

**Power of humanity**

33rd International Conference  
of the Red Cross and Red Crescent  
9-12 December 2019, Geneva



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OF THE RED CROSS AND RED CRESCENT**

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**Climate-smart disaster laws and policies that leave no one behind**

**DRAFT ELEMENTS OF RESOLUTION**

March 2019

## Background

The draft elements of the proposed resolution on “Climate-smart disaster laws and policies that leave no one behind” seek to give an outline of the possible substance, without providing a definitive text for the proposed resolution.

Each section is followed by a rationale explaining why it would be useful to include such a paragraph in the resolution.

This document is being shared for consultation with the members of the International Conference in order to gather a first round of comments and feedback and to gain an initial understanding of whether the proposed approach on the substance would be acceptable and garner consensus.

When providing comments and feedback on this document, please consider the following questions:

- Do you agree with the proposed elements for the preambular and operative paragraphs of the proposed resolution?
- Are there any elements that are missing or should be included in the resolution?

Detailed comments on the wording of the draft elements of this resolution are not expected at this stage. There will be opportunity to comment on specific wording at a later stage, once the “zero draft” of the resolution is available.

## Introduction

Despite global advances in the reduction of disaster mortality, disasters arising from natural hazards continue to be one of the main threats to human security worldwide. As noted in the IFRC’s 2018 *World Disasters Report*, an estimated two billion people have been affected by disasters over the last ten years, over 95% of which were weather-related. With the continuing influence of climate change on extreme events (as described in the Intergovernmental Panel on Climate Change’s recent Special Report on the impacts of global warming of 1.5 °C), the importance of building resilience and preparedness will continue to be critical.

This must include legal preparedness. A well-functioning national disaster risk management (DRM) system requires a strong legal basis to ensure clarity in responsibilities, prioritization of activities, assignment of resources and coordination. This is critical not only in the midst of an emergency, but also for longer-term projects aimed at disaster risk reduction, resilience building, climate change adaptation, preparedness and recovery.

The International Conference of the Red Cross and Red Crescent has recognized the need to pay greater attention to the role that law can play in effective DRM at its last four regular sessions (2003, 2007, 2011 and 2015) and has consistently encouraged the States party to the Geneva Conventions to take relevant action, inviting National Societies and the IFRC to support them. Past themes have included the facilitation and regulation of international disaster response, legislation for disaster risk reduction and resolving regulatory barriers to post-disaster shelter, among others.

With over 75 technical assistance projects since 2007, National Societies (acting with IFRC support) have assisted their public authorities in multiple areas related to disaster law. Some 37 countries to date have adopted new laws or regulations, drawing on this support. Acknowledging this, the 31st and 32nd International Conference affirmed the role of the Conference as a “key international forum for continued dialogue on the strengthening of

disaster laws and on recovery action in synergy with actions conducted by States and international organizations”.<sup>1</sup>

The 33rd International Conference will build on this tradition, with a focus on climate-smart approaches to domestic preparedness and response as well as ways that domestic disaster laws and policies can ensure that no one is left behind.

### A. Preambular section

The preambular paragraphs of the resolution “Climate-smart disaster laws and policies that leave no one behind” might:

- Note the importance of a future-oriented approach to disaster legislation to ensure readiness for tomorrow’s threats
- Note the importance of effective disaster laws for meeting relevant goals of the 2030 Agenda and the Sustainable Development Goals, the Sendai Framework and adaptation efforts related to the Paris Agreement
- Welcome progress on the themes of previous International Conference resolutions on disaster law, in particular by States that have made use of the “Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance” (also known as the “IDRL Guidelines”) (2007) and the “Checklist on law and disaster risk reduction” (2015) to strengthen their laws
- Welcome the Movement’s new partnerships in this area, particularly with regional organizations, with WHO on Emergency Medical Teams and with the WTO on trade issues in disasters, and peer support in disaster law
- Note the findings of IFRC research on the role of law in minimizing sexual and gender-based violence and in supporting child protection in disasters.

### Rationale

The importance of strong legislation for disaster risk reduction (DRR) was highlighted as an aspect of “Priority 1” of the Hyogo Framework for Action relating to “ensuring that disaster risk reduction is a national and local priority”. This was reinforced in the Sendai Framework for DRR adopted in 2015 in “Priority 2” concerning risk governance. In addition, the Paris Agreement aims to strengthen the global climate change response by increasing the ability of all to adapt to adverse impacts of climate change and foster climate resilience, requiring all parties to engage in adaptation planning and implementation through National Adaptation Plans among other things. Furthermore, the UN’s 2030 Agenda recognizes the essential role of legislation in ensuring accountability for the effective implementation of the adopted commitments. Among the numerous references to climate-related disasters contained in the 17 Sustainable Development Goals, SDG 1.5 stresses the need to “build the resilience of the poor and those in vulnerable situations and reduce their exposure and vulnerability to climate-related extreme events and [...] environmental shocks and disasters”.

