



International Federation
of Red Cross and Red Crescent Societies



The Checklist on Law and Disaster Preparedness and Response

Zero draft for consultation

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Comments on the draft *Checklist on Law and Disaster Preparedness and Response* are sought from disaster risk management experts by 31 August 2019. Please send your comments to disaster.law@ifrc.org

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About the IFRC Disaster Law Programme

The International Federation of Red Cross and Red Crescent Societies (**IFRC**) Disaster Law Programme (**DLP**) seeks to reduce human vulnerability by promoting effective legal frameworks for disaster risk reduction and legal preparedness for disasters. It works in three main areas: collaboration with National Red Cross and Red Crescent Societies and other partners to offer technical assistance to governments on disaster law issues; building the capacity of National Societies and other stakeholders on disaster law; and dissemination, advocacy and research. E-mail: disaster.law@ifrc.org

Checklist on Law and Disaster Preparedness and Response

1. Do your country's laws establish a strong institutional framework for disaster preparedness and response?
2. Do your country's laws support the implementation of an effective disaster risk financing strategy?
3. Do your country's laws provide clear mandates and resources to undertake contingency planning, education and drills?
4. Do your country's laws facilitate effective early warning and early action to mitigate the impacts of disasters?
5. Do your country's laws establish 'states of emergency' and 'states of disaster' that are tailored and proportionate to differing degrees and types of risk?
6. Do your country's laws provide necessary legal facilities for disaster preparedness and response?
7. Does your country have a comprehensive legal and policy framework for addressing disaster-related human mobility?
8. Do your country's laws and policies contain measures to address common problems that arise in relation to housing, land and property rights during disasters?
9. Do your country's laws and policies contain measures to ensure that vulnerable groups are included in, and protected by, disaster preparedness and response activities?
10. Do your country's laws and policies contain measures to promote quality and accountability, and to prevent fraud and corruption, in disaster preparedness and response?

Introduction

Disasters cause massive human suffering and economic loss. In 2018 alone, 315 climate-related and geophysical disasters events were recorded in the International Disaster Database with 11,804 deaths, and over 68.5 million people affected across the world and causing US\$131,7 billion in economic damages¹. Despite continuing improvements in domestic disaster preparedness and response systems over many decades, countries still face many challenges in managing the human and economic impacts of disasters, a phenomenon likely to worsen with the increasing impact of climate change.

Laws, policies and institutional arrangements have a crucial role to play in supporting all aspects of disaster risk management including disaster risk reduction, preparedness, response and recovery, as well as facilitating international assistance when the scale of a disaster exceeds national capacities. This has been recognised in key international instruments, such as the *Sendai Framework for Disaster Risk Reduction (Sendai Framework)*.

The IFRC has been working intensively on these issues for many years and have developed a number of important guidelines and tools to support decision-makers understand international standards and legal frameworks, improve domestic legislation and address the legal barriers that can stand in the way of effective risk reduction and disaster management. Key among these include:

- [Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance \(the IDRL Guidelines\)](#)
- [IDRL Model Act](#) and [Model Emergency Decree](#)
- [Checklist on the Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance \(IDRL Checklist\)](#)
- [Checklist on Law and Disaster Risk Reduction \(DRR Checklist\)](#) and [Handbook on Law and Disaster Risk Reduction, developed jointly with UNDP](#)

Following numerous requests from National Red Cross Red Crescent Societies (**National Societies**), IFRC embarked on a project to develop a Checklist on Law and Disaster Preparedness and Response (**DPR Checklist**), to aid them in providing technical assistance to their authorities to develop laws relating to disaster preparedness and response, which were not covered in previous tools.

This Checklist is supported by a Global Synthesis Report on Law and Disaster Preparedness and Response (**Synthesis Report**), which provides the detailed legal basis and practical examples which form the basis of the Checklist questions. The Synthesis Report was informed by two specific inputs:

- **Literature Review:** a literature review on 10 topics that are integral to disaster preparedness and response, which identifies and briefly summarises the key resources on each topic including international legal materials, academic books and articles, reports and case studies, and existing guidelines, standards and recommendations; and
- **Desktop Reviews:** desktop reviews of the domestic laws relevant to disaster preparedness and response from 20 sample countries² which reflect a broad spectrum of geographic regions, disaster risks and human development levels.

The Synthesis Report, Literature Review and Desktop Reviews will soon be published on the Disaster Law Program website www.ifrc.org/dl.

¹ CRED, Disasters 2018: Year in Review, www.cred.be

² The 20 sample countries are: Australia, Brazil, Colombia, Ecuador, Finland, Italy, Jordan, Kazakhstan, Kenya, Korea, Kyrgyzstan, Madagascar, Mexico, Palestine, Paraguay, Philippines, South Africa, Senegal, the United Kingdom and Vietnam.

Purpose of the checklist

The DPR Checklist provides a prioritized list of ten key questions that lawmakers, implementing officials, and those supporting them, such as National Societies, need to consider in order to ensure that their laws provide the best support for DRP. It covers not only dedicated disaster risk management (**DRM**) laws but also other sectoral laws and regulations that are critical for managing essential functions such as institutional arrangements across different levels of government, finance and resource management, legal facilities and protection.

Specifically, the DPR Checklist is designed to:

- Provide clarity on a number of key legislative issues impacting the timeliness and effectiveness of DPR activities;
- Serve as an assessment tool to guide a review process of national and local level laws and policies for enhancing DPR; and
- Provide guidance on how to improve national legal and policy frameworks and bring them in line with existing international standards, including the *Sendai Framework*.

It is important to recognise the many variations in the structure of legal and policy frameworks between different countries, thus the DPR Checklist is not prescriptive in the nature of the amendments or reforms required but rather highlights the legislative measures issues to be addressed. It also offers suggestions for broader sectoral instruments that should be considered as part of the review process and notes other useful standards and guidance documents already developed in different areas.

How and when to use the checklist

The DPR Checklist can be used in several ways.

- Firstly, it is intended to be used by national authorities to review and strengthen the relevant national laws, policies, plans and procedures which relate to disaster preparedness and response at the domestic level.
- Secondly, the DPR Checklist can be used as part of preparedness planning, simulation exercises, or to inform operations of the legal barriers that may be encountered.
- Thirdly, the DPR Checklist can also be used as a stand-alone product, to guide discussions and consultations in this area, whether by governments, local authorities, National Societies or local and international actors.

The considerations and recommendations contained in the DPR Checklist are applicable and warrant consideration by all actors who play a role in disaster preparedness and response.

