



# The Auxiliary Role of Red Cross and Red Crescent National Societies in Law and Policy in Africa

## A Stock Take

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Cover image: Discussion with a Baphalali Eswatini Red Cross Society (BERCS) volunteers Ncamiso Dlamini and Nondumiso Nhleko outside Ncamiso's home in Ngudzeni constituency, Shiselweni. © IFRC / Finnish Red Cross 2023

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## Foreword

The auxiliary role is at the core of the identity of Red Cross and Red Crescent National Societies (National Societies). A well-understood and up-to-date auxiliary role is critical to ensuring that National Societies can support humanitarian and development efforts and provide vital services to vulnerable communities in their countries.

Laws and policies form the foundation of the auxiliary role: they establish and assign auxiliary status to National Societies, as well as outline their key roles and responsibilities. Laws and policies may also grant National Societies membership in key national decision-making bodies, ensuring that they have a “seat at the table” to advocate on behalf of those in vulnerable situations. Furthermore, laws and policies can provide special legal rights to National Societies to enable the fulfilment of their auxiliary role and provide much needed support to those most at risk within their countries. Legal and policy frameworks are therefore crucial in facilitating the work of National Societies.

This study is the product of five years of research on how the auxiliary role is reflected in law and policy in Africa in disaster risk management, health, and migration, and the relationship between National Societies and the armed forces. The study identifies key trends, including related to the legal facilities National Societies enjoy, and offers guidance on how the auxiliary role can be strengthened through law and policy across these sectors. Practical examples are included throughout the study to illustrate how the auxiliary role is reflected in law and policy in different countries. What constitutes a strong auxiliary role is contextual. Therefore, this study encourages National Societies to reflect on their own auxiliary role and how it is enshrined in law and policy; and to consider developing a legislative advocacy strategy to strengthen the auxiliary role.

This study is timely and can support the commitment to update the legal base of National Societies to increase the scale and impact of humanitarian actions which was made by African National Society leadership in the Nairobi Plan of Action on Renewing Investment in Africa adopted at the 10<sup>th</sup> Pan-African Conference in 2023. Furthermore, a strong and up-to-date auxiliary role supports National Societies in their efforts under the Four Key Pan African Initiatives, especially National Society Development and Red Ready.

To support the efforts of National Societies in engaging with their public authorities to strengthen the auxiliary role through law and policy, this study should be read in conjunction with the [IFRC Guide to the Auxiliary Role of Red Cross and Red Crescent Societies: Africa](#) and the [Guide to Strengthening the Auxiliary Role through Law and Policy](#). It is hoped that this study will serve to enhance the understanding of the critical role of law and policy in strengthening the auxiliary role and support National Societies to engage with their public authorities on this topic.

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## 1. Executive summary

- **Strong and up-to-date RCRC Laws are vital to formalising the auxiliary role and ensuring the ability of National Red Cross and Red Crescent Societies (NSs) to operate in accordance with the Seven Fundamental Principles.**

Almost all of the African RCRC Laws included in this study recognise the auxiliary role. Nevertheless, there are a number of areas where RCRC Laws in the Africa region can be strengthened. For example, many of the RCRC Laws in the region are **old, and therefore likely outdated and do not accurately reflect the current status of the auxiliary role** in many countries. **In addition, many RCRC Laws in the region also do not fully meet the standards of the RCRC Model Law.**

- **Legal facilities are key instruments that can support and facilitate the auxiliary role of NSs.** However, many of the RCRC Laws do not provide adequate legal facilities to support the work of the NSs as auxiliaries to their governments and public authorities.
- **NSs should consider advocating for the review of their RCRC Laws** to better reflect the auxiliary role, the fundamental principles, and the objectives of the NS; as well as facilitate their fulfilment of the auxiliary role.
- **Sectoral laws play a vital role in supporting and enabling NSs to serve as an auxiliary to their public authorities** and can serve as an avenue through which NSs in the region are afforded specific roles and

responsibilities and/or are included in key coordination and decision-making bodies in areas such as health, DRM and migration. Although **many NSs are active in sectors such as health and migration, their role is often not formalised in laws or policies in these areas.**

- **NSs should consider advocating to be included in the review processes of sectoral legal and policy frameworks** in areas related to their work to advocate for their roles and responsibilities in these areas to be reflected in these frameworks, as well as to be included in key decision making forums in these areas, and for relevant legal facilities to be granted, where appropriate.
- National Societies could also consider advocating for their roles and responsibilities in relevant sectors to be **clearly defined through the conclusion of agreements with the relevant line ministries.**
- States have shown significant commitment to strengthening the auxiliary role of National Societies through resolutions of the International Conference of the Red Cross and Red Crescent. Advocating to strengthen the auxiliary role through law and policy can also support National Societies to fulfil their commitment to update their legal base in order to increase the scale and impact of humanitarian actions which was made in the **Nairobi Plan of Action on Renewing Investment in Africa adopted at the 10<sup>th</sup> Pan-African**

**Conference in 2023.** A strong and up-to-date auxiliary role also supports National Societies in their efforts under the Four Key Pan African Initiatives, especially **National Society Development and Red Ready.**

- **Looking ahead, NSs should leverage existing tools and support networks when advocating for the auxiliary role to be recognised and strengthened in domestic law and policy.** IFRC Disaster Law has developed a number of tools that can support NSs to advocate for their auxiliary role to be strengthened through law and policy, such as the [Guide to Strengthening the Auxiliary Role through Law and Policy](#).

