The Handbook on Law and Disaster Risk Reduction

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Cover photograph: The town of Chautara in the Sindhupalchok province of Nepal was hit by the first earthquake on 25th April but dealt a double blow by the May 12th earthquake as the epicentre was very close by. Mithila Jariwala/IFRC

The Handbook on Law and Disaster Risk Reduction

Table of Contents

Acknowledgements

Foreword

We will look back on 2015 as a milestone year in securing global commitments to address the risks and vulnerabilities that the poor and marginalized face. The adoption of the *Sendai Framework for Disaster Risk Reduction*, the launch of the Sustainable Development Goals, and a new global agreement on climate change, expected to be signed in December 2015, will have a profound and far-reaching impact on our ability to reduce disaster risk. Looking ahead, our shared challenge is to translate these developments and global consensus into meaningful actions, as the only true measure of success is the impact it generates at the local level, in the affected communities around the world.

To achieve these ambitions, countries will need effective governance arrangements from the national to the local level that are able to proactively anticipate new risks, manage and eventually reduce a complex spread of existing risks. This is a central point in the *Sendai Framework for Disaster Risk Reduction*, which prioritizes governance for disaster risk management and calls on countries to review and improve their national legal frameworks to ensure that disaster risk reduction (DRR) is integrated across all sectors.

The International Federation of Red Cross and Red Crescent Societies (IFRC) and the United Nations Development Programme (UNDP) have jointly developed the *Checklist on Law and Disaster Risk Reduction* (the Checklist), and this accompanying Handbook. These tools are aimed at providing practical guidance to lawmakers, officials, and practitioners on how to review and improve laws and regulations to ensure DRR is prioritized in all sectors and at all levels with clear mandates and accountability frameworks. Both the Checklist and Handbook are the result of more than three years of rigorous research on best practices and lessons learned in developing and implementing legislation for DRR globally.

We believe that strong legal frameworks to manage and reduce risks will underpin efforts to tackle the challenges that lie ahead. A risk-informed legal framework can make the difference between a strong building left standing and one reduced to rubble when a natural hazard strikes. It can mean the difference between the safety of one neighbourhood and the devastating flooding of another, or a child able to protect herself when a disaster strikes, and one who does not know how to get to safety.

We look forward to continuing to work in partnership with governments and all other stakeholders to support efforts to strengthen legislation and reduce the risks that too many people still face.

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Executive summary

Laws and regulations serve as a foundation for building community resilience. They are essential to reducing existing risks posed by natural hazards, preventing new risks from arising and making people safer. In 2005, the *Hyogo Framework for Action, Building the Resilience of Nations and Communities to Disasters 2005 – 2015* highlighted the important role legislation plays in supporting disaster risk reduction (DRR), and this emphasis was reiterated this March in the *Sendai Framework for Disaster Risk Reduction 2015-2030* (the Sendai Framework), which calls for a renewed focus on reviewing and strengthening legal frameworks. In light of this international guidance, many countries have sought to strengthen their laws and regulations for DRR. In doing so, they have asked: What should good legislation say about disaster risk reduction?

Prompted by this question, the International Federation of Red Cross and Red Crescent Societies and the United Nations Development Programme conducted over two years of in-depth research and in 2014 launched the study, *Effective law and regulation for disaster risk reduction: a multi-country report.* Using the findings of this research and insights gained from comprehensive stakeholder consultations, the International Federation of Red Cross and Red Crescent Societies and the United Nations Development Programme developed a new practical guidance tool for this area of law, the *Checklist on Law and Disaster Risk Reduction* (the Checklist).

The Checklist provides a prioritized list of 10 questions that lawmakers, officials, practitioners and those supporting them need to consider in order to ensure that their laws provide the best support for DRR. It covers not only dedicated disaster risk management (DRM) laws, but also other sectoral laws and regulations – covering issues such as the environment, land and natural resource management – that are critical for building safety and resilience.

The Checklist also aims to foster a more integrated approach to DRR by incorporating climate change and sustainable development considerations into its review of legislation. The Checklist mainly focuses on disasters caused by natural hazards, and does not include specific considerations related to industrial accidents, public health emergencies and situations of generalized violence.

The Handbook on Law and Disaster Risk Reduction (the Handbook) has been developed to provide guidance on how to use the Checklist and conduct related legislative reviews and reform processes. While the methodology for using the Checklist needs to be tailored to each country's context and respective needs, the Handbook is intended to provide general guidance on key steps to consider. Part 6 explains how the Checklist could be used during an in-depth legislative reform process, and uses lessons learned from a range of countries to inform its recommendations. The Checklist may, however, be used in a variety of platforms, workshops and initiatives, and can also be used to determine whether a fully-fledged legislative review process is needed in the first place. DRM committees, project teams and programmes targeting DRR and resilience may also choose to use the Checklist as part of their activities.

Part 7 provides guidance on how to use the Checklist when researching and analyzing relevant domestic laws and regulations. It provides additional detailed explanations and issues to consider, a suggested process for answering the questions, examples of good practice, and references to standards set by the Sendai Framework. A list of further reading material for each question is provided in Annex 1.

The Handbook and Checklist aim to support countries to identify the DRR-related strengths and gaps in their current legal frameworks, identify where greater focus may be needed on implementation and enforcement, and identify whether drafting or amending legislation is necessary. Additionally, it is expected that the process of convening a range of stakeholders in a common dialogue to respond to the Checklist questions will contribute to the improved implementation of a sound legal framework for DRR.

The Checklist on Law and Disaster Risk Reduction

1 Does your country have a dedicated law for disaster risk management that prioritizes risk reduction and is tailored to your country's context?

2 Do your country's laws establish clear roles and responsibilities related to risk reduction for all relevant institutions from the national to the local level?

3 Do your country's laws ensure that adequate resources are budgeted for disaster risk reduction?

4 Do your country's relevant sectoral laws include provisions to reduce existing risks and prevent the creation of new risks?

5 Do your country's laws establish clear procedures and responsibilities for conducting risk assessments and ensuring risk information is considered in development processes?

6 Do your country's laws establish clear procedures and responsibilities for early warning?

7 Do your country's laws require education, training and awareness-raising to promote a whole-of-society approach to disaster risk reduction?