More specifically the DPR Checklist will help countries to identify:

The **strengths and gaps** in the legal framework

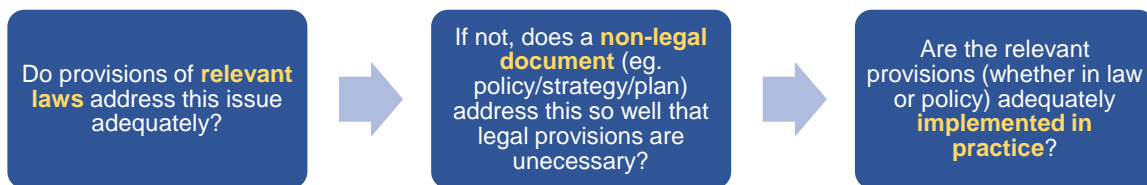
If a greater focus is needed on **implementation**

If **drafting or revising** legislation is needed

The methodology for using the DPR Checklist should be tailored to each country context and its respective needs. Though one individual or organisation may initiate the process, comprehensively answering the DPR Checklist questions will require a thorough analysis and consultative process involving a range of stakeholders. In some cases, existing mechanisms such as national platforms for disaster management, risk reduction or climate change, may choose to undertake this review, allowing different members to take part in the research and analysis. Committees, project teams, and programmes targeting DPR may also choose to incorporate the use of the DPR Checklist as part of their activities.

How to answer the Checklist questions

The DPR Checklist consists of ten broad questions that will guide a comprehensive analysis for a country's legal framework for DPR. This section provides a brief rationale for each question, together with a list of possible sectoral laws and policies to include in the review process, a list guiding sub-questions and relevant references other international standards and guidance. With regard to each of the issues that DPR Checklist users are invited to consider, it is recommended that they undertake the following three-step analysis:



In order to determine the overall assessment of each question, the results for each issue will need to be weighed against each other in light of the local context. Particular needs and gaps that are identified through the assessment of the issues can be flagged for further consideration.

Checklist questions

1. Do your country's laws establish a strong institutional framework for disaster preparedness and response?

Effective disaster preparedness and response requires a strong institutional framework. Each disaster preparedness and response institution should have a mandate that clearly describes its roles and responsibilities, and how these relate to other institutions' roles and responsibilities. If disaster preparedness and response institutions exist at the sub-national level, the law should grant them sufficient powers and resources to fulfil their mandates.

The law should reflect an all-of-society and all-of-State approach to disaster preparedness and response. It should facilitate the participation of all relevant governmental actors at all levels of government including sectoral agencies (e.g. health and housing authorities), the military and the police, meteorological institutions, human rights institutions and ombudsmen. Further, it should facilitate the participation of all relevant non-governmental actors, including civil society organisations, National Red Cross and Red Crescent Societies, the private sector, meteorological institutions, academic and research institutions, and, crucially, representatives of vulnerable groups.

Non-governmental actors should be granted the highest degree of participation and responsibility that is appropriate to their resources and capacity. Similar to governmental institutions, the law should clearly outline the roles and responsibilities of non-governmental actors. In order to ensure a coordinated approach to disaster preparedness and response, the law should establish coordination mechanisms that include all relevant governmental and non-governmental actors. Coordination bodies should meet regularly, including when there is no active response.

If feasible and appropriate, disaster laws should include key humanitarian principles and human rights that are relevant to disaster-affected person. This includes relevant human rights protections (i.e. rights to food, water, housing), a right to humanitarian assistance, a prohibition on discrimination in all disaster preparedness and response activities, and a recognition of the specific needs of vulnerable groups.

To answer this question, consider the following:

A. Guiding sub-questions

- i. Institutional mandate
 - a. Does the law create institutions that have a clear mandate for disaster preparedness and response?
 - b. Does the law clearly set out the roles and responsibilities of disaster preparedness and response institutions?
 - c. When viewed collectively, do the mandates of disaster preparedness and response institutions encompass:
 - a. all jurisdictions, from the local to the national level;
 - b. all types of hazards, including both slow onset and sudden hazards; and
 - c. all types of disaster management functions (policy, operations etc)?
- ii. Sub-national institutions
 - a. Does the law establish disaster preparedness and response institutions in sub-national jurisdictions?
 - b. Does the law grant sub-national institutions adequate powers and resources to implement their mandates for disaster preparedness and response?
- iii. Participation
 - a. Does the law create multi-stakeholder institutions for disaster preparedness and response such as consultation and coordination bodies?
 - b. Does the law mandate the inclusion of *all* types of stakeholders in multi-stakeholder institutions?

- c. Does the law clearly set out the roles and responsibilities of non-governmental actors in disaster preparedness and response?
 - d. Does the law grant non-governmental actors the highest degree of participation and responsibility that is consistent with their resources and capacity?
 - iv. Coordination
 - a. Does the law establish mechanisms for coordinating disaster preparedness and response activities?
 - b. Does the law mandate that coordination mechanisms include representatives from all relevant governmental and non-governmental actors?
 - c. Does the law require coordinating bodies to meet regularly, including when there is no active response operation?
 - d. Does the law establish coordination mechanisms for all types of disasters, including nuclear and health emergencies?
 - v. Principles and protections
 - a. Do disaster laws provide, or import by reference, relevant human rights protections?
 - b. Do disaster laws provide, or import by reference, rights to humanitarian assistance and to essential relief supplies?
 - c. Do disaster laws recognise the specific needs of vulnerable groups in disaster preparedness and response?
- B. Check laws and policies related to:
- Disaster management / emergency management / civil protection / humanitarian assistance
 - Human rights / anti-discrimination / humanitarian assistance
 - Health emergencies
 - Nuclear emergencies

See also Synthesis Report on Law and Disaster Preparedness and Response, Chapter 1, Section G.

2. Do your country's laws support the implementation of an effective disaster risk financing strategy?

Adequate funding is a critical requirement to support disaster preparedness and response activities. Yet too often, governments, organisations and communities lack the necessary resources to cope with the growing number, frequency and scale of disasters they face. The international donor community is also facing challenges meeting critical funding gaps and resources tends to be prioritised for immediate response, rather than longer term but more cost-effective measures to prevent or reduce the risk of disasters occurring.

To make the best use of limited resources, governments should develop a comprehensive disaster risk financing strategy which encompasses a range of measures to suit different levels of risk, spanning the full spectrum of disaster prevention through to recovery, and which also facilitate access to external financial risk mechanisms:

- For the lower cost/risk layer, which might include small scale or frequent disaster events, funding measures may include allocations from national and local government budgets, emergency reserves, special funds and national risk finance schemes;
- For the medium cost/risk layer, which might involve larger scale, less frequent disaster events, measures may include contingent credit, loans and grants from external sources; and
- For the high cost/risk layer, such as rare but extreme disaster events, funding mechanisms may include international risk transfer instruments, such as risk pooling schemes and regional or global insurance schemes.

