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# A Caribbean Approach to International Disaster Response Law

Gap Analysis Report and Recommendations for the  
Comprehensive Disaster Management (CDM) Legal and  
Policy Framework in CDEMA Participating States

# **A Caribbean Approach to IDRL**

**Gap Analysis Report and Recommendations for the Comprehensive Disaster Management (CDM) Legal and Policy Framework in CDEMA Participating States**

**Version Dated June 15, 2024**

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## Acknowledgements

This report was prepared by Tania Chambers (Legal Consultant), with technical oversight provided by Jessie Jordan (Disaster Law Officer, IFRC), and Dr. Nicole Greenidge (Disaster Risk Management Specialist, CDEMA). Special thanks are also owed to Elizabeth Riley, (Executive Director, CDEMA) and the technical team from CDEMA for their inputs. Recommendations and other contributions to the document were made by members of the Regional IDRL Working Group, as well as representatives from the National Disaster Offices and other government and Red Cross officials from Guyana and the British Virgin Islands. (To be expanded following subsequent reviews).

This research was made possible through the financial support of the “READY 360” Project led by the French Red Cross, through its Regional Intervention Platform for the Americas and the Caribbean (PIRAC), co-funded by the INTERREG Caribbean Program under the European Regional Development Fund.

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## List of Acronyms

<b>ADRA</b>	Adventist Development Relief Agency (ADRA)
<b>BVI</b>	British Virgin Islands
<b>CARICHAM</b>	Caribbean Chambers of Commerce
<b>CARICOM</b>	Caribbean Community
<b>CCD</b>	Country Cluster Delegation
<b>CDAC</b>	CARICOM Disaster Assessment and Coordination Team
<b>CDEMA</b>	Caribbean Disaster and Emergency Management Agency
<b>CDM</b>	Comprehensive Disaster Management
<b>CDRU</b>	CARICOM Disaster Relief Unit
<b>CLS</b>	CDEMA Logistics System
<b>COST</b>	CARICOM Operational Support Team
<b>CPSO</b>	CARICOM Private Sector Organisation
<b>CRCMCC</b>	CARICOM Regional Civil-Military Coordination Cell
<b>DRMA</b>	Disaster Risk Management Act
<b>DWB</b>	Doctors Without Borders
<b>GFDRR</b>	Global Fund for Disaster Risk Reduction
<b>IDR</b>	International Disaster Response
<b>IDRL</b>	International Disaster Response Law
<b>IFRC</b>	International Federation of Red Cross and Red Crescent Societies
<b>IHA</b>	International Humanitarian Assistance
<b>INGO</b>	International Non-Governmental Organisation
<b>MNCMCC</b>	Multinational Civil Military Coordination Cell
<b>NDO</b>	National Disaster Office
<b>NGO</b>	Non-Governmental Organisation
<b>OCHA</b>	Office for the Coordination of Humanitarian Affairs
<b>OCT</b>	Overseas Countries and Territories
<b>OECS</b>	Organisation of Eastern Caribbean States
<b>PAHO</b>	Pan American Health Organisation
<b>RCC</b>	Regional Coordination Centre
<b>RCNS</b>	Red Cross National Societies
<b>RNAT</b>	Rapid Needs Assessment Team
<b>RRM</b>	Regional Response Mechanism
<b>RSART</b>	Regional Search and Rescue Team
<b>RSS</b>	Regional Security System
<b>RSS/CLO</b>	Regional Security System's Central Liaison Office
<b>SRCC</b>	Sub-Regional Coordination Centre
<b>UN</b>	United Nations
<b>WHO</b>	World Health Organisation

# 1 EXECUTIVE SUMMARY

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## 1.1 OVERVIEW OF THE REPORT

This report addresses law and policy issues experienced in Caribbean countries processing international disaster response goods and personnel, giving particular consideration to the challenges that are associated with a major disaster event. It uses the experiences of countries in the region and recommendations provided by stakeholders consulted in IDRL research and consultation activities conducted from 2012-2024 to define recommendations relevant to the region's unique context. The analysis reflects the types of IDRL issues most commonly faced, both globally and in the Caribbean, and the report is laid out as follows:

- Chapter 1 introduces the report and outlines the purpose for which it is compiled and the methodology used in the research and report preparation process.
- Chapter 3 gives a more detailed insight into the historic background and context to International Disaster Response Law and the Caribbean disaster management framework that informs and influences how laws and policies typically address IDRL.
- Chapter 4 delves more deeply into disaster management and coordination systems used in the region and their influence on IDR coordination and facilitation.
- Chapter 5 addresses the region's legal preparedness for the entry of goods and equipment, before, during and after a disaster event, and the standards applied for quality control.
- Chapter 6 examines the legal issues that may arise in the entry of international disaster personnel, including immigration, labour and other regulatory systems.
- Chapter 7 summarises how laws give recognition to the legal status of international disaster relief organisations, particularly those participating in more long-term or extensive recovery and resilience-building activities.
- Chapter 8 analyses special issues and considerations that may be unique to IDR in the Caribbean, including how regionalism and the small-island developing context has influenced how both problems and solutions are defined.
- Chapter 9 consolidates findings and recommendations, identifying the recommended changes to the CDEMA Model Law and Policy. These recommended changes are summarized below and outlined in detail in Appendix 1.

## 1.2 SUMMARY OF STRENGTHS, GAPS AND CHALLENGES

The desk research process yielded a mix of strengths and challenges common to IDR experiences of different countries in the Caribbean region. The key issues under each category are grouped and summarized in Table 1 below.



Table 1: Synopsis of Strengths and Challenges in Caribbean IDRL

ISSUE	DESCRIPTION
<b>STRENGTHS</b>	
<b>Shared Regional IDR and DM Coordination Structures &amp; Institutions</b>	CDEMA Regional Response Mechanism and its sub-regional coordination groups are a focal point for international coordination and can provide IDR coordination support to countries affected by a disaster.
<b>National Coordination and Planning Mechanisms</b>	<p>National Disaster Coordination systems exist in most countries and are familiar to state actors and their non-state partners in most countries, and preparatory processes are activated at the start of the Atlantic Hurricane season each year.</p> <p>Existing structures, including National Disaster Sub-Committees, can facilitate thematic coordination of new actors.</p>
<b>Awareness of Legislative Gaps and Emerging Reform Agenda</b>	<p>Through IFRC’s IDRL research and CDEMA’s promotion of its Model CDM Legislation and Regulations (including provisions on International Humanitarian Assistance), many NDOs and other state and non-state IDR partners are aware of the need for IDR provisions in laws and policies.</p> <p>Regional IDRL conferences and IDRL Working Group are helping to define an emerging reform agenda tailored to Caribbean experiences</p>
<b>Prescribed Roles for Red Cross National Societies</b>	Laws acknowledge the Red Cross auxiliary role in most countries and Red Cross is often named in National Disaster Plans. This can help to support the IDR functions of the Red Cross Movement, thereby streamlining humanitarian aid.
<b>Free Movement Regimes to Support the Recruitment of Skilled Volunteers &amp; Relief Workers from within region</b>	OECS and CARICOM treaties support free movement of persons, including the right to work, to different degrees. These facilities can be used in the mobilization of regional skilled workers to support relief and initial recovery efforts, where national systems and labour markets are overwhelmed.
<b>PPP Innovations used to Mobilise Community Resources in CDM (NGOs, private sector, Community Groups)</b>	Smaller islands often have smaller economies and need to introduce innovations to manage the integration of non-state actors to support limited state resources. For example, in Grenada and St Vincent and the Grenadines NDOs rely on private sector MOUs for mobilizing equipment, communication, transportation, relief supplies etc., thereby creating a network of private sector actors engaged in response and initial recovery activities. These public-private-partnerships can set the stage for integrating new IDR actors in the national response programmes of disaster-affected countries.
<b>GAPS AND CHALLENGES</b>	
<b>Systems are not scaled for a large-scale disaster event</b>	While coordination systems exist, they can become quickly overwhelmed during a large-scale disaster. For example, Government coordination systems in Dominica and Antigua and Barbuda became

ISSUE	DESCRIPTION
	overwhelmed by the mass influx of international disaster organisations and ad hoc volunteer groups following Hurricanes Irma and Maria in 2017.
<b>No specific procedures or regimes for registration or legal recognition of new donors</b>	Use of company laws, charities legislation etc. for the registration of disaster response entities is not always appropriate for their short- and medium-term response and recovery operations
<b>Process of obtaining tax and duty waivers is often <i>ad hoc</i> or discretionary</b>	Procedures for accessing waivers, exemptions and other special legal facilities can change from one disaster to another. Approval processes may be discretionary and may not be fully documented or explained. This creates an undue burden on administrative systems of both IDR and government entities to ensure compliance.
<b>Communication and information sharing gaps</b>	<p>Countries may have multiple and overlapping Damage Assessment and Needs Analysis processes, and time lags in the communication of DANA data and needs lists to IDR actors.</p> <p>Limited information may be available in the public domain on certain regulated goods and services, including those on disaster needs lists.</p>
<b>Limited coordination systems for foreign Military Relief</b>	<p>If a beneficiary country has no military of its own, chains of command can easily be blurred.</p> <p>Where there are a number of civil military or uniformed response groups in a country, any gaps in administrative arrangements covering logistics and operational costs can leave the beneficiary country exposed.</p>
<b>Outdated DM Laws.</b>	<p>Several countries still use Emergency Powers Acts, which make little or no provision for disaster coordination.</p> <p>Several countries are in the process of adapting CDEMA's Model Law into national legislation, but the pace of legislative reform is slow.</p>

In addition to the general gaps and challenges outlined above, the research captured the unique and exacerbated IDR pressures associated with a large-scale disaster event. The following list was compiled from a combination of desk and primary research and gives a summative view of these specific challenges.

- The mass influx of large numbers of ad hoc/unknown relief organisations creates logistical and administrative challenges.
- Difficulties arise in implementing donor registration systems during the upheaval caused to government regulatory agencies during major disaster events.
- Managing logistics for multiple donors creates excessive burdens on government systems.
- Unfamiliarity of foreign donors with local requirements, social and cultural contexts, laws and standards and government machinery.
- Incompatible standards among foreign professionals (e.g. doctors, engineers) can make response teams ineffective.

- Difficulties arise in monitoring large numbers of foreign nationals, particularly those who are new to the region.
- High demand for waivers, exemptions and administrative and legal facilities to support the influx of donors into affected countries.
- Influx of unsolicited, unusable and unnecessary goods can create a burden on beneficiary countries to arrange landing, sorting, warehousing and related logistics for these goods.
- Inappropriate medical and other regulated goods may be unusable in country. This may include items that are not properly labelled, that are beyond or too close to expiration dates. The human resource cost of sorting, storing, disseminating & distributing or disposing of unwanted and unusable items is borne by the beneficiary.
- Outsized or incompatible equipment may not be able to be moved off wharves or ships.
- Non-compliance with standards can stall relief and recovery activities or result in the production of buildings and infrastructure that are not resilient.
- There are no clear accountability mechanisms for IDR actors, particularly those that are not locally registered.

The recommendations outlined below are designed to strengthen legal preparedness to address the gaps and challenges outlined above.

### 1.3 SUMMARY OF RECOMMENDED CHANGES TO LAWS, POLICIES AND PRACTICES

#### **Proposed expanded legal guidelines:**

It is recommended that the Model CDM Legislation should be updated to include the following additional provisions in Part X, which addresses International Humanitarian Assistance (IHA):

- Establish a registration system for Approved IHA Actors
- Identify the types of legal facilitation that should be made available to registered/approved IHA actors, including appropriate exemptions and expedited procedures.
- Outline a more expansive role and responsibilities of the IHA Coordinator, and the relevant Coordination Structures used to support IHA collaboration and accountability. These can be designed around sectoral or cluster coordination networks.
- Outline types of rules to be covered for Visiting Forces, especially in relation to unsolicited or unplanned visiting disciplined forces from outside of the region. This should address issues such as cost recovery and the chain of command to be observed in implementing disaster-related projects.
- Outline the types of quality standards to be established for IDR goods, as well as the mechanisms for enforcement of standards.
- Define accountability mechanisms for IDR actors.

### **Proposed expanded policy guidelines:**

It is recommended that the Model CDM Policy should be updated to include a section on the integration of IDR Actors in comprehensive and sustainable disaster policies and strategies. This should make reference to:

- The need for a Code of Conduct for IDR Actors.
- The standards and guidelines required for IDR goods.
- Guidelines for improving the economic sustainability of IDR donations, including the recommended use of cash-based donations and partnership with the local private sector.
- Guidelines for ensuring environmental sustainability of IDR activities.
- Strategies for reducing and disposing of unsolicited donations.
- Strategies for strengthening coordination and support systems for skilled volunteers.
- Guidance for integrating IDR activities with social safety net, social protection and welfare-based support systems, as well as making special considerations and accommodations for vulnerable groups.
- Guidance for integrating IDR support with risk mitigation strategies and resilient building guidelines.

### **Proposed Role for Regional Institutions**

Regional institutions have a critical role to play in strengthening IDR standards and policies in the Caribbean. The commonality of issues faced suggests that resources will be optimized through collective, rather than country by country actions. The following recommendations, referenced throughout this document, could be adopted by CDEMA to supplement changes in its Model Law and Policy:

- Development of a regional register of approved IDR organisations
- Development of regional guidelines for establishing eligibility criteria for new and ad hoc donors.
- Development of a regional register or roster of disaster volunteers, in key skill areas.
- Regional guidelines and standards for visiting military and disciplined forces.
- Framework and strategy for more expansive coordination and communication with diaspora groups.
- Regional Code of Conduct for IDR Actors.
- Standards and guidelines for IDR goods, equipment and services.
- Expanded information portal for new and ad hoc IDR donors.

## 2 INTRODUCTION

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### 2.1 RATIONALE AND PURPOSE OF THE REPORT

The Caribbean region remains among the highest risk for multi-hazard disasters globally, with the effects of hurricanes and hydrometeorological events, floods and storm surges, earthquakes, volcanoes, droughts, oil spills and other disaster events affecting different parts of the region. The threats to human life, national infrastructure, economies and ecosystems, as well as related loss and damage can easily overwhelm national or regional response mechanisms. As the frequency, intensity and impact of disasters increase due to climate change, international support provided under bilateral and multilateral arrangements, or through humanitarian and disaster response entities have become an increasingly significant element of disaster management.

The increasing role played by international disaster response (IDR) is most visible in the wake of major disaster events. This includes Hurricanes Maria and Irma (2017) and Dorian (2019), as well as destructive earthquakes in Haiti (2010 and 2021). In response to these events, there is a notable sharp increase in the influx of disaster relief organisations, personnel, goods and equipment. Among these are IDR actors who are new to the region, including organisations formed or mobilised specifically to access project funds raised in relation to each disaster event. These groups are collectively referred to throughout this report as ‘**new and *ad hoc* donors**’. As a related but distinct issue, major disaster events may also attract a mass influx of **unsolicited donations**, which may include items that are inappropriate, non-compliant with local standards, or are of a type or quantity that is unusable. These issues, and the scope and range of their potential impact following a major disaster, has significant implications for the coordination, regulation and facilitation systems developed at the national and regional levels. The purpose of this report is to explore the legal and policy implications of these issues and define parameters for incorporating international disaster response law in Caribbean laws and policies.

As a corollary to this report, recommendations will be integrated into proposed amendments or modifications to the Caribbean regional **Model Comprehensive Disaster Management Legislation and Regulations, 2013**<sup>1</sup> and a **Model National Comprehensive Disaster Management Policy for Caribbean Countries**<sup>2</sup>. Proposed changes will include IDRL considerations that address the gaps and opportunities emerging from the Caribbean experience, as captured in this report, as well as the recommendations made by stakeholders engaged during the research process. The proposed legislative and policy provisions to be included as modifications to these documents are appended to this report.

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<sup>1</sup> CDEMA. (2013). *Model Comprehensive Disaster Management Legislation and Regulations*. Accessible at <https://www.cdema.org/virtuallibrary/index.php/documents/model-documents>

<sup>2</sup> CDEMA. (2013). *Comprehensive Disaster Management: A Model National CDM Policy for Caribbean Countries*. Accessible at <https://www.cdema.org/virtuallibrary/index.php/cdm-sector-resources-2?task=download.send&id=90&catid=11&m=0>

## 2.2 IMPLEMENTING PARTNERS

The production of this report represents the joint initiative of the following entities:

- a. The **International Federation of Red Cross and Red Crescent Societies (IFRC)** is the world’s largest humanitarian organization, with 191 National Societies - including 14 CARICOM member states – forming its membership base. It is part of the International Red Cross and Red Crescent Movement and a key player in disaster relief, response recovery and resilience building activities globally. In the Caribbean region, the IFRC’s functions are carried out, in part, through a Country Cluster Delegation (CCD) located in Trinidad and Tobago, which covers 13 countries. The IFRC is a leading voice in the development of disaster law principles, protocols and systems globally. This includes principles and protocols to guide the legal preparedness and best practice standards to address international disaster response issues and challenges. In 2007, following years of research and consultation, the IFRC developed its **Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines)**<sup>3</sup>. Since then, it has commissioned multiple studies globally and within the region and remains a leading voice in promoting more effective disaster laws, informed by the experiences of National Societies in the field.
- b. The **Caribbean Disaster and Emergency Management Agency (CDEMA)** is the CARICOM entity tasked with coordinating regional disaster management systems, while guiding the development of effective laws and policies at the national level. CDEMA is established by treaty and its 19 participating states benefit from its network of regional and sub-regional coordination and operational systems, technical support initiatives and capacity development activities. Its activities are guided by a Regional Comprehensive Disaster Management Strategy and Results Framework (2014-2024). Both the CDEMA Agreement and its Regional Strategy address the issue of the coordination of international disaster response activities, guided by principles of sovereignty, regionalism, sustainability and resilience, which underlie the agency’s work. CDEMA has developed a **Model Comprehensive Disaster Management Legislation and Regulations, 2013**<sup>4</sup> that integrates IDR coordination and facilitation principles under the rubric of International Humanitarian Assistance (IHA).
- c. A **Regional International Disaster Response Law Working Group** was convened in 2023 as a sub-group of CDEMA’s Technical Advisory Committee. This IDRL Working Group was tasked with providing “Caribbean-specific perspectives, insights and recommendations for improving the regional regulatory framework for the facilitation and coordination of international disaster relief within the context of CDM.”<sup>5</sup> The Working Group is comprised of representatives of IFRC, CDEMA, as well as National Disaster Offices (NDOs) and Red Cross National Societies (RCNS) of selected CDEMA participating states. Other members include representatives of regional organisations that play a role in relation to setting standards that can impact or influence the processing of IDR goods and personnel across borders. The work of the Regional IDRL Working

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<sup>3</sup> Accessible at <https://disasterlaw.ifrc.org/idrlguidelines>

<sup>4</sup> Accessible at <https://www.cdema.org/virtuallibrary/index.php/documents/model-documents>

<sup>5</sup> IFRC and CDEMA. (N.d.). *Terms of Reference: Regional International Disaster Response Law Working Group of the CDEMA Technical Advisory Committee*.

Group is designed to strengthen the capacity of CDEMA participating states to develop laws, policies and plans that address IDR issues, while also strengthening regional and national IDR coordination mechanisms. This report is an output of the Working Group's mandate for evidence-based recommendations on IDRL and was developed under the Working Group's oversight. The Working Group's Terms of Reference is attached as an Appendix to this report and outlines their mandate and membership in greater detail.

### 2.3 IDRL RESEARCH AND DEVELOPMENT IN THE CARIBBEAN, 2012-2024

Since 2012, the IFRC, in partnership with CDEMA, RCNS and NDOs from across the region, has conducted country level research on IDRL across the Caribbean. These research activities resulted in the production of IDRL Reports for the following countries:

- Jamaica<sup>6</sup>
- Grenada<sup>7</sup>
- St. Vincent and the Grenadines<sup>8</sup>
- Belize<sup>9</sup>
- Dominica<sup>10</sup>
- St. Kitts and Nevis<sup>11</sup>

Additionally, smaller IDRL-specific research activities were done in St. Lucia<sup>12</sup> and Antigua and Barbuda<sup>13</sup>. IDRL related issues were captured in two IFRC reports on disaster law in the Bahamas in the wake of Hurricane Dorian (2019). One report covered legal and policy implications arising from unsolicited bilateral donations<sup>14</sup>, and the other catalogued and analyzed lessons from the country's

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<sup>6</sup> Chambers, T. (2013). *International Disaster Response Law, Rules and Principles in Jamaica: An Analysis of the Legislative Framework for Receiving International Disaster Relief*. Jamaica Red Cross. Accessible at <https://disasterlaw.ifrc.org/media/1383>

<sup>7</sup> Chambers, T. (2018). *International Disaster Response Law in Grenada: A Desk Review on Legal Preparedness for International Disaster Response*. IFRC and the Grenada Red Cross Society. Accessible at [https://disasterlaw.ifrc.org/sites/default/files/media/disaster\\_law/2020-09/Grenada-IDRL-Report-LR.pdf](https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2020-09/Grenada-IDRL-Report-LR.pdf)

<sup>8</sup> Chambers, T. (2017). *International Disaster Response Law in St. Vincent and the Grenadines: A Desk Review on Legal Preparedness for International Disaster Response*. IFRC and the St, Vincent and the Grenadines Red Cross Society. Accessible at [https://disasterlaw.ifrc.org/sites/default/files/media/disaster\\_law/2020-09/St%20Vincent%20The%20Grenadines%20IDRL%20Report%20LR%20Web%20viewing.pdf](https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2020-09/St%20Vincent%20The%20Grenadines%20IDRL%20Report%20LR%20Web%20viewing.pdf)

<sup>9</sup> Prepared by Tania Chambers for IFRC, unpublished.

<sup>10</sup> Chambers T. (2022). *International Disaster Response Law in Dominica*. IFRC. Accessible at [https://disasterlaw.ifrc.org/sites/default/files/media/disaster\\_law/2022-09/Dominica%20IDRL\\_full%20report.pdf](https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2022-09/Dominica%20IDRL_full%20report.pdf)

<sup>11</sup> Prepared by Tania Chambers for IFRC, unpublished.

<sup>12</sup> Prepared by IFRC, unpublished.

<sup>13</sup> Report prepared by IFRC, unpublished.

<sup>14</sup> Polley, N. (2022). *The Impact of Unsolicited Bilateral Donations (UBDs) on the Response to Hurricane Dorian in the Bahamas*. IFRC. Accessible at [https://disasterlaw.ifrc.org/sites/default/files/media/disaster\\_law/2022-09/UBDs%20Bahamas\\_full%20report.pdf](https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2022-09/UBDs%20Bahamas_full%20report.pdf)

experiences in the legal and policy aspects of disaster recovery and reconstruction<sup>15</sup>. These research processes were complemented by two Virtual Regional IDRL Conferences in which groups of regional and global experts from different state and non-state entities engaged in DRM or IDR activities shared ideas, lessons learned and recommendations from their IDR experiences in the Caribbean.

These research activities yielded similar results and provided a body of work from which to draw common conclusions regarding the state of IDRL in the Caribbean. With the formation of a Regional Technical Working Group on IDRL, as well as the hosting of two consecutive Caribbean IDRL Workshops, there is an opportunity to consolidate, analyze, update and validate these findings. Such is the remit of this report, which seeks to provide a Caribbean-wide perspective on IDRL.

## 2.4 METHODOLOGY

This report was prepared largely through desk research and global benchmarking activities, with some primary data collected through group interviews and consultative discussions. The desk research was designed to elicit good practice standards from IDR-related legislative and policy guidelines developed by the IFRC and CDEMA, while matching these against the findings of IDRL reports conducted within the Caribbean. Reports and other evaluative or analytical documentation prepared by regional, national and global IDR actors were also reviewed, along with newspaper and journal articles capturing relevant data and disaster laws and policies from CDEMA participating states. The breadth of written documentation available resulted in a relatively comprehensive picture of IDR issues emerging from the desk research process. This was supplemented by the following research and consultation activities:

- Consultative meetings and discussions held with the Regional IDRL Working Group, obtaining continuous feedback of research findings and recommendations at various stages.
- Focus group discussions with NDOs and their state and non-state partners from Guyana and the British Virgin Islands, respectively. These facilitated some practical insights from the IDR or disaster lawmaking experiences of both territories, focusing on the uniqueness of their geopolitical perspectives and experiences. The information from BVI was helpful in understanding the unique attributes of Overseas Territories and their capacity to navigate the disaster relief and recovery period in tandem with their home governments. Guyana provided insights into the continental experience, and the movement of IDR goods and services over land boundaries. Both are captured as areas of special focus in this report, to illustrate the variations, nuances and heterogeneity of Caribbean disaster coordination and IDR.
- Detailed documentary reviews were conducted of two legal and policy instruments developed in the wake of major disaster events that sought to integrate IDRL principles: **The Disaster Risk Management Act, 2022** of the Bahamas and the **Draft Guidelines for the Entry and Activities of International NGOs Responding to a Disaster** prepared by the British Virgin Islands. Summative analyses of the content and implications of each of these instruments are included as case studies within this report.
- Consultative discussions with wider stakeholder groups through the second Virtual Regional IDR Conference held in November 2023.