8 Do your country's laws ensure the engagement of all relevant stakeholders, including civil society, the private sector, scientific institutions and communities, in risk reduction decisions and activities?

9 Do your country's laws adequately address gender considerations and the special needs of particularly vulnerable categories of persons?

10 Do your country's laws include adequate mechanisms to ensure that responsibilities are fulfilled and rights are protected?

Terminology

The following working definitions are drawn from *United Nations Office for Disaster Risk Reduction, Terminology on Disaster Risk Reduction (2009)* and *UNDP Issue Brief: Disaster Risk Governance (2013).*

Disaster is a serious disruption of the functioning of a community or a society, involving widespread human, material, economic or environmental losses and impacts that exceed the ability of the affected community or society to cope using its own resources.

Disaster risk is the potential disaster losses in lives, health statuses, livelihoods, assets and services that could occur in a particular community or a society in the future. For the purposes of this handbook, disasters are, therefore, understood as the outcome of conditions of risk.

Disaster risk governance refers to the way in which public authorities, civil servants, media, private sector and civil society coordinate at the community, national and regional levels in order to manage and reduce disaster- and climate-related risks. It also entails mechanisms, institutions and processes for citizens to articulate their interests, exercise their legal rights and obligations, and mediate their differences.

Disaster risk management refers to the systematic process of using administrative directives, organizations, and operational skills and capacities to implement strategies, policies and improved coping capacities in order to lessen the adverse impacts of hazards and the possibility of disaster. DRM aims to avoid, lessen or transfer the adverse effects of hazards through activities and measures for prevention, mitigation and preparedness.

For the purposes of this Handbook, disaster risk management encompasses both disaster management (DM) (i.e. preparedness, response and post-disaster recovery processes) and disaster risk reduction (DRR) (i.e. *ex-ante* processes that attempt to reduce or control the levels of existing disaster risk and which can also be incorporated into post-disaster recovery). Disaster risk management systems or arrangements refer to the legal, policy, administrative and institutional frameworks established within a country for coordinated and systematic DRM.

Disaster risk reduction refers to the concept and practice of reducing disaster risks through systematic efforts to analyse and manage the causal factors of disasters, including through reduced exposure to hazards, lessened vulnerability of people and property, wise management of land and the environment, and improved preparedness for adverse events.

Disaster risk management law for the purposes of this Handbook refers to a country's national law that establishes responsibilities, priorities and institutional frameworks specifically for DRM, regardless of the exact terminology used in the law's title, or its translation.

Abbreviations

AADMER	ASEAN Agreement for Disaster Management and Emergency Response
APEC	Asia-Pacific Economic Cooperation
ASEAN	Association of Southeast Asian Nations
BAKORNAS	*Badan Koordinasi Nasional Penanggulangan Bencana,* the previous Indonesian National Disaster Management Coordinating Board
BAPPENAS	*Badan Perencanaan Pembangunan Nasional,* Indonesia's Ministry of National Development Planning
BNPB	*Badan Nasional Penanggulangan Bencana*, the Indonesian National Board for Disaster Management
The Checklist	*The Checklist on Law and Disaster Risk Reduction* (IFRC and UNDP, 2015)
DRR	Disaster risk reduction
DRM	Disaster risk management
DRR Law Report	*Effective law and regulation for disaster risk reduction: a multi-country report* (IFRC and UNDP, 2014)
EIA	Environmental impact assessment
EWS	Early warning system
HFA	*The Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters*
IDRL Guidelines	*The Guidelines for the domestic facilitation and regulation of international disaster relief and initial recovery assistance*
IFRC	International Federation of Red Cross and Red Crescent Societies
MBPI	Indonesian Society for Disaster Management
NDRRMC	National Disaster Risk Reduction and Management Council of the Philippines
NDRRMP	*National Disaster Risk Reduction and Management Plan* of the Philippines
NGOs	Non-governmental organization
The Sendai Framework	*Sendai Framework for Disaster Risk Reduction 2015-2030*
UNDP	United Nations Development Programme
UNISDR	United Nations International Strategy for Disaster Reduction

1. Introduction

Disasters caused by natural hazards represent one of the biggest threats to human safety and sustainable development today. In the last decade, disasters have caused approximately 75,000 deaths, affected almost 200 million people[1] and cost an average of US$ 162.2 billion per year.[2]

Laws can be a powerful tool for reducing disaster risks, preventing new risks from arising and making communities safer. In Vietnam's Mekong Delta, for example, the adoption of legal and policy frameworks concerning structural works (such as dykes, drainage and safe shelters) combined with non-structural measures (such as awareness and education, timely evacuations and relocations informed by risk assessments) resulted in a decrease in the number of flood-related deaths over a 10-year period – from 600 to 60.

Laws can establish mandates for disaster risk management (DRM) and development institutions, as well as recognize the roles and responsibilities of other relevant actors. In doing so, they can provide incentives for engaging in risk reduction and strengthen accountability for risk creation amongst public and private sector actors. They can also facilitate the participation of stakeholders (civil society, the private sector, communities and vulnerable groups) in decision-making for DRM. This can promote greater investment in risk reduction and deters risk creation by all members of society, ultimately protecting lives and livelihoods from the impact of natural hazards.

The role of legal frameworks in contributing to an enabling environment for disaster risk reduction (DRR) was recognized by 168 UN member states when they adopted the *Hyogo Framework for Action, Building the Resilience of Nations and Communities to Disasters 2005 – 2015* (HFA) and was accorded further support a decade later in the *Sendai Framework for Disaster Risk Reduction 2015-2030* (the Sendai Framework). The Sendai Framework lists "strengthening disaster risk governance to manage disaster risk" among its four "Priorities for Action". A clear first step to promoting stronger governance for disaster risk reduction (DRR) is improving relevant laws and regulations as well as strengthening their implementation and enforcement.

However, while there have been important advances made towards understanding disaster risk and how it may be addressed, lawmakers have been given little information about how to best use legal frameworks for this purpose. Given the complexity and context-specific nature of the topic, it is clear that there can be no one-size-fits-all approach. That said, lawmakers can draw on the country examples provided throughout this handbook to help ensure that their own legal frameworks meet their full potential for reducing disaster risk.