Crucially, disaster risk financing strategies should also be supported by legislation which enables the funding streams to be accessed in an efficient and timely manner with adequate safeguards to ensure transparency and accountability. Law and policy-makers should also consider how legislation can better support the growing use of cash transfer programming (CTP) in emergency operations, forecast-based financing (FbF) which enables the early release of response funding ahead of an event occurring, and Adaptive Social Protection which uses existing social security schemes to channel financial assistance to vulnerable people before and after disaster events. Governments seeking to benefit from regional or international insurance or risk pooling schemes will likely need to undertake an extensive legal review with potential reforms across a wide range of areas in order to meet eligibility requirements of insurers.

To answer this question, consider the following:

A. Guiding sub-questions

- i. National and local budget allocations
 - a. Does the law mandate the allocation of funding from the national annual budget for disaster situations, and if so, does it:
 - i. allocate sufficient funding to meet, as a minimum, the ongoing costs of institutional arrangements and low level disaster risks;
 - ii. identify separate funds for risk reduction, preparedness and response;
 - iii. allocate funding to local government (or require local governments to allocate funds); and
 - iv. allocate funding for use by communities?
 - b. Does the law establish special funds or reserves disaster situations, and if so, does it:
 - i. identify separate funds for risk reduction, preparedness and response;
 - ii. allow contributions from external sources?
 - c. Does the law establish appropriate institutional arrangements with clear roles and responsibilities for the management of DRM funds?
 - d. Does the law provide clear and streamlined procedures for the rapid release of funding in the event of a disaster?
 - e. Does the law provide adequate transparency and safeguards against the misuse of funds?

- ii. National disaster risk financing
 - a. Does the law require the conduct of comprehensive pre- and post-disaster risk assessments at all levels, national to local?
 - b. Does the law establish and facilitate disaster risk financing mechanisms which support the costs of DRM through a combination of public and private sector sources, such as disaster insurance or reinsurance schemes and risk mitigation incentive schemes (taxes, levies, exemptions, subsidies, grants)?
 - iii. International grants, loans and credit
 - a. Does the law establish criteria for receiving international funds through grants, loans and contingent credit to support DRM activities?
 - b. Does the law facilitate receiving international funds by establishing robust financial management, accountability, reporting and audit systems?
 - iv. International risk financing
 - a. Does the law provide for the participation in international risk financing schemes, such as risk pooling, regional or global insurance or reinsurance schemes?
 - b. Does the law require a comprehensive disaster and financial risk analysis as a pre-requisite for participating in international risk financing schemes?
 - c. Does the law facilitate access to international risk financing schemes by establishing robust DRM, institutional, financial, accountability, reporting and audit systems?
 - v. Financial response tools
 - a. Does the law provide for and facilitate the use of CTP as a tool for DPR activities, including shelter activities?
 - b. Does the law provide for and facilitate the use of forecast-based financing as a means of enabling early action in the likely event of a disaster?
 - c. Does the law provide for and facilitate the adaptation of social welfare/social service cash transfer mechanisms for meeting the DPR needs of vulnerable groups?
- B. Check laws and policies related to:
- Disaster management / emergency management / civil protection / humanitarian assistance
 - Finance
 - Banking
 - Insurance
 - International monetary transfers
 - Social security/social welfare
 - Anti-corruption, fraud
 - Administration
- C. Refer directly to the following guidance on best practice
- Caribbean Disaster and Emergency Management Agency, *Model Comprehensive Disaster Management Legislation and Regulations* (CDEMA Model), 2013.
 - World Bank, ADB, *Assessing Financial Protection against Disasters: A Guidance Note on Conducting a Disaster Risk Finance Diagnostic*. (Manila, ADB and WB; 2017)

See also Synthesis Report on Law and Disaster Preparedness and Response, Chapter 2, Section E.

3. Do your country's laws provide clear mandates and resources to undertake contingency planning, education and drills?

Contingency planning is one component of a much broader emergency preparedness process and is included within established processes such as disaster recovery planning and policy creation. Contingency planning should be undertaken when there is a high probability that a disaster may occur, or when there is evidence of recurring natural disasters. Contingency plans do however recognise there is always a degree of residual risk that either cannot be eliminated at all or cannot be removed in a reasonable way. Sound contingency plans should therefore be based on risk analysis that recognises the known residual risk and are also sufficiently adaptable to deal with unexpected events.

Legislation related to contingency planning should provide a clear mandate for and allocate resources to the development of these plans. It should also assign roles and responsibilities for the principal tasks to be accomplished in national emergency situations. Further, legislation should ensure provision of necessary resources to guarantee the activities stipulated in the contingency plan. The legislation should also reflect inclusivity in the development of contingency plans. Strong contingency plans require input from all relevant sectors at national and local level (inclusive of the community) as well as both public and private sector depending on the context and the nature of the disaster being planned for. Additionally, in the understanding that restoration of social links soon after a disaster is vital for enhancing resilience in communities, legislation should include provision for family tracing and reunification processes.

A crucial component in preparedness is awareness at all levels of society, including school-going children. This could be awareness on the prevalent disaster risks, safety and emergency protocols and plans, as well as organisations at the local and national level tasked with providing relief support in the event of a disaster. This awareness can be created through education programmes at elementary, secondary and tertiary levels or through short training programmes targeted at all age groups and professionals, including simulations of emergency protocols in action.

Legislation should define the entities bearing the primary responsibility for offering these programmes at all levels of society; either the government, local institutions, universities, private organizations and/or the National RC Society. The legislation should also provide for and set out the minimum standards and content in line with international best practice for training programmes and drills for professionals, including disaster and rescue and relief personnel, and local community as well as education programmes for school going children. This should include mandatory first aid training. These training and education programmes should seek to provide the target audience with information on what to expect during the disaster, and what their rights, roles and responsibilities are before, during and after a disaster. The training programmes should also be designed to reflect the fact that it is not a one-time event by providing refresher courses for persons trained.

Legislation should also provide for the prevention and attention of emergencies and disasters in school, including the creation of the school committee as well as school brigades, school risk analysis, action plan and school drills against possible threats. Furthermore, legislation should also provide for simulation exercises and drills involving professional rescue and relief personnel and the community respectively. Drills enforce the information shared to the community on the contingency plans through a practical exercise. Simulation exercises as well not only practically demonstrate to the rescue and relief personnel their roles during the disaster, they also offer a chance to evaluate the practicality of the contingency plan.

To answer this question, consider the following:

A. Guiding sub-questions

1. Contingency planning

- a. Do your country's laws provide clear mandates for government institutions to develop contingency plans?
 - i. If yes, are contingency plans prepared at all levels of government?