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<sup>15</sup> Jordan, J. (2022). *Disaster Recovery in the Bahamas: A Legal and Policy Survey*. IFRC. Accessible at [https://disasterlaw.ifrc.org/sites/default/files/media/disaster\\_law/2023-03/IFRC%20-%20Disaster%20Law%20Programme%20-%20Bahamas-REVISE.pdf](https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2023-03/IFRC%20-%20Disaster%20Law%20Programme%20-%20Bahamas-REVISE.pdf)



- The circulation of a survey instrument to NDOs across the region.

In addition to the gap analysis findings, the methodology addressed the identification of examples of how IDR issues are contextualized within the Caribbean region, based on experiences in different territories. These examples were derived from the following sources:

- IDR studies conducted in different Caribbean countries, extracts from which could be used to elucidate different issues or findings throughout the report.
- Case studies conducted with specific countries, chosen for their unique attributes that influence the effectiveness of standardized IDRL recommendations to variations within the Caribbean. A matrix was created that included key features that needed to be captured, including countries that are physically comprised of a multi-island or continental structure; overseas territories; countries that have recent experiences with a major disaster; countries that have a significant population of indigenous persons, undocumented migrants or other vulnerable groups and countries that have a recent or ongoing experience with updating their disaster laws. The British Virgin Islands, the Bahamas and Guyana were chosen and collectively cover all the categories stated. The case study for the Bahamas was done in the form of a desk analysis of their Comprehensive Disaster Management Act (2022), while others involved group meetings and the sharing of information.

*Fig 1: Methodological Approaches Used in the Research and Report Preparation Process*



*Source: Author*

## 3 IDRL IN THE CARIBBEAN: BACKGROUND & CONTEXT

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### 3.1 INTERNATIONAL DISASTER RESPONSE LAW

The term International Disaster Response Law (IDRL) was coined by the International Federation of Red Cross and Red Crescent Societies (IFRC) in response to experiences emerging from large scale disasters around the globe. As the scale and intensity of disasters increased towards the start of the new millennium, a slew of common legal issues associated with the movement of disaster relief goods, personnel and equipment across borders began to emerge. In 2001, the IFRC launched a programme to examine International Disaster Response Laws, Rules and Principles (collectively referred to as IDRL) and how these can be optimised to facilitate international disaster response and recovery operations. The programme commissioned a series of country studies, emphasising jurisdictions that had weathered major disaster events, to identify common gaps and recommendations in the coordination, facilitation, regulation and quality control systems applied to international disaster response operations.

Through this consultative research, and applying principles drawn from international law and practice, the programme developed Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (IDRL Guidelines). They were adopted by the state parties to the Geneva Conventions at the 30<sup>th</sup> International Conference of the Red Cross and Red Crescent in November 2007, with recommendations that they should be used to improve national legal and policy frameworks for the facilitation and regulation of international disaster response. The guidelines were later supplemented by an IDRL Model Law and IDRL Checklist and complemented by a suite of disaster law-related guidelines and benchmarking instruments developed by the IFRC over time.

Within the Caribbean region, deliberative discussions surrounding the relevance and utility of IDRL rules for the Caribbean began within a few years of the adoption of the Guidelines and were fueled by memories of experiences that countries such as Jamaica and Grenada had gone through following Hurricane Ivan in 2004. Jamaica and Grenada, along with St. Vincent and the Grenadines, thus became three of the earliest Caribbean territories in which the IFRC worked with Red Cross National Societies (RCNS) and National Disaster Offices (NDOs) to conduct IDRL studies. The relevance of IDRL to the region's systems of laws and disaster coordination mechanisms quickly became apparent, particularly when compared to the issues faced post-Hurricane Ivan in the coordination and regulation of the international disaster response in Jamaica and Grenada respectively.

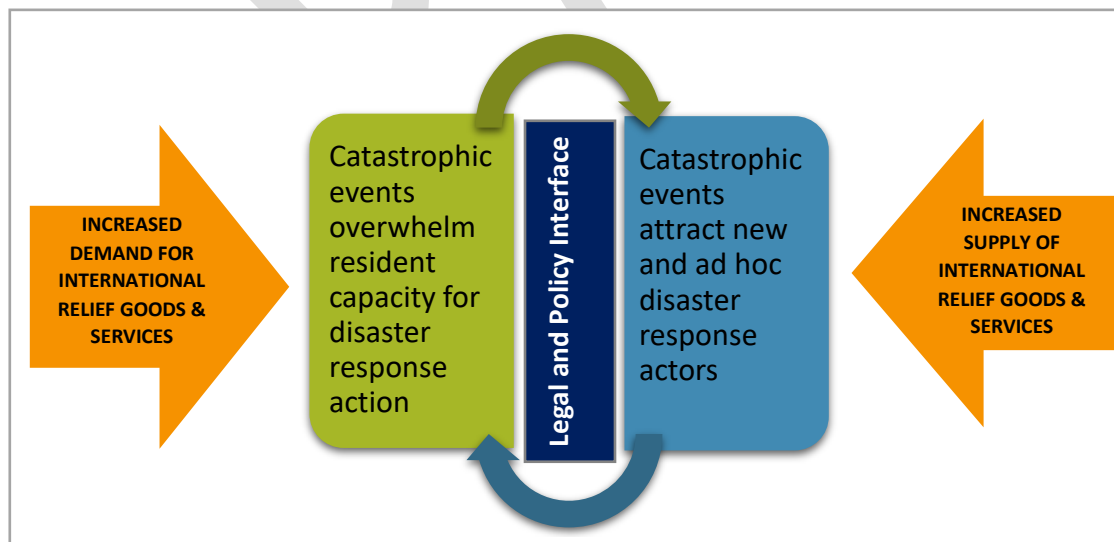
The extract in Box 1 is taken from Grenada's IDRL report and provides a rationale and explanation for the relevance of IDRL to legal preparedness for disasters in Caribbean jurisdictions. The issues outlined in Box 1 are exponentially complicated by the debilitation in national systems that a large-scale disaster often brings. In addition to the increased demand for international support that may be formally made by governments, a large-scale disaster can activate mass donations of disaster relief goods, and larger numbers of new disaster actors entering a country to contribute to the response and recovery efforts.

**Box 1: The Rationale for IDRL Principles in Caribbean Disaster Laws: Extract from Grenada IDRL Report<sup>16</sup>**

In a sovereign territory, the right to establish boundaries and barriers that limit, regulate or tax the entry of goods and persons is considered sacrosanct. This right is ordinarily exercised through legal facilities – legislation, rules and regulatory guidelines – which are themselves patterned from and guided by international treaties and principles on trade, cooperation, the cross-border movement of goods and persons, humanitarian law and other factors. In addition to these formal mechanisms, other conditions and barriers to entry emerge from informal practices and the professional and personal factors that drive immigration, customs, port authorities, tax authorities and other key personnel. The humanitarian and disaster relief response that necessarily accompanies a major disaster event must navigate these legitimate and illegitimate, formal and informal barriers to entry. Without the appropriate levels of legal facilitation, international disaster relief actors can lack the lawful authority to enter a sovereign territory, import goods and specialty equipment, obtain the legal status and tax identity needed to navigate the country’s commercial and regulatory space, establish an in-country banking and financial presence, register its personnel to provide specialty services to the affected population and partner with local actors. International Disaster Response Law can be seen as a body of principles that guide how the legal and policy framework of a country ought to be designed, in order to create the right balance of facilitation and regulation between an affected country and disaster relief actors.

As illustrated by Figure 1, more catastrophic events can increase both the demand for and the supply of international disaster relief goods and services. This puts greater strain on national legal and policy frameworks, strengthening the case for dedicated legal preparedness for International Disaster Response (IDR).

*Fig 1: The Catastrophic Event as a Catalyst for Increased Demand and Supply of International Relief*



Source: Author

<sup>16</sup> Chambers, T. (2018). *International Disaster Response Law in Grenada: A Desk Review on Legal Preparedness for International Disaster Response*. IFRC and the Grenada Red Cross Society. Accessible at [https://disasterlaw.ifrc.org/sites/default/files/media/disaster\\_law/2020-09/Grenada-IDRL-Report-LR.pdf](https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2020-09/Grenada-IDRL-Report-LR.pdf)

### 3.2 OVERVIEW OF IDR IN THE REGION

Geographically, the Caribbean region is located among the most high-risk regions for multi-hazard natural disasters. Within the region, different countries are at risk for hydrometeorological disasters, volcanic activity and related tsunamis, earthquakes and droughts, all exacerbated by the effects of climate change. Documentation of the devastating results of natural disasters are littered throughout the region’s post-Columbian history, including earthquakes, hurricanes, landslides, floods and epidemics that cost the region significant losses in human lives, livelihoods, infrastructure and economic assets. An advantage emerging from this history of recurrent tragedy and loss is the relative quality of the region’s legal and policy preparedness for disasters. The region is known for a developed regional disaster response history and a shared capacity to predict, plan for and respond to more common natural hazards.

Table 1 below describes this in summary, most state parties will have some or all of these features reflected in their disaster management plans and policies or implemented in practice although undocumented.

**Table 1: Disaster Management Features Commonly Found among CDEMA State Parties**

Laws, Policies & Plans	Disaster Coordination Framework	Emergency Operations Systems	Response & Recovery Standards and Systems	Sub-regional Disaster Response Resources	Regional Coordination of Technical Assistance	Regional Coordination of Global Response
National disaster laws, policies and plans that identify a framework for disaster and emergency management, often based on a comprehensive disaster management model that integrates disaster risk reduction and resilience building.	National Disaster Committees that consolidate state disaster and emergency management functions, supported by National Disaster Organisations (NDOs) that centralize coordination and implementation of disaster planning, response and recovery processes.	National Emergency Operations Centres that are led from the highest level of government, and which can be used to integrate state and non-state actors involved in the disaster response process in collaborative functions before, during and after a disaster.	Common systems and approaches based on regional training and capacity building, shared institutions and collectively used methodologies, tools and technologies in areas such as logistics and damage assessment.	Access to immediate extra-territorial disaster response activated through CDEMA’s four sub-regional focal points <sup>17</sup> , each of which houses a warehouse for storing non-perishable relief supplies for the countries it serves and has access to the transportation and logistical infrastructure needed to mobilise immediate supply of relief goods and services.	Access to the Regional Response Mechanism and other units within CARICOM/CDEMA that are available to provide technical support in areas such as emergency centre operations, security and damage assessment and needs analysis.	Synchronization with UN systems and international development and diplomatic agencies involved in disaster relief and response, most of which coordinate their disaster management activities through a Regional Donor Partner Group.

Source: Grenada IDRL Report

IDR in the region thus takes several different forms:

<sup>17</sup> These are the NDOs in Jamaica, Barbados, Trinidad and Tobago and Antigua and Barbuda.

- Prepositioned disaster relief stock warehoused in different parts of the region by different humanitarian and disaster relief actors. This type of disaster relief is imported into the region prior to a disaster event as part of a preparedness effort.
- Solicited relief goods from the network of IDR partners working with national governments and/or CDEMA across the region, which may respond to official and unofficial needs lists prepared following the disaster event.
- Unsolicited relief from ad hoc donors can form a large portion of donations. They may come from diaspora groups, international NGOs (INGOs), local service clubs or faith-based groups, private sector organisations and any other stakeholders who are motivated or inspired to support a relief or recovery effort.
- Technically skilled teams of volunteers, relief workers and disciplined forces may enter a country immediately before or after a disaster event to provide support in the areas of emergency operations, logistics planning, damage assessment and needs analysis, search and rescue, relief distribution, emergency engineering, field medicine or psychological first aid.
- Military relief and disciplined forces, who may contribute to all the types of services outlined above, as well as give support to security, evacuations, transportation and other functions of the state.
- IDR relief in the form of donations made by organisations or individuals, including substantial deposits in National Disaster Funds, as well as international crowd-funding activities conducted by IDR actors.
- IDR equipment donated or brought into a recipient country by IDR teams. These may include motor vehicles, medical, telecommunications or other types of equipment, some of which may be exported by IDR teams, once they are no longer in use.

There are a few outliers worth mentioning for research purposes, although their impact on IDR in the Caribbean region is relatively limited or less frequent in scope:

- In 2018, the government of the Federation of St. Kitts and Nevis introduced a temporary citizenship by investment scheme whereby citizenship could be awarded to an investor donating USD\$150,000.00 to a Hurricane Relief Fund. The Fund was in put place for a period of three months and proceeds were directed to repairing infrastructure damaged during the 2017 hurricane season. This type of IDR is consistent with the scope of citizenship by investment schemes introduced in several Eastern Caribbean states, but with a specific linkage to supporting disaster recovery and preparedness projects. The state reported the scheme's success<sup>18</sup>, but the potential role for this type of IDR has remained limited to date.
- Medical ships are not new to the region<sup>19</sup>, however following the 2017 hurricane season, the Chinese and United States navies deployed floating hospitals to the region to support humanitarian and disaster relief initiatives<sup>20</sup>. Services from both countries were equipped to provide a wide range

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<sup>18</sup> See *Citizenship Programme's Temporary Hurricane Relief Fund Yields Positive Results* retrieved from <https://www.sknis.gov.kn/2018/01/23/citizenship-programmes-temporary-hurricane-relief-fund-yields-positive-results-for-st-kitts-and-nevis-communities/>

<sup>19</sup> For example, Medical NGO Mercy Ships has provided services to Dominican Republic, Haiti, Belize and Central America for over two decades. See <https://mercyships.ca/en/ship/caribbean-mercy/>

<sup>20</sup> See *The Significance of US and Chinese Hospital Ship Deployments in Latin America* at <https://cimsec.org/significance-u-s-chinese-hospital-ship-deployments-latin-america/>

of medical procedures, diagnostic services and surgeries, and treated populations from among several CARICOM member states, including Dominica, Belize, Barbados and Jamaica. While it is not clear whether this type of IDR service will form a significant component of future post-disaster activities, the possibility of their continued presence raises issues of legal liability and standards of care from this type of health intervention.

Organisations such as the Red Cross, UN groups, bilateral or multilateral partners working in the disaster management field are generally engaged in disaster management related activities whether or not there is a major catastrophic event. Depending on the nature of the disaster, CDEMA technical support teams are often in country before the most catastrophic aspects of a certain disaster events are fully manifested. New and *ad hoc* donors are only engaged in disaster relief activities that can be described as major catastrophic events, with mass impact on populations, governments, infrastructure and economies. These new and ad hoc IDR actors may have little knowledge of industry best practices or the cultural context and regional response arrangements in the Caribbean. Further, they may be motivated by a range of factors in the scope and type of relief items they offer. IDR rules and regulations need to take into account both types of IDR actors, particularly in the wake of a major disaster event.

Within the last few decades, the region has experienced several major disaster events that significantly challenged established patterns and practices of relief and recovery. The earthquakes in Haiti in 2010 and 2021 were two examples of this type of event, where the scope of ad hoc relief actors and donated goods vastly outweighed the goods and services received from established IDR actors. The mass influx of disaster teams from outside the region were common to both events, as well as to the devastation wreaked in Dominica, Barbuda, British Virgin Islands and other parts of the Eastern Caribbean in the 2017 Hurricane season. In that season, the back-to-back effects of category five hurricanes Irma and Maria overwhelmed the response capacities of national and regional entities, while attracting a mass influx of new and ad hoc disaster relief groups. The Bahamas encountered similar experiences following Hurricane Dorian in 2019. These major events have tested the region's legal preparedness for disasters and in particular for international disaster response. This report presents an assessment of disaster laws in the region, and their adequacy in addressing the wide scope of IDR activities and requirements that are encountered from time to time.

### **3.3 COMPREHENSIVE DISASTER MANAGEMENT AND ITS LINKAGES TO IDR**

CDEMA has pioneered and developed Comprehensive Disaster Management (CDM) as a holistic and systematic approach to disaster risk management in the Caribbean region. CDEMA defines CDM as:

*“The management of all hazards through all phases of the disaster management cycle – prevention, mitigation, preparedness, response, recovery and rehabilitation – by all peoples – public and private sectors, all segments of civil society and the general population in hazard prone areas. CDM involves risk reduction & management and integration of vulnerability assessment into the development planning process.”<sup>21</sup>*

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<sup>21</sup> CDEMA (2014). Comprehensive Disaster Management Strategy 2014-2024.

The CDM approach improves on the earlier focus on emergency management and response. It emphasizes more comprehensive strategies designed to reduce disaster risk and impact, through sustainable, multi-sectoral initiatives. CDM embraces an anticipatory approach that links mitigation and preparedness to response and recovery, encouraging states to build resilience through the engagement of all stakeholders, including government ministries and departments, communities, civil society and the private sector, in collaborative approaches. This requires a high level of collaboration that is essential to the success of small economies, with thinly resourced disaster management agencies. Through the lens of CDM, IDR cannot be isolated to the events surrounding the damaging effects of a disaster but is of relevance to the full cycle of disaster risk management. This can mean inclusion of IDR actors in a wide range of activities, from disaster planning and simulation exercises to warehousing stock for future disaster events. From this perspective, the requirement to move goods and personnel into a country is not restricted to a post-disaster period. The figure below illustrates this.

*Fig 2: IDR Activities in the Pre and Post Disaster Phases of the Disaster Management Cycle*



Source: Author

### 3.3.1 CDM Model Law and Policy

CDEMA has developed the Model Comprehensive Disaster Management Legislation and Regulations (2013)<sup>22</sup> (referred to throughout this document as the ‘Model Law’) as well as a policy entitled A Model National CDM Policy for Caribbean Countries (referred to throughout this document as the ‘Model Policy’). These documents provide guidance for CDEMA’s participating states to improve their national regulatory framework for disaster management. The Model Law has a section on International

<sup>22</sup> Accessible at <https://www.cdema.org/virtuallibrary/index.php/cdm-sector-resources-2?task=download.send&id=92&catid=11&m=0>

Humanitarian Assistance (IHA), which seeks to set a framework for engaging with international donors. Some of the key provisions of the Model Law are as follows:

- It establishes a role for an **International Humanitarian Assistance Coordinator** to ensure coordination and collaboration between local and international donors.
- It underscores the importance of a **request for assistance** as the starting point for engaging with international donors. Consistent with CDEMA's approach, it requires that the request is first issued internally and, if needed, internationally.
- Where the request for assistance requires involvement of a field team, s.71 of the Model Law states that "the Director shall assist in **facilitating such clearances** as may be required for the field team".
- It references **special classification of disaster relief goods** for customs purposes, and regulations to determine privileges and immunities. However, relief goods are treated as donations to the national disaster agency.
- It provides a framework for the development of guidelines, standards and eligibility criteria, through regulations that provide for '**privileges and immunities in relation to immigration and customs**' (s.72).
- It includes provisions for regulations governing the **initiation and termination** of international assistance.
- It includes provisions for regulating **visiting disciplined forces** from within the Caribbean region, through a special coordinator.

While many Caribbean countries have started the process of engaging in legislative reforms to introduce laws aligned with the CDEMA Model, only a few, such as Jamaica, the Bahamas and Grenada have completed new legislation. The section below describes the types of disaster laws that are currently in place.

### 3.3.2 From Emergency Powers to Comprehensive Disaster Management Laws

Historically, most countries throughout the region utilized Emergency Powers Acts as the basis for engaging special legislative measures following a disaster event. Emergency Powers Acts are designed to provide the state with special police powers, suspending certain constitutional rights and freedoms, in order to keep the peace during times of public discord or upheaval, such as rioting or civil disturbance. Emergency Powers laws are useful for the prevention or suppression of looting, for giving effect to evacuation orders, or for limiting movement when it is deemed necessary for the protection of human lives or property. Natural disasters are thus seen as 'acts of God' requiring this type of state intervention. As emergency measures are treated as a suspension of constitutional rights, they are typically put in place for a limited timeframe. Based on their scope and remit, Emergency Powers Laws do not establish a structure for disaster management, nor do they make reference to the facilitation or regulation of international relief goods, equipment or personnel.

From St. Kitts and Nevis' National Disaster Act, 1998 to Jamaica's Disaster Risk Management Act, 2015, several countries in the region have upgraded their national disaster laws from the earlier Emergency Powers Acts. These early laws introduced a more comprehensive system for the administration of the disaster management process. For example, the National Disaster Act of St. Kitts and Nevis explains its scope as addressing 'all aspects of preparedness, prevention, mitigation, planning, control, response and recovery as they relate to natural and technological disasters'. Disasters are defined by section 2 of



that law as a sudden event attributable to the forces of nature or human intervention and characterized by widespread destruction of lives or property, accompanied by extensive dislocation of public services. Events resulting from war are excluded from the definition.

While the legislative framework provided by these Disaster Acts are more comprehensive than that of the earlier Emergency Powers Act, older disaster laws make limited reference to IDR Actors, facilities available to them or procedures for accessing those facilities. The law may instead make reference to the inclusion of IDR coordination or facilitation in an accompanying regulation, policy or plan. For example, the St. Kitts and Nevis National Disaster Act, 1998 sets parameters for the development of a National Disaster Management Plan, which is required to include:

- procedures for cooperation with international organisations and governments during a disaster alert, or a disaster event or the aftermath of a state of emergency; and
- procedures for accepting and facilitating the distribution of volunteer services and relief supplies.

Additionally, either in the Disaster Act, or the accompanying National Disaster Plan, there is typically provision for one or more sub-committees tasked with processing the solicitation, importation, storage and distribution of disaster relief items from international sources. This may be in the form of any of the following Sub-Committees of the National Disaster Management Committee:

- a Welfare Management, Relief Management<sup>23</sup> or Emergency Supplies<sup>24</sup> Sub-Committee, tasked with the collection and storage of relief items supplied by national and international partners to match requirements set out in the country's Damage Assessment and Needs Analysis Report. This committee may also have a mandate to manage the ultimate distribution of relief items in a fair manner, and to maintain records of relief goods going in and out of warehouses managed by the state and key partners, such as the Red Cross.
- a Foreign Assistance Sub-Committee<sup>25</sup> tasked with coordinating international organisations engaged in the disaster relief process, or with empowering the foreign consulates and offices of the country to act as a liaison point for collating and supplying IDR items<sup>26</sup> from a wide range of international donors.

More extensive provisions for IDR are to be found in Comprehensive Disaster Laws enacted in the last five years. Box 2 below gives a summary of the Bahamas Disaster Risk Management Act, 2022, which provides an example of how Caribbean laws can address IDR issues in primary legislation, while including added details in subsidiary regulations, as well as in disaster plans and policies.

#### **Box 2: IDRL Integration in the Bahamas Disaster Risk Management Act, 2022**

When Bahamian legislators enacted the Disaster Risk Management Act (DRMA) in 2022, it was a direct response to the legal and policy issues experienced following the devastating effects of Hurricane Dorian on the nation's infrastructure, economy and social life just three years earlier. The devastation effected on Grand Bahama, Abaco and other islands within the archipelago was heavily publicised in

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<sup>23</sup> This or similar nomenclature has been used in Jamaica and Dominica.

<sup>24</sup> All three terms are used in the National Disaster Plan of St. Kitts and Nevis for different Sub-Committees that have overlapping functions.

<sup>25</sup> This is the term used in the National Disaster Plan of St. Kitts and Nevis

<sup>26</sup> This latter mandate summarises the approach taken by Belize in constituting its Foreign Assistance Committee

neighbouring United States and Caribbean countries and resulted in an influx of formal and informal support<sup>27</sup>. This ranged from established humanitarian and disaster relief entities, including the Red Cross and CDEMA, acting in concert with the Government, to small craft air and sea vessels landing on outer cays and delivering supplies from private donors.