1   International Federation of Red Cross and Red Crescent Societies, *World Disasters Report* (2015), Annex Disaster Data, at 216-218.
2   *Ibid.*

2. Purpose of the Handbook

Handbook on Law and Disaster Risk Reduction (the Handbook) has been developed in support of the *Checklist on Law and Disaster Risk Reduction* (the Checklist), a tool to assess whether and to what extent the existing legal framework of a country is meeting its full potential in supporting DRR. The Checklist was developed by the International Federation of Red Cross and Red Crescent Societies (IFRC) and the United Nations Development Programme (UNDP) drawing on three years of research and consultations with key stakeholders.

The Handbook elaborates on the Checklist by providing explanations of each assessment question and related 'issues to consider', as well as a range of suggestions on how to conduct a legislative review process using the Checklist. It also provides some background on the findings of the IFRC/UNDP research, the related standards set out by the Sendai Framework, and lessons learned from legislative review processes around the world.

It is hoped that representatives of National Red Cross and Red Crescent Societies and UNDP Country Offices will find the handbook helpful in supporting relevant officials to design and carry out structured dialogues about law and DRR, as requested by the 31st International Conference of the Red Cross and Red Crescent. Others, including governmental officials, parliamentary staff, and legislative drafters, as well as civil society, researchers and academics, are also warmly encouraged to use the Handbook and Checklist.

3. Background

In November 2011, the state parties to the Geneva Conventions adopted Resolution 7 of the 31st International Conference of the Red Cross and Red Crescent, encouraging states (with support from their National Red Cross and Red Crescent Societies, the IFRC, UNDP and other relevant partners) to review existing legislative frameworks in light of key DRR gaps. The resolution called for states to assess whether their laws made DRR a priority (including through resource allocation and accountability), involved communities, civil society and the private sector, and facilitated the implementation of land use planning and building codes.

Participants in Nigeria assess their legal framework against the Checklist questions.

Following increased demand in the number of national governments seeking support, in 2012 the IFRC and UNDP embarked on a joint initiative to support the strengthening of domestic DRR legislation. The first step was to develop an evidence base to inform the development and revision of legal frameworks. This was done via legal desk reviews in 31 countries and in-depth country case studies in 14 of those countries. A synthesis report – *Effective law and regulation for disaster risk reduction: a multi-country report* (the DRR Law Report) – was launched in June 2014.

The DRR Law Report found that there has been significant global progress in updating and adopting national DRM laws to include a greater focus on DRR, and that these efforts have in turn helped generate more national attention to the issue of DRR. At the same time, the report also found gaps and challenges in the implementation of legal frameworks that were common across many countries. These gaps include: the allocation of significant legal mandates or DRR responsibilities to local authorities without the necessary funding or capacity; missed opportunities to ensure the engagement of communities, women, vulnerable groups and civil societies in decision-making processes; and a lack of consideration given to natural hazard risks in the rules and regulations concerning development and the environment (in particular, hazards related to land use, building permits, environment protection and natural resource management). The report further found significant challenges in the implementation of existing laws and few formal mechanisms available to ensure accountability and compliance.

The findings of the synthesis report and case studies, combined with the opinions and experiences of stakeholders gathered through 10 consultations held at the regional and global level, were then used to develop the Checklist (a full list of the consultations held is set out in Annex 3). The pilot version of the Checklist was released in Sendai, Japan, at the World Conference for Disaster Risk Reduction in March 2015, and the final version has been made available in advance of the 32nd International Conference of the Red Cross and Red Crescent in December 2015.

The pilot period for the Checklist commenced in March 2015 and consisted of country-based initiatives, additional consultations and research concerning lessons learned from legislative reform processes. The country level initiatives involved supporting interested governments, National Red Cross and Red Crescent Societies and UNDP Country Offices to pilot the use of the Checklist. Methods of using the Checklist varied between countries. For example, Indonesia, the Cook Islands, Tunisia, Egypt, Mongolia, Colombia, Senegal and Ivory Coast used the Checklist to guide in-depth legal research projects that would be discussed and considered through

a multi-stakeholder dialogue. Other countries – such as Armenia, Nigeria, Italy, Mauritius, Madagascar and the Laos PDR – used the Checklist in workshops to guide an initial discussion about existing legal frameworks and to identify priority issues for their countries in terms of DRR legislative reform. In Madagascar, Mauritius, Timor-Leste and Mongolia, the Checklist was also used to analyse and improve respective draft national DRM laws.

The consultation sessions during the pilot period were held at country, regional and global levels, gathering feedback from representatives from National Red Cross and Red Crescent Societies, government departments, regional organizations, non-governmental organizations (NGOs), academia, the private sector, the United Nations and technical experts/consultants. At the same time, an additional research exercise was launched to extract lessons learned and advice from over 10 countries that have recently undergone legislative reform processes. The feedback collected from the country-based initiatives, additional consultations and research processes has been used to strengthen the final version of the Checklist and to develop this Handbook.

The IFRC and UNDP aim to continue their partnership through capacity building initiatives (such as annual short courses on disaster law and by cooperating in supporting governments as they apply the Checklist and Handbook in revising their legal frameworks to prioritize DRR). Plans are also underway to continue expanding this Handbook to include checklists on response and recovery.

4. The Checklist on Law and Disaster Risk Reduction

4.1 What is the Checklist?

The Checklist provides a prioritized list of 10 key questions that lawmakers, implementing officials and those supporting them are encouraged to consider in order to ensure that laws provide the best possible support for DRR. It covers not only dedicated DRM laws but also other sectoral laws and regulations that are critical for building safety and resilience, such as those relating to land and natural resource management.

The Checklist is designed to:

1. Provide a simplified path for what can sometimes be perceived as a complex topic.
2. Serve as an assessment tool to guide the review process of national and local level DRR laws and regulations.
3. Provide guidance on how to bring national legal frameworks in line with existing international standards (particularly the Sendai Framework).

The Checklist also aims to foster a more integrated approach to DRR by taking into account climate change and sustainable development. It is mainly focused on disasters arising from natural hazards, and so does not directly cover events such as industrial accidents, public health emergencies and situations of general violence.