- ii. If yes, are contingency plans based on risk mapping and risk assessments?
 - iii. If yes, are family links issues addressed in contingency plans?
2. Education and drills
- a. Do your country's laws facilitate education and training on disaster preparedness, including first aid education?
 - b. Do your country's laws facilitate drills and other simulation exercises?
- B. Check laws and policies related to:
- o Constitutional laws
 - o Disaster management / emergency management / civil protection / humanitarian assistance
 - o Administration Laws
 - o Education
 - o Child Protection
 - o Risk Assessments / Risk Mapping / Monitoring / Evaluation
- C. Refer directly to the following guidance on best practice
- o International Federation of Red Cross and Red Crescent Societies, '*Disaster Response and Contingency Planning*' (2012)
 - o International Organization for Standardization, ISO 2230:2018: Emergency Management Guidelines for Incident Management (2018)

See also Synthesis Report on Law and Disaster Preparedness and Response, Chapter 3, Section D.

4. Do your country's laws facilitate effective early warning and early action to mitigate the impacts of disasters?

Since the mid-2000s, there has been growing international recognition of the importance of early warning systems (**EWS**) and early action to effective disaster response. Effective early warning systems have four key interrelated components: developing disaster risk knowledge through comprehensive hazard mapping and risk assessments; monitoring and forecasting hazards using high-quality equipment and accepted scientific methodologies; disseminating authoritative, timely, accurate and actionable warnings; and preparedness at all levels to respond to the warnings received. Each of the four components of early warning systems is vital: a failure in relation to any element can lead to failure of the system as a whole.

The concept of 'early warning early action' is now a fundamental tenet of disaster response. It refers to taking action *prior* to a hazard materialising on the basis of warnings, rather than responding only once the hazard materialises. The practical manifestation of 'early warning early action' is forecast based action (**FbA**) mechanisms that release funds and initiate early actions when a forecast event surpasses a pre-determined magnitude and probability (e.g. a 70% chance of a category 3 cyclone). The underlying rationale for FbA is that pre-emptive, rather than responsive actions, are generally more effective at mitigating the impacts of disasters, while also being more cost-efficient.

The positive results of pilot and small-scale forecast based action (**FbA**) programs warrants decision-makers to give serious consideration to whether, and how, to facilitate FbA through law and policy. Decision-makers should consider developing policies that formally adopt 'early warning early action' as a guiding principle of their disaster management systems and identify FbA mechanisms as a key tool for implementing this principle. Decision-makers should also consider mandating relevant governmental actors to develop FbA mechanisms. In general, decision-makers should strive to do this in a manner that integrates FbA into existing planning processes, rather than creating parallel processes.

Evacuation is an important and well-established form of early action that is already commonly addressed in domestic disaster laws and policies. A persisting gap is, however, that domestic laws and

policies often do not contain measures to ensure that people with impaired, limited or restricted mobility are assisted to evacuate. People that may require special assistance to evacuate include: persons with disability or illness; young children and older persons; prisoners; and impoverished or vulnerable groups that have low levels of access to private transport. Domestic laws and policies also often fail to adequately address the evacuation of domestic animals and livestock, which can directly endanger human life, and have detrimental psychosocial and economic impacts on disaster-affected populations. Evacuation plans should address both of these issues, in order to ensure the safety of people and their animals during disasters.

To answer this question, consider the following:

A. Guiding sub-questions

- i. Early warning systems
 - a. Does law and/or policy clearly set out the roles and responsibilities of all actors that are responsible for hazard mapping, risk assessments, monitoring and forecasting hazards, and generating and issuing warnings?
 - b. Does law and/or policy establish coordination mechanisms for the above-mentioned EWS actors?
 - c. Does law and/or policy establish standards for the systematic collection, sharing and assessment of risk information and data relating to hazards, exposures, vulnerabilities and capacities?
- ii. Disaster risk knowledge
 - a. Does law and/or policy mandate hazard mapping and risk assessments for all hazards in all geographical areas?
 - b. Does law and/or policy require risk assessments to address the exposure, vulnerability and capacity of at-risk people, infrastructure and economic sectors?
- iii. Monitoring and forecasting
 - a. Does law and/or policy mandate monitoring and forecasting for all hazards in all geographic areas?
 - b. Does the law allocate sufficient funding to allow monitoring and forecasting agencies to obtain and maintain high quality equipment?
- iv. Early warnings
 - a. Does law and/or policy require the agencies that are responsible for generating warnings to include impact information and clear practical guidance?
 - b. Does law and/or policy establish standard processes for generating and issuing warnings?
 - c. Does law and/or policy require the agencies that are responsible for issuing warnings to:
 - o use a wide variety of communication channels to disseminate warnings;
 - o implement feedback mechanisms to verify receipt; and
 - o implement plans to reach the most at-risk and remote populations?
 - d. Does law and/or policy establish community early warning programs?
 - e. Does the law mandate private telecommunications companies to disseminate warnings upon request and at no charge?
- v. Early action
 - a. Does law and/or policy establish 'early warning early action' as a guiding principle for disaster management?
 - b. To the extent that law and/or policy mandates or facilitates forecast based action (**FbA**), is FbA integrated into existing planning processes?
- vi. Evacuation
 - a. Does law and/or policy mandate governmental DPR actors to develop comprehensive evacuation plans using hazard maps and risk assessments?
 - b. Does law and/or policy require evacuation plans to contain measures to ensure that people with impaired, limited or restricted mobility are assisted to evacuate?
 - c. Does law and/or policy require governmental DPR actors to include domestic animals and livestock in evacuation plans?

- B. Check laws and policies related to:
 - Disaster management / emergency management / civil protection / humanitarian assistance
- C. Refer directly to the following guidance on best practice
 - Multi-hazard Early Warning Systems: A Checklist (World Meteorological Organization, 2018)

See also Synthesis Report on Law and Disaster Preparedness and Response, Chapter 4, Section E.

5. Do your country's laws establish 'states of emergency' and 'states of disaster' that are tailored and proportionate to differing degrees and types of risk?

States of emergency (**SoE**) and states of disaster (**SoD**) are legal mechanisms for initiating disaster response. The declaration of a SoE/SoD causes a switch to an emergency legal modality characterised by special emergency powers and/or governance arrangements.

The power to declare an SoE is usually established by a country's constitution and vested in persons or entities at the highest level of government. SoEs are generally designed for extreme and/or unforeseeable situations that pose an existential threat, such as threats to national security, public order or the constitutional order. In contrast, SoDs are generally provided for in legislation, and the power to declare a SoD is often vested in sub-national governments or sectoral agencies. The precise nature of SoEs/SoDs depends, to a significant extent, on a country's political and constitutional structure, and its disaster risk profile.

Although it is not possible or appropriate to strictly prescribe the form that SoEs/SoDs should take in all countries, decision-makers should consider developing a range of SoDs that are tailored and proportionate to differing degrees and types of risk, rather than relying solely on an SoE. Further, the laws governing SoEs should clearly identify: (i) the legal trigger(s) for making a declaration; (ii) the person or entity that is responsible for making a declaration (i.e. the repository of the declaratory power); (iii) the consequences of the declaration; and (iv) when a declaration may be made (i.e. pre-emptively or only once a disaster has occurred).