The most recent resolution on disaster law was adopted by the International Conference in December 2015: [Resolution 6](#) on strengthening legal frameworks for disaster response, risk reduction and first aid. With regard to international disaster response law (IDRL), the resolution called for a renewed commitment to integrate the IDRL Guidelines into domestic rules and procedures and to accelerate progress in developing the rules base for

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<sup>1</sup> [Resolution 7](#), Strengthening normative frameworks and addressing regulatory barriers concerning disaster mitigation, response and recovery, 31st International Conference of the Red Cross and Red Crescent, Geneva, 2011; [Resolution 6](#), Strengthening legal frameworks for disaster response, risk reduction and first aid, 32nd International Conference of the Red Cross and Red Crescent, Geneva, 2015.

international response. On DRR, the resolution recognized the “Checklist on law and disaster risk reduction” described below as a useful assessment tool for States and called on them to use it with support from National Societies, the IFRC, UNDP and other partners. Finally, the resolution also called for States to assess whether their laws are supportive of first aid training and provision.

## **B. First operative section**

The first operative paragraphs of this resolution could encourage States to strengthen domestic legislation and policy to ensure effective and climate-smart disaster risk management, including by:

- Recognizing the new “Checklist on law and disaster preparedness and response” as a non-binding and useful tool and encouraging interested States to use it, with support as appropriate from their National Societies, to identify ways in which to strengthen their relevant laws
- Highlighting the importance of integrating climate change adaptation and disaster risk management efforts
- Including the integration of innovations, such as forecast-based financing and the increased use of cash and vouchers, in DRM systems and the use of technology to support these activities
- Promoting strong community engagement in decision-making related to DRM
- Reiterating the importance of strong laws and policies on facilitation and regulation of international disaster relief and on domestic risk reduction.

## **Rationale**

The IFRC has been providing technical support to governments on the development of laws and policies for effective disaster risk management governance for over ten years. Its focus was initially directed towards preparedness for international relief (IDRL) and, more recently, disaster risk reduction (DRR). The basis for the technical advice of the IFRC stems from two primary tools, both based on country, regional and global evidence-based research and consultations, together with comparative analysis. They are:

- The “Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance” (known as the “IDRL Guidelines”)<sup>2</sup>
- The “Checklist on law and disaster risk reduction” and its accompanying Handbook.<sup>3</sup>

In 2017–2018, the IFRC undertook a literature review on legal issues in domestic preparedness and response as well as a global comparative analysis of country case studies to identify key areas of concern. Drawing on the findings of this study and further consultation, the IFRC is now in the process of developing a “Checklist for domestic preparedness and response to disasters”. The new checklist will provide concrete guidance to law-makers and policy-makers as well as National Societies and other interested stakeholders on key issues that must be considered in relation to preparedness and response in disaster laws (such as institutional arrangements, risk financing, disaster-related human mobility, protection of persons in disasters (also addressed in section C below), regulatory barriers to shelter, legal facilities including forecast-based financing and cash

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<sup>2</sup> IFRC, *Introduction to the Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance* (IDRL Guidelines), IFRC, Geneva, 2007, rev. 2011.

<sup>3</sup> IFRC and UNDP, *Checklist on law and disaster risk reduction*, IFRC/UNDP, Geneva/New York, 2014; and IFRC and UNDP, *Handbook on Law and Disaster Risk Reduction*, IFRC/UNDP, Geneva/New York, 2014.

programming, the auxiliary role of NSs and contingency planning). A pilot version of the checklist will be discussed in a series of consultations to be conducted in 2019. It is expected that the final checklist will be submitted to the Conference for recognition<sup>4</sup> and that the Conference will reiterate the importance of the existing above-mentioned tools for effective disaster risk management governance.

In relation to the issues of forecast-based action and financing needs, such as the use of cash, it is proposed that governments be asked to support at-risk communities so that they can take early action before a disaster strikes, based on specific weather and climate forecast thresholds and risk analysis, and to institutionalize forecast-based action and financing needs at all levels, including in laws and policies. Furthermore, it is proposed that governments be asked to place communities at the centre of the development and enhancement of forecast-based early action and preparedness for response systems to ensure that “actionable” early warning information reaches communities, that people-centred comprehensive procedures are in place and that resources are available for actions in anticipation of potential disaster events.

### **C. Second operative section**

The second section of this resolution could recognize the essential role of legal and policy frameworks for the protection and inclusion of marginalized groups in disaster preparedness and response activities and in ensuring that no one is left behind, notably by:

- a. Integrating gender considerations and protection from sexual and gender-based violence
- b. Ensuring an appropriate focus on those most vulnerable and most at risk in climate law and policy documents, including National Adaptation Plans
- c. Ensuring that appropriate steps are taken so that no one is left behind in disaster preparedness and climate change adaptation efforts, including women, children (including unaccompanied and separated children), older persons, persons with disabilities, migrants, racial and ethnic minorities, indigenous groups and sexual and gender minorities.