## 2. Introduction

The auxiliary role is a defining characteristic of Red Cross and Red Crescent National Societies' (NSs) relationship with their governments and public authorities. It can be described as *“a specific and distinctive partnership, entailing mutual responsibilities and benefits, based on international and national laws, in which the national public authorities and the NS agree on the areas in which the NS supplements or substitutes public humanitarian services[.]”*<sup>1</sup> The auxiliary role is permanent and part of the legal foundation of every NS. A diagram has been included as an annex to this analysis which unpacks the auxiliary role in detail, including what it is, its origins and significance, and how it works in practice.<sup>2</sup>

Firmly anchored in the communities which they serve, NSs work within all parts of society to address the needs of the most vulnerable. Their unique auxiliary role also allows NSs to influence decision-makers and opinion-shapers, bringing community voices to the highest national level and beyond. NS activities may cover a broad range of sectors including disaster risk management (including disaster risk reduction, anticipatory action, preparedness, response and recovery), health (including blood donation, ambulance and first aid services) and work with and for migrants and refugees, all of which is done in coordination with government and other stakeholders. While public authorities must ensure that NSs are able to operate autonomously and in compliance with the Movement's Fundamental Principles, NSs must seriously consider any official requests by the authorities to carry out humanitarian activities within their mandate. Legislation, policies and agreements play a key role in defining the relationship between a NS and their public authorities, clarifying roles and responsibilities and strengthening the NS's ability to fulfil its mandate in the humanitarian field. While the auxiliary role is recognized in dedicated Red Cross laws in almost every country, the operational aspects of the role will often be strongly enhanced if NSs are included within sectoral laws, policies, plans and agreements (hereinafter referred to collectively as sectoral frameworks). These should normally guarantee that NSs are included in relevant decision-making and coordinating bodies and clarify expectations about their responsibilities and interactions with public authorities in the relevant sectors, consistent with the Fundamental Principles of the Red Cross and Red Crescent Movement.

Over the past five years, IFRC Disaster Law has conducted desktop mappings to understand how the auxiliary role of African NSs is reflected in legal and policy frameworks. To date, the auxiliary role in law and policy has been mapped in over thirty countries across sub-Saharan Africa.<sup>3</sup> The mappings cover a range of topics including the legal foundation of NSs, legal facilities assigned to NSs in law and policy, and the role of NSs in disaster risk management (DRM), health, civil-military relations, and migration. The purpose of the mapping exercise is to clearly articulate the auxiliary role of African NSs, by identifying, analysing and consolidating the different roles and

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<sup>1</sup> Resolution 2, 30th International Conference of the Red Cross and Red Crescent, 2007.

<sup>2</sup> For more information on the auxiliary role, also see IFRC, [Guide to the Auxiliary Role of Red Cross and Red Crescent NSs: Africa \(2nd Edition\)](#) (2021).

<sup>3</sup> Angola, Botswana, Burkina Faso, Cameroon, Chad, Comoros, Democratic Republic of the Congo, Eswatini, Guinea, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Republic of the Congo, Rwanda, São Tomé and Príncipe, Seychelles, Sierra Leone, South Africa, South Sudan, The Gambia, Togo, Uganda, Zambia, and Zimbabwe.



responsibilities given to respective NSs through national legislation and policies as well as agreements. The mappings are intended to support NSs to take stock of existing and potential areas of focus, identify resources and capacities required to effectively carry out their mandate, and to develop advocacy strategies to strengthen their auxiliary role based on their knowledge, experience, mission and priorities.

As 2024 marks the fifth year of conducting auxiliary role mappings in Africa, IFRC Disaster Law is now taking stock of general trends of how the auxiliary role is enshrined in law and policy in the region, to identify areas of strength as well as areas which require further strengthening. In addition to the mappings, two additional tools guided this analysis. The first is the RCRC Model Law, which can guide NSs to develop or update their RCRC Law in line with the standards agreed by the Movement. The RCRC Model Law is a useful tool to strengthen the legal foundation of a NS. It encourages governments and NSs to give due consideration to the legal aspects of supporting and protecting the functions of the NS. It provides for recognition of the auxiliary role, the Fundamental Principles and objectives of a NS, provides legal personality and certain legal facilities to a NS, and provides emblem protection. The second key guidance tool is IFRC Disaster Law's [Guide to Strengthening the Auxiliary Role through Law and Policy](#) (the Guide), which discusses the main elements of the RCRC Model Law and recommends additional elements which may be included in a RCRC Law. The Guide also contains a list of assessment questions, which NSs can use to evaluate their existing RCRC Law and identify potential areas for improvement. This may also prove to be a useful tool for NSs to identify areas where their RCRC Law could be strengthened.

This study aims to support the call made by the International Conference of the Red Cross and Red Crescent (International Conference) to strengthen the legal base of National Societies,<sup>4</sup> as well as the commitment to update the legal base of National Societies to increase the scale and impact of humanitarian actions which was made by African National Society leadership in the Nairobi Plan of Action on Renewing Investment in Africa, adopted at the 10<sup>th</sup> Pan-African Conference in 2023. Furthermore, a strong and up-to-date auxiliary role supports National Societies in their efforts under the Four Key Pan African Initiatives, especially National Society Development (NSD) and Red Ready.

Regarding NSD, while good governance, management, and leadership systems are key for National Societies to be stable and sustainable, laws and policies also have a vital role in strengthening NSD in Africa. Laws and Policies help institutionalizing good governance and leadership. Foundational legal frameworks are essential to a National Society effectively fulfilling its auxiliary role. A strong, up-to-date Red Cross law is important as it provides the basis for the recognition of the auxiliary role of the National Society and may provide the National Society with specific legal facilities and exemptions that enable National Societies to conduct their operations more efficiently and effectively. Sectoral laws and policies are equally important, as they can allocate National Societies roles and responsibilities, seats within relevant decision-making committees and legal facilities in specific sectors, such as disaster and climate risk management, health, migration and protection.