It is vital for there to be safeguards in place during an SoE/SoD in order to promote governmental transparency and accountability, to maintain the rule of law, to preserve democratic institutions, and to protect human rights. The law should provide for judicial and/or legislative supervision of the declaration of an SoE/SoD and decisions or actions taken during an SoE/SoD. Further, the law should only allow the government to limit, or derogate from, human rights during an SoE/SoD to the extent permissible under international human rights law.

To answer this question, consider the following:

- A. Guiding sub-questions
 - i. States of disaster and states of emergency
 - a. Does the law establish a range of SoDs that are proportional and tailored to differing degrees and types of risk?
 - b. Does the law establish an SoE to be used to respond to extreme and/or unforeseeable disasters?
 - c. Does the law clearly specify:
 - the legal trigger(s) for making a declaration of each type of SoE/SoD;
 - the person or entity who has authority to make each type of declaration of SoE/SoD;
 - the governance arrangements and/or governmental powers that arise once each type of SoE/SoD has been declared;

- whether pre-emptive declarations may be made when a risk is sufficiently serious, likely and proximate?
- ii. Safeguards, transparency and accountability
 - a. Does the law require a declaration of an SoE to specify the legal basis, territorial scope and duration of the declaration, and the emergency powers that will be available to government during the SoE/SoD?
 - b. Does the law require the repository of a declaratory power to 'act on advice' or 'upon request' of another entity (e.g. disaster management institutions or sub-national governments)?
 - c. Does the law prohibit government from limiting or derogating from rights during an SoE/SoD except to the extent permitted by international human rights law?
 - d. Does the law provide for effective judicial and/or legislative supervision of the declaration of an SoE/SoD and of decisions or actions made under an SoE/SoD?
- B. Check laws and policies related to:
 - Constitutional laws
 - Disaster management / emergency management / civil protection / humanitarian assistance
 - Human rights / civil rights
- C. Refer directly to the following guidance on best practice
 - Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (1984)

See also Synthesis Report on Law and Disaster Preparedness and Response, Chapter 5, Section F.

6. Do your country's laws provide necessary legal facilities for disaster preparedness and response?

Effective disaster preparedness and response requires a legal framework which facilitates the work of humanitarian actors and removes unnecessary cost burdens and bureaucratic barriers which may deter individuals and organisations from participating in this essential work. Key issues to be addressed through legislation include:

Volunteers, a critical part of many disaster responses, and yet they may face many legal uncertainties in particular around their legal status, health and safety, insurance, liability, remuneration, access to training and proper management.

Professional licensing requirements, which can pose a significant barrier to professionals' ability to provide assistance in an emergency, particularly where regulations differ across state or local boundaries. Most common barriers are faced by medical professionals and their authorisation to provide medical care and issue prescriptions, as well as issues of liability and medical insurance. However, similar issues could also apply to other types of professionals involved in disaster response such as engineers, building surveyors and teachers.

Taxation, such as Value Added Tax (VAT) and customs duties, can be a significant and unnecessary drain on the resources and capacities of relief providers. Conversely, tax exemptions can also be used to benefit households, businesses and other entities which have been affected by disaster as part of relief and recovery or to incentivise risk reduction.

Liability issues, which can act as a deterrent for the willingness of individuals and organisations to engage in life-saving humanitarian activities. Exposure to civil or criminal liability may arise from accidental damage, injury or death caused by response activities, or from failing to undertake a

particular course of action. This protection from liability is crucial provided it is balanced with the need for persons affected to have proper legal recourse for losses suffered.

Use of Unmanned Aerial Vehicles (UAVs) or drones, which are increasingly used as part of disaster preparedness and response as a rapid and cost-effective way of undertaking rapid damage assessments, identifying locations of displaced populations and sometimes considered for the transport of goods. Their use gives rise to a range legal and regulatory issues including their registration, flight operation certificates, use of airspace and other safety and regulatory issues associated with the way in which UAVs are used, including the ethics of drone use in humanitarian contexts.

Data protection and privacy, which is a key issue for the disaster management sector, raises legal issues about the process of data gathering, sharing and protection. The use of personal data is crucial for enabling effective preparedness and response but must be based on necessity and comply with national privacy regulations. Ideally, specific rules for disaster contexts should be developed.

To answer this question, consider the following:

- A. Guiding sub-questions
 - i. Volunteers
 - a. Does the law provide clarity around the legal status, facilities, exemptions and training standards applicable to volunteers in disaster contexts?
 - ii. Professional licensing
 - a. Does the law enable automatic recognition or fast-track procedures for the recognition of professional qualifications across sub-national boundaries?
 - b. Does the law provide exemptions from VAT and other taxes associated with the conduct of both disaster preparedness and response activities of domestic organisations, particularly with regard to goods, equipment, property and services?
 - iii. Tax exemptions
 - a. Does the law provide tax exemptions to incentivise disaster preparedness and mitigate disaster losses for individuals and organisations?
 - iv. Liability
 - a. Does the law provide reasonable protection for individuals and organisations undertaking bona fide work in good faith, including limits on liability or placing a cap on damages or compensation, ensuring this is balanced with the ability for individuals and communities to seek reasonable recourse from loss and damage where this is justified?
 - v. Licensing of UAVs
 - a. Does the law provide a clear legal framework for the humanitarian use of UAVs and/or refer to the *Humanitarian UAV Code of Conduct and Guidelines* and the International Civil Aviation Organization *Circular on Unmanned Aircraft Systems (UAS)*?
 - vi. Data protection and privacy
 - a. Does the law provide clarity about the use and protection of personal data in disaster situations, including permission for specific organisations, including National Red Cross and Red Crescent Societies, to use and store such data as part of their essential operations?
- B. Check laws and policies related to:
 - Volunteering, employment, taxation, occupational health and safety, insurance, immigration, social welfare, charitable organisations
 - Professional licensing requirements across different sectors including medical/health, engineering, teaching, legal services
 - Taxation
 - Civil/public liability, criminal codes
 - Aerial, vehicle, transport
 - Data protection, privacy

C. Refer directly to the following guidance on best practice

Humanitarian UAV Code of Conduct and Guidelines and the International Civil Aviation Organization Circular on Unmanned Aircraft Systems (UAS)

See also Synthesis Report on Law and Disaster Preparedness and Response, Chapter 6, Section H.

7. Does your country have a comprehensive legal and policy framework for addressing disaster-related human mobility?

Disasters and disaster risk are a major catalyst of human mobility, especially in a changing climate characterised by increasingly severe meteorological hazards.