The challenges resulting from the scope and range of these activities informed the adoption of IDRL-specific content in the DRMA. The DRMA thus includes a section<sup>28</sup> outlining provisions for the regulation and facilitation of International Disaster Assistance, including:

- Provisions for initiating, accepting and terminating relief;
- Reference to privileges and immunities to be provided to IDR actors;
- Procedures for the development and communication of IDR needs lists, where domestic resources are insufficient to facilitate disaster response, rehabilitation and recovery;
- Reference to cash donations, as an alternative to in-kind aid;
- Provisions for travel clearance and relevant exemptions for IDR field teams.

The DRMA outlines coordination roles for the Minister of Foreign Affairs, who can be authorized to make IDR requests to specific countries, as well as the DRM Authority, which acts as the liaison between international actors and the Government of the Bahamas.

These provisions are supplemented by other areas of the Act that establish legal facilitation measures that can benefit IDR actors. This includes a list of waivers, refunds, business licence rebates, tax exemptions and exemptions of other fees and levies for activities related to the importation of goods or applications for business licences. Orders granting these exemptions are required under the DRMA to clearly indicate the types of relief to which these exemptions and waivers apply, as well as the types of IDR actors who may benefit and the duration of the relief period.

Additionally, the Act provides for the development of National Humanitarian Assistance Standards, to guide the provision of humanitarian aid in special sectors, including water, sanitation, food security and health. Read in tandem with the rest of the DRMA, these provisions provide a more robust regulatory framework for IDR actors participating in national disaster response and recovery activities.

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<sup>27</sup> Polley, N. (2022). *The Impact of Unsolicited Bilateral Donations on the Response to Hurricane Dorian in the Bahamas*. IFRC. Accessible at [https://disasterlaw.ifrc.org/sites/default/files/media/disaster\\_law/2022-09/UBDs%20Bahamas\\_full%20report.pdf](https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2022-09/UBDs%20Bahamas_full%20report.pdf)

<sup>28</sup> See Part XIII of the Bahamas DRMA, 2022.

## 4 INITIATING INTERNATIONAL DISASTER RELIEF – CARIBBEAN MODELS AND MECHANISMS

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The process by which an international call for disaster relief is initiated can provide some guidance to international disaster relief actors regarding the scope and type of legal facilitation, coordination or regulation mechanisms established in the recipient country. Disaster relief initiation processes utilized in the Caribbean can be informed by:

- The nature and type of disaster law in place in the recipient country
- CDEMA's regional and sub-regional processes and procedures

Both factors are explored further below.

### 4.1 LEGISLATIVE METHODOLOGIES FOR ISSUING A CALL FOR INTERNATIONAL DISASTER RELIEF ASSISTANCE

In many Caribbean countries, the legal mechanism used for initiating a call for international disaster relief assistance emerges from one of two types of laws used to define and respond legally to a disaster event:

- a. **Emergency Powers Laws** were the vehicle most commonly used historically. Emergency powers provisions are typically found in constitutions, and some jurisdictions have a distinct Emergency Powers Act. These laws are used for the ***declaration of states of emergency*** before, during and after a disaster. Provisions in these laws are primarily focused on national security. They utilize the temporary suspension of constitutional rights and freedoms to impose curfews, evacuation orders and special police powers designed to secure law and order during and immediately following a major disaster event. Their human rights implications suggest the need for highly restrictive and limited usage. These laws do not support the more comprehensive approaches to disaster and emergency management proffered by CDEMA.
- b. **Disaster Management Laws** are being introduced across the region, using the model law developed by CDEMA as an adaptable template. These laws often provide for the ***declaration of a national disaster*** (as distinct from the declaration of a national emergency) which can be geographically localized. Once a disaster is declared, it can give rise to the initiation of calls for relief from both national and international sources, including through international channels. The declaration of a disaster may further trigger legal facilitation measures that apply exemptions and expedited procedures to inbound goods and services.

### 4.2 INITIATING SUB-REGIONAL, REGIONAL AND INTERNATIONAL RELIEF THROUGH CDEMA-SUPPORTED SYSTEMS

In relation to the former, CDEMA's regional and sub-regional system can provide a common platform for determining when and how to engage with IDR actors. Within the model recommended by CDEMA, the prepositioning of relief through sub-regional systems becomes the first point of call for any disaster event that is of a scale that exceeds the response capacity of an affected country. A sub-regional

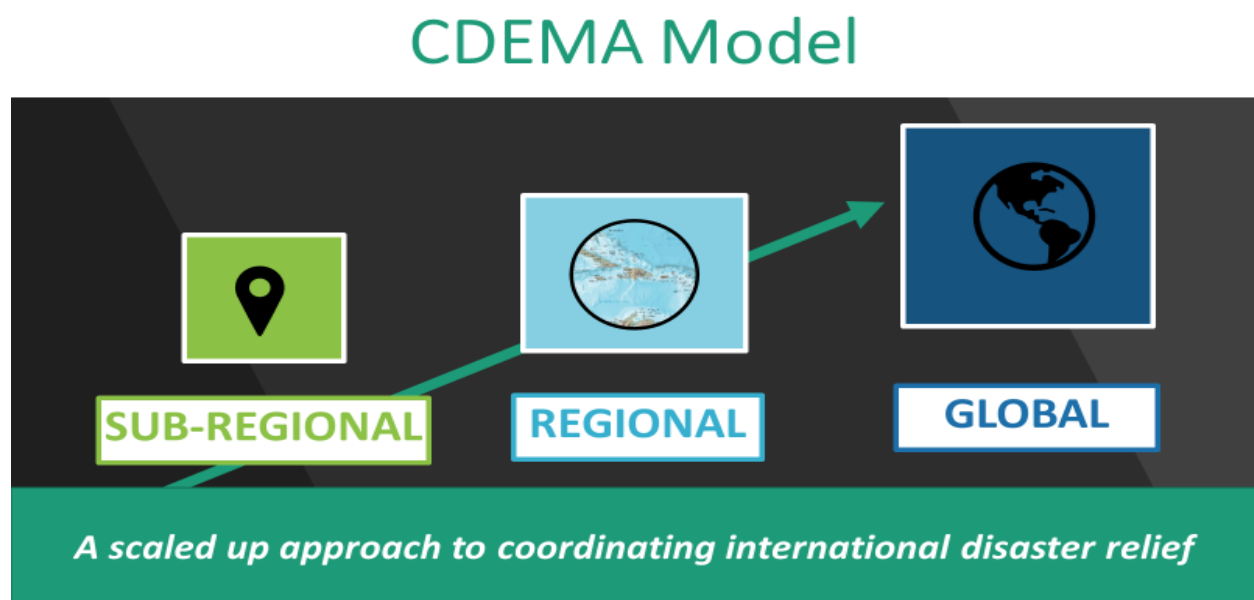
response can involve moving relief stock from sub-regional warehouses and can also include the provision of support from non-government and civil society donor groups that are coordinated collaboratively with United Nations, the Red Cross and humanitarian organisations or bilateral groups that have a regional presence.

If the relief available within the country’s sub-regional network is deemed insufficient to meet the needs arising, based on the scale of the damage, a regional call for relief can be issued in collaboration between the recipient country and CDEMA. Once the nature of the disaster exceeds regional capacity, CDEMA can play an important role in arranging a targeted call for international relief.

In addition to stores of disaster goods and, in some contexts, monetary relief, the CDEMA network can be used to assist countries to access skilled personnel and armed forces to support damage assessment and needs analysis, search and rescue operations, security and evacuation measures, emergency engineering, field medical services, psychological first aid and other services.

CDEMA’s system can be said to integrate the principle of subsidiarity, whereby the type and scope of an initiation call matches the scope and assumed cost of the damage arising from the disaster. The figure below illustrates this model and emphasizes the specific circumstances in which a widespread international call for disaster relief ought to be issued.

Fig 3: CDEMA Model for Scaling up International Disaster Relief Requests



Source: Dominica IDRL Report<sup>29</sup>

<sup>29</sup> Chambers T. (2022). *International Disaster Response Law in Dominica*. IFRC. Accessible at [https://disasterlaw.ifrc.org/sites/default/files/media/disaster\\_law/2022-09/Dominica%20IDRL\\_full%20report.pdf](https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2022-09/Dominica%20IDRL_full%20report.pdf)

The CDEMA structure for regional and sub-regional disaster assistance guides the international relief request mechanisms of participating states. Where the scope of the disaster exceeds local capacity, sub-regional support can be activated, utilizing CDEMA's sub-regional groups. As disasters increase in cost and intensity, regional and supra-regional support systems are engaged. CDEMA can provide support at each level, from the damage assessment and needs analysis processes and systems used post-disaster to determine the scale and scope of an IDR request, through to brokering international donor funding through formal requests for aid.

CDEMA's role in coordinating international donors applies most directly to the multi-lateral and bi-lateral development partners that have an established presence in the Caribbean and have a history of partnership in the disaster relief area. However, these systems will not automatically necessarily integrate micro-level donors, such as ad hoc volunteers, members of the diaspora or international NGOs who are new to the region. Additional processes will be needed to strengthen communication with and coordination among these groups, as they continue to play an increasing role in the disaster response machinery within the region.

### **4.3 GAPS AND CHALLENGES IN THE INITIATION OF DISASTER RELIEF**

#### **4.3.1 'Open for Business' - Preserving National Tourism and Trade**

Regional IDR research indicates that governments can be reluctant to declare either a national emergency or a national disaster. This is often linked to the region's economic dependence on tourism, which influences the intent of governments to preserve an international image of remaining open for business. In the absence of a clear initiation point for international disaster relief, some humanitarian actors may be restricted by their internal policies in the scope and value of the relief support they are able to provide.

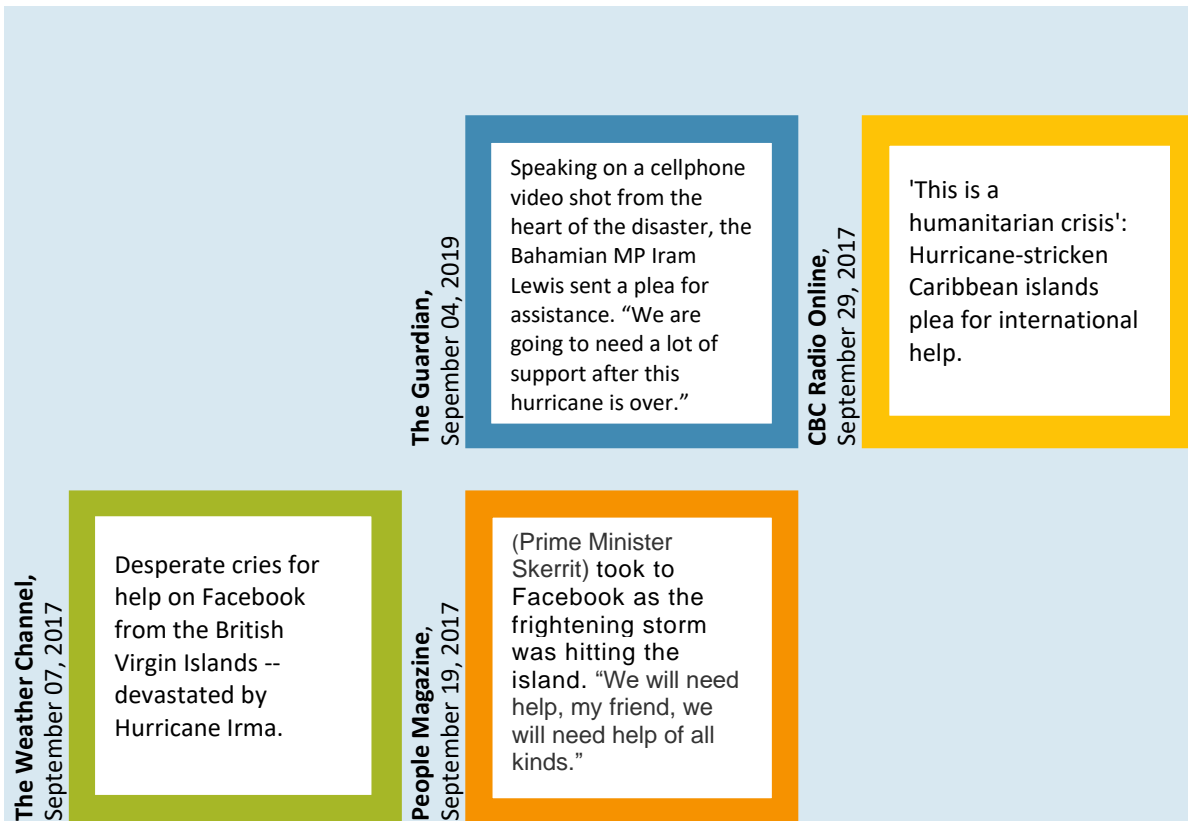
#### **4.3.2 The Impassioned Plea**

Irrespective of the legislative or policy systems that outline a clear methodology for engaging international relief, what often follows a major disaster event is the less formal 'impassioned plea' for help. This can be issued by a head of state, an international organisation, a diaspora representative or the media itself. Figure 4 shows examples from popular media houses. The plea for help can result in a mass move to collect and send international relief goods and services. These efforts may be lacking in a clear structure or strategy and can result in the type of unsolicited relief that creates a detriment to national disaster management efforts. These issues are explored further in section 6.4.

#### **4.3.3 Inconsistent Messaging**

Challenges may also arise when an initial policy message is issued outlining a preferred approach to the coordination of goods and services from international donors, and later actions deviate from that approach. This may result from a number of factors, including experiencing a mass influx of disaster goods or personnel that overwhelm the arrangements outlined in National Disaster Plans. It may also result from coordination gaps, which can occur when the coordination of different groups or types of international actors is not centralized or synchronized.

Figure 4: Examples of Informal Pleas for Disaster Relief from International Media Headlines<sup>30</sup>



<sup>30</sup> Sourced from:

- The Guardian, “Hurricane Dorian: 'historic tragedy' prompts worldwide call for aid for Bahamas” at <https://www.theguardian.com/world/2019/sep/03/hurricane-dorian-us-un-bahamas>
- CBC Radio Online, “‘This is a humanitarian crisis’: Hurricane-stricken Caribbean islands plea for international help” at <https://www.cbc.ca/radio/thecurrent/the-current-for-september-29-2017-1.4312025/this-is-a-humanitarian-crisis-hurricane-stricken-caribbean-islands-plea-for-international-help-1.4312042>
- The Weather Channel, “Cries for Help on Facebook in Irma’s Wake.” at <https://weather.com/storms/hurricane/video/cries-for-help-on-facebook-in-irmas-wake>
- People Magazine, “Prime Minister of Dominica Live Blogs During Hurricane Maria as Roof Blows Off: ‘The Winds Are Merciless!’” at <https://people.com/human-interest/prime-minister-dominica-roosevelt-skerrit-hurricane-maria/>

## 5 COORDINATION OF INTERNATIONAL DISASTER RESPONSE

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### 5.1 REGIONAL IDR COORDINATION

In the Caribbean, CDEMA is the primary entity tasked with all aspects of regional disaster coordination, including IDR coordination. In addition to the mobilization of sub-regional focal points, CDEMA carries out coordination functions relevant to IDR through a number of mechanisms, including the following:

- The **Regional Response Mechanism (RRM)** is a network of national, regional and international partners through which CDEMA coordinates disaster relief and response operations. It supports national response mechanisms through response teams, guidelines and protocols, plans and Memoranda of Understanding (MOUs). The RRM can provide targeted or comprehensive support to national coordination mechanisms, based on the scale of a disaster or the nature of the country's request. The RRM can activate any of five standing response teams, based on the scope of the need: the **CARICOM Disaster Relief Unit (CDRU)**, the **CARICOM Operational Support Team (COST)**, the **CARICOM Disaster Assessment and Coordination Team (CDAC)**, the **Rapid Needs Assessment Team (RNAT)** and the **Regional Search and Rescue Team (RSART)**. Additionally, the RRM can deploy **Specialized Support Teams** to support different aspects of technical response or psychosocial support in a given country.
- The **Regional Security System (RSS)** is a subset of the RRM tasked with coordinating disciplined forces, including military, police and firefighters. It provides personnel support, logistics and equipment and conducts reconnaissance missions and supports national security efforts in disaster affected countries.
- **Regional and Sub-Regional Coordination Centres (RCC and SRCC)** are convened to provide a focal point for coordinating declared emergency or disaster events in the region, from early warning through to response and relief coordination. It functions through eight thematic cells that undertake a range of logistics, communications and other emergency operations functions. Among these is the **Multinational Civil Military Coordination Cell (MNCCC)**, which facilitates the coordination of foreign military groups implementing disaster relief or recovery activities in countries that request it.

In addition to CDEMA, there are other organisations that are engaged in coordination activities at the regional level, using collaborative and resource-sharing approaches in partnership with CDEMA. The **United Nations (UN)** has an operational presence in the region, covering CDEMA participating states through its Caribbean and Central American Resident Coordinator Offices. In addition to Humanitarian Country Teams and UN Emergency Technical Teams, the **Office for the Coordination of Humanitarian Affairs (OCHA)** has a strong presence in the region. OCHA and CDEMA's partnership is encapsulated in an Interoperability Manual, which outlines parameters for collaboration, including shared technical resources, joint staffing of operations and information sharing<sup>31</sup>. OCHA's systems enable coordination among the different UN programmes that wish to participate in disaster response and recovery

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<sup>31</sup> OCHA-CDEMA Joint Interoperability Manual, accessible at [ndp.org/sites/g/files/zskgke326/files/migration/latinamerica/20200618\\_OCHA---CDEMA--Joint-Interoperability-Manual\\_compressed.pdf](https://ndp.org/sites/g/files/zskgke326/files/migration/latinamerica/20200618_OCHA---CDEMA--Joint-Interoperability-Manual_compressed.pdf)

operations and provide a point of interface with CDEMA and NDOs. Outside of the UN, the IFRC enables coordination among the range of National Societies from Caribbean and other countries that may wish to participate in a disaster response and recovery programme. Principles of sovereignty underlie the humanitarian interventions of all these mechanisms, and each is triggered only by the request and with the consent of the recipient country, which remains in charge of disaster coordination efforts.

## 5.2 TYPES OF IDR COORDINATION MECHANISMS IN CARIBBEAN DISASTER MANAGEMENT SYSTEMS

Caribbean countries that have implemented the CDEMA model of disaster risk management will have similar internal modalities for coordination. These are typically grounded in a high-level national disaster committee, with sub-committees addressing a range of management or technical areas, sectors and/or types of disaster events. International disaster relief can be organized through these coordination systems, through the government’s foreign affairs network or through sector-based partnerships. Multiple coordination systems may thus apply in a given country, based on the types of international disaster relief goods and services typically provided, and the types of organisations that provide them.

As Figure 5 below illustrates, there are typically three main ways in which IDR is recognized and integrated in disaster management and coordination systems:

- a. **Sector-Based Thematic Working Groups** have been very useful in securing international relief that is specific to a given sector, such as health, education or agriculture. Recovery and relief efforts may be coordinated among partners that have an existing footprint or technical expertise in that area. Thus, existing partners such as the Pan-American Health Organisation (PAHO) or new-to-the-country IDR actors such as Doctors Without Borders (DWB) may be immediately integrated into a health sector thematic working group, through which joint planning and implementation is directly coordinated. This works well in sectors that have discrete or specialized needs.
- b. **Disaster Coordination Committees and Sub-Committees** may include selected IDR actors; however this is typically limited to groups that have existing partnerships with state entities. There is often no clear methodology for including new IDR actors in these existing structures.
- c. **Foreign Affairs Offices** may be identified in a national disaster plan as the focal point for the coordination of IDR actors. This avenue may be less accessible to IDR actors who are already in the country, who may have access to other coordination options.

These modalities are not mutually exclusive, and countries may make use of multiple or combined avenues for IDR Coordination.

*Fig 5. Types of IDR Coordination Mechanisms Used in Caribbean Countries*



Source: Author

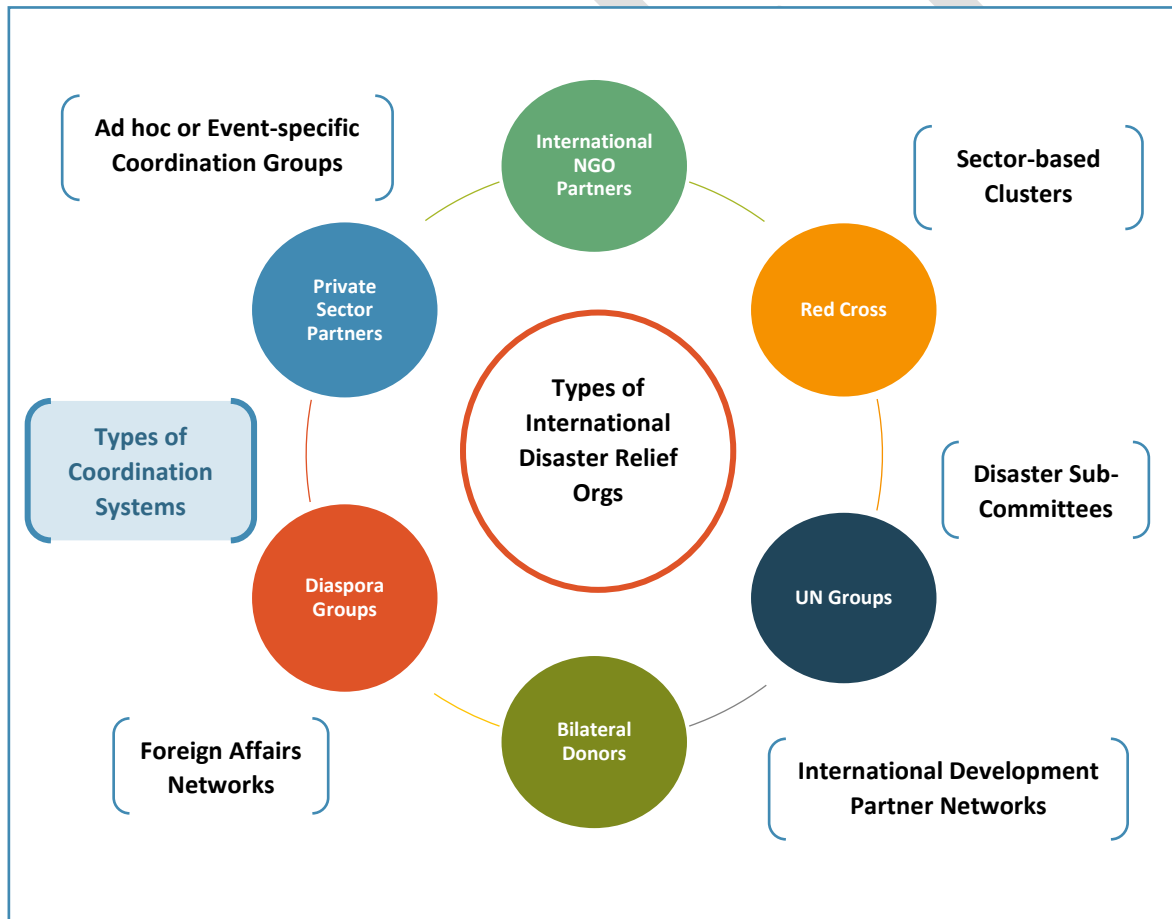


Of significance, while the CDEMA Model Law makes reference to an International Humanitarian Assistance Coordinator, this specific role was not found to exist in most of the countries in which detailed IDRL research was conducted. Instead, the functions described under the Model Law may be dispersed among different sub-committees under the National Disaster Committee, with different Ministries or Agencies assigned roles for coordinating different aspects of IDR. This can result in coordination gaps and a dissonance between the IDR model envisaged by CDEMA and what occurs on the ground.

### 5.3 COORDINATION MECHANISM BY TYPE OF IDR ORGANISATION

Additional challenges become evident when the coordination systems are analysed by the type of IDR actors in operation in the region. Different types of IDR actors and the coordination modalities in which they are most likely to participate are outlined below.