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<sup>4</sup> See Resolution IV of the International Conference of the Red Cross and Red Crescent (2011).

The Red Ready initiative focuses on strengthening disaster operations management, coordination and accountability through localization and practical implementation of the outcomes of existing IFRC NSD approaches and other capacity building programs. To enhance the preparedness of National Societies for disaster response, it is vital that laws and policies should reflect an all-of-society approach to disaster and climate risk management, including public health, thereby facilitating the inclusion of all relevant actors, including National Societies.

It is hoped that National Societies will reflect on the findings and recommendations of this study and those of their auxiliary role mappings and make use of the additional Movement tools at their disposal to develop and embark upon legislative advocacy strategies to strengthen their auxiliary role through law and policy.

### **3. Stocktake of the auxiliary role per sector**

The sections below summarise key findings and general trends identified in the reflection of the auxiliary role in law and policy in Africa, namely: the legal foundation of NSs, legal facilities provided to NSs through law and policy, and the auxiliary role in disaster management, health, civil-military relations, and migration and displacement.

#### **3.1 The legal foundation of NSs in Africa**

The auxiliary role mappings reveal that the legal foundation of a NS can be established through a variety of legal instruments such as laws, decrees or Presidential/ministerial orders depending on the country's legal system. For ease of reference, they will be referred to collectively as RCRC Laws. RCRC Laws typically establish a country's NS and addresses a range of other foundational issues, including recognising the auxiliary role, providing legal personality to the NS, granting legal facilities to the NS, and broadly defining the objectives or areas of work of the NS within a country. As such, it is important for RCRC laws to be regularly reviewed to ensure that they accurately reflect the NS's auxiliary role and mandate.

Almost all the African RCRC Laws mapped to date recognise the auxiliary role, although a definition of the term is not usually provided. Additional common features found across many of these RCRC Laws include references to the independence and voluntary nature of the NS and the inclusion of broad objectives of the NS. Several RCRC Laws recognise the NS as the only NS in the country and recognise the Fundamental Principles, although they do not usually define the meaning of the Fundamental Principles in detail. Ensuring that the meaning of the Fundamental Principles is well understood by both public authorities as well as communities is important to ensure that NSs are not placed in a position where they may be expected to act in contravention of them, and to ensure that NSs can access and work within all communities safely.

Other areas where the legal foundation of African NSs could be strengthened (in general) are legal facilities – this topic is explored in more detail below. In addition, the date of the RCRC Laws of African NSs reviewed for this study vary significantly, from 1960 to 2020. However, the legal instruments reviewed are generally very old, averaging 44 years old. Therefore, many of these instruments are likely outdated and do not accurately reflect the current status of the auxiliary role in the country. The review has also revealed that many of the instruments do not fully align with the standards provided in the RCRC Model Law. As stated above, the RCRC Model Law is a key guidance tool that can strengthen the recognition of the auxiliary role within a country, protect the

unique auxiliary status of a NS, and facilitate the humanitarian work of a NS through the granting of legal facilities.

### 3.2 The auxiliary role in DRM

DRM is a core area of work for many NSs worldwide, including in Africa. At least eleven of the RCRC Laws reviewed for the purposes of the mappings recognise the role of the relevant NS in DRM.<sup>5</sup> However, these provisions are generally broadly formulated and do not contain specific details on the role of NSs in DRM. In many cases, the internal Statutes of the NSs are more specific than RCRC laws, providing more details relating to their mandate and are also revised and updated more regularly than RCRC laws. This highlights that the roles and responsibilities of NSs are often reflected in internal documents and well understood by staff and volunteers, but not equally reflected in legislation.

Sectoral frameworks are key as they can further elaborate the role of NSs in various sectors, including DRM. The role of NSs in DRM has been included in sectoral frameworks in at least 26 countries.<sup>6</sup> For example, in **Namibia**, the National Disaster Risk Management Policy of Namibia, 2009 (the Policy) contains a dedicated section outlining the role of the Namibia Red Cross Society (NRCS) in DRM. The Policy recognises that NRCS, as auxiliary to the Government, is a critical partner in DRM and instrumental in the provision of humanitarian assistance to communities affected by disasters as well as in contributing to DRR and resilience.<sup>7</sup>

In addition, the Namibia National Disaster Risk Management Plan of 2011 (the Plan), adopts a sector wide approach to disaster risk management<sup>8</sup> and identifies the NRCS as a member of the following sectors: early warning, public awareness and advocacy;<sup>9</sup> education;<sup>10</sup> health and nutrition;<sup>11</sup> food security and livelihoods;<sup>12</sup> camp coordination and management;<sup>13</sup> water and sanitation;<sup>14</sup> protection;<sup>15</sup> and coordination, logistics and warehouse management, non-food items and emergency shelter.<sup>16</sup>

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<sup>5</sup>Guinea (Decree n° 006/PRG/86, article 2), Kenya (Kenya Red Cross Society Act, 2012, section 5), Lesotho (Lesotho Red Cross Society Act 1967, section 4(1)(b)), Malawi (Malawi Red Cross Society Act (Chapter 18:09) section 5(1)(b)), Mozambique, São Tomé and Príncipe (Decree 6/76, article 1), Seychelles (Red Cross Society of Seychelles Act, 1991, section 4(1)(b)), Sierra Leone (Sierra Leone Red Cross Society Act, 2012, section 2(b)), South Sudan (South Sudan Red Cross Society Act, 2012, section 6(b)-(d)), The Gambia (The Gambia Red Cross Society Act, 1966, Schedule 1, Rule 3) , and Zimbabwe (Zimbabwe Red Cross Society Act, 1981, section c)).

