I) of the General Assembly of the United Nations.

Commentary

The sections in bold contain minimum legal requirements for the recognition of National Societies by the ICRC in conformity with the Statutes of the Movement. These Statutes as well as the Fundamental Principles have last been adopted by the 25th International Conference of the Red Cross and Red Crescent (Geneva, 1986).

In some countries, the definition of the Society's legal rights and duties does not necessarily appear in one single piece of legislation concerning the National Society, but may be spread over various legal codes or laws such as e.g. the civil code, fiscal law, social security legislation, penal code, etc. The various clauses contained in this model law may therefore be used separately for integration in the specific legislation concerned.

Resolution 55(I) can be found in the Handbook of the International Red Cross and Red Crescent Movement (1994, p. 732).

Article 2

- 1.1** The Society is a corporate body with legal personality.

- 1.2** The Society shall at all times act in accordance with its statutes (Constitution, bylaws) adopted by the (relevant body of the Society).

Commentary

The legal nature of the National Society (e.g. private law association, public law institution, etc.) depends on the local legal system and its traditions and is therefore up for decision by each national government.

The legislator may also want to determine general principles regarding the branch structure of the Society as well as regarding the Society's governance (definition of its main governing bodies).

In order to allow the Society to adjust its structure, activities and administration to changing needs and circumstances, the law should be limited to essential principles and leave room for the Society itself to adapt its statutes. It is therefore not recommended to include the entire text of the Society's statutes as part of the law.

Article 3

- 1.1** In addition to rendering assistance to the medical services of the armed forces in times of armed conflict, the object of the Society is to prevent and alleviate human suffering with complete impartiality, making no discrimination as to nationality, race, gender, religious beliefs, class or political opinions.

- 1.2** In order to achieve its object as defined in the previous paragraph, the Society shall carry out the functions as defined in its statutes, international treaties to which (name of the country) is a party and the resolutions of the International Conference of the Red Cross and Red Crescent.

Commentary

In certain countries, the legislator may want to specify here that none of the Society's activities generating revenue that is exclusively allocated to the Society's object, shall be qualified as a transaction subject to the laws regulating trade and commerce, even if they are performed through contractual arrangements which stipulate a price for goods and services provided by the Society.

Article 4

- 4.1** The Society shall comply with its duties as a component of the International Red Cross and Red Crescent Movement and as a member of the International Federation of Red Cross and Red Crescent Societies.

Commentary

Once recognised by the ICRC, the Society, as a component of the Movement takes part in the decision-making of the statutory bodies of the Movement. When they become members of the International Federation of Red Cross and Red Crescent Societies which in itself is a legal body, the National Societies commit to respect the decisions taken by its governing bodies. The current provision allows a National Society at all times to respect the decisions taken within the framework of the Movement and the International Federation.

Article 5

- 1.1** The Society, within the limits laid down by its object and functions, may acquire, own, alienate and administer such property as it deems fit. It may accept any conveyance of real estate to its use or benefit.
- 1.2** The Society may, in accordance with its object and functions, accept unrestricted contributions and assistance in any form from individuals, the public authorities and private or public bodies. It may accept as agent or trustee funds or property in trust or earmarked for particular use, provided that such use is within the general scope of its object and functions.
- 1.3** The Society may constitute and administer any reserve, insurance or other funds for its staff or any of its activities.
- 1.4** The assets of the Society, including its financial resources and real estate as well as the revenue from its income generating activities, shall be exempted from all taxes and duties.
- 1.5** Donations made to the Society by any individual or legal body shall benefit from tax exemption.
- 1.6** The public authorities shall make provisions for covering the cost of any service or activity which they may entrust to the Society within the scope of the Society's object and functions. The conditions for the implementation of such services or activities shall be laid down in agreements between the Society and the relevant public authority.

Commentary

The legislator may want to specify that all subsidiary bodies of the Society, including those with legal capacity or those set up under the auspices of the Society, shall benefit from the all or part of the provisions of this law, in particular those regarding the Society's fiscal status.

Article 6

- 1.1** The Society shall be authorised to use as its emblem a red cross (red crescent) on a white ground for all the purposes foreseen by the International Conference of the Red Cross and Red Crescent, in conformity with the Geneva Conventions of 1949, the present law and the Regulations on The Use of The Emblem by National Societies adopted by the International Conference of the Red Cross and Red Crescent.
- 1.2** Any use of the emblem of the red cross (red crescent) other than foreseen in the Geneva Conventions of 1949 or in paragraph 1, is prohibited and will be punished with (penalty)(in conformity with the relevant provision of the penal code or a specific law repressing abuse of the emblem).

Commentary

In countries where a separate law is in force to repress abuse of the emblems and designations of the red cross and red crescent, the civil defence sign and electronic signals provided for in Additional Protocol I, a reference to that specific law may be included in paragraph 6.1. In the absence of such a special law, this clause is to be regarded as the minimum legal protection of the emblem of the red cross or red crescent. It is recommended, however, that governments enact proper and detailed legislation on the use of the emblems of the Geneva Conventions.

The ICRC has published a model law for that purpose (International Review of the Red Cross, July-August 1996, No. 313, pp. 482-495) and the ICRC Advisory Service on IHL has examples of emblem legislation adopted in some 80 States.

The Regulations on the Use of the Emblem by National Societies were adopted by the International Conference in 1965 (and revised by the 1991 Council of Delegates after approval by the States Parties to the Geneva Conventions in a written procedure).

In some countries, the funds resulting from penalties mentioned in paragraph 2, are transmitted to the Society to contribute to its general financial resources.

Article 7

- 7.1 The present law shall come into force on (date) and shall replace from that date (the previous law in force).

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 191 National Red Cross and Red Crescent Societies and around 16 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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