*Fig 6: Types of International Disaster Relief Organisations and Related Coordination Systems*



Source: Author

- **UN agencies and programmes**, as noted above, are a continuous source of development partnership at the regional, sub-regional and national levels. While UN offices are not present in each country, they provide disaster relief through their internal coordination structures (including those coordinated by OCHA) and through sub-regional coordination mechanisms such as the Caribbean Donor Coordination Group. In larger islands, UN offices will host or participate in **International Development Partner Networks** and sectoral coordination structures. A locally established UN office may also have a named role in the **National Disaster Committee and Sub-Committee Structures**. Established partnerships (e.g. operational partnerships between Ministries of Health and the Pan American Health Organisation) can become a cornerstone of **sector-based clusters** during a major disaster event.
- **Bilateral Donors** navigate a similar space to UN Groups and are likely to be more active in countries with embassies or consulates of the respective foreign entity. Foreign development offices of governments such as the United States of America (USA), United Kingdom (UK) and Canada have national and regional programmes that are likely to participate in the provision of disaster relief. This may be done through **International Development Partner Networks** or **Sector-based Clusters**, as well as through the **Foreign Affairs Network** of the recipient country.
- **Foreign Military Aid** represents a special type of bilateral aid and is often deployed as part of a pre-existing bilateral partnership arrangement between two countries. They may participate in coordination mechanisms as an extension of the local military or security forces, or as part of a **sector-based cluster** or **tactical or project team** commissioned to undertake specific activities, including search and rescue, evacuations or emergency engineering and infrastructure repair. CDEMA is playing an increasing role in coordinating military relief, which can be deployed through the **RSS**, the **MNCCC** or as part of any other **pre-existing military coordination structures** that include disciplined forces from specific countries. All of these functions are part of the RRM and are consistent with CDEMA's mandate, under Article XXI of the CDEMA Agreement. These military coordination systems tend to target disciplined forces deployed by the governments of existing bilateral partners, as distinct from disciplined forces who enter a territory following a major disaster event, with no previous experience of working in the affected country.
- **The Red Cross** plays a unique role in most countries. Under the general framework of the Geneva Conventions, the Red Cross has an auxiliary role to governments that is typically embedded in the legal mandates of National Societies. This requires National Societies to support their public authorities by supplementing public humanitarian services, including substituting any public humanitarian services that are not functioning. A National Society may be a legally registered or statutorily formed organisation, and as such it is often a named member of the **National Disaster Coordination Committees**. Based on their propensity to provide IDR, National Societies are often included in sub-committees formed to address 'Welfare', 'Logistics', 'Relief Distribution', 'Shelter Management', 'Volunteer Coordination' or similar mandates. In the event of a disaster, the National Society of an affected country can tap into a global Red Cross Network through Emergency Appeals for funding, surge support and relief supplies, and may partner with National Societies from other countries in providing IDR.

In addition to National Societies, the International Federation of the Red Cross and Red Crescent Societies and outreach arms of the French, American or Canadian national societies have operations in the region and are often involved in the direct and indirect provision of IDR goods and services. Other entities within the Red Cross Movement, including National Societies from other countries, will typically engage in national coordination systems through their pre-existing relationships with both the national society of the recipient country, as well as with CDEMA at the regional level.

- **International NGO Partners** are often organisations with local branches in the region. Their local presence enables them to form ongoing partnerships with the state and can be integrated into **National Disaster Coordination Committees**. The most common of these entities include the Adventist Development Relief Agency (ADRA), the Salvation Army and service clubs. Their international networks give them ready access to international relief, while their local presence enables them to benefit from pre-existing coordination relationships. These are distinct from new and ad hoc INGOs that enter a country, unsolicited, in the wake of a major disaster event.
- **Private Sector Partners** are a crucial source of IDR, particularly in smaller economies. Governments like St. Vincent and the Grenadines rely heavily on partnerships with private sector organisations to supply relief items. For example, they can use pre-negotiated contracts with local food distribution companies to ensure the competitive and immediate delivery of goods to those who need it most or pre-procure the services of heavy equipment companies to quickly clear roads of debris. Like other Caribbean countries, they may also integrate private sector partners in the provision of logistics, transportation, telecommunications and other services, as part of their disaster relief and recovery effort. Thus, some countries name private sector organisations as having specific roles within their **National Disaster Coordination Committees**. Additionally, private sector organisations may also establish foundations that participate in a wide range of disaster relief activities, outside of those that involve a commercial element. National private sector organisations may be supported by regional networks and umbrella groups, including the **Caribbean Chambers of Commerce (CARICHAM)** and the **CARICOM Private Sector Organisation (CPSO)**, both of which are part of the RRM.
- **Diaspora Groups** are a new and important player in the disaster relief space and can be a significant source of solicited and unsolicited international relief. Belize's Disaster Plan seeks to organize interactions with international donors – including members of the diaspora – through their Ministry of Foreign Affairs and foreign office networks. Most other Caribbean countries have no clear mechanism for coordination of donors within diaspora groups. This means that diaspora groups may have limited access to communication and coordination facilities and may thus lack clarity on the scope and type of relief items that are appropriate. Diaspora groups are becoming more long-term partners in the overall development programmes of their respective countries. They thus represent an untapped capacity for partnership with more experienced in-country groups and provision of cash-based donations.

## 5.4 GAPS IN COORDINATION

While the examples above indicate that there are many options for coordinating different types of international disaster relief actors in the region, they also reveal a lack of consistency and predictability in the approach. As there are multiple modalities for coordinating international disaster actors, even in a single country, IDR actors may lack certainty in their access to the special legal facilitation and special measures, as well as access to damage assessment and needs analysis data and other benefits to be derived from participation in formal mechanisms.

In large part, disaster coordination mechanisms in the region are designed for and around state organisations. This may be considered an outflow of the respect for sovereignty that underlies the region's disaster mechanisms. However, there may be unintended effects on the ability of non-state partners to coordinate their efforts effectively with government institutions. Among the more common non-state partners such as the Red Cross, experiences are inconsistent. In countries such as St. Vincent and the Grenadines or Jamaica, national societies are an established aspect of national coordination mechanisms and their efforts are integrated with state logistics, warehousing, relief distribution and reporting mechanisms. In other countries, the relationship is reflective of an arms-length partnership. In the absence of a common, regional standard, organisations may operate in the area of international disaster relief for decades and still express concern with the consistency with which their roles are recognized or integrated into existing coordination networks.

The most stark example of gaps in coordination of non-state groups surrounds the coordination of new and ad hoc IDR entities that enter a country, often *en masse*, following a major disaster event. In the absence of coordination, their efforts can be more harmful than useful to a country's national response and early recovery strategies. Without clear data or strategic directives, even experienced IDR actors may expend their resources on inappropriate or unusable relief goods or duplicated targeting. Additionally, lack of coordination may compromise state efforts through the redirection of resources to address overlapping requests for information, guidance and support from multiple sources. This issue significantly hampered state coordination efforts in Dominica following Hurricane Maria, where, in the chaotic aftermath of the disaster, state resources were significantly burdened with individual requests from hundreds of new IDR actors.

Stakeholders have indicated that linkages between new and ad hoc donors and the IDR actors that have an established presence and partnership relationships in the region are the most effective mechanism for ensuring coordination across the board. Existing IDR actors (under the leadership and oversight of the state) can help to provide new counterparts with information and guidance, while optimizing resources and reinforcing national quality standards and operational norms. This can be achieved, in part, by establishing systems for classifying new IDR actors and assigning them to thematic groups upon arrival or once their participation in disaster response and early recovery activities has been approved.

The priority placed on collaboration and coordinated strategies has been deemed by local DRM stakeholders as one of the key regional norms to which new IDR actors have to adjust. Absence of mandated linkages and thematic coordination systems can thus be seen as a missed opportunity to reinforce conformity to national requirements and quality standards among new IDR actors.

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## 6 LEGAL PREPAREDNESS FOR INTERNATIONAL DISASTER RELIEF GOODS

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### 6.1 FACILITATING ENTRY OF GOODS IN THE IMMEDIATE WAKE OF A DISASTER EVENT

For many Caribbean countries that have experienced a major disaster event, there is an immediate recourse to statutory or customary powers to implement tax and duty concessions, enabling goods to be imported in a cost-efficient manner. The statutory power to implement concessions may be found in **disaster laws**, particularly those patterned after CDEMA's Model CDM Legislation and Regulations, 2013. The Model CDM Legislation addresses the issue of concessions or exemptions broadly by referencing changes to Customs Laws to facilitate the importation of goods consigned to a National Disaster Office. This can be a useful method of centralizing the processing of international relief goods through a common warehousing, sorting and distribution centre, and must be bolstered by appropriate logistics arrangements.

However, when implemented after a major disaster event, such as in Dominica following Hurricane Maria or in St. Vincent and the Grenadines following the 2021 eruption of La Soufriere, governments encountered the following constraints with their usual approaches to concessions:

- The mass importation of IDR goods can quickly overwhelm national systems. Warehouses and distribution centres become clogged; officials (or volunteers) engaged in sorting and classification become overworked.
- Where communication efforts are insufficient, donors may be unaware of the requirement to consign goods to the NDO. This results in the importation of large quantities of IDR goods that do not qualify for concessions or exemptions.

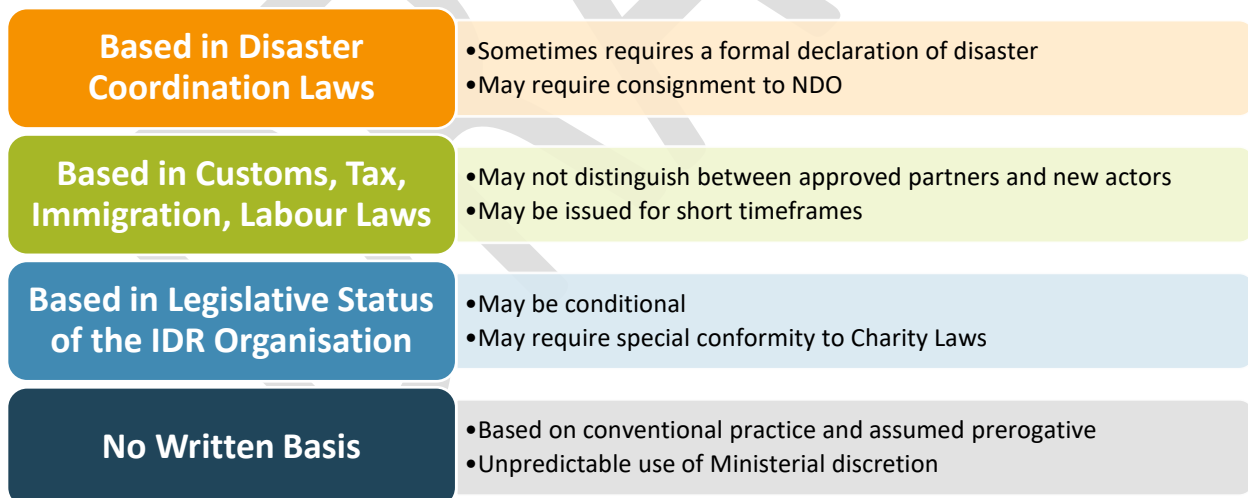
Countries that do not have an updated disaster law will often use their **customs legislation** as the basis for implementing special arrangements following a disaster. This often takes the form of statutory powers ascribed to the Minister with responsibility for customs to suspend customs duties and related fees and tariffs for a period of time, for reasons that are in the public interest. These arrangements are typically timebound and may not distinguish between donors that are established and known and those that are new and *ad hoc* donors. Historically, these arrangements have not facilitated a distinction between IDR goods that are appropriate and those that are inappropriate. Goods may be deemed inappropriate because of the quantity or quality of what is donated, lack of relevance to the country's social norms or climatic conditions, improper labelling, incompatibility with local standards or with the needs arising from the damage caused by the disaster. The issues related to inappropriate IDR goods are discussed in greater detail in section 6.4.

Customs systems across the region are becoming more sophisticated and automated. The use of single window import facilitation systems can provide a platform for efficient and cost-effective IDR importation that addresses all established standards and guidelines. However, for these systems to be useful in distinguishing between appropriate and inappropriate goods, a clear regulatory framework is needed to establish the type and standards of goods (or donors) that qualify for disaster-related exemptions.

An alternative legislative modality for implementing IDR exemptions may be attached to the **legal status ascribed to the IDR entity**. Thus, UN and bilateral donors with an established centre of operations within the country may have the legal capacity to import goods free of taxes. Similar status may be ascribed to the Red Cross National Society through law. National Societies and other organisations that have established charitable, faith-based or non-profit operations within a country may have access to tax exemptions, and exemptions from customs duties. However, these systems may carry conditionalities or require a renewal process or other approval steps. These factors, although well suited to the management of non-profit or charitable organisations, can lack the efficiency, speed or flexibility required for responding effectively to a major (and sudden) disaster event. The case study of Jamaica Red Cross (see Box 4) illustrates the issues that may arise from situating disaster relief facilitation under charities administration systems.

It is noted that in some countries tax and duty concessions are issued despite there being no express power in any law that states that this is possible. This is because the power to suspend the operations of tax and other laws or requirements may be considered a customary or conventional prerogative of the state, linked to public interest or emergency considerations. Thus, a disaster plan or policy may make reference to the facilitation of disaster-related exemptions and concessions, even where there is no specific law addressing these arrangements. In the absence of a written legal provision, however, procedures for accessing legal facilities may be *ad hoc*, inconsistent, unpredictable or unnecessarily bureaucratic or otherwise inappropriate to a mass influx of applications.

Fig 7: Legal Modalities for Implementing Special Concessions on the Importation of IDR Goods



Source: Author

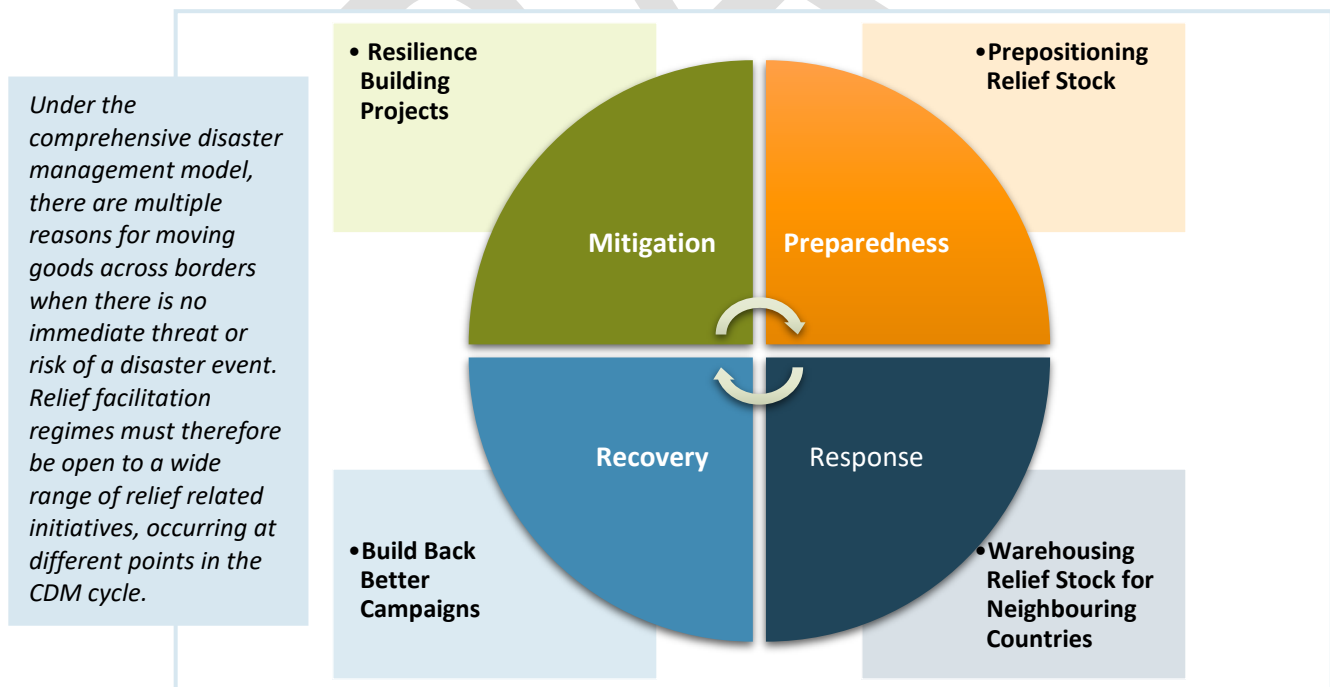
Irrespective of the legislative source of special legal facilities, they are unlikely to be effective unless accompanied by appropriate specially expedited procedures. These may include single window facilitation of multiple governmental approvals, abbreviated or consolidated forms, extended opening hours and priority clearance of designated disaster relief goods.

## 6.2 FACILITATING ENTRY OF GOODS BEYOND A DESIGNATED DISASTER RESPONSE PERIOD

Several of the systems for processing disaster relief goods are time specific and focus on facilitating the entry of goods in the period immediately following a disaster event. While this can facilitate a wide range of relief actors importing relief items during the window provided, this approach will not cover importation of goods at other crucial times. Disaster relief and humanitarian organisations, particularly those embracing the comprehensive model of disaster management, will seek to preposition disaster relief stock before a response event. Additionally, within the multi-country coordination arrangements embraced in the region, regional focal points and other organisations may seek to move goods into or out of one country in preparation for a possible or actual event occurring in another country.

Where a disaster event has occurred, a window of relief facilitation, with expedited measures and waived duties and taxes, will likely be focused on the initial response period. This may be especially true for countries that still operate on the basis of emergency laws, which often seek to restrict the declaration of a national emergency to a short period of time, as a means of curtailing the expanded police powers and restricted human rights associated with an emergency declaration. This may mean that entities importing goods as part of a more long-term recovery effort, or with a view to strengthening the resilience of communities or enhancing mitigation strategies may not benefit from facilitation measures. This can unduly restrict ‘build back better’ campaigns, which can last a year or more after the initial disaster event. The comprehensive disaster management model thus requires a recognition of the need to move goods across borders when there is no immediate threat of disaster.

**Fig 8: Rationale for Importing IDR Goods at Various Points in the Disaster Management Cycle**



Source: Author



### 6.3 SPECIALLY RESTRICTED ITEMS

The laws of different countries in the region place special restrictions on the importation of various goods. Phytosanitary requirements, labelling standards and anti-dumping measures may apply in both ports of exit and entry. Other prohibitions may be implemented for public policy purposes, such as the environmental bans on Styrofoam and single use plastics that are increasingly common throughout the region, or the ban on camouflage clothing in the interest of public safety. Other requirements are country specific. For example, under Jamaica's Food and Drugs Act, 1975, special permits are required for the importation of pharmaceutical items (including some over-the-counter drugs), while in St. Vincent and the Grenadines, the importation of left-hand drive vehicles or chain saws require ministerial approval. Additionally, countries may implement policy-based protective measures restricting the mass distribution of items that are manufactured or sold by local industries. This is especially true in smaller economies, where free distribution of large quantities of items may significantly affect local markets and supply chains.

Another common area of restrictions relates to the importation of IDR Equipment, which may range from satellite and radio frequency communication devices to search and rescue vehicles. The importation and use of these items may require special approvals, or items may need to meet minimum requirements. Further, there may be little local information on procedures for the re-exportation of vehicles and other items brought into a country temporarily for the use of transient teams.

Stakeholders in different studies indicated that there is a need for comprehensive and readily accessible country-specific information on specially restricted items. This information should be housed online, on portals targeting disaster relief and humanitarian entities, and should indicate clearly the types of items that should or should not be included in disaster relief shipments, based on legal or policy limitations.

### 6.4 UNSOLICITED, INAPPROPRIATE AND UNUSABLE DONATIONS

In all studies conducted, the issue of unsolicited, inappropriate and unusable disaster relief items has emerged as a significant concern. Some items appear to be misguided donations, such as the large quantities of anti-malarial drugs sent to Dominica after Hurricane Maria<sup>32</sup>, despite its limited history in dealing with that virus. Authorities interviewed in Jamaica, The Bahamas and Dominica spoke of shipments of dirty clothing, soiled mattresses, expired drugs and similar goods. These items create an undue burden on local governments, which are then tasked with sorting, storing and dumping unusable items, often at their own cost. This includes the cost of implementing special measures to safely dispose of chemicals or waste items that may be harmful to the environment.

The promotion of cash-based donations provides a policy response to this pernicious issue, as does the recommendation for more robust communications on the types of items deemed appropriate for disaster relief donations. In the wake of a disaster, local and/or CDEMA led teams may compile Damage Assessment and Needs Analysis reports. These are used to produce detailed request lists that are then used to guide state disaster response plans at the national and regional levels. Lists may be shared with

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<sup>32</sup> Chambers T. (2022). *International Disaster Response Law in Dominica*. IFRC. Accessible at [https://disasterlaw.ifrc.org/sites/default/files/media/disaster\\_law/2022-09/Dominica%20IDRL\\_full%20report.pdf](https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2022-09/Dominica%20IDRL_full%20report.pdf)

partners who have been formally integrated into national and sub-regional coordination systems, but IDR actors who are not integrated into these systems may not benefit from this information. Information gaps are mitigated in countries where needs lists and accounts for cash donations are published online or distributed through diplomatic channels and diaspora groups.

Notably, once the response efforts get underway, needs change as items are distributed. In the process, some communities may receive ample aid, while others may experience compounded or corollary issues. There is therefore a need to continually update records by collating and rationalizing distribution reports, as well as conducting more in-depth damage assessment and needs analysis activities at key junctures. Data and records management procedures established in the St. Vincent and the Grenadines Disaster Plan, and those implemented through multi-party information management systems used in Jamaica can be helpful in filling these gaps. CDEMA's Logistics System (CLS) is a resource available to assist participating states in streamlining and improving warehousing, supply chain management and related processes, and provides a platform for improving relationships with shipping companies and other actors. However, as with other types of coordination initiatives and post-disaster information sharing, new and *ad hoc* donors are not systematically targeted for inclusion. This leads to gaps in both the giving and receiving of information and the resulting inability of the state to comprehensively calculate and communicate its emerging or residual needs throughout the response and rebuilding effort.

Improved and more inclusive communication strategies can reduce the volume of inappropriate items, particularly from well-intentioned but uninformed donors, such as members of the country's diaspora communities. For less well-intentioned donors, stakeholders have raised the idea of potential sanctions including naming and shaming donors or penalizing shipping companies, but these measures could have an unintended deleterious effect on disaster relief donation across the board.

## 7 LEGAL PREPAREDNESS FOR INTERNATIONAL DISASTER RELIEF PERSONNEL

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### 7.1 ENTRY RULES AND REQUIREMENTS

The ease of entry of disaster relief teams into a country is impacted by the types of restrictions established through immigration and visa laws and policies. Entry requirements for CARICOM countries appear to be influenced by their colonial history, their geographic location and their facilitation of the tourism industry. The regulations accompanying immigration laws will include lists of countries the nationals of which may enter the country without a visa. These often include members of the Commonwealth, North American and Western European countries, and in some cases countries in Latin America. Nationals from these countries may enter the beneficiary country as a 'tourist' and legally remain for a limited period.

The countries most often excluded from these provisions are non-Commonwealth African and Asian countries, as well as countries that were historically a part of Eastern Europe. Nationals of those countries may require a visa, either processed by a consulate before entry into the country or at the ports. Organisations such as the Red Cross, with teams of skilled volunteers from a wide range of nations, are often affected by these restrictions as team members that can otherwise be assigned to life saving missions encounter bureaucracy, despite their lengthy work history with a trusted international humanitarian partner.

For disaster relief personnel seeking to participate in a lengthy rebuilding effort, applications for the right to remain in country beyond the period allowed under a 'tourist visa' (usually 90 days?), or to leave and re-enter, will often need to be made to immigration authorities. Relief workers in Dominica reported needing to make multiple applications, as leave to remain was given for short time periods despite their involvement in long-term projects.

### 7.2 LABOUR LAW REQUIREMENTS AND THE RIGHT TO WORK

International disaster relief teams can be highly dependent on skilled volunteers and workers in areas as varied as search and rescue, field medicine, engineering and construction, logistics management and resource distribution, as well as psychosocial first aid. Human resource needs change during the disaster management cycle and can extend for years after the initial disaster event. Countries that experience major damage and mass migration due to a disaster – as was the case in Dominica following Hurricane Maria – are highly dependent on non-national workers (skilled and unskilled) to supplement the labour force in the months and years following.