<sup>6</sup> Angola, Botswana, Burkina Faso, Cameroon, Chad, Comoros, Democratic Republic of the Congo, Eswatini, Guinea, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritius, Mozambique, Namibia, Niger, Republic of the Congo, Seychelles, Sierra Leone, South Africa, Togo, Uganda, Zambia, and Zimbabwe. Note: This includes laws or draft laws which include NSs in DRM decision making or coordination bodies.

<sup>7</sup> National Disaster Risk Management Policy of Namibia, 2009 (the Policy), page 81.

<sup>8</sup> Namibia National Disaster Risk Management Plan, 2011 (the Plan), section 4.2.

<sup>9</sup> Ibid., Table 1.

<sup>10</sup> Ibid., Table 2.

<sup>11</sup> Ibid., Table 3.

<sup>12</sup> Ibid., Table 4.

<sup>13</sup> Ibid., Table 5.

<sup>14</sup> Ibid., Table 6.

<sup>15</sup> Ibid., Table 7.

<sup>16</sup> Ibid., Table 8.

In addition to clearly outlining NSs' roles and responsibilities, sectoral frameworks can provide for NSs to participate in key decision-making and coordination bodies. Access to these forums is important for a NS to perform their assigned roles and responsibilities effectively and to represent and advocate for the needs of those most vulnerable within society. The mappings reveal that NSs are active in relevant sectoral decision-making and coordination bodies at national and/or sub-regional levels in at least 24 countries.<sup>17</sup> For example, in **Namibia**, the Disaster Risk Management Act, 2012 (the DRM Act), includes the NRCS as a member of the Namibia Vulnerability Assessment Committee;<sup>18</sup> as well as regional disaster risk management committees<sup>19</sup> and regional crisis committees which are established in the event of a regional disaster.<sup>20</sup>

While sustained participation of NSs in decision-making bodies is usually ensured through their inclusion as members of the particular body in the law that create them, there are instances where NSs participate in these bodies through invitation only and lack legal right to participate because the law that creates the body does not list the NS as one of its members. It is recommended for the law to clearly identify NSs as a member of relevant decision-making and coordination bodies. This ensures that NSs' always have a seat at the table, and do not have to await an invitation.

### 3.3 The auxiliary role in health

Similar to DRM, health-related activities are a core area of work of many NSs in Africa. Indeed, in many countries, the ministries responsible for health and social welfare are the parent ministry of the NS, and therefore responsible for RCRC Laws. The auxiliary role in health has recently formed the basis of a separate study by the IFRC, which examines this topic in more detail and should be referred to for further reading.<sup>21</sup> The auxiliary role mappings revealed that almost all NSs are active in supporting the promotion of a wide range of health activities domestically, such as first aid training; the management of medical establishments; recruitment of blood donors; home care and hygiene; disease prevention and assistance in disasters and emergencies, to list just a few.<sup>22</sup>

National Societies are key actors in implementing continental health-related initiatives, such as the Saving Lives and Livelihoods (SLL) programme,<sup>23</sup> an initiative between the Africa Centres for Disease Control and Prevention (Africa CDC) and Mastercard Foundation focussed on accelerating COVID-19 vaccination in Africa and supporting the continent's long-term health security.<sup>24</sup> National Societies are also key implementing parties in the Resilient and Empowered African Community Health (REACH) initiative of the IFRC and Africa CDC, which aims to improve the health of

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<sup>17</sup> Botswana, Burkina Faso, Cameroon, Democratic Republic of the Congo, Eswatini, Guinea, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritius, Mozambique, Namibia, Nigeria, Republic of the Congo, Seychelles, Sierra Leone, South Africa, The Gambia, Togo, Uganda, Zambia and Zimbabwe.

<sup>18</sup> Disaster Risk Management Act, 2012, section 13.

<sup>19</sup> Ibid., section 14.

<sup>20</sup> Ibid., section 40.

<sup>21</sup> See IFRC, The Auxiliary Role of Red Cross and Red Crescent National Societies in Health as Provided in Law and Policy (2024) available at [https://disasterlaw.ifrc.org/sites/default/files/media/disaster\\_law/2024-07/The%20auxiliary%20role%20of%20Red%20Cross%20and%20Red%20Crescent%20National%20Societies%20in%20law%20and%20policy%20in%20Africa%20DESIGNED.pdf](https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2024-07/The%20auxiliary%20role%20of%20Red%20Cross%20and%20Red%20Crescent%20National%20Societies%20in%20law%20and%20policy%20in%20Africa%20DESIGNED.pdf) .

<sup>22</sup> Ibid., 6.

<sup>23</sup> See Africa CDC, "Saving Lives and Livelihoods" available at <https://africacdc.org/saving-lives-and-livelihoods/>.

<sup>24</sup> Community Engagement Hub available at <https://communityengagementhub.org/sll-programme/>.

communities across Africa by scaling up effective, people-centred and integrated community health workforces and system.<sup>25</sup>

The role of NSs in health is also reflected in law and policy. At least eighteen RCRC Laws include a formal recognition of the role of NSs in improving health.<sup>26</sup> However, these provisions tend to be very broad and lack specificity. In contrast, the role of NSs in health is often detailed in internal documents, such as the NS Statutes. In terms of sectoral frameworks, the role of NSs in health was identified in at least seven countries.<sup>27</sup> These include broad health-related instruments as well as instruments relating to public health emergencies. For example, in **Angola**, the National Health Development Plan 2012-2025 provides an operational framework for implementing different projects to improve the health of the population in Angola. Project 1 is focused on the prevention and control of vaccine-preventable diseases, with a focus on polio eradication. The Angola Red Cross Society is included in the list of bodies and institutions responsible for the implementation of Project 1, together with government bodies as well as international partners.<sup>28</sup>