It is important to recognize that many countries have sought to address various aspects of the issues raised by the Checklist through policies, plans and strategies rather than through laws or regulations. The relationship between policy and law for DRR is complex and differs among country contexts. In some cases, policies set the direction for legal reform; in other cases, policies, strategies or plans are used to flesh out general directives described in law.[3] Non-binding documents are often more flexible and more easily updated than laws, but it is also true that firm legal mandates are often required to establish strong institutions, ensure that resources are allocated and clarify roles and responsibilities. The complementary use of law and policy can thus be particularly effective. For these reasons, answering the Checklist's questions about the adequacy of laws will also require a review of relevant policies or strategies to determine whether they address the issues raised and whether implementation could be improved through stronger legal backing.

4.2 Why use the Checklist?

The Sendai Framework calls for a number of important actions to strengthen legal frameworks (see Box on following page). The Checklist supports the implementation of a number of commitments made under the Sendai Framework. More specifically, the Checklist will help countries identify:

The **strengths and gaps** in the legal framework	If a greater focus is needed on **implementation**	If **drafting or revising** legislaton is needed

3   IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), at 20.

What does the Sendai Framework say about laws and regulations?

It is important to:

27 (a) *Mainstream and integrate disaster risk reduction within and across all sectors and review and promote the coherence and further development, as appropriate, of national and local frameworks of laws, regulations and public policies, which, by defining roles and responsibilities, guide the public and private sectors in: (i) addressing disaster risk in publicly owned, managed or regulated services and infrastructures; (ii) promoting and providing incentives, as relevant, for actions by persons, households, communities and businesses; (iii) enhancing relevant mechanisms and initiatives for disaster risk transparency, which may include financial incentives, public awareness-raising and training initiatives, reporting requirements and legal and administrative measures; and (iv) putting in place coordination and organizational structures;*

27 (d) *Encourage the establishment of necessary mechanisms and incentives to ensure high levels of compliance with the existing safety-enhancing provisions of sectoral laws and regulations, including those addressing land use and urban planning, building codes, environmental and resource management and health and safety standards, and update them, where needed, to ensure an adequate focus on disaster risk management;*

27 (f) *Assign, as appropriate, clear roles and tasks to community representatives within disaster risk management institutions and processes and decision-making through relevant legal frameworks, and undertake comprehensive public and community consultations during the development of such laws and regulations to support their implementation;*

27 (i) *Encourage parliamentarians to support the implementation of disaster risk reduction by developing new or amending relevant legislation and setting budget allocations;*

30 (a) *Allocate the necessary resources, including finance and logistics, as appropriate, at all levels of administration for the development and the implementation of disaster risk reduction strategies, policies, plans, laws and regulations in all relevant sectors;*

33 (p) *Review and strengthen, as appropriate, national laws and procedures on international cooperation, based on the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance.*

The process in which the Checklist questions are discussed and agreed upon may be as important as the content of the answers themselves. Given the multi-sectoral and inter-disciplinary nature of DRR, responding to the Checklist questions will require the engagement and contribution of a range of stakeholders, including government, civil society and community representatives. It is expected that the process of bringing these stakeholders together to respond to the Checklist questions will contribute to long-term outcomes, as explained in Part 6. The anticipated outputs of using the Checklist are:

Analysis	A clear overview of the strengths and gaps in the existing legal framework, both in terms of the content of the legislation and its implementation.
Priorities	An identification of priority areas to address to align with standards set by the Sendai Framework.
Dialogue	Strengthened dialogue and understanding between different actors involved in the regulation of DRR.

The Checklist is intended to ensure that DRR is well integrated into and supported by legal systems. It is not a model law, but rather a process for analyzing a legal framework. The guidance provided in the Checklist is designed to help prioritize DRR in dedicated DRM laws as well as sectoral laws. Both areas of legislation are equally important; and, as highlighted in the Checklist questions, no single law is able to completely address all aspects of DRR.

The methodology for using the Checklist should be tailored to each country's context and its respective needs. Part 6 provides guidance on how the Checklist could be used within an in-depth legislative reform process, and sets out the steps involved in such a process. The Checklist may, however, also be used as an initial step in determining whether an in-depth legislative review process is needed. DRM committees, project teams and programmes targeting DRR and resilience may also choose to use the Checklist.

5. Global Standards on Law and DRR

From Hyogo to Sendai: the increasing recognition of the importance of law for disaster risk reduction

The HFA called on state parties to "adopt, or modify where necessary, legislation to support disaster risk reduction, including regulations and mechanisms that encourage compliance and that promote incentives for undertaking risk reduction and mitigation activities."[4] It also encouraged signatories to mainstream DRR into building codes and urban, land use and rural development planning. The HFA Monitor reported in 2014 that over 120 countries had undergone legal or policy reforms since the HFA was adopted.[5] Therefore, although the framework itself was legally non-binding, the HFA was instrumental in prompting governments to establish laws, as well as policies, institutions and plans specifically for DRR. According to UNISDR, "this progress represents a crucial first stage, a change of mind set without which little that is significant can be achieved. It represents a shift from crisis management to proactive (prospective or anticipatory) risk management, risk reduction and safety."[6]

Some of the new legislation prompted by the HFA, however, has been criticized for lacking depth (e.g. merely mentioning DRR in existing response-focused texts). Similarly, the DRR Law Report found that most of the laws it examined still focused primarily on preparedness and response. On the other hand, some of the more elaborate DRM legislation has suffered from poor implementation and enforcement, in part due to unrealistic demands being made on existing capacity.

While the HFA concentrated on the enactment of dedicated DRM laws, the Sendai Framework broadened the focus to promoting coherence in the entire national legal and policy framework and strengthening the means of implementation, including through dedicated financing for DRR at all levels of administration. Although the HFA was successful in prompting governments to enact legislation that prioritizes DRR, it said little about the quality of such laws, specifically in relation to provisions that enhance the less tangible aspects of governance (such as participation and accountability). Under the Sendai Framework, states are encouraged to delegate roles and responsibilities to community representatives and undertake community consultations for the development of DRM laws and regulations. The Sendai Framework also places greater emphasis on the establishment of accountability mechanisms, particularly in areas that have been weakly enforced in many countries (including those addressing land use and urban planning, building codes, environmental and resource management, and health and safety standards). In light of this emphasis on different aspects of law and regulation, the Checklist is designed to provide support to states interested in ensuring their legal frameworks align with key standards set by the Sendai Framework.