Within the Caribbean region, countries benefit from treaty-based arrangements that support the free movement of labour to varying degrees under both CARICOM and OECS regimes. CARICOM facilitates the free movement of skilled workers through an application and approval process, while the Revised Treaty of Basseterre grants nationals of participating OECS member states the right to live and work in any other member state. CDEMA and its participating states, as well as local groups such as Red Cross National Societies, have the flexibility to organise volunteer teams to conduct disaster relief missions in other Caribbean territories. Additionally, the long-term rebuilding efforts implemented throughout the OECS following Hurricanes Irma and Maria benefitted significantly from the right of persons from other

OECS member states to work in affected countries. This meant that international disaster relief organisations seeking to recruit workers within OECS member states could target a wider range of countries.

Outside of Caribbean nationals, however, the right to work is modulated through labour laws, which typically require foreign nationals to obtain work permits or work permit waivers in order to work in country. None of the countries in which IDRL research was done had a distinct category for disaster relief workers, therefore the laws that are utilized are generally designed to protect the local labour forces of small populations with limited opportunities. Permits or waivers are typically approved through the Ministry with responsibility for labour in each country, and sometimes have a limited timeframe. Permits may be restricted to organisations that can prove the need for special skills not available within the country.

Recognised bilateral and multilateral organisations that have an established presence within a country are often allowed the right, under law, to assign workers to their in country offices without the need for work permits. This does not automatically apply to organisations – including United Nations organisations – that did not have an official presence within the affected country prior to the disaster event. Thus, in Dominica post Hurricane Maria, United Nations entities that previously had a regional presence and sought to establish new offices to manage disaster relief and response activities encountered the same difficulties as all other new IDR actors. In instances where Ministries sought to facilitate the right to work for international disaster relief personnel, they were dually hampered by the inflexibility of the legal system, as well as the disaster-related damage that compromised their offices and operations.

The resulting limitations on both government entities and IDR actors creates challenges across the board. Government offices are faced by an unforeseen and unprecedented volume of applications. IDR workers, including those employed by trusted humanitarian partners such as the International Federation of Red Cross and Red Crescent Societies or the National Red Cross Society, have to apply for multiple short-term work permit waivers, creating an added administrative workload. These challenges arise from the absence of a legal arrangement that recognizes the peculiar needs and requirements of international disaster relief or humanitarian workers.

### **7.3 SPECIALLY REGULATED PROFESSIONS**

In addition to the general issues faced by all IDR workers, those in specially regulated professions face added regulatory barriers. In Jamaica, the right to practice medicine and a range of health professions is governed by a number of profession-specific laws, including The Medical Act, 1976, The Nurses and Midwives Act, 1966, The Pharmacy Act, 1975, The Dental Act, 1974 and The Professions Supplementary to Medicine Act, 1969.<sup>33</sup> Each law is overseen by a Council and the related professions require initial certification and periodic re-certification, often contingent on the acquisition of continuing professional education points.

These systems are not amenable to short-term teams of international workers conducting medical or other professional health interventions in-country. Medical missions working from ships docked in

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<sup>33</sup> All these laws can be accessed at <https://laws.moj.gov.jm> .

international waters may avoid these regulatory regimes. Other groups working on short mission trips or in the chaotic environment following a major disaster may avoid scrutiny. Jamaica’s Minister of Health and Wellness has decried the absence of a clear policy governing international medical missions that work in Jamaica from time to time<sup>34</sup>. He asserted that international missions may enter the country without registration or notification of the state and can conduct medical interventions that cause vulnerable members of the population more harm in the long term. International disaster relief workers interviewed in the region have alluded to non-regional missions that utilized practices and procedures that were not deemed standard or appropriate in the local context.

Similar concerns can be raised for engineering and construction professions and para-professions. Jamaica, with its Professional Engineers Registration Act, 1987, Electricity Act, 2015 and regulations, Building Act, 2018 and National Building Code, has among the more heavily regulated building and construction sectors. Not all countries in the region have a similarly complex set of regulations, relying instead on local standards and building traditions, which may not be observed by non-national professional teams. Following Hurricane Maria, IDR construction teams in Dominica used a wide variety of building standards, some deemed unsuitable for the region’s vulnerability to annual hydrometeorological disasters. While this prompted the development and dissemination of building standards, stakeholders have raised concerns regarding the consistency of the quality of infrastructure built or repaired, and thus the questionable contribution of some IDR teams to the country’s long-term resilience to climate change and disaster risks.

Based on these experiences, it can be said that quality control measures and partnerships with local or regionally trained professionals should be deemed essential to a Caribbean model of IDR facilitation.

#### **7.4 MILITARY RELIEF AND THE COORDINATION OF DISCIPLINED FORCES**

Another special area of regulation of IDR personnel relates to the coordination of Military Relief and Disciplined Forces. Teams from military and other disciplined forces – including police, fire fighters – may arrive, solicited or unsolicited, to support a disaster relief effort. This support can be particularly helpful in assisting search and rescue, evacuation, security, logistics, field medicine and emergency engineering functions. However, their operations may raise questions regarding the cost of food, shelter, transportation and supplies, the chain of command to be observed and liabilities for any alleged human rights or use of force issues, accidents, personal injuries or other matters of legal import that may arise.

Jamaica and Trinidad and Tobago are among the few countries with laws governing the functions, liabilities, chain of command and disciplinary protocols of visiting military forces. In Guyana, the government has used bilateral agreements with the militaries of selected partner countries to achieve similar aims. Several of the smaller islands in the region do not have their own military, and therefore lack the internal infrastructure to oversee visiting foreign militaries. CDEMA has several systems that have been helpful in this regard. The Regional Security System as part of the CARICOM Disaster Relief Unit (CDRU) comprises military, police and fire service personnel and conducts disaster response and

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<sup>34</sup> See “**Medical missions in spotlight after Tufton's dental care comments**” published by Loop News on October 25, 2023 and retrieved from <https://jamaica.loopnews.com/content/medical-missions-spotlight-after-tuftons-dental-care-comments>.

relief operations, on behalf of CDEMA, in support of any CDEMA Participating State stricken by natural or technological hazards. The CDRU is activated, mobilised and deployed by the Regional Security System's Central Liaison Office (RSS/CLO) in consultation with and on behalf of CDEMA has been instrumental in providing added support in the aftermath of a disaster.

In 2018, CDEMA created the Multi-National Caribbean Coordination Cell (MNCCC) a cell of the Regional Coordination Center (RCC) that forms the focal point of coordination for all international military support in the Regional Responsive Mechanism. It comprises representation from the armed forces of the governments of Canada, the United Kingdom, the United States, France and the Netherlands. This cell facilitates civil-military coordination during emergency periods, before, during and after deployment to disaster-affected countries. In 2023, the CDEMA CU in collaboration with regional military partners established the CARICOM Regional Civil-Military Coordination Cell (CRCMC), which leverages the nine (9) CDEMA participating states with standing military forces to provide surge capacity for regional response support. The CRCMC was designed to engage regional Chiefs of Defence Staff and National Disaster Offices from participating states, particularly CDEMA's sub-regional focal point countries<sup>35</sup>, in order to strengthen partnerships and coordination amongst these organizations. It provides the basis for regional Civil-Military operations through the RRM and for strengthening the CDEMA Regional Military partnerships.

More problematic coordination issues are likely to arise when new disciplinary forces that are not participants in these existing coordination mechanisms are deployed to the region in response to media reports of overwhelming devastation. Stakeholders interviewed from regional NDOs indicated that questions regarding the cost of operations of these groups may not be initially addressed and beneficiary countries may be left with significant bills for fuel and other costs left behind by international military teams. Given the small size of many economies in the region, a Caribbean IDR regime will need to include guidelines and standards – including cost-sharing expectations – for visiting military and disciplined forces.

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<sup>35</sup> Jamaica, Trinidad and Tobago, Antigua and Barbuda and Barbados

## 8 LEGAL STATUS OF INTERNATIONAL DISASTER RELIEF ORGANISATIONS

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### 8.1 LEGAL RECOGNITION AND REGISTRATION OF IDR ENTITIES

IDR Actors intending to operate within a beneficiary country beyond the exigencies of an initial mission will need to be recognized as a legal entity in order to do business. Without a registered presence locally, external organisations may be unable to register for tax purposes, enter into contracts, rent premises, open bank accounts, hire or pay staff, receive money transfers from outside of the country or clear goods through the ports. Pre-existing IDR entities may have legal personality and recognition as:

- i. A company, registered under the country's Companies Act.
- ii. Any of a number of non-profit sharing entities – depending on the laws of the country – including a benevolent society, friendly society, registered charity or foundation.
- iii. A private statutory entity, such as the Red Cross National Society, formed under a Red Cross Act, or laws establishing faith-based organizations and church denominations.
- iv. An established or named office or branch of the United Nations, recognized under a United Nations Act.
- v. A multilateral or bilateral organisation, high commission or embassy, given diplomatic recognition to operate within the country.

Aside from the first two, these options may not be available to new entities entering the territory to contribute to a disaster relief or recovery effort. Even for entities that can register as a company or charity, there may be added challenges. These are explored further in the sections below.

### 8.2 OPTIONS AND LIMITATIONS UNDER COMPANIES LAWS

The countries for which IDRL studies were completed had a relatively uniform mechanism for registration and recognition of foreign companies, including IDR actors:

- a) Registration of corporations under the country's Companies Act is the most typical approach. Countries that have modernised their companies laws will facilitate registration of corporations by any adult or company, once a local address is given, and the timeframes for registration can be as little as one-three days. It should be noted that the registration of a company will often result in the automatic acquisition of annual responsibilities to file taxes, returns, audited accounts or, anti-money laundering reports, depending on the country or the nature of the entity. For organisations that do not intend to remain in country beyond a temporary project timeframe, this mode of legal recognition brings a disproportional level of administrative and legal responsibilities.
- b) Some countries, such as Jamaica, may have a regime for registration of business names (Registration of Business Names Act) or other incorporated bodies, such as a benevolent society (Friendly Societies Act, 1968). However, these options may require local residency or multiple members from within a local community, and thus may be unavailable to IDR organisations.
- c) The registration of foreign companies to do business locally can often be arranged by making a special application under the Companies Act. The application process will involve filing copies

of the organisation's incorporation documents from its country of origin and will result in temporary, but renewable, registration for a period of two-three years. As with other aspects of the Companies Act, the system is designed for profit-making entities, and the requirements for filing annual reports and returns may be the same as for local companies.

The registration and regulatory requirements outlined above underscore the extent to which national companies registration laws and regimes are not designed with disaster relief organisations in mind. They will give IDR actors local legal recognition, but this recognition will likely be tied to tax liabilities and reporting responsibilities that are more amenable and appropriate for organisations established to make a profit. At present, the content of the CDEMA Model CDM Legislation and Regulations, 2013 does not directly address the legal platforms for the registration and acquisition of legal status by international disaster organisations.

The following extract from the Dominica IDRL report illustrates another challenge or limitation: what happens when there is an influx of IDR entities requiring registration at a time when government offices are compromised by the effects of a major disaster.

**Box 3: Facilitation of Humanitarian Organisations After Hurricane Maria** - Extract from Dominica IDRL Report Illustrating Gaps in the Legal Facilitation of IDR Organisations<sup>36</sup>

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

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

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

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<sup>36</sup> Chambers T. (2022). *International Disaster Response Law in Dominica*. IFRC. Accessible at [https://disasterlaw.ifrc.org/sites/default/files/media/disaster\\_law/2022-09/Dominica%20IDRL\\_full%20report.pdf](https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2022-09/Dominica%20IDRL_full%20report.pdf)



### 8.3 OPTIONS AND LIMITATIONS UNDER CHARITIES LAWS

For IDR entities that are non-profits, IDR facilitation ought to involve the exemption, waiver or reduction in business-related taxes. This will require the organisation to be legally recognized as a non-profit or charitable entity. This recognition may be tied to certain tax benefits available to organisations deemed to be operating for charitable purposes. This will involve additional, post-registration applications under Companies and/or Charities laws, as outlined below.

For Caribbean countries in which IDR research was completed, the Companies Act will typically include provisions for non-profit sharing companies to be specially recognized as such by a Ministerial Order. They are described as companies limited by guarantee (not by shares), and they are designated by the grant of Ministerial provision to drop the term ‘Limited’ from their name. This designation is often limited to companies that are deemed to be operating solely for charitable purposes. The interpretation of what constitutes a charitable purpose is often narrowly construed. For example, under s.138 of Dominica’s Companies Act, a non-profit organisation must be “of a patriotic, religious, philanthropic, charitable, educational, scientific, literary, historical, artistic, social, professional, fraternal, sporting or athletic nature, or the like, or to the promotion of some other useful object”. Disaster relief might not be specifically included and, depending on the nature of the structure and functions of the IDR entity, it may be unable to benefit from this type of classification.

Charities Acts have been introduced in countries such as Jamaica, as a means of ensuring tax benefits are ascribed only to organisations that are making a contribution to national development, and at the same time maintaining systems of financial accountability. Organisations that have a designated charity status are not only exempted from payment of taxes, but donations made to them by other entities are deemed to be legitimate deductions from taxable income. This presents an option for IDR actors seeking to have a more long-term presence in a given country. However, the regime for oversight of charities requires a level of administrative responsibilities that can become burdensome for some organisations. The extract below, taken from an advocacy strategy for updating the Jamaica’s Red Cross Act, illustrates the challenges that can arise from registration under Charities Laws.

**Box 4: Limitations and Challenges Emerging from Using Jamaica’s Charities Act to Access IDR Tax Exemptions** - Extract from ‘The Jamaica Red Cross (JRC): Updating the Red Cross Act to Facilitate its Auxiliary Role, An Advocacy Strategy & RoadMap’.<sup>37</sup>

For over 50 years the JRC received exemptions from 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 JRC 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.

<sup>37</sup> Chambers, T. (2023). *The Jamaica Red Cross (JRC): Updating the Red Cross Act to Facilitate its Auxiliary Role, An Advocacy Strategy & RoadMap*. IFRC and Jamaica Red Cross

These limitations were exacerbated when the JRC became a registered charity under the Charities Act. At the time, it was communicated to the Red Cross that registration would streamline the JRC's access to tax exemptions and related waivers, particularly in the importation of relief items. The impact of the JRC's charity status, however, has not worked in the way it was anticipated. Instead, it has resulted in a layer of bureaucracy not experienced before... Due to these limitations, goods and equipment destined for relief support (e.g. ambulances) 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 time of consignment are verified. The inability to (predictably and seamlessly) import donated relief items without added costs creates a burden on the JRC that inhibits the organization's capacity to implement its mandate.

#### 8.4 REGISTRATION OF NEW AND AD HOC IDR ACTORS

Registration Systems specific to IDR entities have been raised in all Caribbean IDRL reports as a practical solution for improving coordination, regulation, quality control, accountability and reporting arrangements among IDR entities, particularly those who are new to the region. The BVI implemented a registration system following the 2017 hurricane season, as a strategy for improving its legal preparedness in future. The framework for registration, which is described in Box 5, provides lessons for other Caribbean governments seeking to implement similar initiatives.

##### Box 5: Designing a Registration System for IDR Entities in the British Virgin Islands

In the British Virgin Islands, experiences with the mass influx of international IDR organisations – most of which were non-government organisations (NGOs) - created complications in the national response to the effects of Hurricanes Irma and Maria in 2017. As part of its policy approach to strengthening preparedness for future disasters, the BVI is designing guidelines and a legal framework for the registration of international NGOs (INGOs) seeking to provide disaster response services in the future. These proposed '**Guidelines for the Entry and Activities of International NGOs Responding to a Disaster**', which were in draft form at the time of the preparation of this report, include provisions for:

- Registration of INGOs with the Ministry of Health and Social Development, which must issue a licence to each INGO before it can commence activities.
- Coordination of INGO activities with those of government agencies and organisations local organisations, through the Ministry of Health and Social Development.
- Monitoring of INGO activities for quality control and accountability purposes, including a framework for reporting on activities, achievements and financial expenditure.
- Provision of customs and tax exemptions to registered INGOs, including access to streamlined customs procedures for humanitarian supplies.
- Promotion of collaboration between INGOs and local organisations, through shared expertise and resources and joint project implementation.
- Requirements for clear exit strategies seeking to transition out of the country, including handover and sustainability arrangements for their activities.
- Requirements for INGOs to maintain clear lines of communication with the public on their activities, including a response framework for complaints and concerns.

- Restrictions safeguarding the privacy and dignity of beneficiaries, including requirements for informed consent for any data collection, photography and media coverage of activities.
- Promotion of capacity building activities and the transfer of knowledge and skills from INGOs to their local staff and partners, as well as the fostering of a culture of learning and innovation in INGO activities.
- Promotion of gender equality and the inclusion of vulnerable and marginalized groups in INGO activities, which should specifically address the needs of men, women, boys, girls, persons with disabilities and other at-risk populations.

The Guidelines include penalties for non-compliance and are designed to synchronize with a proposed law for Disaster Response and NGO Regulation, which will add the force of law to its provisions. The principles outlined in the Guidelines are consistent with best practices in the ethical provision of international humanitarian aid, and, once completed, will provide a useful standard for other Caribbean countries seeking to integrate similar regulatory systems in their local law and policy frameworks.

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## 9 IDR IN THE CARIBBEAN CONTEXT: OTHER SPECIAL ISSUES AND CONSIDERATIONS

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An IDR regime in the Caribbean must give consideration to some unique features of countries in the region, including those outlined in the sections below.

### 9.1 IDR IN MULTI-ISLAND COUNTRIES

In several of the countries in which IDR studies were conducted, the multi-island or twin-island structure of the territory gave rise to unique considerations that may not be immediately evident to IDR entities that are new to the region. For example, in St. Kitts and Nevis, Nevis has a disaster management committee structure that mirrors the one established in its larger sister-island of St. Kitts. Thus, an IDR entity seeking to conduct operations on either island will need to engage with the coordination mechanism relevant to each. Islands such as Tobago or Barbuda may have a very different socio-cultural and political infrastructure than Trinidad or Antigua, respectively. Thus, engagement with the centres of national government in the 'main' island will not be sufficient to ensure community buy-in or obtain the relevant legal or administrative permissions required to distribute IDR goods or services. IDR coordination and facilitation systems in multi-island countries will thus need to provide information to new IDR actors on navigating their unique social and political features. The Bahamas' Disaster Risk Management Act, 2022 provides one approach for achieving this at the legislative level, as it creates several geographic zones within the archipelago with distinct but complementary coordination systems, each having a level of decentralized autonomy in the disaster response process.

### 9.2 IDR LOGISTICS AND POROUS BORDERS

#### 9.2.1 Free Movement of Goods and Services among OECS Member States:

Under the Revised Treaty of Basseterre, participating member states in the Eastern Caribbean enjoy free movement of goods and services. This provided opportunities for disaster relief management and logistics, as follows:

- Nationals are often able to find safe haven in neighboring countries and may temporarily move to live with friends and family in another country within the OECS during the immediate period following a major disaster. This can reduce the burden on state and non-state response mechanisms, at least in the short-term.
- IDR organisations were able to recruit skilled, semi-skilled and non-skilled workers from across the OECS to contribute to Dominica's rebuilding programmes. This enabled reconstruction projects to mitigate worker shortages.
- IDR organisations in Dominica were able to procure disaster relief and construction goods from neighbouring countries, combatting the mass shortages and warehousing limitations faced in the aftermath of Hurricane Maria. The ease of movement of cargo ferries between countries facilitated these efforts.

#### 9.2.2 Movement of IDR Goods and Services Across Inland Borders:

The movement of IDR goods and personnel across inland borders can bring opportunities and complications. The experience may be dependent on the nature of the border. Heavily protected

borders, such as the Haiti-Dominican Republic border on the island of Hispaniola, may be associated with difficulties in moving IDR goods and teams from one country to another. This can be compounded by disaster-related displacement of persons, which may lead to heightened security procedures at formal ports of entry/exit.

In other cases, where borders are porous and the relationship between neighbours is highly collaborative, the land border provides an opportunity for quick response and support. Disaster officials interviewed in Guyana gave as an example the opportunities presented by the level of partnership existing between Guyana and Brazil. This has benefited the people of Guyana in two ways:

- a. Technical exchanges are readily implemented between the two countries and Brazil has contributed directly to Guyana's disaster resilience efforts.
- b. There have been instances in which the Guyanese government, responding to small-scale disasters in communities close to the border, have procured goods and services from neighboring communities in Brazil. This allowed for a quicker response, based on the physical proximity of Brazilian communities and the ease of movement of goods and services across the border. These factors could be useful to IDR teams, should Guyana need major support in the future.

These arrangements are facilitated under bilateral agreements between Guyana and Brazil, designed to facilitate development coordination and partnership.

### **9.3 IDR IN COUNTRIES WITH INDIGENOUS, MIGRANT OR MULTI-LINGUAL POPULATIONS**

Several Caribbean countries have sub-population groups that have unique needs as they may comprise indigenous groups, refugees or both documented and undocumented migrants. Caribbean countries may be deemed both sending and recipient countries for refugees and asylum seekers. Notably, the United Nations High Commissioner for Refugees (UNHRC) records at the end of 2022 a cumulative 177,978 refugees and asylum seekers originating from Haiti and 240,994 originating from Cuba.<sup>38</sup> Additionally, the International Organisation for Migration estimates that as of May 2023, there are 195,979 Venezuelan refugees and migrants in the Caribbean region, primarily in the Dominican Republic, Trinidad and Tobago, Guyana, Aruba and Curacao respectively.<sup>39</sup> These numbers can become easily overwhelming in the micro-populations common throughout the region. For example, in 2012, the last year a formal census was completed, Haitian nationals accounted for 34.7% of the population of Turks and Caicos, and were almost equal to the proportion of Turks and Caicos Islanders (38.9%).<sup>40</sup> The geographic proximity of other islands thought to provide better economic or political stability or

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<sup>38</sup> International Organisation for Migration, 2022. Data Report: Trends in Caribbean Migration and Mobility retrieved from <https://rosanjose.iom.int/sites/g/files/tmzbd11446/files/documents/2023-07/data-report-trends-in-caribbean-migration-and-mobility.pdf>

<sup>39</sup> International Organisation for Migration, 2022. Data Report: Trends in Caribbean Migration and Mobility retrieved from <https://rosanjose.iom.int/sites/g/files/tmzbd11446/files/documents/2023-07/data-report-trends-in-caribbean-migration-and-mobility.pdf>

<sup>40</sup> See blog entitled Visit Turks and Caicos Island, located at <https://www.visittci.com/nature-and-history/history/population> and last updated on June 14, 2023.

security has been a strong pull factor, and small boats docking informally in bays and on keys can move numbers of persons in and out of borders faster than governments can account for them.

Some of these documented and undocumented migrants from regional and regionally contiguous countries will have temporarily or permanently settled in countries affected by disasters. These groups may have distinct language and socio-cultural features that differ from the rest of the population. Interactions between IDR actors and these groups may also entail added legal, linguistic and administrative requirements, depending on their status and levels of autonomy. The following issues and examples are illustrative of the factors that may need to be considered:

- Requirements to ensure that disaster relief products are properly labelled in the language of the groups that will use it. For example, Spanish-speaking Venezuelans in or Kreyol-speaking Haitians in formal and informal settlements in English-speaking countries may require special language considerations in the provision of food and other relief items, medical interventions, early warning and evacuation orders or other disaster-related communications.
- Requirements to ensure that the social, cultural and political autonomy and uniqueness of indigenous groups are duly respected and accommodated in relief planning and distribution. Dominica's 2,500 Kalinago resident in the country's communally owned indigenous territories lost 90% of their homes and a significant portion of their livelihoods to Hurricane Maria.<sup>41</sup> Their previous dependence on subsistence farming and fishing, micro-tourism and cottage industries left the group with heightened food insecurity and other poverty-compounding factors. IDR actors interacting with the Kalinago needed to give account for the territory's political autonomy, as well as their unique cultural heritage and its global, historic significance.
- Populations that are heavily dependent on migrant workers may require flexibility in crafting relief and reconstruction efforts in a way that is inclusive of persons who lack permanent residency status. Note, for example, that more than half of the population of the British Virgin Islands is comprised of migrants. Programmes that focus on the residency status of beneficiaries may encounter administrative difficulties, particularly as proof of legal status may be compromised in the damage that ensues from the disaster event.