In **Uganda**, the Uganda Red Cross Society made significant contributions to the development of the National Action Plan for Health Security 2019-2023 (NAPHS). The NAPHS, designed in compliance with the International Health Regulations of 2005 (IHR), aims to strengthen the country's capacity to prevent, detect and respond to public health threats; to consolidate the collaboration and coordination mechanism for NAPHS implementation through application of multi-sectoral and one health approaches; and to map and align existing and potential domestic and external financing.<sup>29</sup> The URCS is identified as one of the key risk communication partners in the country in the NAPHS.<sup>30</sup>

The mappings revealed that several NSs are active in health-related boards or committees. This role may be assigned within the law. For example, the **Nigeria Red Cross Society** is a permanent member of the Governing Board of the National Blood Service Commission.<sup>31</sup> However, the mappings also reveal that, despite some NSs participating in relevant health decision-making and coordination bodies, they do not always have a legal right to participate because the law that

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<sup>25</sup> Read more about REACH on the IFRC website <https://www.ifrc.org/our-work/health-and-care/community-health/reach-initiative>.

<sup>26</sup> For example, the RCRC Laws of Angola (Decree on the National Red Cross, 1978), Botswana (Red Cross Society of Botswana Act, 1968, section 4), Eswatini (Baphalali Swaziland Red Cross Society Act, 1969, section 4(1)(a)), Guinea (Decree n° 006/PRG/86, article 2), Kenya (Kenya Red Cross Society Act, 2012, section 5), Lesotho (Lesotho Red Cross Society Act, 1967, section 4(1)(c)), Liberia (Liberia National Red Cross Society Act, 2008, section 1.4 (in the context of armed conflict)), Malawi (Malawi Red Cross Society Act (Chapter 18:09), section 5(1)(c)), Mauritius (Mauritius Red Cross Society Act, 1973, section 4(1)), Mozambique, Nigeria (Nigerian Red Cross Society Act, section 4(1)(c)), São Tomé and Príncipe (Decree 6/76, article 1), Seychelles (Red Cross Society of Seychelles Act, 1991, section 4(1)(a)), Sierra Leone (Sierra Leone Red Cross Society Act, 2012, section 2(f)), The Gambia (The Gambia Red Cross Society Act, 1966, section 4(1)), Uganda (Uganda Red Cross Act, 1964, section 2(b)), Zambia (Zambia Red Cross Society Act, 1966, section 4(1)(c)) and Zimbabwe (Zimbabwe Red Cross Society Act, 1981, section 4(d)).

<sup>27</sup> Angola, Cameroon, the Democratic Republic of the Congo, Mali, Nigeria, Uganda, and Zimbabwe. However, it should be noted that the sectoral laws of certain countries may not have been available for review at the time of the mappings; and therefore this number could be higher.

<sup>28</sup> See the Plano Nacional de Desenvolvimento Sanitário 2012-2025 (2012), pages 27-34.

<sup>29</sup> National Action Plan for Health Security (NAPHS) 2019-2023, page 17.

<sup>30</sup> NAPHS 2019-2023, page 73.

<sup>31</sup> See section 3(2)(g) of the National Blood Service Commission Act.

creates the body does not list the NS as one of its members. As mentioned above, it is recommended for the law to clearly identify NSs as a member of relevant decision-making and coordination bodies.

### 3.4 The auxiliary role and civil-military relations

The Red Cross and Red Crescent Movement has a close and special relationship with International Humanitarian Law (IHL). This is reflected in many RCRC Laws. Indeed, a common feature across almost all of the mappings is the recognition of the relevant NS for the purposes of the provisions of the Geneva Conventions. This is important because the Geneva Conventions provide protections from targeting in armed conflict to recognised NSs.<sup>32</sup> It is also very common for RCRC Laws to include a broad reference to the role of NSs in mitigating suffering or providing humanitarian aid in times of war, and to a lesser extent to disseminate and promote IHL. Outside of armed conflict, National Societies and the armed forces and both often play an important role in support of disaster and emergency response.

However, very few sectoral frameworks describe the relationship between NSs and the military. An exception is **South Africa**. The Rules Permitting Persons Who Are Not Members of the South African Defence Force, to Participate Voluntarily in Training Exercises with a Commando, made under the Defence Act of 1957, include the South Africa Red Cross Society (SARCS) as an entity which may apply for and obtain affiliate membership with a commando to participate voluntarily in training exercises with that commando.<sup>33</sup> Although the Defence Act of 1957 was largely repealed by the Defence Act, 2002, anything done under the Defence Act, 1957 is deemed to have been done under the corresponding section of the Defence Act, 2002, and therefore the Rules appear to still be in force. In addition, section 17 of the Implementation of the Geneva Conventions Act, 2012, which enacts the Geneva Conventions and the Protocols thereto into law, provides for the support of SARCS to the South African Defence force, stating that the Minister of Defence may request SARCS to place medical personnel and resources at the disposal of the Military Health Services of the South African National Defence Force.

### 3.5 The auxiliary role in migration

A review of the mappings conducted to date reveal that many NSs are active in migration and displacement work, either through their programming and/or through coordinating with the relevant ministry. However, legal and policy frameworks typically do not reflect the role of NSs in this area. In fact, the role of NSs in this area was identified in laws and policies in only three countries.<sup>34</sup>

In **The Gambia**, the Refugee Act of 2008 creates a Governing Board whose main function is to manage the affairs of The Gambia Commission for Refugees. The Gambia Red Cross Society is a permanent and active member of the Governing Board, with full rights to vote and make decisions.<sup>35</sup> This ensures that the NS has a voice in issues pertaining to refugees in the country. In

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<sup>32</sup> See for example Article 26 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Geneva Convention), 75 UNTS 31, 12 August 1949.