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4   *The Hyogo Framework for Action 2005-2015: Building the Resilience of Nations and Communities to Disasters.*

5   The HFA Monitor is a voluntary tool in which countries self-report on achievements on the HFA Priorities for Action see *http://www.preventionweb.net/english/hyogo/hfa-monitoring/national/.*

6   UNISDR, *Implementation of the Hyogo Framework of Action – Summary of Reports 2007-2013*, at 4.

6. The Legislative Review and Reform Process

While the Checklist can be useful for facilitating preliminary or ad hoc dialogues on law and DRR, a more structured and longer-term process is recommended, one in which stakeholders demonstrate a more thorough interest and engagement in the issue. This section describes some of the common triggers of legal review/reform processes and outlines key steps that may be taken to ensure their effectiveness. These steps are based on examples from a number of countries that have enacted or are currently in the process of finalizing new laws or strengthening existing legal provisions.

6.1 Triggers for legal review

Before launching a law and DRR review process, stakeholders may find it useful to consider the factors that have triggered legal reforms in other countries and consider the extent to which these factors are relevant to their own specific context.

Disaster Events

Disaster events present an opportunity to leverage political will, international support and public opinion to prioritize DRR and catalyse the wider administrative and societal change needed for legal reform. They also provide an opportunity to learn from the past, as they may reveal inadequacies within existing arrangements and highlight risk factors that may not have been considered previously.[7]

For example, in **Indonesia** the DRM legal reform process was expedited in the aftermath of the 2004 Indian Ocean Tsunami. The disaster galvanized the political will that was needed to advance the DRM legal reform process, foster effective cooperation amongst stakeholders, mobilize support from the international community and ensure that parliament gave high priority to reviewing and passing the bill. More recently, the 2015 earthquake in **Nepal** has placed renewed emphasis on the need to expedite the reform of the country's DRM legal system.[8] For many, the 2015 earthquake demonstrated that the legal regime had not fully addressed critical risk reduction issues and that Nepal's response and preparedness provisions were not as strong as they should be to deal with the catastrophic disasters that occur in Nepal with increasing regularity.

Major disasters occurring in other countries may also serve to stimulate political interest in ensuring the soundness of domestic legal arrangements for DRR.

Political Reform Processes

Even in the absence of a recent disaster, political reform processes can generate new political will to undertake legislative reform. In Georgia, for example, DRM is currently regulated through a suite of disparate acts, government decrees and provisions in sectoral laws that were enacted between 1993 and 2014. The main trigger for the recent changes to the country's DRM set-up was a series of major political developments since 2012 following parliamentary elections, a full cabinet reshuffle and several amendments to the Constitution that shifted executive powers from the president to the prime minister.[9] The legal review process for developing an overarching DRM law

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7   The substantive inputs to this chapter have been derived from the documentation of lessons learned from the legal review processes in a cross-section of countries in three regions. The Asia-Pacific region is better represented, as countries in this region can look back on a long history of enacted DRM laws.

8   Center for Excellence in Disaster Management and Humanitarian Assistance, *Disaster Management Reference Handbook Nepal* (2015).

9   Additionally, under an Association Agreement with the European Union signed in 2014, Georgia committed to align its legislation in a number of relevant sectors with that of the European Union, and to implement the ensuing reforms within an identified timeframe.

in Georgia is still nascent, but it has already led to the establishment in 2014 of specific DRR Units at the Ministry of Environment and Natural Resources Protection, and the Ministry of Regional Development and Infrastructure, including amendments to their respective legal mandates.

International and Regional Agreements

The legal review process at the country level is often informed, or initiated by, the adoption of international agreements and frameworks. The HFA significantly influenced the legal review processes of **Bhutan**, **Nepal** and **India** (amongst other countries) by laying out the underlying principles of DRM laws, particularly in regards to establishing dedicated finance, institutional mandates, the mainstreaming of DRR into development programming and a shift of focus from preparedness and response to risk reduction. As signatories to the HFA, states were required to report on progress against five priorities for action, which included ensuring that DRR is both a national and local priority with a strong institutional basis for implementation.[10] The framework has served as an important advocacy tool for civil society and international organizations, as exemplified by the legal review processes in the **Philippines** and **Vietnam**. It has also prompted donors and development partners to allocate and prioritize funding for DRR and legislative reform in their programming, as was the case in both **Indonesia** and **Armenia**.

The recent adoption of the Sendai Framework presents an important new opportunity along these lines, and has already started to have its effect. For instance, the Sendai Framework has influenced the ongoing legal review process in Indonesia, prompting the concerned agencies and stakeholders to consider issues of accountability, use of technology and sectors that were not previously included (such as tourism). It has also encouraged a greater inclusion of certain stakeholders, including vulnerable groups and the private sector.

Regional agreements and processes can also play a powerful role in stimulating interest. Indonesia's current review, for example, has also been influenced by the DRM legal reform aspects of the Asian Ministerial Conferences in 2012 and 2014, as well as the 2009 *ASEAN Agreement on Disaster Management and Emergency Response* (AADMER). Likewise, the legal review process in **Vietnam** was influenced by that country's commitments under regional agreements of the Asia-Pacific Economic Cooperation (APEC) and AADMER (in addition to the HFA), which encouraged legislative reforms to implement different aspects of DRM.

Requirement under a national framework or policy

Often, the first attempt to formalize risk governance arrangements is through an overarching national policy or framework that sets the overall goals for DRM and guides national and local efforts aimed at their achievement. In many cases, these policy frameworks themselves call for the development or strengthening of a legal basis for DRM mechanisms, institutions and resources.

Such was the case in **Bhutan**, where the enactment of DRM law, regulations and policies was an explicit requirement of the *National Disaster Risk Management Framework* (2006), which was itself prompted by a number of factors, including: the country's commitments to international agreements (such as the HFA); an increased frequency of weather- and climate-related disaster events; advocacy by international actors (including UN agencies); and observations on experiences in neighbouring countries, especially following the Asian Tsunami.