#### 9.4 IDR IN OVERSEAS TERRITORIES

Within the Caribbean there are Overseas Countries and Territories (OCTs) under the administration of the governments of the United Kingdom<sup>42</sup>, France<sup>43</sup> and the Netherlands<sup>44</sup>. When these countries experience a major disaster event, they share many of the weaknesses of their neighbouring independent territories. For example, their small-sized populations, economies and governance systems may be completely overwhelmed by a major disaster, setting back sustainable development, food security, environmental protection and social infrastructure goals by many years. Additionally,

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<sup>41</sup> Altman, M.J. October 6, 2023. The Caribbean's last indigenous community is living proof that sustainability is survival. *Climate, Energy and Environment*. UN Foundation. Retrieved from <https://unfoundation.org/blog/post/the-caribbeans-last-indigenous-community-is-living-proof-that-sustainability-is-survival/>

<sup>42</sup> Anguilla, British Virgin Islands, Cayman Islands, Montserrat and Turks and Caicos Islands.

<sup>43</sup> St. Martin and Guadeloupe.

<sup>44</sup> Aruba, Bonaire, Curacao, Saba, St. Eustatius and St. Maarten.

their industries can be highly dependent on migrant workers, who may be more readily inclined to move away after a major disaster. This can affect the country's resilience to disaster risks.

The multi-hazard risk profile of Caribbean OCTs is quite different from the UK and Europe, which has left gaps in the understanding of and preparation for disaster risk financing. Further, as OCTs, these countries may be excluded from some of the systems available in the region for responding to disasters, as they are seen as being the sole responsibility of their administrative countries. This was the experience of the British Virgin Islands (BVI) following Hurricanes Irma and Maria in 2017. As an OCT of the United Kingdom (UK), the BVI has legal limitations in accessing disaster relief under funding programmes that are designed specifically for independent developing countries. At the same time, its physical distance from centres of decision-making or response mechanisms in the UK can result in delays in life-saving aid reaching individuals in crisis. Similar constraints may face non-state entities. For example, the Red Cross in BVI is a branch of the British Red Cross, and thus faced limitations in their decision-making autonomy. Based on the physical location of BVI and other Caribbean OCTs in a high risk, disaster-prone zone, their capacity to quickly access and act on regional and international IDR is a critical aspect of legal preparedness.

As was the case with BVI in 2017, OCTs may be ineligible for support from budgets set aside for 'foreign aid'. This has prompted calls for reform in the categorization of OCTs and their capacity to access humanitarian interventions from a range of sources.<sup>45</sup> The need for strengthening linkages between OCTs and regional disaster risk management systems has thus been underscored.<sup>46</sup>

While OCTs are guided by the laws and policies of their home governments, Caribbean-specific commendations, models and templates can provide a useful guideline for adoption, given similarities in the geographic and socio-cultural context and their implications for disaster management systems.

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<sup>45</sup> GFDRR, March 2023. Advancing Disaster Risk Financing in Caribbean Overseas Countries and Territories. Retrieved from <https://www.gfdrr.org/en/feature-story/advancing-disaster-risk-financing-caribbean-overseas-countries-and-territories>

<sup>46</sup> GFDRR, March 2023. Advancing Disaster Risk Financing in Caribbean Overseas Countries and Territories. Retrieved from <https://www.gfdrr.org/en/feature-story/advancing-disaster-risk-financing-caribbean-overseas-countries-and-territories>

## 10 CONSOLIDATED FINDINGS AND RECOMMENDATIONS FOR STRENGTHENING IDR IN THE CARIBBEAN REGION

The IDR studies all included nationally nuanced recommendations, developed consultatively with state and non-state organisations. In the process of developing this report, these recommendations were consolidated and reviewed by the Regional IDRL Working Group and presented at the Second Caribbean IDRL Workshop held in November 2023. These processes served to refine the recommendations made, validate their continued relevance in light of more recent experiences and identify specific strategies for integrating them into the revised and updated CDM Model Law and Policy. This section captures these updated and consolidated recommendations.

### 10.1 OVERVIEW OF IDR STRENGTHS, GAPS AND CHALLENGES IN THE CARIBBEAN

The IDRL-related strengths, gaps and challenges faced in the Caribbean region have been identified throughout the document. They are summarised in the following tables:

*Table 1: Synopsis of Strengths and Challenges in Caribbean IDRL*

ISSUE	DESCRIPTION
<b>STRENGTHS</b>	
<b>Shared Regional IDR and DM Coordination Structures &amp; Institutions</b>	CDEMA Regional Response Mechanism and its sub-regional coordination groups are a focal point for international coordination and can provide IDR coordination support to countries affected by a disaster.
<b>National Coordination and Planning Mechanisms</b>	National Disaster Coordination systems exist in most countries and are familiar to state actors and their non-state partners in most countries, and preparatory processes are activated at the start of the Atlantic Hurricane season each year.  Existing structures, including National Disaster Sub-Committees, can facilitate thematic coordination of new actors.
<b>Awareness of Legislative Gaps and Emerging Reform Agenda</b>	Through IFRC's IDRL research and CDEMA's promotion of its Model CDM Legislation and Regulations (including provisions on International Humanitarian Assistance), many NDOs and other state and non-state IDR partners are aware of the need for IDR provisions in laws and policies.  Regional IDRL conferences and IDRL Working Group are helping to define an emerging reform agenda tailored to Caribbean experiences
<b>Prescribed Roles for Red Cross National Societies</b>	Laws acknowledge the Red Cross auxiliary role in most countries and Red Cross is often named in National Disaster Plans. This can help to support the IDR functions of the Red Cross Movement, thereby streamlining humanitarian aid.
<b>Free Movement Regimes to Support the Recruitment of Skilled Volunteers &amp; Relief</b>	OECS and CARICOM treaties support free movement of persons, including the right to work, to different degrees. These facilities can be used in the mobilization of regional skilled workers to support



ISSUE	DESCRIPTION
<b>Workers from within region</b>	relief and initial recovery efforts, where national systems and labour markets are overwhelmed.
<b>PPP Innovations used to Mobilise Community Resources in CDM (NGOs, private sector, Community Groups)</b>	Smaller islands often have smaller economies and need to introduce innovations to manage the integration of non-state actors to support limited state resources. For example, in Grenada and St Vincent and the Grenadines NDOs rely on private sector MOUs for mobilizing equipment, communication, transportation, relief supplies etc., thereby creating a network of private sector actors engaged in response and initial recovery activities. These public-private-partnerships can set the stage for integrating new IDR actors in the national response programmes of disaster-affected countries.
<b>GAPS AND CHALLENGES</b>	
<b>Systems are not scaled for a large-scale disaster event</b>	While coordination systems exist, they can become quickly overwhelmed during a large-scale disaster. For example, Government coordination systems in Dominica and Antigua and Barbuda became overwhelmed by the mass influx of international disaster organisations and ad hoc volunteer groups following Hurricanes Irma and Maria in 2017.
<b>No specific procedures or regimes for registration or legal recognition of new donors</b>	Use of company laws, charities legislation etc. for the registration of disaster response entities is not always appropriate for their short- and medium-term response and recovery operations
<b>Process of obtaining tax and duty waivers is often <i>ad hoc</i> or discretionary</b>	Procedures for accessing waivers, exemptions and other special legal facilities can change from one disaster to another. Approval processes may be discretionary and may not be fully documented or explained. This creates an undue burden on administrative systems of both IDR and government entities to ensure compliance.
<b>Communication and information sharing gaps</b>	<p>Countries may have multiple and overlapping Damage Assessment and Needs Analysis processes, and time lags in the communication of DANA data and needs lists to IDR actors.</p> <p>Limited information may be available in the public domain on certain regulated goods and services, including those on disaster needs lists.</p>
<b>Limited coordination systems for foreign Military Relief</b>	<p>If a beneficiary country has no military of its own, chains of command can easily be blurred.</p> <p>Where there are a number of civil military or uniformed response groups in a country, any gaps in administrative arrangements covering logistics and operational costs can leave the beneficiary country exposed.</p>
<b>Outdated DM Laws.</b>	<p>Several countries still use Emergency Powers Acts, which make little or no provision for disaster coordination.</p> <p>Several countries are in the process of adapting CDEMA's Model Law into national legislation, but the pace of legislative reform is slow.</p>

In addition to the general gaps and challenges outlined above, the research captured the unique and exacerbated IDR pressures associated with a large-scale disaster event. The following list was compiled from a combination of desk and primary research and gives a summative view of these specific challenges. These issues are captured throughout the report but summarised here for ease of reference.

*Table 4: Summary of IDRL Gaps and Challenges Arising in a Large-Scale Disaster Event and Corresponding Recommendations*

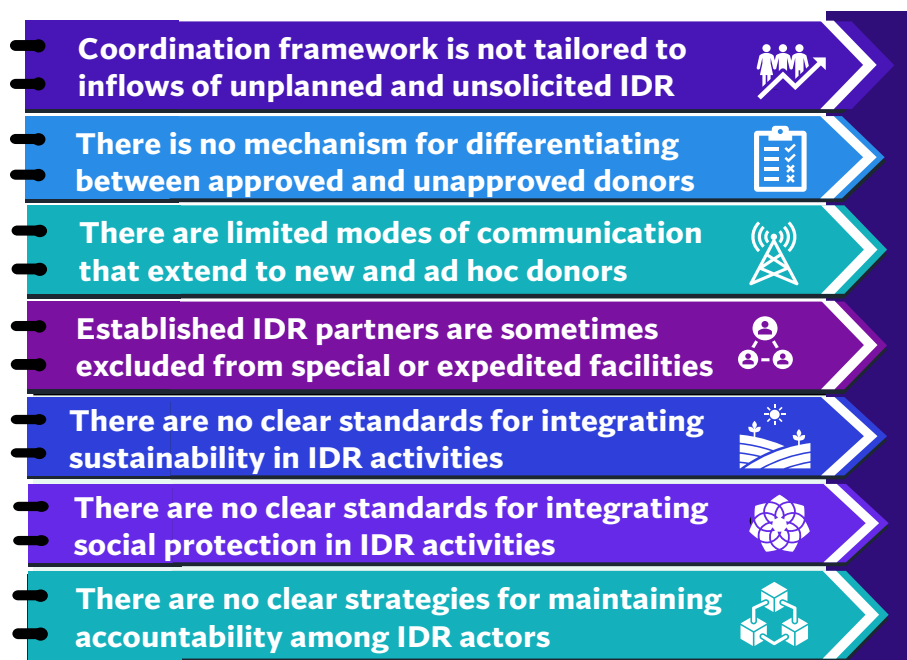
IDRL Gaps and Challenges in a Large-Scale Disaster Event		Recommendations
1.	Influx of large numbers of new and <i>ad hoc</i> /unknown relief organisations that overwhelm national coordination systems.	Establishment of regional and/or national registration/pre-registration process and eligibility requirements.
2.	Difficulties of implementing a donor registration system during the upheaval that follows a major disaster event.	Prequalification of known actors Regional role in donor registration and legal recognition.
3.	Excessive burden on government systems of managing logistics for a mass influx of new donors.	Potential regional role for multi-donor logistics support. Detailed logistics guidelines to new donors, including options for in-country procurement.
4.	Unfamiliarity of foreign donors with local requirements, laws and standards.	Communications & knowledge platforms Thematic coordination groups to share information between new and experienced donors.
5.	Incompatible professional requirements and standards among foreign professionals from regulated professions (medicine, engineering etc.).	Quality control/oversight role for rostered groups of local or regionally qualified professionals.
6.	Difficulties in monitoring large numbers of foreign nationals engaged in disaster relief, response and initial recovery operations.	Numerical limitations, partnership arrangements; reporting requirements and other coordination and accountability mechanisms. Clear sanctions for non-compliance.
7.	High demand for processing of waivers, exemptions and other administrative/ approval processes to address applications from an extensive number of IDR organisations.	Issuance of long-term permits, based on approved plans and programmes. Streamlined, expedited, single-window facilitation and approval systems.
8.	Influx of unsolicited and unnecessary or unusable goods.	Early dissemination of DANA reports. Prelisting of Official Needs Lists or Approved Lists of Disaster Relief Goods deemed eligible/ineligible for waivers of customs fees and taxes etc. Promotion of cash-based donations and local procurement (where appropriate).

9.	Increased human resource burden and physical space limitations related to arranging landing, sorting, warehousing and other logistics for relief goods.	Promoting cash donations/cash transfers, local procurement and partnership with local private sector and NGO partners, as well as social protection economic recovery programmes.  Deployment of trained/skilled volunteers, including from among eligible IDR organisations.
10.	Influx of appropriate medical, pharmaceutical and other specially regulated goods.	Communication of requirements, including national standards and regulations. Transfer cost of waste disposal to donor, where possible.
11.	Outsized or incompatible equipment	Communication of requirements and specifications for items on Official Needs Lists.
12.	Non-compliance with standards	Sanctions applicable to registered IDR actors. Promotion of compliance requirements and public education around sustainable disaster donations through diaspora groups, foreign missions, network of international development partners etc.

Some of these gaps and challenges can be actioned through national plans, policies and protocols, while others are directly relevant to the content of national disaster management laws and regulations. The gaps in the content of national disaster laws and policies – including those built on the CDM model – can be summarized as follows:

- Where national disaster coordination frameworks are established in laws and policies, they do not necessarily include or make reference to the coordination systems that may apply to new international donors.
- Law and policy frameworks may make limited reference to the facilitation or coordination of IDR organisations/donors, and do not typically make a distinction between those donors that are experienced and engaged in long-term operations in the country or region, and IDR organisations/donors that are new and have not gone through a preliminary approval process.
- Modes of inter-agency communication that are established under national laws and policies to facilitate disaster relief and response operations may make limited or no reference to communicating with IDR actors that are new to the region.
- Special or expedited facilities for the processing of disaster-related goods may be linked specifically to goods consigned to NDOs and may exclude goods consigned to established IDR partners.
- Disaster laws and policies do not always address standards for integrating IDR with other national sustainability and social protection policies or programmes.
- Disaster laws and policies do not always include accountability mechanisms applicable to IDR entities, or sanctions applicable to organisations that are non-compliant with national regulations and requirements.

Fig 8: Key IDR Gaps in Caribbean National Laws and Policies



Source: Author

## 10.2 COMBINING IDR AND CDM PRACTICES TO ARTICULATE A MORE COMPREHENSIVE AND SUSTAINABLE CARIBBEAN APPROACH

### 10.2.1 A Caribbean Contribution to Global IDR Standards and Strategies

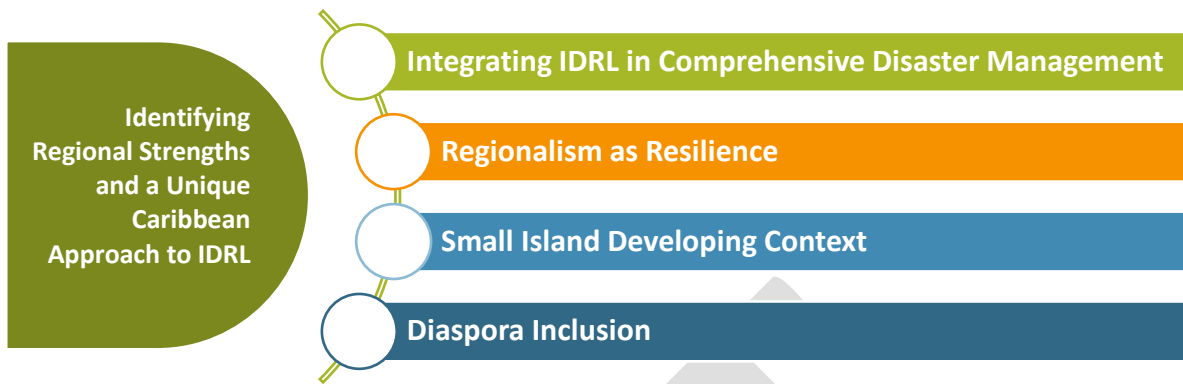
Stakeholders identified several areas of strength in the CDM practices utilized in the Caribbean. These can be summarized in four major themes, as follows:

- **Integrating IDRL in Comprehensive Disaster Management:** The CDM systems and structures used almost ubiquitously throughout the region provide a systematic and strategic context for integrating IDR. The CDM systems and strategies used across the Caribbean, particularly in countries that have modeled their national policies, plans and practices on CDEMA's recommendations and standards, will include good practices in disaster coordination, early warning, preparedness and mitigation, community resilience building and other key areas of CDM. For countries that have updated or are in the process of updating their national laws using CDEMA's model, this will ensure that they have assigned a national coordinator for International Humanitarian Assistance and have a legal basis for facilitating IDR goods and services. Additionally, CDEMA's emphasis on regional and sub-regional coordination mechanisms provides a useful context for the coordination and mobilization of key IDR actors, and has facilitated longstanding partnerships with multilateral, bilateral, foreign military,

humanitarian organisations and international non-government organisations working in the area of disaster relief. Further, the CDM model's emphasis on balancing response and recovery with mitigation and preparedness ensures that a more sustainable and long-term approach to risk management is integrated into IDR planning and deployment.

- **Regionalism as Resilience:** As the region continues to experience an increase in major multi-hazard disaster events, regional structures and a culture of collaboration are critical to increased resilience. The ability of national disaster response plans to predictably rely on prepositioned stock, pre-and post-event technical assistance, regional security and business continuity support systems, regional volunteers and skilled workers and multi-country procurement and logistics systems provide a clear advantage to governments as well as IDR actors. Some national-level representatives consulted during the preparation of this report further noted that the thematic or cluster-based coordination systems and emphasis on collaboration among organisations sometimes represents a new area of learning and practice for IDR actors who are new to the region. As these practices are documented and formalized, they add to the strength and resilience of the Caribbean's legal preparedness for disasters.
- **Small Island Developing Context:** The small island developing context adds unique considerations to the issues that need to be considered and addressed in developing a Caribbean-specific IDR model. The innovative methods of integrating private sector into disaster response goods and service provision, using multi-country and multi-island procurement and logistics systems, integrating relief distribution into social protection and community development services have been essential to the survival of small island economies and populations. They provide clear patterns for other small island developing states seeking to adopt IDR models that are relevant to their size and unique vulnerabilities. The region's emphasis on financial risk management strategies and modalities, while not relevant to all forms of IDR, is a key example of how international organisations can strengthen the long-term resilience of SIDS to climate change and disaster risks.
- **Diaspora Inclusion:** A recurring consideration among Caribbean nations is the importance of integrating communities in the diaspora in the formal and established disaster response coordination systems. Diaspora groups represent a key potential for partnership with national CDM entities. Stakeholders recommended strengthening communication systems that can be used to inform the diaspora of disaster-related needs, appropriate relief items and other means of volunteering or supporting response and recovery efforts. Using the CDM approach, diaspora groups can also be included in mitigation and preparedness initiatives, and in making communities and infrastructure more resilient to disaster risks.

*Fig 9: A Unique Caribbean Approach to IDRL*



### 10.2.2 Registration of IDR Entities and its Linkage to Disaster Management Coordination and Accountability Systems

Stakeholders consulted during the preparation of this and other IDRL reports completed within the region recommended the establishment of special registration systems peculiar to IDR actors. This can be done on a regional level, to avoid the vulnerability of national registration systems to major disasters and the high influx of new and ad hoc IDR entities. Registration should give rise to temporary legal status recognized over the short term by national governments across the region, and should be linked to quality based eligibility and accountability mechanisms. This would allow humanitarian organisations such as the Red Cross, UN Groups, bilateral, multilateral, and non-government organisations engaged in IDR in some parts of the region to be recognized to provide similar services in other countries in the event of a disaster. It could also facilitate the enhanced engagement of recognized IDR partners in multi-country preparedness planning. Registered entities would be granted access to legal facilitation, coordination information and communications, and would be encouraged to partner with and provide guidance to new and ad hoc donors acting in good faith, such as diaspora groups.

The registration mechanism used for IDR actors should then be linked to accountability and quality standards. A Code of Conduct can be used to encapsulate these requirements, and should be linked to the potential for suspension of an organization's registration status. The Code can integrate key features of International Humanitarian Standards, adapted to reflect lessons learned in the Caribbean context. Registered entities should be required to maintain records of their relief goods and services, from the planning/prepositioning through to implementation/distribution phases. This information could then be integrated into a common national record of the national (or regional) disaster response and recovery systems. They can also be used to promote collaborative models, including partnerships between new and established IDR actors and cluster-based models of donor coordination, as well as to ensure more equitable distribution of disaster relief resources. These recommended systems of coordination and accountability should be reinforced through inclusion in the CDEMA Model CDM Legislation, which does not currently contain provisions to this effect.

### 10.2.3 IDR Quality Standards and Sustainability Considerations

Given the scale and cost of unsolicited, inappropriate and unusable donations and the level of burden they create on national governments, the development of IDR quality standards and guidelines for **IDR goods and equipment** should be considered a major policy priority for the region. These standards can be developed regionally but will need to be contextualized in a wider information portal that aims to consolidate or provide linkages to standards and guidelines that exist at a country level. These can include:

- Guidelines on the appropriate type and quality of IDR goods and equipment
- Labelling standards and requirements suitable for all IDR goods, as well as guidance on how to access the more detailed labelling requirements that have been integrated into the regulatory framework of some countries, such as Jamaica.
- Guidelines for the supply of food and drug items, including minimum expiration windows and other standards for packaging, storage, delivery etc.
- Guidance on or linkages to the items that are prohibited or restricted in each territory.

Information should also be provided on the policy-based restrictions that are imposed by some territories in the region on the type and quantity of IDR goods and equipment imported and the manner of their distribution. This can include information on the following:

- Why cash donations are considered more appropriate and how they increase the overall benefits accessible to individuals, families and communities affected by disasters.
- Why it is important to protect the local private sector and small businesses, and how local procurement arrangements and anti-dumping laws can assist in this regard.
- The environmental and solid waste burden that can result from the mass dumping of unusable items, or from single-use packaging of water and food items.

The realities of small economies and populations are not always evident to donors from larger countries and will need to be underscored in clear and accessible communication materials.

Quality Standards for IDR personnel should also be developed and should include guidance on specially regulated professions. These may include:

- Requirements for engineers, doctors and other licensed professionals working on volunteer missions, vis-à-vis long-term assignments on disaster-related projects.
- Codes of conduct applicable to disaster workers and volunteers, integrating international humanitarian standards.
- Recommendations for partnerships with local or locally trained professionals or institutions, in order to ensure that national standards are being met. Registers of skilled volunteers and disaster relief professionals or organisations working in the region would be a useful resource in this regard.

IDR standards should be integrated into disaster risk mitigation and community resilience building strategies utilized in each country. As an example, reference to building codes and adaptive engineering guidelines should be included and guidance provided on additional regulations utilized at the country-level. These recommendations are synchronous with standards that CDEMA has established as part of its CDM Audit Tool for use by participating states, however there are no similar provisions referenced in the CDEMA Model CDM Legislation.

#### 10.2.4 Integrating IDR with National Development and Sustainability Goals

The CDM Model emphasizes a holistic and sustainable approach to disaster risk management, including ensuring an integration with national sustainability, social protection, environmental management and community development goals and policies.

Thus, clear guidelines and policy positions on **sustainability and sustainable development policies** are essential for IDR teams. IDR plans (depending on the nature and scope of the disaster event and related relief effort) should thus make provision for the following:

- Solid waste management and the disposal or re-export of unused items.
- Avoiding items that can be more harmful to the environment (e.g. single use plastics).
- Disposal of any chemical, medical or biological waste.
- Adherence to resilient building standards, even where these are not mandated by country-level laws or codes.
- Provision for economic sustainability issues, including restoration of livelihoods and improvement of socio-economic resilience, where feasible.

IDR plans and activities should also be integrated with each country's **Social Protection, Welfare and Support Systems**, where feasible. This will help to ensure that vulnerable groups are not overlooked and that the rights of beneficiaries are protected. IDR plans should thus make provision for the following.

- Protection policies for all child beneficiaries, including guidelines for interactions with children while in country. For example, Jamaica's laws provide for mandatory reporting of child abuse.
- Protection policies applicable to groups of vulnerable persons, defined according to national social policies in each country.
- Guidelines for interactions with specially protected communities, including indigenous communities, undocumented migrants, refugees and asylum seekers.
- Recognition of the legal and human rights context of the Caribbean, and any considerations for compliance with national legal frameworks.
- Quality of care standards in relation to any health services being provided to beneficiaries.



