



INTERNATIONAL DISASTER RESPONSE LAW IN DOMINICA

SUMMARY

+C IFRC
Disaster Law

© International Federation of Red Cross and Red Crescent Societies, Geneva, 2022

Any part of this publication may be cited, copied, translated into other languages or adapted to meet local needs without prior permission from the International Federation of Red Cross and Red Crescent Societies, provided that the source is clearly stated.

Contact us:

Requests for commercial reproduction should be directed to the IFRC Secretariat:

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](https://www.ifrc.org)

ACKNOWLEDGEMENTS

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

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



Front cover photo: © Nina Svahn / Finnish Red Cross

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



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

This is to certify that
GREGOIRE, EMMANUEL
has met the requirements to be
Cpt. Log. Response
Signed on September 11, 2017
Dominica Red Cross

EXECUTIVE SUMMARY

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

Snapshot of Hurricane Maria and its Impacts

- An estimated 63,000 of a population of 71,300 persons suffered loss of housing and/or livelihoods².
- The country's crops were effectively wiped out by wind and rain damage, as well as by the flooding and landslides that immediately followed the hurricane. The consequential loss of plant-life resulted in serious risks to agriculture, environmental conservation, climate change adaptation and food security.
- All public services were compromised. The country lost its capacity to provide families with electricity, clean water, sewage treatment, solid waste management and other basic services.
- The road network was severely compromised, leaving some communities effectively cut off for substantial periods.
- Nearly all housing stock and the majority of commercial buildings were left fully or partially roofless, which, in addition to displacement of families, had long term impact on manufacturing, tourism and other sectors, services and commercial operations.
- Overnight, approximately two-thirds of heads of households were unemployed or had lost their main source of income³, as the country's poverty rate plummeted from 28.8% to 42.8%. The effect was

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

² United Nations Central Emergency Response Fund, Resident / Humanitarian Coordinator Report on the Use of CERF Funds, Dominica Rapid Response Storm, 2017 p.4

³ See World Food Programme Vulnerability Needs Assessment Report for Dominica, 2017

exacerbated in poorer and less economically resilient communities, including among the indigenous Kalinago population.

- The impact of damage to buildings was felt just as strongly within the public sector. Many public sector workers were personally displaced and left with limited means to survive and care for their families, in addition to being cut off from access to their places of work or tools of labour.
- The Kalinago, Dominica's and the Caribbean's largest remaining indigenous population who occupy the region's only reserve, were severely affected by Hurricane Maria. The Kalinago territory was among the most directly affected communities and their economic dependence on food crops and small-scale industries placed their livelihoods at an enhanced risk.
- The Princess Margaret Hospital – the country's main hospital – and many health facilities sustained significant damage. The Hospital lost over 42.8% of its beds as well as surgical wards, an Intensive Care Unit, a Blood Bank and other facilities⁴. Plans to refurbish and upgrade facilities that had been initiated prior to the hurricane were stalled indefinitely. Additionally, a total of 65 schools and educational facilities were severely damaged. The disaster affected the country's human development services and had wider implications for the maintenance of health and education indicators.
- Government services were suspended for days - in some cases weeks – and the Emergency Operations Centre and its back-up centre were both damaged to the point of being inoperable.

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

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

The immediate and widescale influx of humanitarian personnel and goods has made Dominica a Caribbean case study of worst-case issues in the coordination of international disaster relief. One report compiled at the start of 2018 described the number of external agencies as 'eight UN agencies, 17 NGOs, and the IFRC'.⁵ Other estimates from interviews conducted in the preparation of this report suggest that there were hundreds of volunteers and personnel from dozens of *ad hoc* relief agencies present in the immediate aftermath of the disaster, and many of these remained to support the recovery and reconstruction exercises. Not all of these entities had practices and standards that were deemed to be of an acceptable quality. This scale of relief regulation and coordination effort is one that not many Caribbean territories have faced. It can therefore be said that the lessons from Dominica have application well beyond the country's borders.