In **Vanuatu**, the *National Action Plan in 2006* recommended the revision of the *Disaster Management Act* (2000). Following the endorsement of the plan in 2006, a draft bill and accompanying policy paper were developed through a series of stakeholder consultations facilitated by the South Pacific Geoscience Commission. There are

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10   *Hyogo Framework for Action 2005–2015: Building the Resilience of Nations and Communities to Disasters.*

now plans to revisit this draft and restart the process with support from the World Bank Mainstreaming Disaster Risk Reduction Project.

6.2 Key Steps in the Process

A series of steps are proposed here to support an effective legislative review (and potentially reform) process. These steps (and their order) are suggestive, not prescriptive, and the mechanisms used to achieve them need to be adapted to the country context.

Figure 1: Key Steps in the Legal Review Process

1. STAKEHOLDER BUY-IN
• Initiating Legal Review
• Introductory Meeting
• Establish Task Force
• Engage Additional Expertise

2. CONTEXT ANALYSIS & REVIEW OF SECONDARY INFORMATION
• Risk Profile
• Engage Additional Expertise
• Institutional, Legal & Policy Arrangements

3. LEGAL MAPPING & ANALYSIS
• Checklist on Law & DRR

4. MULTI-STAKEHOLDER DISCUSSION
• Online Consultation
• Public Meetings

5. ADDRESSING RECOMMENDATIONS FROM THE LEGAL REVIEW
• Further Research
• Wider Consultations
• Awareness Raising Activities
• Amendment to Existing Laws
• Introduction of New Laws

6. DRAFTING PROCESS
• Drafting of new laws/amendments
• Review by key stakeholders

7. SUPPORTING POLICY AND REGULATIONS
• Policies
• Plans
• Regulations
• Guidelines

8. MONITORING IMPLEMENTATION
• Compliance
• Enforcement

Step 1: Obtaining Buy-in for a Legal Review

Initiating a legal review

Depending on the context, there are a number of different national, international, governmental or non-governmental constituencies that could potentially initiate a legal review process. DRM is an all-of-government and an all-of-society concern, and as such it is advisable to gain as broad a coalition to support the review process as possible. Whereas most such projects start from a relatively small nucleus of interested persons and institutions, it is helpful to start planning from the beginning who needs to be involved.

A participatory, open process that involves all relevant stakeholders can help to ensure that that relevant laws and regulations adequately respond to the challenges posed by disaster risks. Such a process also helps to raise awareness of DRM issues and strengthens the capacity of those who will be responsible for the law's implementation. For example, in **Bhutan** the Department of Disaster Management under the Ministry of Home and Cultural Affairs commenced the process, whereas in **Indonesia** and the **Philippines**, the initiative was driven by advocacy from civil society. In all three cases, strong collaboration among a wide range of stakeholders was crucial.

In many countries, a National Platform for DRR or a similar forum may already exist, providing an ideal source of expertise and established cooperation between stakeholders. **Uganda**, for example, has a very active National Platform for DRR that convenes stakeholders from relevant ministries, NGOs and development partners on a monthly basis. A stakeholder mapping exercise can also be used to identify which actors should be involved, as well as to ascertain whether these actors require training or familiarization with DRM issues or the legal reform process.

The mapping of the potential contributions of each actor is crucial to the architecture of the approach. With the responsibility for both developing and implementing legislation, the government has a naturally central role to play during all stages of the review. Regardless of who initiates the legal review, it may be useful to engage both political and administrative representatives of government to ensure that the necessary political will and administrative cooperation are mobilized. This involves engaging with parliamentarians, staff of the national DRM agency and other relevant national and local authorities, representatives from technical and academic institutions, relevant professional bodies and civil society actors. Other stakeholders from within the DRM community – including international development partners – may also be brought on board at this stage.

Convening an introductory meeting and developing a plan of action

An introductory launch meeting may be held to outline the necessity for legal reform, gain consensus on the scope and objectives of the legal review, establish a taskforce, working group or committee, and develop an action plan that outlines activities to be undertaken and expected outcomes. Convincing stakeholders to give the necessary time and resources to the initiative may require evidence to be presented on the necessity for legal reform by outlining obligations under national frameworks and policies as well as regional and international agreements.

In some countries, the review may be initiated with a clear purpose of developing a new law; in other cases, it may be more appropriate to set an objective of reviewing the existing arrangements to ensure that they are implemented, remain adequate for the risk profile and follow best international practices. The introductory meeting also provides an opportunity to introduce the Checklist and plan the legal review, allocate responsibilities, foster cooperation between stakeholders and establish milestones and a budget for the legal review process. When the Checklist was tested in **Italy**, **Armenia** and **Nigeria**, it helped guide and stimulate initial discussions with relevant stakeholders about existing legal frameworks (using pieces of legal research that had been conducted previously) and to develop a plan of action for next steps. Planning for the review can enable stakeholders to make preparations, allocate time

and resources[11] to participate in consultations and review relevant reports and drafts of legislation. Representatives from different constituencies can be identified to collaborate in driving the process forward.

Establishing a task force

Establishing a task force, working group or committee has proven useful in some countries. A task force can initiate research using the Checklist, facilitate consultations with a broader set of stakeholders, analyse submissions from interested parties and prepare reports or a draft bill for submission to parliament. In some cases, it will make most sense to assign this task to an existing committee or inter-departmental body. However, it is important to ensure that the team has the necessary legal and DRR technical expertise to undertake these tasks. As DRR is a cross-cutting issue, it is recommended that an agency or representative that can foster effective cooperation between sectors and stakeholders be appointed to coordinate the review. This will help garner commitment and ownership of the reforms, as well as facilitate the alignment of sectoral and DRM laws and policies.

## Engaging a wide range of expertise, disciplines and sectors

It may be necessary to augment existing capacity with specialized expertise. In **Indonesia**, for example, external consultants were brought in to fill a gap when progress on the draft DRM law stalled due to a lack of technical expertise (especially in the field of human rights). However, in order to ensure ownership of the process by the key stakeholders, it is recommended that when external consultants are brought on board, their role is to support the governmental and non-governmental stakeholders, rather than carry out the bulk of the work. A key determinant of success in this regard is that relevant actors (such as government ministries and agencies) have the necessary capacity and familiarity with legislative procedures and DRM issues to allow them to meaningfully engage. For this purpose, it may be useful to acquaint them with the basic concepts of DRM and DRR; examples of DRM legal reform in countries with similar governance arrangements and risk profiles via a documentation of best practices or the organization of exchange visits.