- General guidelines and recommendations for integrating IDR services with the social safety net and social protection or welfare mechanisms used in each country, as well as partnering with local NGOs providing social support services to socio-economically vulnerable families and communities.

### **10.3 STRENGTHENING IDR IN THE CARIBBEAN – THE ROLE OF REGIONAL INSTITUTIONS**

Regional institutions have a critical role to play in strengthening IDR standards and policies in the Caribbean. The commonality of issues faced suggests that resources will be optimized through collective, rather than country by country actions. This report is linked to and being prepared contiguously with the revision of CDEMA’s Model CDM Law and Policy to strengthen its IDR content.<sup>47</sup> The following recommendations, referenced throughout this document, could also be adopted by CDEMA:

- Development of a regional register of approved IDR organisations.
- Development of regional guidelines for establishing eligibility criteria for new and ad hoc donors.
- Development of a regional register or roster of disaster volunteers, in key skill areas.
- Regional guidelines and standards for visiting military and disciplined forces.
- Framework and strategy for more expansive coordination and communication with diaspora groups.
- Regional Code of Conduct for IDR Actors.
- Standards and guidelines for IDR goods, equipment and services.
- Guidelines for the development of Official Needs Lists and the issuance of formal requests for international assistance.
- Expanded information portal for new and ad hoc IDR donors.

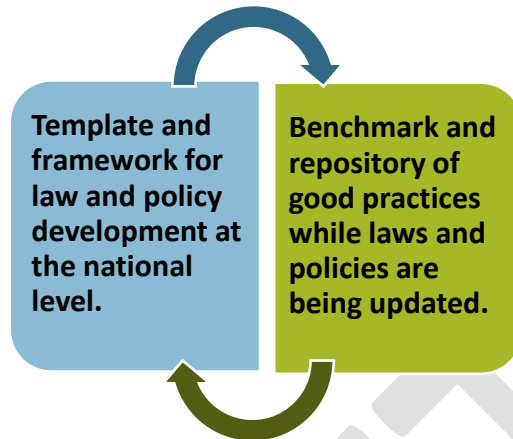
### **10.4 STRENGTHENING IDR PROVISIONS AND STRATEGIES IN THE MODEL CDM LEGISLATION AND POLICY**

The role of CDEMA’s Model CDM Legislation and Regulations, 2013 and the accompanying and Model CDM Policy is two-fold. It sets a framework and benchmark for updating disaster laws and policies at the national level. Additionally, it also functions as a capture of good practices that can be informally adapted by national disaster offices, while the process of law or policy reform continues.

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<sup>47</sup> See Appendix 1

*Fig 10. Two-fold Role of Model CDM Legislation and Policy*



**Proposed expanded legal guidelines:**

It is recommended that the Model CDM Legislation should be updated to include the following additional provisions in Part X, which addresses International Humanitarian Assistance (IHA):

- Establish a registration system for Approved IHA Actors
- Identify the types of legal facilitation that should be made available to registered/approved IHA actors, including appropriate exemptions and expedited procedures.
- Outline a more expansive role and responsibilities of the IHA Coordinator, and the relevant Coordination Structures used to support IHA collaboration and accountability. These can be designed around sectoral or cluster coordination networks.
- Outline types of rules to be covered for Visiting Forces, especially in relation to unsolicited or unplanned visiting disciplined forces from outside of the region. This should address issues such as cost recovery and the chain of command to be observed in implementing disaster-related projects.
- Outline the types of quality standards to be established for IDR goods, as well as the mechanisms for enforcement of standards.
- Define accountability mechanisms for IDR actors.

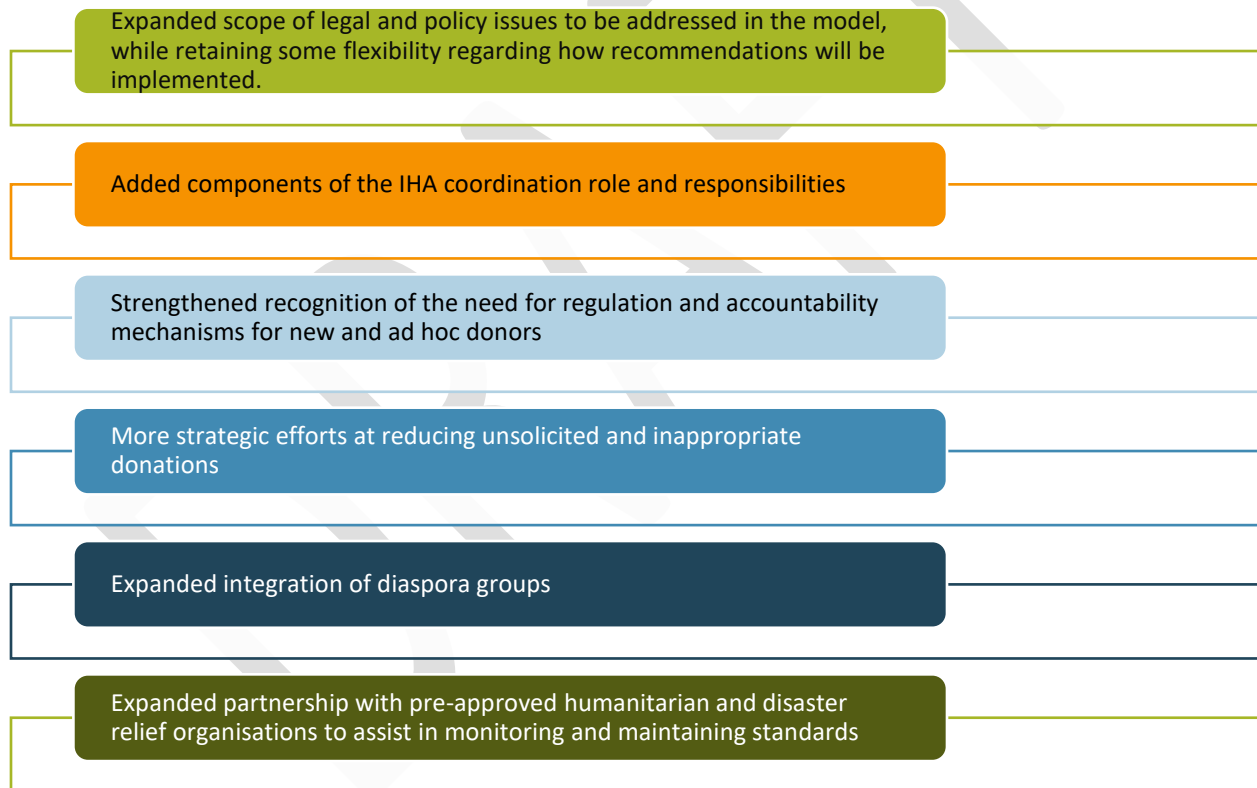
**Proposed expanded policy guidelines:**

It is recommended that the Model CDM Policy should be updated to include a section on the integration of IDR Actors in comprehensive and sustainable disaster policies and strategies. This should make reference to:

- The need for a Code of Conduct for IDR Actors.
- The standards and guidelines required for IDR goods.

- Guidelines for improving the economic sustainability of IDR donations, including the recommended use of cash-based donations and partnership with the local private sector.
- Guidelines for ensuring environmental sustainability of IDR activities.
- Strategies for reducing and disposing of unsolicited donations.
- Strategies for strengthening coordination and support systems for skilled volunteers.
- Guidance for integrating IDR activities with social safety net, social protection and welfare-based support systems, as well as making special considerations and accommodations for vulnerable groups.
- Guidance for integrating IDR support with risk mitigation strategies and resilient building guidelines.

*Fig 11: Scope for Strengthening IDR Law and Policy in the CDM Model*



## 11 APPENDICES

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1. Recommended Changes to CDEMA's Model CDM Legislation and Policy
2. Regional IDRL Working Group Terms of Reference
3. Bibliography

DRAFT

## 11.1 APPENDIX 1: PROPOSED IDR REVISIONS TO CDEMA'S MODEL CDM LAW AND POLICY

The purpose of this document is to propose legal and policy provisions to guide the development of International Disaster Response Law (IDRL) in the Caribbean context, and more specifically for participating states of the Caribbean Disaster and Emergency Management Agency (CDEMA). It has been prepared as part of a wider research-based developmental initiative commissioned collaboratively between CDEMA and the International Federation of Red Cross and Red Crescent Societies (IFRC). It is a subset of a wider document developed under the moniker 'Gap Analysis Report and Recommendations for the Comprehensive Disaster Management (CDM) Legal and Policy Framework in CDEMA Participating States' ("the Report").

In this section, key IDRL gaps identified through research and consultation are matched against provisions in CDEMA's Model Comprehensive Disaster Management Legislation and Regulations, 2013 ("the Model Legislation"), as well as its Model National CDM Policy for Caribbean Countries ("the Model Policy"). These gaps are outlined in the Report, catalogued in order of different aspects of IDR, and summarized in the Report's final chapter. The recommended legislative amendments are outlined in the first sub-section, outlined in order of the respective sections of the Model Legislation, while the proposed policy changes are included in the second sub-section. Recommendations for amendments to the Model Legislation are limited to the relevant sections of the main statute and do not address the accompanying regulations.

It should be noted that while the Report is written with global benchmarks in mind and therefore uses the term 'International Disaster Response' (IDR) to describe the cross-border movement of goods and services in response to a disaster, the Model Legislation uses the analogous term 'International Humanitarian Assistance' (IHA) to reference similar issues. For consistency, IHA is thus used in reference to proposed changes to the Model Legislation and the Model Policy.

### 11.1.1 Proposed Modifications to CDEMA's Model CDM Legislation and Regulations, 2013

This section outlines a more expansive approach to the treatment of IHA provisions in the Model Legislation. It is designed to build upon and to be read in tandem with the existing provisions in Part X of the Model Legislation, some of which are copied below for ease of reference. The recommendations herein are informed and guided by the gaps outlined in the main report and the stakeholder-informed proposals for addressing these gaps that emerged during the research process that led up to its preparation. The recommendations therefore highlight the rationale for the inclusion of expanded provisions in a summative way, with the text of the main report providing more contextual information.

The approach adopted is consistent with the current drafting style of the Model Legislation, where key benchmarks are captured in the text of the Model Legislation, while further details are intended to be iterated in accompanying regulations. Notably, however, the recommended approach expands the text of the Law by including more detailed parameters for the types of information or regulatory provisions to be included in accompanying regulations. This stems from the fact that the process of developing

regulations can be protracted and time consuming and the Model Legislation (or any national laws adapted from this template) can provide a more comprehensive role in guiding policies and practices for engaging with, regulating and facilitating IHA.

The textual style aims to mirror that which is used in the current Model Law, while incorporating adapted provisions from the IFRC Model Law and Emergency Decree on IDRL. This helps to ensure that the additional text reads synchronously with the Model Legislation, while reflecting global best practices in IDR regulation. Wherever feasible, extensive details outlined in the body of the IFRC Model Law and Emergency Decree are redirected to regulations, in order to ensure that the Commonwealth Caribbean style of legal drafting is preserved. For each section of this document, proposed text for the Model Law is given in italics, with any excerpts from the current content given in black font, while new content is differentiated in blue font.

#### *11.1.1.1 Role of the IHA Coordinator*

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The role and responsibilities of the IHA Coordinator should be expanded to specify the types of communication and coordination obligations that the IHA Coordinator can be expected to perform. This includes establishing coordination groups and partnership arrangements, as well as ensuring that channels of communication are maintained between the government and international donors. Communication responsibilities will include circulating any needs lists developed by the state. Key benchmarks can be included in the Model Legislation, while further details are iterated in accompanying regulations. The following proposed text expands on s.70 of the current Model Legislation:

*(1) There shall be an International Humanitarian Assistance Coordinator who shall be the Director, or such other official designated by the Minister.*

*(2) The Minister may, by Regulations, outline the role and functions of the International Humanitarian Assistance Coordinator, which shall include but not be limited to the following obligations:*

- a) Subject to section 73, the International Humanitarian Assistance Coordinator shall ensure coordination and collaboration between local and international donors before, during and after the occurrence of disasters, and shall serve as the central focal point for liaison between the government and assisting international actors.*
- b) Where required, the International Humanitarian Assistance Coordinator shall establish coordination groups and other partnership arrangements to facilitate collaboration between and among local and international donors.*
- c) The International Humanitarian Assistance Coordinator shall develop and maintain electronically accessible communication systems that promote the effective facilitation, coordination, guidance and oversight of international humanitarian assistance, and inform assisting actors of their rights and obligations under national laws.*
- d) The International Humanitarian Assistance Coordinator shall publish up to date accounts of the humanitarian needs of the affected population, including the location and scope of needs as well as a list of goods, services and equipment required for the disaster operation and any special protection measures applicable to vulnerable groups.*

### *11.1.1.2 Approved IHA Actors*

It is proposed that a new section should be included that defines who an Approved IHA Actor is, for the purposes of this law. The term Approved IHA Actor will then be used throughout this Part of the Model Legislation as a criteria for determining which organisations benefit from the special measures, expedited facilities, waivers and other legal facilities available under this Part. The Approved IHA Actor can be a state, bilateral or multilateral donor partner, the Red Cross which includes the National Society of the host country, the IFRC and its Network, and other components of the RCRC Movement, any entity included in CDEMA's Regional Register of Approved IHA Actors or an organisation that is recognized by the NDO Director or the National Disaster Plan as a disaster response partner.

Approved IHA Actors can expect to receive the benefits ascribed under this Part of the law, as well as other rights outlined in accompanying Operational Guidelines for Approved IHA Actors. However, in the event that this designation alone will not be treated as a form of legal personality, the law can make reference to registration as a foreign entity authorized to do business in country, as this facility is common throughout Commonwealth Caribbean Companies Laws. Approved IHA Actors who will only participate in a disaster relief activity that lasts for a period of weeks may have no intention of having permanent presence in each country they assist. However, their regional registration via CDEMA would provide a reference point for implementing any accountability or reporting requirements.

The following text is thus recommended for inclusion as a new section in Part X of the Model Legislation:

#### *Designation and Facilitation of Approved IHA Actors*

*(1) For the purposes of this law and the facilities granted under this or any other law to organisations providing international disaster relief goods or services, the following entities shall be deemed to be "Approved IHA Actors":*

- a) States and intergovernmental organizations whose offers of assistance have been formally accepted by the government;*
- b) The [insert name of the National Red Cross Society] and any components of the international Red Cross and Red Crescent Movement acting in support of the [insert name of the National Red Cross Society],*
- c) Any entity registered on the Regional Register of Approved IHA Actors approved by CDEMA,*
- d) Any entity registered on a National Register of Approved IHA Actors, and*
- e) Any foreign or domestic non-governmental organization that has a named role or responsibility in the National Disaster Plan that requires the importation and free distribution of disaster relief goods, equipment or services, or which have been deemed appropriate by the Director on the basis of their experience and capacity for providing effective humanitarian assistance.*

*(2) [To be included for countries that have a National Register of Approved IHA Actors] The Director shall publish Eligibility Criteria and Procedures for Registration for new IHA Actors seeking to attain approval status.*

*(3) The Director shall maintain a List of Approved IHA Actors and shall circulate this list to all government departments providing approvals, permits, waivers and other legal facilities supporting the entry and distribution of international disaster relief goods, equipment and services.*

*(4) Approved IHA Actors seeking to establish semi-permanent operations within the country may register under section [ ] of the Companies Act as a foreign entity doing business in (the territory/state) and shall maintain such records as are required for the period of their registration.*

OR

*(4) Approved IHA Actors who submit duly authorized copies of their incorporation certificates or other current legal evidence of their legal personality and registered status in another jurisdiction shall be issued with a certificate of authorization to do business in [insert the name of the country] for a period of two years. The period of authorization can be renewed for an additional period of two years, provided that the Approved IHA Actor submits proof that their legal registration in their country of origin is up to date.*

*(5) The Director shall develop and publish Guidelines for Approved IHA Actors, which shall include but not be limited to the following:*

- a) Guidelines for Approved IHA Actors to be integrated into national, sectoral or thematic coordination groups.*
- b) Guidelines for Approved IHA Actors to implement programmes that are gender-responsive and protect the rights of children, indigenous communities (where applicable, persons with disabilities and other vulnerable or at-risk groups.*
- c) Guidelines for Approved IHA Actors to access disaster affected areas, provided this is done in compliance with Disaster or Emergency Orders and other directives issued from time to time by the state.*
- d) Requirements for Approved IHA Actors to integrate principles of sustainability and resilience in their operations and to align their activities to relevant national development policies.*
- e) Requirements for Approved IHA Actors to act in accordance with the terms of the National Disaster Plan, the National Disaster Policy and any other relevant guidelines issued by the state from time to time.*

#### 11.1.1.3 Requests for International Assistance

The Model Legislation can include expanded provisions for making requests for international assistance. The current wording of s.71 provides for requesting states to make a formal request for international assistance, with procedural details to be elucidated in accompanying regulations. It is proposed that, in keeping with the recommendations for enhancing the specificity and predictability of national regulatory and policy frameworks for IDRL, additional requirements should be included in the body of the Model Legislation. These could require Committees to be guided by certain considerations in determining the need for international assistance. This additional content should underscore the importance of consultation in determining the need for international assistance, the necessary linkages with damage assessment and needs analysis (DANA) processes and outcome reports and any Official



Needs List that have been issued, and whether these needs can be met from local or regional resources. The following text can provide a guideline for this additional content:

***Request for international assistance.***

(1) (a) *The Committee may, depending on the scope, magnitude of damage or implications of the adverse effects of the disaster, recommend to the Government to request international assistance.*

(b) *In determining whether a request for international assistance should be made, the Committee shall take into consideration:*

- *The perspectives and recommendations of the National Disaster Office and the Ministry of Foreign Affairs [insert names of other authorities, as appropriate];*
- *The outcomes of any official damage assessment and needs analysis process that has been conducted; and*
- *The scope and content of any Official Needs List and whether the needs identified can be met from national or regional resources.*

***11.1.1.4 Types of Legal Facilities and Guidelines Applicable to IDR Goods, Equipment and Services***

The Model Legislation should make more detailed reference to the types of legal facilitation (exemptions and expedited facilities) that should be made available to Approved IHA Actors. While it is acknowledged that comprehensive details will need to be captured in Regulations accompanying the law, it is noted that there can be a time lapse of years between the enactment of a law and the promulgation of regulations. By including some additional parameters in the body of the law, the Model law can be used as a benchmark for developing disaster plans and policies, or for implementing practical arrangements following a major disaster event.

The following text, which expands on s.72 of the current Model Legislation and incorporates adapted provisions from the IFRC Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance<sup>48</sup>, is recommended.

***Importation and donation of relief goods, equipment and services.***

(1) *The importation and donation of relief goods are hereby authorized in accordance with section [ ] of the Customs Act.*

(2) *The Minister may, by Regulations under this or any other law, outline the scope and types of waivers and exemptions to customs duties, value added tax and such other fees, duties and taxes applicable upon the importation and donation of relief goods by the Agency or any Approved IHA Actor.*

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<sup>48</sup> IFRC. (2011). *Model Act for the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance*. Accessible at [https://disasterlaw.ifrc.org/sites/default/files/media/disaster\\_law/2020-10/Pilot%20Model%20Act%20on%20IDRL%20%28English%29.pdf](https://disasterlaw.ifrc.org/sites/default/files/media/disaster_law/2020-10/Pilot%20Model%20Act%20on%20IDRL%20%28English%29.pdf)

- (3) *Subject to the provisions of the Customs Regulations, any importation and donation intended for the operation of the Agency and its member agencies shall be treated as importations by or donations to the Agency.*
- (4) *Notwithstanding anything contained in the provisions of any other law to the contrary, the Minister may, by Regulations, on the advice of the Committee, make provision—*
- a. respecting the initiation and termination of international humanitarian assistance;*
  - b. respecting the scope and types of waivers and exemptions to staff and volunteers of Approved IHA Actors, to facilitate their implementation of disaster-related activities and programmes approved by the Director. These shall include work permit waivers and leave to remain that match the timeframes and scope of duties outlined in the approved activity or programme.*
  - c. outlining procedures and guidelines for the entry, use and export of any disaster relief equipment, including motor vehicles, medical and telecommunications equipment, including those using satellite and radio frequency.*
  - d. outlining standards and guidelines for disaster relief goods, including labelling guidelines and minimum expiration windows for foods and drugs, as well as any items which, under this or any other law or regulation, is deemed prohibited or unsuitable for importation for the purposes of disaster relief;*
  - e. outlining guidelines and procedures for the entry, immediate use and exit of search and rescue dogs;*
  - f. with respect to any other privileges and immunities in relation to immigration and customs for the purposes of this Part;*
  - g. identifying sanctions applicable to Approved IHA Actors in relation to the breach of any standards or guidelines established under this or other laws, including but not limited to the suspension of their approved status.*

#### 11.1.1.5 Reporting and Accountability Requirements for Approved IHA Actors

The Model Legislation should clearly express accountability and transparency requirements, as well as compliance and reporting obligations of Approved IHA Actors. These can be captured in greater detail in rules of operation, codes of conduct and standard operating procedures, which the Minister with responsibility for the Act should be able to implement by a gazetted Order. The details of accountability measures will not therefore be included in the Model Legislation; however the law will establish the requirement for accountability, transparency and professionalism in the operations of Approved IHA Actors. Appropriate references should be made to other standards and regulations in place, which will be different from country to country. Additionally, the Code of Conduct developed by CDEMA should be adopted by reference or adapted and included as a schedule to the Act.

In order to monitor compliance, the Approved IHA Actors will need to supply reports to the IHA Coordinator. Sanctions will need to be put in place for non-compliance and should include suspension

or removal from the list of Approved IHA Actors and loss of access to any related benefits. The text below is thus recommended as a new section to be added to this Part of the Model Legislation.

### **Accountability and Transparency Requirements for Approved IHA Actors**

- (1) The Minister may by Order put in place such rules of operation, codes of conduct and standard operating procedures as necessary to maintain accountability, transparency and professionalism in the operations of Approved IHA Actors. Approved IHA Actors shall abide by these and all other laws of [name of state/territory] and cooperate and coordinate with the Committee and all national authorities.*
- (2) Approved IHA Actors shall:*
  - a. comply with the principles outlined in the (scheduled) Code of Conduct for IHA Actors.*
  - b. ensure that all goods and services they provide are appropriate to the needs and circumstances of the affected population and are in compliance with the requirements of this and all applicable laws and standards of [name of state/territory],*
  - c. ensure that the goods and services they provide conform to standards and guidelines for international disaster relief goods and services, as established from time to time by CDEMA.*
- (3) The IHA Coordinator shall monitor the implementation of the activities and programmes of Approved IHA Actors, as well as their compliance with their responsibilities under this or other laws and regulations. To facilitate this oversight, Approved IHA Actors shall furnish to the IHA Coordinator quarterly reports about their activities in a format provided. These reports shall be consolidated by the IHA Coordinator, who shall prepare an annual IHA Report at the end of each financial year. The annual IHA Report shall be submitted to [insert applicable authority, e.g. Minister with portfolio responsibility for disaster management or Parliament].*
- (4) Where the IHA Coordinator suspects that any Approved IHA Actor has failed to materially comply with its obligations as set out in this or other laws and regulations, it shall consult with the Approved IHA Actor to seek clarification or explanation and, where appropriate, remediation and immediate implementation of compliance requirements. In the event that the matter cannot be resolved in this manner, the IHA Coordinator shall refer the issue to the Committee for action.*
- (5) Approved IHA Actors who fail to comply with the requirements of this or any other applicable law shall be subject to temporary suspension or removal from the list of Approved IHA Actors, and for the time of such suspension or removal shall have no right of access to any of the benefits ascribed to Approved IHA Actors under this law.*
- (6) The Committee shall:*
  - a. Develop procedural guidelines for disciplinary measures and other decision-making in relation to the suspension or removal of any Approved IHA Actors; and*

- b. Ensure that any Approved IHA Actor that is being considered for disciplinary measures is provided with the opportunity to be heard.*

*(7) An Approved IHA Actor that is adversely affected by the decisions of the Committee may lodge an appeal with [insert the name of the appropriate authority] within 30 days of receiving notice of the Committee's decision.*

#### **11.1.1.6 Emergency IDR Facilitation and Expedited Measures**

The Model Legislation can be the basis for putting in place temporary expedited measures to move goods and personnel through ports in the immediate wake of a major disaster. This can be a useful tool that allows countries to respond effectively to the mass influx of disaster relief goods and services, particularly following a major disaster event. Several countries already use one-stop or single -window clearance mechanisms, either in response to a disaster or as an overarching trade management system.