### **Rationale**

In many countries, the legal frameworks for disaster risk management tend to focus on establishing institutional systems and roles and responsibilities, without very much specific language about the affected populations themselves.<sup>5</sup> Yet, ensuring the most vulnerable, at-risk or disaster-affected populations have access to assistance, security and protection is crucial to effective disaster risk management.

In 2018, the IFRC commissioned a literature review that addresses the topic of the right of vulnerable groups to assistance, security and protection (to be published). The results of the review show that there are significant legal issues in the humanitarian and disaster risk management sectors, and there is a need to ensure that these areas are adequately addressed and prioritized when considering the development of domestic legal frameworks

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<sup>4</sup> This would follow logically from Resolution 6 of the 32nd International Conference which encourages National Societies to continue to provide advice and support to their governments in the development and implementation of effective legal and policy frameworks relevant to disaster and emergency management. Furthermore, a number of stakeholders suggested, in consultations related to the *Checklist on law and disaster risk reduction*, that similar checklists should be developed with regard to other aspects of disaster risk management and requested the IFRC to provide advice on domestic preparedness and response.

<sup>5</sup> IFRC, *Legislative Issues in Disaster Management and Epidemic Response*, 2012, p. 36.

for disaster preparedness and response. Moreover, as documented in the 2018 *World Disasters Report*, global humanitarian response is currently leaving millions of people behind, whether because the scope of relief action is too narrow, their specific needs are not sought out, they are considered too hard to reach or they fall through the cracks.

One of the important gendered protection challenges is protection from sexual and gender-based violence (SGBV), as highlighted in new research published by the IFRC in 2017 in follow-up to Resolution 3 of the 32nd International Conference, which examined the role of law and policy in addressing gender equality and protection from SGBV in disasters. This research stemmed from the recommendations of a previous study entitled *Unseen, unheard: Gender-based violence in disasters*.<sup>6</sup>

In 2018, the IFRC's *World Disasters Report* surveyed a number of situations and groups of people who have tended to be left behind in humanitarian action, including persons with disabilities and older persons. In 2018 and 2019, the IFRC commissioned additional research and comparative analysis of laws on the protection of persons in disasters, including the protection of children, and we will collect a number of good practice examples and put forward recommendations to ensure a positive legal environment. This research will review existing guidance,<sup>7</sup> and recommendations will be proposed based on internationally recognized best practices.

#### **D. Third operative section**

The third section of operative paragraphs of the resolution could recognize the advice and support provided by National Red Cross and Red Crescent Societies, with the help of the IFRC, in the area of disaster law and encourage them to continue to develop research and recommendations. In particular, as in previous years, the resolution could:

- Reaffirm cooperation between States and National Red Cross and Red Crescent Societies, acting as auxiliaries to their government in the humanitarian field, in the development, dissemination and implementation of effective legal and policy frameworks relevant to climate-smart disaster risk management and encourage National Societies to continue to provide advice and support to their governments in this area
- Mandate the IFRC to continue to develop further high-quality research and state-of-the-art recommendations in the area of disaster law
- Reaffirm the role of the International Conference as a key international forum for continued dialogue on the strengthening of disaster laws and on recovery action in synergy with actions conducted by States and international organizations.

#### **Rationale**

NSs, as auxiliaries to their government, are well positioned to work with the authorities to ensure laws and policies consider local needs and provide an enabling environment to build resilience. They have proven their worth as partners of choice for their governments when it comes to disaster and climate risk management law and policy development, including dissemination and implementation.

In 2018–2019, the IFRC undertook a research project for the effective integration of disaster risk reduction and climate change adaptation laws and policies into a single coherent

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<sup>6</sup> IFRC, *Unseen, unheard: Gender-based violence in disasters – Global study*, IFRC, Geneva, 2015.

<sup>7</sup> Such as the IFRC Position Paper “Protection and Assistance for Children on the Move”, IFRC, Geneva, 2017.

approach. The aim of this research will be to optimize the activities of national and local legislators and policy-makers regarding these different but interconnected issues and frameworks. The research's overarching goal will be to enhance coherence across laws, policies and actions by providing evidence-based findings and developing effective tools to drive their joint implementation. The instrumental outcome will consist in the creation of thematic queries for practitioners, following a country-based global survey. The new recommendations will be integrated into the programming of the IFRC's Disaster Law Programme and submitted to interested governments in order for them to self-assess their national legal systems. The research will highlight good practices as well as shortcomings, providing original research materials for the elaboration and dissemination of positive strategies for the adoption and implementation of new integrated laws, policies and practices.