During **Bhutan's** legal review process, wide-ranging consultations were undertaken involving different ministries, public sector agencies and select district administrations. This included a series of briefing sessions and orientation missions for parliamentarians – including missions to India, Sri Lanka and the UNDP Regional Centre in Bangkok.

> **Country example**: In **Indonesia**, the shared experience of disasters forged strong bonds among actors – bonds that allowed them to quickly advance legal reforms. These actors included: the National Planning Agency (BAKORNAS PB), the National Disaster Coordination Agency (BAPPENAS), the Ministry of Home Affairs, the Indonesia Society of Disaster Management, the University Forum, Palang Merah Indonesia (Indonesian Red Cross Society), the House of Representatives and a Convergence Group of international development partners. Sound mechanisms were established for monthly coordination meetings, information exchange and cost-sharing among partners. As an NGO with a broad base of support, the Indonesian Disaster Management Society – consisting of groups and individuals committed to improving the overall management of the DRM cycle in Indonesia – was best-placed to lead the advocacy and reform process. UNDP supported the drafting of the DRM law, familiarization workshops for parliamentary committee members and the deliberation process.

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11 The legal review in Vietnam required about US$ 250,000 for 3 years and was supported by UNDP, International NGOs, IFRC as well as bilaterally by Japan and the US.

Figure 2: Stakeholder Roles in the Indonesian Legal Review Process for DRM
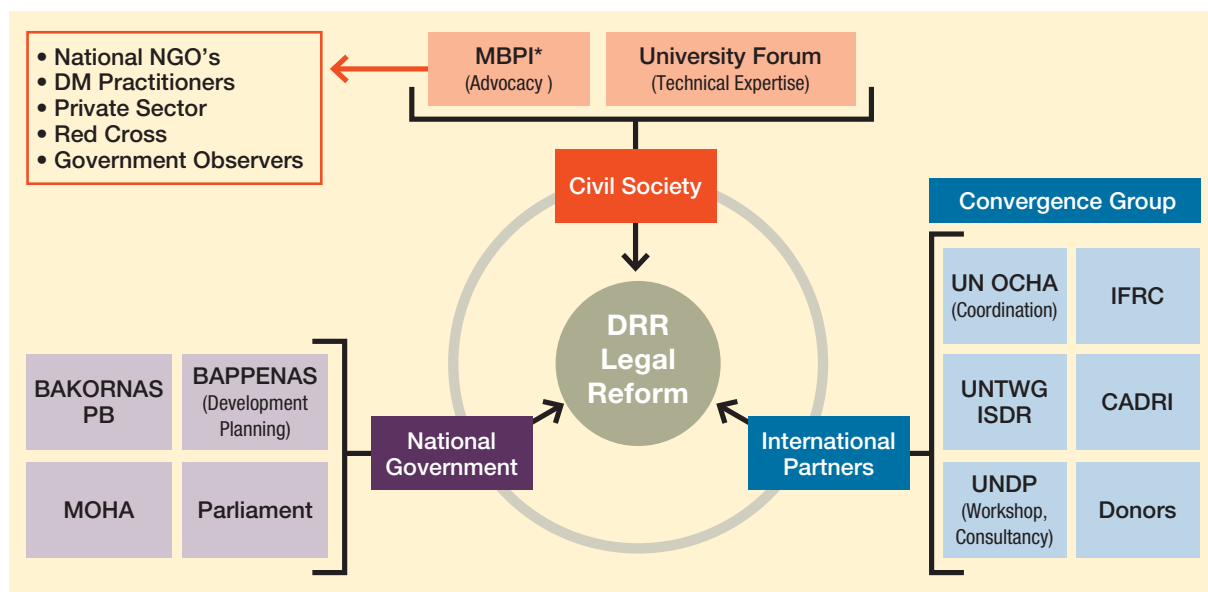
Following successful legal reforms, specialists and members of parliament from **Indonesia** and **Bangladesh** were invited to exchange experiences with the Vietnamese National Assembly, helping to build **Vietnam's** awareness and capacity to engage in a DRM legal review. A legal drafting board and technical drafting secretariat were established in accordance with the standard legal development guidelines of the National Assembly. The Ministry of Agriculture and Rural Development was made the lead agency for the drafting process, with the support of key ministries.[12] Representatives from the ministries provided inputs, and extensive consultations were conducted with local organizations and interest groups. A team of national and international consultants (as well as UNDP staff) provided technical support during the drafting process. Climate change issues were not strongly emphasized in the DRM law, since the responsibility for climate change rested under a different ministry with a separate legislative and institutional set-up (and had limited representation in the DRM legal review process).

The legal review process in **India** began with the establishment of a committee of officers from the Ministry of Home Affairs. This was followed by consultations with state governments and key ministries, including the Ministry of Law and Justice and the Ministry of Agriculture. In contrast to this government-centric approach, the **Nepal** review process was characterized by wider engagement with and involvement of NGOs, CSOs and other stakeholders – including UN and international organizations – through the Nepal Risk Reduction Consortium. Ideally, these different approaches would be combined in order to ensure broad representation and consideration of sectoral issues.

In **Vanuatu**, a number of sectoral legislative reform initiatives have been undertaken prior to, or parallel with, the DRM legal reform process. As a result, the ministries of land management, forestry, agriculture, infrastructure and finance aligned their respective legal reviews and policies with the draft DRM Act. This has fostered highly effective cross-sectoral cooperation, which is coordinated by the National Advisory Board on Climate Change and Disaster Risk Reduction. A draft climate change and DRR policy has recently been developed which takes stock of the existing and planned DRM and climate change provisions in sectoral laws. Given the representation of all sectors

12   Such as the Ministry of Natural Resources and Environment (MONRE), Ministry of Labour, Invalids and Social Affairs (MOLISA), Ministry of Home Affairs (MOHA), and Ministry of Justice etc.

in the National Advisory Board, this body is expected to bring together stakeholders to facilitate synergies in legal review efforts and ensure that the planned DRM law will effectively pull together these provisions.