This section will prompt countries to establish expedited measures to process disaster relief goods. The expedited measures are as useful for the state as they are for importers, as the burden of processing a mass influx of goods can be overwhelming for ordinary customs and immigration processes. These special measures will benefit from a built-in distinction between unsolicited/inappropriate goods and solicited/appropriate goods. For example, any waiver of fees, taxes or duties should be reserved for goods deemed to be 'approved disaster relief goods'. The simplest expression of what constitutes approved disaster relief goods will be the content of the request list compiled by the Director responsible for the national disaster agency and circulated among donors. Consistent with the remainder of this Part, disaster relief goods consigned to the Agency and Approved IHA Actors should also benefit from waivers of fees, taxes and duties.

The text below captures these aims, and should be added as a new section in Part X:

#### **Emergency Facilitation of IHA**

- (1) On the declaration of a major disaster and for a reasonable time period thereafter, the Minister may by order commission expedited measures for processing the entry of disaster relief goods, equipment and personnel. This shall include, as appropriate:
  - a. One-Stop or Single Window facilitation teams at major ports.*
  - b. Expedited forms and procedures for processing disaster relief goods consigned to the Agency or to Approved IHA Actors.*
  - c. Priority landing and immigration and customs clearance for disaster relief goods and personnel.*
  - d. Waivers of such fees, duties and taxes, as are deemed appropriate, for all approved disaster relief goods included in the needs list published by the Director and intended for free distribution.**
- (2) The Committee shall provide support to the implementation of these measures, ensuring that all relevant staff are apprised of and integrated in the implementation procedures.*

#### *11.1.1.7 Strengthening Visiting Forces Provisions*

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The section on visiting disciplined forces currently relates mainly to visiting forces from among CDEMA members. It does not account for the types of issues that can arise from solicited or unsolicited groups of disciplined forces from outside of the region. The Model Legislation should thus be updated to outline the types of rules to be covered for Visiting Forces, especially in relation to unsolicited or unplanned visiting disciplined forces. This should include provisions for clarifying chain of command while on disaster relief projects, cost recovery in relation to the food, accommodation, transportation and other daily costs incurred by visiting forces, as well as expected standards of operation in their interactions with the public. These provisions can be outlined in detail in regulations, but the Model Legislation should set the parameters for the content of these regulations. The recommended text outlined below should be added to s.73 of the Model Legislation:

- (1) The Minister may, by Regulations, establish rules to guide the operations of any foreign disciplined forces participating in disaster relief efforts, whether solicited or unsolicited. The rules shall include, put not be limited to, provisions:*
- a. Clarifying the chain of command in relation to the implementation of disaster relief activities.*
  - b. Establishing guidelines for the assumption and payment of costs of transportation, accommodations, food and other daily expenses by each visiting force, unless alternate arrangements are agreed with the government prior to deployment.*
  - c. Outlining standards and expectations applicable to disciplined forces, including adherence to any use of force or public interaction policies in place.*

### 11.1.2 Proposed Additional Content for CDM Model Policy

This section recognizes that IHA Actors can play a critical role at different stages of the CDM process and can either advance or undermine the holistic and sustainable principles that guide the CDM approach. Currently, no single aspect of the Model Policy addresses IHA, however the goals of the Model Policy set a sufficiently expansive and comprehensive framework for guiding the activities of all partners in the CDM cycle, including IHA Actors. It is therefore recommended that a new sub-section be included in the Model Policy that specifically addresses the mainstreaming of CDM in the activities of IHA Actors, by equipping them with information and guidelines on more sustainable and policy-coherent approaches to response and recovery activities. The Model Policy's thematic emphasis on environmental and community resilience and the protection of the most vulnerable groups is expressly included here.

#### ***1.3.3.5 Mainstream the CDM Approach among international humanitarian assistance (IHA) partners while strengthening their accountability to national sustainable development goals.***

- *Develop a Code of Conduct for IHA Actors, underscoring the importance of integrating disaster mitigation and preparedness in their response and recovery activities.*
- *Develop standards and guidelines for appropriate IDR goods, integrating considerations regarding environmental and economic sustainability and impact on livelihoods, and promote awareness among all relevant stakeholders including diaspora groups, faith-based organisations, service clubs and other NGOs who may provide ad hoc relief in the wake of a major disaster.*
- *Provide guidance to IHA actors on sustainable methods of providing aid, including:*
  - *Partnering with local enterprises (NGOs, Community organisations, small and micro-enterprise) to preserve livelihoods and rebuild social and economic stability at the community level.*
  - *Using cash-based donations, particularly among socio-economically vulnerable recipients, to promote increased resilience.*
  - *Using climate-resilient building methods and materials.*
  - *Partnering with local tradesmen, skilled and semi-skilled workers and promote capacity building, where feasible.*
  - *Using local (or regional) procurement of relief goods and equipment wherever possible in order to mitigate the risk of inappropriate donations, reduce the cost of transportation and warehousing, and contribute to economic renewal in affected communities.*
  - *Minimizing solid waste from inappropriate or unusable donations.*
- *Provide guidelines to IHA actors for improving environmental sustainability and community resilience in disaster recovery and reconstruction efforts, including:*

- *Promoting awareness of and compliance with local (or regional) regulations, building codes, risk mitigation strategies and resilient construction guidelines among IHA actors.*
- *promoting partnerships and technical exchanges between IHA Actors and local sustainability champions.*
- *Provide guidelines for integrating social protection, welfare and support systems in IHA activities, including:*
  - *Practical considerations (including any unique cultural, social or linguistic requirements) for protecting the rights of specially protected or vulnerable communities, including indigenous persons, undocumented migrants and refugees or asylum seekers.*
  - *Legal and policy guidelines for protecting the rights of children.*
  - *Guidelines for interfacing with persons with disabilities.*
  - *Guidelines for protecting beneficiaries from sexual exploitation or abuse.*
  - *Procedures for integrating IHA assistance with local social welfare or social safety net programmes.*
  - *Referral mechanisms for addressing critical issues that arise in relief distribution, including gender-based or domestic violence, protection of vulnerable persons, child rights issues or other similar concerns.*

## 11.2 REGIONAL IDRL WORKING GROUP TERMS OF REFERENCE

### Terms of Reference

#### Regional International Disaster Response Law Working Group of the CDEMA Technical Advisory Committee

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## 1. BACKGROUND

### *The Disaster Context*

Recent years have seen an increase in the scope, intensity and frequency of disaster events in the Caribbean region, and a commensurate increase in the breadth of planned and ad hoc international relief entering the region. This trend was highlighted in the 2017 and 2019 hurricane seasons, during which multiple Caribbean countries issued calls for international relief and recovery assistance, receiving inflows of goods and services through both established and ad hoc donors.

While Caribbean governments benefited significantly from humanitarian inputs, there still remain high levels of uncertainty surrounding the regulation, coordination and facilitation of international humanitarian groups. These uncertainties cause not only delays in the delivery of aid and international humanitarian assistance to affected communities but present significant burdens to already overwhelmed local authorities, leading to a complexity of operations. Further, the COVID-19 crisis led to the closure of borders and internal restrictions on freedom of movement and assembly. While this was a response to a public health crisis, it has resulted in a deeper socio-economic crisis that further intensifies the vulnerability of Caribbean societies. As such, these circumstances have underscored the importance of continuing to invest in preparedness in disaster prone contexts and to strengthen law and policy frameworks that are favourable to the entry, facilitation and regulation of international humanitarian assistance.

### *Tools for Addressing International Disaster Response Law (IDRL) in CDEMA PS*

#### IFRC IDRL Guidelines

Recognising the need for the regulation of international disaster relief, the IFRC spearheaded negotiations to develop a set of international guidelines to help governments strengthen their domestic laws and policies. Out of this initiative, the “*Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance*” (also known as the “*IDRL Guidelines*”) were developed. In 2007, these guidelines were unanimously adopted at the 30th International Conference of the Movement and in the following year, the UN General Assembly adopted three resolutions (Res. 63/139, 63/141, and 63/137) encouraging states to make use of them.



Following a decade of experience in applying the *IDRL Guidelines*, the IFRC then developed the *Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance* or the *IDRL Checklist*. The Checklist provides a more synthesized and cross-sectoral approach to evaluating national systems for compliance with core IDRL principles.

In supporting the implementation of the IDRL Guidelines globally, the IFRC has worked with its National Societies and National Disaster Offices to conduct country level research and gap analyses on the status and application of international disaster relief laws and policies. The first such research activity within a CDEMA Participating State was conducted in Jamaica from 2012 to 2013 as part of a broad-based consultative initiative having the input and support of public and private sector stakeholders, academic experts and CDEMA. Similar research was conducted in St. Vincent and the Grenadines (2017) and Grenada (2018). The results of which have been published and disseminated. Following the devastating impact of Hurricane Maria on Dominica in 2017, the Dominica Red Cross Society, together with the IFRC, embarked on an IDRL Project to assess whether Dominica's IDRL framework was effectively addressing its needs. This recently completed project provided the opportunity to test the utility and adaptation of IDRL principles to a large-scale Caribbean disaster event with a wide range of international disaster actors. Similar projects were also launched in Belize (2018) and St. Kitts and Nevis (2019) and are currently ongoing. These research activities have been supported by a number of IFRC's partner organisations and initiatives, including the "Capacity Building Initiative" (CBI) Project funded by USAID's Bureau of Humanitarian Assistance (BHA) and initiatives funded by the Government of Germany and the French Red Cross. These projects have already highlighted the need to strengthen the legal and institutional framework of the countries studied, through the adoption of a specific "IDRL" law or regulations, or through reforms of national plans, policies or sectoral laws.

#### Model CDM IDRL Legislation Tools and the RRM

Comprehensive Disaster Management (CDM) is the Caribbean brand of disaster management promoted by CDEMA across its 20 Participating States. It is the management of all hazards through all phases of the disaster management cycle – prevention, mitigation, preparedness, response, recovery and rehabilitation – by all peoples, including public and private sectors, all segments of civil society and the general population in hazard prone areas. It involves risk reduction and management and integration of vulnerability assessment into the development planning process.

Since 2010, CDEMA Participating States adopted a Blueprint that provides the conceptual framework needed for the effective delivery of CDM at the national level. There are three principal components to the CDM Blueprint, i.e. policy, legislation, and country work programmes [PLC]. As it relates to the *legislation* component of the Blueprint, CDEMA has integrated considerations regarding the planning and facilitation of International Humanitarian Assistance in its *Model Comprehensive Disaster Management (CDM) Legislation and Regulations, 2013* and is partnering with the IFRC to strengthen the considerations for IHA in accordance with the "*Guidelines on the Facilitation and Regulation of International Disaster Relief Operations in case of Disaster*". CDEMA has promoted the adoption of its Model Legislation throughout the region, as well as supporting approaches to international relief

management and facilitation set out in its *Regional Comprehensive Disaster Management Strategy (2014-2024)*. CDEMA also coordinates the Regional Response Mechanism (RRM) which is a network of CDEMA Participating States (PSs), national, regional and international disaster stakeholders through which external response and relief operations in support of an impacted CDEMA Participating State (PS). This mechanism and experiences in its operationalization should inform recommendations for improving the regional regulatory framework for the facilitation and coordination of international disaster relief.

### ***Advancing the Agreements of the TAC through the Establishment of the IDRL Working Group***

In 2016 at a meeting of CDEMA's Technical Advisory Committee<sup>49</sup> (TAC) on the issue of IDRL, one of the key outcome statements from this high-level activity identified the need to strengthen national regulatory and planning systems that guide the influx of humanitarian relief through national borders. More recently, at the 12<sup>th</sup> meeting of the TAC, held in April 2021, the TAC recognised the legislative matters emerging from the recent impacts of hazard events including the La Soufriere volcanic event; and the importance of the appropriate treatment of disaster relief and assistance within the national CDM legislation and regulations. It further recognised the need to appropriately treat disaster relief and assistance within the CDM legislation as a recommendation for the way forward. CDEMA continues to provide support to IFRC's national legislative reviews and contributes to regional discussions on the nuances of a Caribbean agenda for IDRL in laws, plans and policies.

In November 2021, CDEMA and IFRC partnered to implement [a virtual Caribbean IDRL Workshop](#), with the objective of identifying recommendations for improving the regional regulatory framework for the facilitation and coordination of international disaster relief through identifying best practices, sharing lessons learned during the COVID-19 pandemic and promoting the advancement of regionally appropriate regulatory standards and mechanisms including National Comprehensive Disaster Management legislation and the Regional Response Mechanism. The workshop was attended by representatives of national disaster offices of the CDEMA Participating States, regional organisations and Red Cross National Societies. A range of IDRL issues were discussed and experiences shared by representatives from Dominica, the Bahamas and other jurisdictions whose legal systems were brought under stress by recent disaster events. The [workshop website](#) continues to serve as a resource portal on IDRL tools.

The workshop called for Caribbean-specific perspectives, insights and recommendations for improving the regional regulatory framework for the facilitation and coordination of international disaster relief and validated the need for a Regional IDRL Working Group that could function in this regard, with representative participation from key national and regional entities. Participants provided recommendations regarding the proposed scope, composition and planned outcomes of this Working Group. This Terms of Reference is responsive to the recommendations that have emerged from consultations over time between the IFRC and the CDEMA CU, and the comments received in the Caribbean IDRL Workshop, 2021. At the first meeting of the IDRL Working Group the Terms of

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<sup>49</sup> The CDEMA **TAC** comprise of the National Disaster Coordinators and representatives of specialized regional organizations, such as those engaged in technological, meteorological and seismological fields whose programmes are directly related to the regional disaster management agenda.

Reference will be reviewed, and necessary amendments made as required, for adoption by its members.

## **2. SCOPE AND PURPOSE**

The Regional IDRL Working Group (IDRL-WG) is convened to provide Caribbean-specific perspectives, insights and recommendations for improving the regional regulatory framework for the facilitation and coordination of international disaster relief within the context of CDM. The working group will comprise representatives from CDEMA and its Participating States and the IFRC, who will collaborate in identifying regional challenges and adapting good practices that are feasible within the local context. The working group will be guided by the expertise and experiences of stakeholders and shall be informed by model laws, framework documents, research, reports, good practices and guidelines issued or prepared by IFRC and CDEMA or any other emergent or relevant source, including but not limited to the documents outlined at section 10 herein.

## **3. Linking the IDRL WG with the CDEMA TAC**

In support of the long-term sustainability of the IDRL WG and the scope of work related to improved regulatory frameworks in the region, the WG will function as a working group of an established standing committee of the TAC. Consideration is being given to the Work Programme Development and Review Sub-Committee (WPDRSC) of the TAC. The purpose of the WPDRSC is to act in an advisory capacity to the CDEMA CU on matters relating to strategies for resource mobilization, work programme review and programme development. Alternatively, it may be linked with the Plan Development and Review Committee (PDRC) which functions to assist the Agency in the review and development of plans and procedures that will facilitate the effective and efficient functioning of the Regional Response Mechanism and its components. This is to be confirmed.

## **4. OBJECTIVES**

The objectives of the Working Group are:

1. *To develop its understanding* of global and regional benchmark documents on international disaster relief law, including model laws prepared by IFRC and CDEMA respectively, and identify good practices for regional adaptation.
2. *To develop its understanding* of regional disaster laws and any primary and/or secondary research conducted on IDRL in the region.
3. *To build its awareness* of regional experiences in the facilitation, management, coordination and regulation of international disaster relief and identify current regulatory and procedural challenges.

4. *To make recommendations* for improving IDRL in the region, including any models and tools for updating laws and policies, as well as recommendations for implementation measures that should be introduced at the regional, subregional and national levels.
5. *To make recommendations* for strengthening the role and the capacity of CDEMA in monitoring IDRL in the region and facilitating the upgrading of the national laws and policies of CARICOM member states in keeping with the revised Blueprint.
6. *To make recommendations* for strengthening the partnership between the CDEMA CU, IFRC and CDEMA Participating States, with a view to improving the regulatory environment and planning mechanisms for IDRL in the region.
7. *To make recommendations* for improving specific aspects of IDRL in the Caribbean, based on issues identified by various stakeholder groups including on strengthening multi-sectoral engagement, coordination and integration of international and regional military relief into national and regional emergency logistics and relief operations, standards for IDR donations, unsolicited and inappropriate donations, and the regulation of IDR actors and any other emerge. See Annex 1 for an indicative list of priority issues.
8. *To consider complex emergencies and emerging disaster management issues* (including public health emergencies, cumulative and multi-hazard emergencies, multi-country hazards/incidents etc.) and their impact on IDRL arrangements and procedures and provide guidance on necessary improvements to be made
9. *To provide guidance* on systems for monitoring, evaluation and reporting on the implementation of recommendations made by the Committee over the long term.
10. *To sensitize* Caribbean stakeholders from time to time on the work and outputs of the Working Group, and promote strong IDRL protocols throughout the region.
11. *To prepare* a Work Plan to guide the implementation of prioritized activities designed to achieve the objectives outlined herein over the short, medium and long-term, in a manner that contributes towards improving the regional regulatory framework for the facilitation and coordination of international disaster relief in the Caribbean.
12. *To review and provide feedback* on any Terms of References developed for any consultants contracted by IFRC from time to time to provide technical support to the Working Group.
13. *Provide progress updates* on outputs and outcomes of the WG to the identified CDEMA TAC Standing Committee.

## **5. EXPECTED OUTPUTS AND OUTCOMES**

### **5.1. Working Group Outputs**

The expected outputs of the work of the IDRL Working Group shall include:

1. Consultant's Terms of Reference

2. Working Group Work Plan
3. Proposed revisions to International Humanitarian Assistance guidelines and provisions for inclusion in the CDM Model legislation and relevant regulations.
4. Recommendations and guidance to inform CDEMA's Blueprint review currently underway.
5. Recommendations for aligning regional standards and guidelines related to different aspects of IDR regulation with proposed IHA guidelines and provisions, based on proposals made by the Technical Expert/Consultant.
6. Promotion of the adoption of the revised IDRL components as part of CDEMA's Model law and regulations among CDEMA Participating States.
7. Report(s) with recommendations for improving specific aspects of IDRL regulation in the region, based on the deliberations of the Regional IDRL Working Group and its sub-committees.

## **5.2. Contribution to High-Level Outcomes**

The efforts of the Working Group are designed to contribute to (but not unilaterally achieve) the following high-level outcomes

1. An increase in the number of countries with CDM laws, regulations or policies that incorporate IDRL provisions.
2. An improvement in regional capacity to develop laws, policies and plans that address the issues that typically arise in relation to international disaster relief.

## **6. COMPOSITION AND PROCEDURES**

### **6.1. Composition**

The Working Group will be comprised of a core group of no more than 12 members, including:

- Two representatives from CDEMA CU (legislation and preparedness and response)
- One representative from the IFRC
- A consultant contracted by IFRC to support the working group from time to time in an ex officio capacity.
- Representatives of National Disaster Organisations of three selected CDEMA Participating States- Saint Vincent and the Grenadines, Dominica and Guyana
- Representatives of Red Cross National Societies from three CDEMA Participating States- Belize, Saint Vincent and the Grenadines, and Dominica.

- Representatives of three regional organisations or working groups representing the sectors that work directly with processing international disaster relief- Caribbean Customs Law Enforcement Council (CCLEC), The Port Management Association of the Caribbean (PMAC) and the The Caribbean Community (CARICOM) Implementation Agency for Crime and Security (IMPACS)

## **6.2. Chair and Deputy Chair**

The Committee shall be chaired by a representative of a CDEMA Participating State. The Chair of the Committee shall have a good understanding of the legal, regulatory and logistical issues impacting international disaster relief. The Chair shall be selected at the first meeting and will remain the same for the duration of the Group and shall be responsible for:

- i. the conduct of the meeting
- ii. ensuring that an accurate record of the discussions and decisions of each meeting are prepared and forwarded to all members
- iii. ensuring adequate follow-up on the undertakings of the members of the Working Group

A Deputy Chair shall also be selected to assist with the proceedings of the Working Group. The Deputy Chair will remain the same for the duration of the Group and shall be responsible for:

- i. assisting the Chair with general duties
- ii. serving as Chair in the event of the absence of the Chair

## **6.3. Procedural Rules**

The Working Group will set any administrative rules necessary for the government of its own proceedings. The Working Group may co-opt additional members from time to time on a permanent or temporary basis, as necessary.

## **6.4. Sub-Committees**

The Working Group will establish sub-committees as required to address subject matter related to IDRL. Representatives to these groups may include appointees from ports, customs, immigration, taxation, standards, health, telecommunications and other key sectors involved in IDRL, as well as any regional organisations that address these issues from time to time.

## **6.5. Stakeholders and Observers**

The Working Group shall from time to time convene a wider group of stakeholders and observers from across the region, for discussion and feedback on pertinent issues. Members of this group may include:

- Representatives from NDOs and/or Attorneys-General from Participating States
- Representatives of quasi-governmental or non-governmental organisations within the region, including academic and humanitarian NGOs groups that have a regional presence.
- Representatives of selected CARICOM organisations (e.g. CARPHA or CROSOQ)
- Representatives of other regional or sub-regional groups (e.g. Caribbean Airports Authority, The Eastern Caribbean Civil Aviation Authority [ECCAA]).
- Other persons or organisations invited by the Working Group, based on their experiences and expertise in relation to the issue being discussed.

## **7. TIMEFRAME**

The IDRL Working Group shall meet for an initial two-year period, at the end of which the Terms of Reference and composition of the Working Group shall be reviewed by CDEMA and IFRC, along with the results achieved or progress made towards achieving results.

## **8. MEETINGS & DELIBERATIONS**

The working group and/or its sub-committees shall meet virtually on a bi-monthly basis to:

- Review relevant presentations, including research findings compiled by the Consultant;
- Agree parameters for its deliberations under recommendations;
- Review submissions from various members and other interested parties;
- Review academic or other research reports and other relevant data;
- Discuss the substantive and procedural issues emanating from its objectives;
- Discuss and achieve consensus positions on its proposed recommendations.

## **9. SECRETARIAT & TECHNICAL SUPPORT**

### ***9.1. Secretariat Support***

Secretariat functions for the Working Group, including notetaking, circulation of documents, arrangement of meetings and maintaining records of discussions and decision making, shall be jointly undertaken by CDEMA & IFRC.

### ***9.2. Technical Support***

The IFRC shall use its best efforts to provide support through retaining and assigning consultant(s) or other technical experts to provide technical support to the Working Group, based on needs identified from time to time. Through the technical support provided by the consultant/ IFRC technical support, the secretariat will:

- Prepare a Research Brief, summarizing key information, recommendations and lessons learned from previous IDRL and IHA research conducted within the region.
- Prepare and monitor the implementation of a Programme of Work to guide the activities of the IDRL Working Group.
- Compile Recommendations, Progress Reports, Policy Briefs, Concept Notes and other documents to synthesize the deliberations and consensus of the Working Group and its sub-committees on specific IDRL issues, from time to time.
- Provide other technical support to Working Group meetings and related events.

The Technical Expert/Consultant will be an experienced professional in the field of International Disaster Law, and will provide support to building the knowledge base of the Working Group, in order to facilitate the articulation of recommendations.

## **10. SOURCE DOCUMENTS**

The regional IDRL working group shall be guided by benchmark documents developed by CDEMA & IFRC on IHA, IDRL and related disaster law and disaster coordination issues. These benchmark documents shall include:

- The CDEMA Model Law and Comprehensive Disaster Management Policy.
- Reports, recommendations and technical outputs of the Blueprint review process.
- The IFRC Model Law, Checklist and other resource documents on IDRL

In addition to these benchmark documents, the working group shall from time-to-time review draft bills, policies and plans developed by various countries in the region that include or touch on international humanitarian relief, as well as research reports prepared by IFRC on the status of IDRL laws in different jurisdictions within the region.



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