⁴ CARPHA State of Public Health in the Caribbean Report 2017-2018 Climate and Health: Averting and Responding to an Unfolding Health Crisis p.155

⁵ ACAPS Lesson Learned Report on Hurricane Maria in Dominica, January 2018

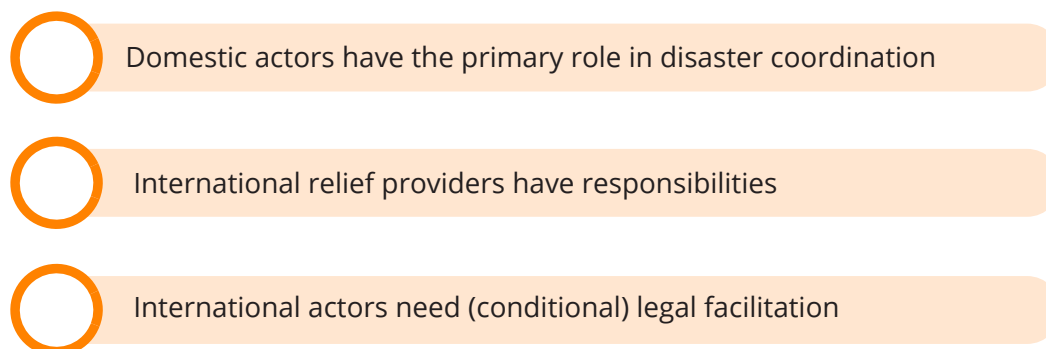
IFRC Model for Evaluating International Disaster Response Laws

The International Federation of Red Cross and Red Crescent Societies (IFRC) has led the global development of the body of principles referred to as International Disaster Response Law (IDRL). This area of analysis is founded on a set of principles and guidelines for facilitating and regulating international disaster relief in a predictable and efficient manner. The IFRC approach to IDRL is outlined in its "[Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance](#)"⁶ or *IDRL Guidelines*. The *IDRL Guidelines* reflects extensive research from different countries and analysis of incidents in which national systems have been compromised by the scope and extent of a disaster. They address a common set of legal problems that arise in international operations, due to a lack of legal and regulatory preparedness at the national level. In 2007, the *IDRL Guidelines* were adopted by states party to the Geneva Convention at the 30th International Conference of the Red Cross and Red Crescent.

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

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

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



In 2017, the IFRC, based on its past 10 years' experience in applying the *IDRL Guidelines* in a range of country level analyses, developed the "[Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance](#)"⁷ or the *IDRL Checklist*. The Checklist provides a more synthesized and cross-sectoral approach to evaluating national systems for compliance with core IDRL principles. This report matches Dominica's laws, policies and practices against the *IDRL Checklist* and its 10 areas of enquiry. This is the first national assessment conducted in the English-speaking Caribbean that will utilise the *IDRL Checklist* as the benchmark for both the assessment process and the report.

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

⁶ <https://disasterlaw.ifrc.org/idrlguidelines>

⁷ <https://disasterlaw.ifrc.org/media/1325>



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

IDRL CHECKLIST ASSESSMENT

Dominica's legal and institutional framework was assessed against the following 10 questions of the *IDRL Checklist*:

1 Question 1: Does your country have a clear legal framework for disaster risk management which includes procedures relating to international disaster assistance?

The primary legislation governing disasters and emergencies in Dominica is the **Emergency Powers (Disaster) Act, 1987**⁸. The law provides the President with the authority to declare a state of emergency in all or part of the country but does not reflect the breadth of scope of a comprehensive disaster risk management law, nor does it make reference to international disaster relief. The **National Disaster Plan** has a far more comprehensive framework for disaster risk management and sets out the structure and functions of a National Emergency Executive Committee (NEEC) and its Task Forces.

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

2 Question 2: Do your country's laws and regulations clearly set out a focal point for coordinating international disaster assistance?

The **Emergency Powers (Disaster) Act, 1987**⁹ does not specifically reference the coordination of international disaster assistance. The **National Disaster Plan** includes a matrix of leadership and coordination roles and responsibilities split across Government agencies.¹⁰ During the Hurricane Maria Response, the Government divided the island into multiple regions. Each region was put under the coordination of a separate entity and international relief agencies and volunteers were each assigned to a specific region and coordinating body. However, this level of organisation took some time to institutionalize, and recommendations have been made that clusters should be defined, and cluster leads identified prior to an event, to improve efficiency and reduce competition over limited resources. In Dominica's **Proposed CDM Bill**, the Director of the Disaster and Emergency Management Organisation has responsibility for communication, coordination and facilitation of international humanitarian actors.