Disaster displacement occurs when people are forced to leave their homes or places of habitual residence as a result of disaster, or in order to avoid imminent disaster. Approximately 26 million people are newly displaced every year due to sudden-onset disasters. Most people displaced by disasters are internally displaced, however some people do cross national borders in order to reach safety. At both the domestic and international level, there are significant legal gaps in the protection of disaster-displaced persons. In order to address these gaps, decision-makers should develop a comprehensive legal and policy framework to reduce the risk of disaster displacement and to protect disaster-displaced persons.

In some situations, disasters or disaster risks are so severe that they necessitate the planned relocation of persons, or groups of persons, away from their homes or places of temporary residence to a new location. The experience of communities with planned relocations has, however, thus far been predominantly negative due to a lack of community participation, the selection of inappropriate sites and under-budgeting of relocation costs. In order to address the unique and complex challenges posed by planned relocations, decision-makers should develop a comprehensive legal and policy framework for undertaking successful and dignified planned relocations in a manner consistent with international law.

To answer this question, consider the following:

A. Guiding sub-questions

- i. Planned relocation
 - a. Is there a comprehensive legal and policy framework for undertaking planned relocations?
 - b. If so, does that framework include provisions:
 - o establishing that planned relocation should be used as a measure of last resort;
 - o entitling potentially relocated persons to legally challenge a planned relocation;
 - o mandating a participatory approach to planned relocation involving all affected persons, including relocated persons and host populations;
 - o requiring that planned relocations improve, or maintain, the living standards of relocated persons and host populations; and
 - o requiring that planned relocation mitigates adverse impacts on persons who live in close proximity to the areas from which persons are relocated?
- ii. Disaster displacement
 - a. Are there laws and/or policies designed to identify and reduce disaster displacement risk?
 - b. Do laws and/or policies relating to internally displaced persons include disaster-displaced persons?

- c. Does the law mandate contingency planning for internal displacement during disasters?
- d. Are there laws and/or policies that govern the identification, entry, stay and entitlements of cross-border disaster-displaced persons?
- e. Does the law provide for cross-border disaster-displaced persons to receive assistance to meet their basic needs during their stay?
- f. Does the law establish criteria for determining when cross-border disaster-displaced persons may be returned?
- g. If yes, are those criteria consistent with international human rights law?

B. Check laws and policies related to:

- Disaster management / emergency management / civil protection / humanitarian assistance
- Immigration / refugees and asylum seekers
- Internal displacement / relocation
- Land use planning / informal settlements / urban settlements
- Human rights

See also Synthesis Report on Law and Disaster Preparedness and Response, Chapter 7, Section D.

8. Do your country's laws and policies contain measures to address common problems that arise in relation to housing, land and property rights during disasters?

Disasters have a propensity to both create and aggravate problems relating to housing, land and property rights (**HLP**).

One problem is that humanitarian and governmental actors often use 'secure tenure' as an eligibility criterion for emergency shelter assistance. This focus on secure tenure is problematic because it discriminates between potential beneficiaries on the basis of their pre-disaster tenure status, rather than on the basis of need. To the greatest extent possible, law and/or policy should not require disaster-affected persons to provide proof of secure tenure in order to be eligible for emergency shelter assistance.

In circumstances where an assessment of tenure security is deemed necessary, the method for assessing tenure security should reflect the local HLP system. In circumstances where formal land title is not the predominant or only form of secure tenure, or in circumstances where land title documents and property boundaries have been destroyed, law and/or policy should permit tenure security to be assessed using community verification, community-based land mapping and indicia other than formal land tenure documents (e.g. payment of rent or land tax).

Humanitarian and governmental actors also often require potential beneficiaries to provide personal identity documents or land title documents as a prerequisite to receiving emergency shelter assistance. This can be impractical in a disaster context where many people may have had their documents damaged, lost or destroyed. In order to address this problem, the law should establish procedures to expedite the replacement of disaster-affected persons' land title and personal identification documents.

Another HLP-related problem that often arises in disaster contexts is a lack of land for emergency and transitional shelter. To the extent permitted by constitutional law, decision-makers should consider introducing powers that permit government to rapidly and temporarily requisition land and buildings following a disaster. Importantly, however, any such power should be subject to strict controls designed to preclude arbitrary and unjust interference with private property rights.

A further HLP-related problem that may arise during disasters is the use of schools as evacuation centres or post-disaster shelters. This not only disrupts educational continuity, but may also have

negative impacts on children's physical and psychosocial wellbeing. Decision-makers should, therefore, consider requiring that schools may only be used for emergency shelter as a last resort where there is no feasible alternative.

To answer this question, consider the following:

- A. Guiding sub-questions
 - i. Equitable access to emergency shelter assistance
 - a. Do laws or policies governing emergency shelter assistance discriminate on the basis of tenure status?
 - b. Do laws or policies expressly allow tenure to be demonstrated or verified using community verification, community-based land mapping and indicia other than land title documents (e.g. payment of rent and land taxes)?
 - c. Does the law establish procedures to regularise undocumented or informal land tenure? If so, are these procedures widely accessible? Are they simple and fast?
 - ii. Maintaining access to important documents
 - a. Do laws or policies mandate educating the general public about practical measures for maintaining access to important documents during disasters?
 - b. Do laws or policies establish procedures to expedite the replacement of personal identification and land title documents that are lost, damaged or destroyed during disaster?
 - c. Does the law mandate that replacement documents are provided to disaster-affected persons free of charge?
 - d. Does the law establish procedures for recognising, at least on a temporary basis, land ownership and use rights that are identified and documented through community verification and community-based land mapping processes?
 - iii. Land and buildings for emergency and transitional shelter
 - a. Does the law empower government to temporarily requisition land and buildings for emergency and transitional shelter during disasters?
 - b. If so, is the government's power to requisition land and buildings subject to strict controls that minimise interference with private property rights?
 - iv. Use of schools as emergency shelters
 - a. Does the law provide that schools may only be used for emergency shelter as a last resort where there is no feasible alternative?
 - b. Do laws and/or policies identify alternative sites to be used for emergency shelter?
 - c. Do laws and/or policies contain practical measures to promote educational continuity in situations where it is not possible to avoid using schools for emergency shelter?
- B. Check laws and policies related to:
 - Disaster management / emergency management / civil protection / humanitarian assistance
 - Housing / land / property / land use planning / spatial planning
 - Constitutional laws / human rights
- C. Refer directly to the following guidance on best practice
 - Minimum Standards for Education: Preparedness, Response Recovery (International Agency for Education in Emergencies, 2010, 2nd ed)
 - Policy Brief and Practice Guidance for Pacific Nations on Limiting and Planning the Use of Schools as Temporary Evacuation Centres in Emergencies (Asia Pacific Coalition for School Safety, 2017)
 - Rapid Tenure Assessment Guidelines for Post-Disaster Response Planning — Pilot Version (International Federation of Red Cross and Red Crescent Societies, 2015)

- “Minimum Elements” for Community-Based Land Mapping Approaches in Post Disaster Contexts — Pilot Version’ (International Federation of Red Cross and Red Crescent Societies, 2015)

See also Synthesis Report on Law and Disaster Preparedness and Response, Chapter 8, Section E.