<sup>33</sup> See the Rules Permitting Persons Who Are Not Members of the South African Defence Force, to Participate Voluntarily in Training Exercises with a Commando made under the Defence Act of 1957, Rule 3, 4 and 6.

<sup>34</sup> Cameroon, The Gambia and Uganda.

<sup>35</sup> The Refugee Act, 2008, section 4(2)(g).

**Cameroon**, the National Policy on First Aid and Emergencies recognises role of Cameroon Red Cross Society in supporting migrants. In **Uganda**, the National Policy for Internally Displaced Persons (IDPs) recognises that the URCS has a special role to play in providing support services to IDPs and local communities. These services include public education and awareness at the grassroots level; supporting the management and coordination of support services to IDPs; establishing and operating mass care shelters; and providing casualty and illness information to Government and partners.<sup>36</sup>

### 3.6 Legal facilities

The term 'legal facilities' refers to special legal rights that are provided to a specific organization (or a category of organizations) to enable it to conduct its operations efficiently and effectively. Legal facilities may take the form of positive rights or entitlements (i.e. to do or to have a particular thing), an exemption from a law that would otherwise apply, or access to simplified and expedited regulatory processes.<sup>37</sup> Examples include fiscal facilities (such as tax and customs exemptions, and subventions), as well as facilities related to immigration, licensing and access, such as licensing exemptions for the use of specialised equipment such as drones in disaster response, visa exemptions for international assisting actors, landing rights, and freedom of access to disaster stricken areas.

The granting of legal facilities to support the humanitarian work of National Societies has been called for in resolutions of the International Conference for over 100 years.<sup>38</sup> Nevertheless, legal facilities are an area where a review of the mappings revealed notable gaps. Of the mappings conducted, laws and policies of only fourteen countries<sup>39</sup> provide explicit legal facilities for NSs. Legal facilities may be provided either through the RCRC Law or sectoral legislation (e.g. customs and excise, immigration, or tax legislation). Some examples of explicit NS legal facilities identified in the mappings include:<sup>40</sup>

- facilities related to the **exemption of customs duties and taxes for consignments intended for the NS** (either automatically or through authorisation/application) were identified in a number of countries including the **Comoros**,<sup>41</sup> **Liberia**,<sup>42</sup> **Madagascar**,<sup>43</sup> **Mali**,<sup>44</sup> **Mozambique**,<sup>45</sup> **São Tomé and Príncipe (STP)**,<sup>46</sup> **Sierra Leone**<sup>47</sup> and **South**

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<sup>36</sup> National Policy for Internally Displaced Persons (2004), pages 33-34.

<sup>37</sup> IFRC, Guide to Strengthening the Auxiliary Role through Law and Policy (2021), Chapter 4.

<sup>38</sup> See the following resolutions of the International Conference of the Red Cross and Red Crescent: [Resolution IV of 1912](#); [Resolution XXVI of 1934](#); [Resolution XL of 1948](#); [Resolution XVI of 1965](#); [Resolution XXVI of 1969](#); [Resolution V and VI of 1977](#); [Resolution V of 1995](#); [Resolution IV of 2011](#).

<sup>39</sup> Angola, Burkina Faso, Comoros, Democratic Republic of the Congo, Liberia, Madagascar, Malawi, Mali, Mauritius, Mozambique, São Tomé and Príncipe, Sierra Leone, South Sudan and Zimbabwe.

<sup>40</sup> Note that this is not a closed list - legal facilities for National Red Cross and Red Crescent Societies may be accessible in additional countries. In addition, several National Societies may also have access to legal facilities through blanket exemptions provided in sectoral laws.

<sup>41</sup> The Customs Code 2016 (loi n° 15-016/AU).

<sup>42</sup> Liberia National Red Cross Society Act, 2008, section 3.4.

<sup>43</sup> Customs Code 2021, article 240.

<sup>44</sup> Law n° 01-075/DU, article 234.

<sup>45</sup> Ministerial Diploma 55/87.

<sup>46</sup> STP Customs Code, Article 122; and Decree 7/76, article 3.

<sup>47</sup> Sierra Leone Red Cross Society Act, 2012, section 5(3).

**Sudan.**<sup>48</sup> It is also interesting to note in terms of regional agreements, the **Central African Economic and Monetary Community (CEMAC) Customs Code** provides in article 276 that importation free of duties and taxes may be authorized in favour of, among others, consignments intended for the Red Cross. Goods exported by the Red Cross can also be exempt from exit duties and taxes in terms of this article. CEMAC Member States are **Gabon, Cameroon, Chad, the Central African Republic, the Republic of Congo and Equatorial Guinea;**

- **tax exemptions** (including income tax, VAT, or donation related exemptions) which NSs may benefit from either automatically or through authorisation/application were identified in several countries including **Liberia,**<sup>49</sup> **Mauritius,**<sup>50</sup> **Nigeria,**<sup>51</sup> **Sierra Leone,**<sup>52</sup> and **South Sudan;**<sup>53</sup>
- provisions granting **subventions** to support the work of NSs in the fulfilment of their auxiliary role were identified in **Liberia,**<sup>54</sup> **Sierra Leone**<sup>55</sup> and **São Tomé and Príncipe;**<sup>56</sup>
- **access** related facilities were identified in **São Tomé and Príncipe,**<sup>57</sup> where the Red Cross law states that the NS enjoys the advantages granted to State services, including free transport in the case of disasters, calamities, accidents, or disturbances and the right to State lodging for its headquarters; and
- exemptions from requirements to **register as specific entities** (e.g. NGOs), indicating a recognition of the auxiliary role and special status of NSs, were identified in **South Sudan**<sup>58</sup> and **Zimbabwe.**<sup>59</sup>

#### 4. Findings and recommendations

- **RCRC Laws play a vital role in strengthening the auxiliary role of NSs. Strong and up-to-date RCRC Laws are important in formalising the auxiliary role and ensuring the ability to operate in accordance with the Fundamental Principles.** While almost all of

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<sup>48</sup> See the South Sudan Red Cross Act, 2012, section 16.