⁸ CAP 15:03

⁹ CAP 15:03

¹⁰ Republic of Dominica National Disaster Plan, p. 34

3

Question 3:

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

The **Emergency Powers (Disaster) Act, 1987**¹¹ gives the President the power, among other things, to make Orders to requisition or regulate the supply and distribution of food, clothing, water, fuel and other 'necessities of life'. While it does not identify international assisting actors, the power could, on the face of the law, be extended to any party operating within Dominica. This section and the framework created by the National Disaster Plan can be said to set the boundaries within which the coordination of and collaboration with international assisting actors occurs.

The **Proposed CDM Bill** makes specific reference to international donor partners, as well as potential donors in the international sphere.

4

Question 4:

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

The National Disaster Plan does not include a specific process for requesting international relief. However, the various methodologies outlined in the Plan for (a) conducting damage assessment and needs analysis processes, and (b) communicating relief and recovery needs to potential donors, could in practice include direct and indirect discussions with international donor partners. Dominica's inclusion in the CDEMA structure for regional and sub-regional disaster assistance is key to understanding the construct of its international relief request mechanisms. CDEMA can provide support to its Participating States with both the damage assessment and needs analysis systems, as well as to broker the process of matching needs with donor funding through formal requests for aid.

The **Proposed CDM Bill** makes specific reference to a request for international assistance being made either to CDEMA Participating States or in the wider international sphere.

5

Question 5:

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

There is no reference in either the **Emergency Powers (Disaster) Act, 1987**¹² or the National Disaster Plan to the provision of legal facilities to international assisting actors. Nevertheless, some discretionary powers exist in sectoral laws and policies, that may be used to facilitate international assisting actors. The **Proposed CDM Bill** includes several references to legal facilitation of international humanitarian actors, including the provision of exemptions under the Customs Act and facilitating the entry of field teams.

6

Question 6:

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

The **Emergency Powers (Disaster) Act, 1987**¹³ does not incorporate or make reference to quality standards for international assisting actors, their teams, supplies or equipment. The National Disaster Plan is equally silent on the details of the type of organisations, personnel and supplies that should ordinarily be included in an international relief effort.

¹¹ CAP 15:03

¹² CAP 15:03

¹³ CAP 15:03

7

Question 7:

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

Neither the **Emergency Powers (Disaster) Act, 1987**¹⁴ nor the **National Disaster Plan** make mention of eligibility requirements for international assisting actors. This issue is not captured by another piece of national legislation or regulatory instrument.

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

8

Question 8:

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

The **Emergency Powers (Disaster) Act, 1987**¹⁵ does not make reference to a special one stop facility for processing and expediting international relief. The closest reference in the National Disaster Plan is to the Food and General Supplies Sub-Committee of the NEEC, which is led by the Dominica Export-Import Agency (DEXIA). This entity provides assistance in marshaling designated relief goods through the ports of Dominica.

In the aftermath of Hurricane Maria, CDEMA's role in supporting disaster coordination among its Participating States was visible in the area of logistics management. Both in country, as well as through a sub-regional team in Barbados, CDEMA was able to support supply chain management and the resolution of key logistical issues.

9

Question 9:

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

There are no transparency or accountability safeguards, or mechanisms spelled out in the **Emergency Powers (Disaster) Act, 1987**¹⁶ or **National Disaster Plan**.

During the response to Hurricane Maria, some attempts were made to put in place accountability mechanisms, but as these were being designed and deployed within the context of a large scale disaster event, there were significant limitations.

10

Question 10:

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

While the **Emergency Powers (Disaster) Act, 1987**¹⁷ makes no reference to exporting international relief, CDEMA systems include the use of national stores for provision of supplies to nearby islands. These systems are designed for government implementation. There is no clear reference to international assisting actors exporting stores from Dominica to other Caribbean territories.

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

¹⁴ CAP 15:03

¹⁵ CAP 15:03

¹⁶ CAP 15:03

¹⁷ CAP 15:03



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

SUMMARY OF KEY FINDINGS

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



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



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



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



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



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



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

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

Figure 2: Aspects of IDRL Standards that are Least Developed in Dominican Law, Policy and Practices



SUMMARY OF KEY RECOMMENDATIONS

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

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

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



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

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

Humanity

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

Impartiality

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

Neutrality

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

Independence

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

Voluntary service

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

Unity

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

Universality

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



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

Follow us:

www.ifrc.org | twitter.com/ifrc | facebook.com/ifrc | instagram.com/ifrc | youtube.com/user/ifrc | tiktok.com/@ifrc