9. Do your country’s laws and policies contain measures to ensure that vulnerable groups are included in, and protected by, disaster preparedness and response activities?

The following groups may be disproportionately impacted by disasters: women and girls; children, particularly unaccompanied and separated children; older persons; persons with disabilities; migrants and refugees; indigenous groups; ethnic and racial minorities; and sexual and gender minorities. For brevity, these groups are collectively referred to as ‘vulnerable groups’, notwithstanding the fact that, depending on the circumstances, it may be more accurate to describe them as having ‘specific needs’, being ‘at risk’ or being ‘vulnerable’.

Law and/or policy should contain measures to ensure that vulnerable groups are fully included in, and protected by, disaster preparedness and response activities. These measures include (but are not limited to): prohibiting discrimination; mandating governmental actors to identify and plan for the specific needs of vulnerable groups; requiring collection of sex-, age- and disability-disaggregated data; mandating participation of vulnerable groups in all aspects of disaster preparedness and response; and mandating contingency planning for sexual and gender-based violence (**SGBV**), child protection, and the care of unaccompanied and separated children (**UASC**).

Mental health and psychosocial support (**MHPSS**) is an important need of all disaster-affected, not only for vulnerable groups. This is because disasters cause widespread emotional suffering, both in the form of mental health problems (e.g. anxiety, depression) and non-pathological distress (i.e. grief, fear, anger). The law should mandate contingency planning for MHPSS during disasters, including psychological first aid, basic clinical mental healthcare and uninterrupted supply of essential psychotropics.

To answer this question, consider the following:

A. Guiding sub-questions

i. General measures to include and protect vulnerable groups

Non-discrimination

- Does the law prohibit discrimination in all aspects of disaster preparedness and response?
- Does the law contain a recognition of the specific needs of vulnerable groups during disasters?
- Does the law create a general obligation for disaster responders to protect and include vulnerable groups in disaster preparedness and response activities?

Needs of vulnerable groups

- Does the law mandate that risk, needs and vulnerability assessments as well as contingency plans identify vulnerable groups and their specific needs?
- Does the law mandate that planning processes outline key actions, resources and responsibilities for meeting the needs of vulnerable groups?
- Does the law mandate that assessment and planning processes include direct consultation with vulnerable groups?

Collection of disaggregated data

- a. Does the law mandate collection of sex-, age- and disability-disaggregated data in risk, vulnerability and needs assessments?
- b. Does the law mandate collection of sex-, age- and disability-disaggregated data in relation to participation in disaster preparedness and response, disaster impacts and the incidence of SGBV?

Training and awareness-raising

- a. Does the law require all government emergency responders (including sectoral agencies, the police and the military) to participate in training about vulnerable groups?

Participation of vulnerable groups

- a. Does the law mandate multi-stakeholder institutions to include representatives of vulnerable groups?
- b. Does the law mandate disaster preparedness and response actors to directly consult with vulnerable groups in relation to the design, planning, implementation, monitoring and evaluation of all aspects of disaster preparedness and response?
- c. Does the law create quotas or targets for the recruitment of members of vulnerable groups as civil servants in disaster preparedness and response institutions?
- d. Does the law mandate monitoring, evaluation and public reporting on the participation and inclusion of vulnerable groups in disaster preparedness and response?

SGBV Protection

- a. Does the law mandate contingency planning for SGBV during disasters?
- b. Does the law require post-disaster shelter to be designed and managed in a manner that prevents and mitigates SGBV?
- c. Does the law require all government emergency responders to participate in training about SGBV?

ii. Specific measures to include and protect vulnerable groups

Women and girls

- a. Do disaster contingency plans identify key actions, resources and responsibilities in relation to sexual and reproductive health and menstrual hygiene management?

Children

- b. Does the law mandate contingency planning for child protection during disasters?
- c. Does the law mandate contingency planning for the care of unaccompanied and separated children during disasters, including the following key actions:
 - mitigating the risk of parent-caregiver separations;
 - locating, identifying and documenting UASC;
 - providing and monitoring alternative care arrangements for UASC;
 - conducting family tracing and verification; and
 - facilitating family reunification and integration?

Older persons and persons with disabilities

- a. Does the law mandate that all disaster preparedness and response activities are implemented in a manner that is accessible to people with physical, sensory, intellectual or psychosocial impairments?
- b. Do disaster contingency plans identify key actions, resources and responsibilities for providing disaster assistance in a manner that is adapted and appropriate for older persons and persons with disabilities?

Sexual and gender minorities

- a. Does the law require information about sexual and gender identity to be collected, stored and disposed of securely?
- b. Do disaster contingency plans identify key actions, resources and responsibilities for ensuring that sexual and gender minorities have safe access to post-disaster shelter and water, sanitation and hygiene facilities?

Migrants and refugees; racial and ethnic minorities

- a. Does the law require disaster preparedness and response activities to be implemented in a variety of languages, formats (e.g. print, audio, infographics) and media (i.e. formal, informal)?

Indigenous groups

- a. Does the law prohibit indigenous groups from being removed from their land, except with their free, prior and informed consent?

iii. Mental health and psychosocial support (MHPSS)

- a. Does the law mandate contingency planning for MHPSS during disasters?
- b. Do contingency plans provide for the following key actions:
 - conducting assessments of mental health and psychosocial issues
 - training all staff and volunteers in MHPSS;
 - disseminating information about coping methods to the general population;
 - providing psychological first aid to survivors of extreme stressor;
 - providing basic clinical mental healthcare for survivors presenting with pathological distress;
 - providing an uninterrupted supply of essential psychotropics?

B. Check laws and policies related to:

- Disaster management / emergency management / civil protection / humanitarian assistance
- Health / medicines
- Child protection / child labour / child marriage / child abduction / child trafficking / child abuse
- Adoption / foster care / orphans
- Education
- Immigration / refugees and asylum seekers
- Prevention of sexual violence / domestic violence / violence against women
- Privacy / data protection
- Human rights / anti-discrimination

C. Refer directly to the following guidance on best practice

- Adolescent Sexual and Reproductive Health Toolkit for Humanitarian Settings (Save the Children and United Nations Population Fund, 2009)
- Field Handbook on Unaccompanied and Separated Children (Inter-agency Working Group on Unaccompanied and Separated Children, 2016)
- Guidelines for the Alternative Care of Children in Emergencies (Inter-agency Working Group on Unaccompanied and Separated Children, 2013)
- Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action (Inter-Agency Standing Committee, 2015)
- Guidelines to Protect Migrants in Countries Experiencing Conflict or Natural Disaster (Migrants in Countries in Crisis Initiative, 2016)
- Humanitarian Inclusion Standards for Older People and People with Disabilities (Age and Disability Consortium, 2018)
- IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings (Inter-agency Standing Committee, 2007)

- Inter-agency Field Manual on Reproductive Health in Humanitarian Settings (Inter-agency Working Group on Reproductive Health in Crises, 2010)
- Minimum Standards for Child Protection in Humanitarian Action (Child Protection Working Group, 2012)
- Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response (Sphere Project, 2018, 3rd ed)
- Toolkit for Integrating Menstrual Hygiene Management (MHM) into Humanitarian Response (Research for Health in Humanitarian Crises, 2017)

See also Synthesis Report on Law and Disaster Preparedness and Response, Chapter 9, Section E.