<sup>49</sup> Liberia National Red Cross Society Act, 2008, section 3.4.

<sup>50</sup> Mauritius Red Cross Society Act, 1974, section 8.

<sup>51</sup> Section 23 (1) of Company Income Tax Act (CITA) of 1961.

<sup>52</sup> Sierra Leone Red Cross Society Act, 2012, section 5(3).

<sup>53</sup> See the South Sudan Red Cross Society Act, 2012, section 16.

<sup>54</sup> Liberia National Red Cross Society Act, 2008, section 3.7.

<sup>55</sup> Sierra Leone Red Cross Society Act, 2012, section 5(2).

<sup>56</sup> Decree 7/76, Article 3.

<sup>57</sup> Decree 7/76, Article 3.

<sup>58</sup> The South Sudan Red Cross is exempted from registration under section 11 of the Non-Governmental Organizations Act, 2016. By virtue of this, the NS is exempted from registration with the South Sudan Relief and Rehabilitation Commission (RRC), the body mandated to register, renew and supervise activities of all NGOs and civil societies operating in the country.

<sup>59</sup> Section 6 of the Private Voluntary Organisations Act [Chapter 17:05] provides that all private voluntary organisations are required to be registered prior to commencing activities or seeking financial assistance, and are also subject to a number of other administrative obligations. However, the Zimbabwe Red Cross Society is specifically excluded from the definition of the term "private voluntary organisation" in section 2, and therefore is not subject to the requirements of the Private Voluntary Organisations Act.



the RCRC Laws reviewed for this report recognise the auxiliary role, there are, in general, a number of areas where RCRC Laws in the region can be strengthened.

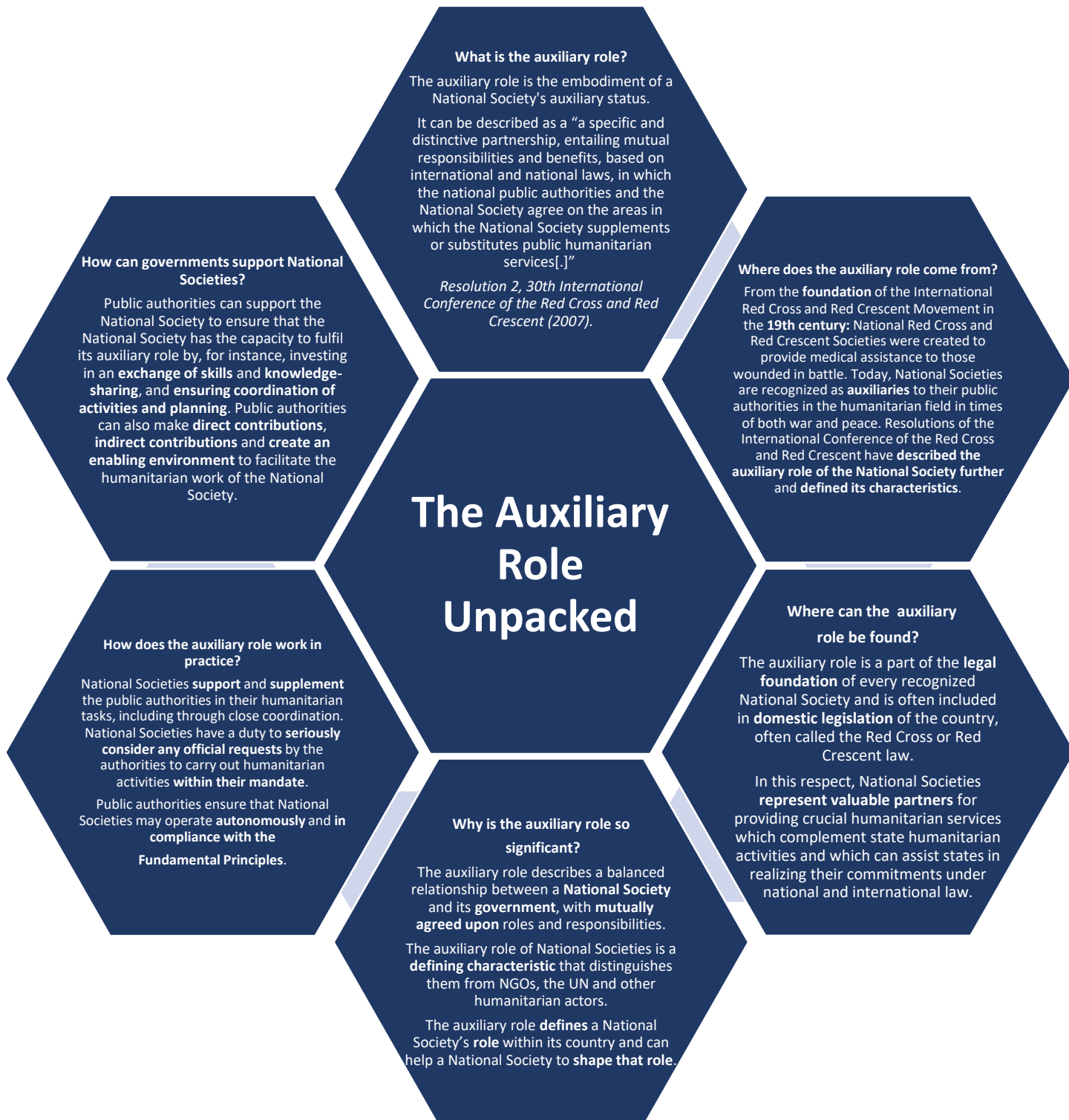
- Firstly, it was noted above that many of the RCRC Laws in the region are old. **They are therefore likely outdated and do not accurately reflect the current status of the auxiliary role** in many countries. **In addition, given their age, many RCRC Laws in the region do not fully meet the standards of the RCRC Model Law.**
- Secondly, while several RCRC Laws explicitly recognise the independence and voluntary nature of the relevant NS, or contain a general reference to the Fundamental Principles, **many of the RCRC Laws reviewed could more clearly recognise and define the Fundamental Principles.**
- Thirdly, **many RCRC Laws do not recognise certain sectors which the NS is active in, such as DRM or migration.** As mentioned above, it is more common to find details of a NS's activities in these areas in their own internal documents, such as their Statutes, than in the country's legal and policy frameworks. As the mappings predominantly canvassed the legal and policy frameworks of the countries examined, it is possible that a NS's roles and responsibilities in various areas may be set out in other agreements, such as agreements with relevant government departments. Nevertheless, it is important for an NS's roles within the sectors that it is active in to be clearly set out whether in law, policy or agreements.
- Fourthly, **legal facilities are key instruments that can support and facilitate the role of NSs. However, many of the RCRC Laws do not provide adequate legal facilities to support the work of the NSs as auxiliaries to their governments.** The auxiliary role means that NSs have a recognized public function to supplement or substitute their governments' humanitarian activities - it is therefore appropriate for governments to support and enable NSs to perform this public function by providing them with legal facilities. The Guide includes recommendations on the types of legal facilities that NSs should consider advocating for to support their work relating to staff and volunteers, tax, funding, access to freedom of movement, and disaster-related goods, equipment and personnel. The Guide could therefore serve as a useful tool to support African NSs to strengthen their auxiliary role through law and policy.
- **NSs should consider advocating for the review of their RCRC Laws** to better reflect the auxiliary role, fundamental principles, and objectives of the NS; as well as facilitate their fulfilment of the auxiliary role through the granting of legal facilities.
- **Sectoral laws are equally important in strengthening NSs' auxiliary role**
  - **Sectoral laws play a vital role in supporting and enabling NSs to serve as an auxiliary to their public authorities.** This study has shown that sectoral laws are often the avenue through which NSs in the region are afforded specific roles and responsibilities and/or are included in key coordination and decision-making bodies in areas such as health, DRM and migration.
  - Within the sectors covered by the mappings, the assignment of roles and responsibilities and/or the inclusion of NSs in key coordination or decision-making bodies is most prevalent in DRM laws and policies. **The study revealed that in**