10. Do your country's laws and policies contain measures to promote quality and accountability, and to prevent fraud and corruption, in disaster preparedness and response?

The urgency and chaos created by disasters can pose serious challenges to quality and accountability in disaster preparedness and response. Equally, it can create opportunities for unscrupulous individuals to commit fraud or corruption.

All actors involved in disaster response should strive and, importantly, *plan* to attain minimum quality standards in the provision of assistance during disasters. Domestic decision-makers should consider developing minimum standards for the provision of food, water, sanitation, hygiene, healthcare and shelter during disasters. Such standards should reflect the *Sphere Minimum Standards*. Indeed, decision-makers may wish to use the *Sphere Minimum Standards* as a starting point and adapt them to be culturally appropriate and realistic.

Rigorous and timely assessments of post-disaster needs, losses and damages are vital to ensuring the quality of disaster response and recovery. This is because accurate information about the nature, magnitude and geographic location of needs, losses and damages is necessary to plan and execute an effective response and recovery operation. Law and/or policy should mandate: rapid needs assessments to be conducted immediately after disaster; and ongoing needs assessments to be conducted throughout the response phase. Equally, law and/or policy should mandate assessments of damages and losses.

Monitoring and evaluation of DPR activities is critical to accountability and learning. It generates the information and analysis required to: (i) hold actors accountable to stakeholders for the impacts and results of their activities; and (ii) improve future policy and practice by drawing on lessons from past experience. Law and/or policy should facilitate both learning-oriented and accountability-oriented evaluations. It should require DPR actors to regularly commission and publish external evaluations of their activities and programs, while also permitting DPR actors to undertake internal evaluations that do not need to be made publicly available.

During disaster response there is a tension between acting urgently to save lives and implementing anti-corruption and anti-fraud controls. It is, however, possible to strike a balance between urgency and prudence by fostering institutional resilience to corruption and developing appropriate controls *prior* to disaster occurring. Law and/or policy should mandate DPR actors to implement function-specific (e.g. finance, procurement) controls, and to implement measures to minimise the need for rapid hiring and procurement during disasters.

To answer this question, consider the following:

A. Guiding sub-questions

i. Quality

- a. Does law and/or policy establish minimum standards for the provision of food, water, sanitation, hygiene, healthcare and shelter during disaster response?
- b. If yes, does law and/or policy require DPR actors to use such minimum standards when developing and reviewing disaster contingency plans?
- c. If yes, does law and/or policy require DPR actors to use such minimum standards when monitoring and evaluating DPR activities?
- d. Does law and/or policy establish a process for managing mass casualties during a disaster?

ii. Post-disaster assessments

- a. Does law and/or policy mandate rapid and ongoing needs assessments?
- b. Does law and/or policy mandate assessments of losses and damages?
- c. Does law and/or policy establish a coordinated, harmonised approach to post-disaster assessments?

iii. Monitoring and Accountability

- a. Does law and/or policy require DPR actors to conduct monitoring and evaluation at the activity and program levels?
- b. Does law and/or policy require all DPR actors to regularly commission and publish external evaluations of their activities and programs?
- c. If yes, does law and/or policy also permit DPR actors to undertake internal evaluations, which do not need to be made publicly available, for the purpose of institutional learning and improvement?

iv. Prevention of fraud and corruption

- a. Does law and/or policy mandate DPR actors to adopt measures to promote institutional resilience to corruption and fraud, such as codes of conduct, whistleblowing mechanisms and training?
- b. Does law and/or policy mandate DPR actors to implement function-specific controls to prevent fraud and corruption in finance, human resources, procurement, asset management and transport?
- c. Does law and/or policy mandate DPR actors to implement measures designed to minimise the need for rapid hiring and procurement for DPR activities?

B. Check laws and policies related to:

- Disaster management / emergency management / civil protection / humanitarian assistance
- Fraud / corruption
- Monitoring / evaluation

C. Refer directly to the following guidance on best practice

- Sphere Handbook: Humanitarian Charter and Minimum Standards in Humanitarian Response (Sphere Project, 2018, 3rd ed)
- Evaluation of Humanitarian Action Guide (Active Learning Network for Accountability and Performance, 2016)
- Handbook of Good Practices for Preventing Corruption in Humanitarian Operations (Transparency International, 2014)
- Management of Dead Bodies After Disasters: A Field Manual for First Responders (World Health Organization et al, 2016, 2nd ed)

See also Synthesis Report on Law and Disaster Preparedness and Response, Chapter 10, Section E.

Follow-up actions

Every legal framework for DPR will inevitably have both strengths and weaknesses. Using the DPR Checklist will help law-makers and other organisations review their laws and identify areas where laws and policies need updating or where gaps need to be filled with new legislation.

Where gaps and weaknesses have been identified, the following activities may be helpful to consider:

- Further research into the particular issues or area of law
- Consultations with a wide range of stakeholders, particularly at local levels
- Amendments of existing laws and policies to better address DPR issues or to ensure consistency between different laws and policies.
- Development of new laws and policies to fill any gap areas

Where new legislation is required, there are a number of suggested approaches for its development and monitoring which will help to ensure effective implementation:

- Involvement of a wide range of stakeholders in the development process including the active participation of all relevant ministries and levels of government, subject matter experts/practitioners, civil society organisation, the private sector and individuals, through a process which is inclusive of participation from women, youth, people with disabilities and vulnerable groups.
- Development of an implementation plan that includes the identification of resources, training and capacity development, key milestones and timeframes.
- Identification of roles and responsibilities, particularly in the monitoring and evaluation of progress to document implementation challenges and achievements.
- Activities at all levels to promote greater awareness and improved implementation of new and existing legal and policy provisions, such as public information sessions, communication products and events.

Further information and support

Further information, tools, reports and updates on disaster law can be found at www.ifrc.org/dl

In case of any questions or requests for technical disaster law assistance, the IFRC Disaster Law Programme team can be contacted at disaster.law@ifrc.org