**practice, many NSs are active in health and migration-related activities, but their role is less often formalised in laws or policies in these areas.**

- Examples were also found across all sectors where **NSs participate in key decision-making and coordination bodies through invitation only and lack legal right to participate** because the law that creates the body does not list the NS as one of its members. **Legal frameworks should clearly identify NSs as a member of relevant decision-making and coordination bodies.** This ensures that NSs always have a seat at the table, and do not have to await an invitation. As stated above, NSs require access to forums which enable coordination and communication with all other relevant actors to perform their roles and responsibilities effectively. Participating in decision-making and coordination bodies also allows NSs to represent and advocate for the needs of the most vulnerable groups within society.
- **NSs should therefore consider advocating to be included in the review processes of sectoral legal and policy frameworks in areas related to their work**, such as DRM, health and migration. Advocacy efforts can include advocating for their roles and responsibilities in these areas to be reflected in legal and policy frameworks, as well as to be included in key decision-making forums and for relevant legal facilities to be granted in these areas. National Societies could also consider advocating for their role and responsibilities in these sectors to be clearly defined through the conclusion of pre-disaster agreements and/or MoUs with the relevant line ministries.
- **Strengthening the auxiliary role through law and policy can support National Societies to fulfil their commitment to updating their legal base to increase the scale and impact of humanitarian actions as made in the Nairobi Plan of Action on Renewing Investment in Africa adopted at the 10<sup>th</sup> Pan-African Conference in 2023.** Furthermore, strengthening the auxiliary role through law and policy can also support National Societies in their efforts under the **Four Key Pan African Initiatives, especially National Society Development (NSD) and Red Ready.** As set out above, strong legal and policy frameworks are essential to a National Society effectively fulfilling its auxiliary role and in enhancing the preparedness of National Societies for disaster response.
- **In terms of the way forward**, it is recommended that National Societies reflect on the findings and recommendations of this study and those of their auxiliary role mappings and make use of the additional Movement tools at their disposal to engage with their public authorities on strengthening the recognition of the auxiliary role in domestic law and policy, including both RCRC laws as well as relevant sectoral frameworks. The development of legislative advocacy strategies can support these efforts. **Chapter five of the Guide** is a useful tool in this regard as it provides a roadmap to strengthening the auxiliary role in domestic law and policy. The Guide provides guidance on how NSs can **identify and prioritize areas for improvement, outlines the three key steps involved in developing and implementing an advocacy strategy and contains case studies of NSs that have successfully advocated to strengthen their auxiliary role in domestic law and policy.**

- In addition, National Societies should also maintain **continuous engagements** with their public authorities to ensure that the auxiliary role is well-understood and respected in practice.

## 5. Annex: The auxiliary role unpacked





**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.