Step 2: Context analysis and review of secondary information

As another preparatory step, it is recommended to undertake a brief context analysis to inform the purpose, objectives and scope of the legal review and ensure that any reforms emanating from the review are suited to the needs of the country and are implementable within available resources and capacities. The context analysis focuses on two elements: the risk profile and the overall institutional, legal and policy arrangements in the country. The use of existing data and, where available, previous analyses ensures that this step is not overly time-consuming.

Understanding the risk profile

Understanding the disaster risks and their causes is critical to identifying the existing gaps in the legal framework. This step draws upon available scientific, social and economic data and reviews information on the multiple hazards faced by the population as well as the vulnerability and exposure of people and assets. For the purpose of the legal review, it is most likely not necessary to carry out new data collection or a risk assessment, as use should be made of existing risk information. For example, in 2014 **Armenia** was selected as one of five countries for the development and piloting of disaster risk reduction indicators for the post-2015 Sustainable Development Goals. The work undertaken on understanding the risk profile for this project laid a solid basis for updating the DRR legal framework, as well as for integrating indicators and mainstreaming DRR in the overall development agenda of the country.

Considering the overall institutional, legal and policy arrangements

The Checklist facilitates a thorough analysis of the existing institutional and policy arrangements. This is needed to determine how to best promote DRR through legislation, the level of decentralization (determined by the type of political system in place), and the prevalent power relations. This is important for understanding how incentive systems are structured and how people respond to them.

An understanding of available DRM capacity is also required to ensure that new legislation for DRR is sustainable within available government financial and human resources. This will help to ascertain the ability of the government to: engage in a legal review; implement its outcomes; and assign roles and responsibilities to the appropriate stakeholders. For this step it may also be possible to draw upon existing analysis and (preferably recent) institutional, policy or capacity assessments and reviews.

As the legal review process may have been preceded by DRM policies or frameworks, relevant research may be available in the form of existing reports that may themselves have helped to initiate the legal reform process. For example, in **Georgia**, a capacity assessment of the national DRR system conducted by the Capacity for Disaster Reduction Initiative[13] mapped out the legal framework for DRM and identified gaps and weaknesses. This was a good start, but the assessment did not include sectoral laws. The Checklist is, therefore, recommended as a more thorough process that takes into account all relevant provisions in DRM and sectoral regulatory frameworks.

Another type of research that could be analysed is existing studies on the related issues of disaster response and preparedness. In **Vietnam**, stakeholder consultations for a 2009 IFRC study, *Legal Preparedness for Responding to Disasters and Communicable Disease Emergencies in Vietnam,* demonstrated widespread support for the

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13   The Capacity for Disaster Reduction Initiative brings together six United Nations organizations – UNDP, OCHA, UNICEF, WFP, FAO and WHO – and UNITAR, UNOPS, WMO, IFRC and GFDRR as observers in a collaborative mission to "deliver as one" in capacity development for disaster risk reduction.

development of a new DRM law and made a number of key recommendations for legal reform, including greater prioritisation of DRR based on the IDRL Guidelines and other international and regional instruments.

If the focus of the review is on the development of a new DRM law, other useful sources of information are the DRM laws of other countries with similar risk profiles or governance structures. In **Uganda**, international good practices on DRM were documented based on a number of Asian and African case studies and were shared widely with relevant stakeholders. When taking this approach, it is important to be aware of how the country context, stage of development and risk management arrangements compare to that of the chosen examples. This will inform how much to exemplify or depart from their approaches and ensure that the DRM law is tailored to the context (as set out in Checklist Question 1 and the DRR Law Report).

Step 3: Legal mapping and analysis using the Checklist on Law and DRR

Legal researchers in Indonesia conduct consultation in Solo on the implementation of their legal framework.

Once the context analysis and review of existing research is complete, it will generally be helpful to identify relevant legislation, including: the main DRM law (if one exists) and relevant sectoral laws; and policies/regulations (including building codes and laws relating to land use planning, environment and education) at the national, provincial and local levels. The Checklist provides a systematic approach for stakeholders to identify and assess the appropriateness of the current legal regime and identify areas of strength and weakness.

The Checklist can be used to guide research on relevant laws and regulations – as well as inform the content of interviews and consultations with key stakeholders in government departments and representatives from subnational levels – to identify coverage and

implementation challenges. Responses to the Checklist will facilitate the identification of existing strengths and gaps, prompting a consideration of whether changes in law are warranted and whether further focus is needed on the implementation of certain existing laws and regulations. Detailed step-by-step guidance for using the Checklist (including comprehensive lists of pertinent laws to be checked for each of the Checklist questions) is provided in Part 7.

In the **Cook Islands**, **Indonesia**, **Mongolia**, **Egypt** and **Colombia**, the Checklist was used to guide in-depth research and for a legal research report to be reviewed. These reports were designed to be presented for review by a government department and/or a multi-stakeholder dialogue (as set out below in Step 4). A similar legal mapping exercise was conducted in **Vietnam** (before the development of the Checklist) that enabled the team to compile a report identifying the necessity for a new DRM law and assessing the most suitable options for its structure and content. This involved gathering existing national laws, ordinances and regulations and analyzing the current DRM legal framework, as well as researching how other countries in the region went about developing DRM legislation and consulting with a range of stakeholders. The Ministry of Agriculture and Rural Development was tasked with preparing a set of documents that assessed the anticipated impact of the new law and providing an initial draft law. The whole file was then submitted to the Ministry of Justice and the Government's Office for review. The drafting committee amended the required documents accordingly.

Step 4: Multi-stakeholder discussion

The assessment of the Checklist – together with a summary of findings from the documentation of international best practices, consultations with relevant stakeholders and other research – can be discussed during a multi-stakeholder workshop(s). These workshops can bring together representatives from relevant ministries and departments responsible for DRM, planning, construction, environment and finance, as well as representatives from subnational level authorities, humanitarian and development actors, professional bodies, civil society, women's associations and vulnerable groups. This allows for the participation of a broad range of stakeholders, particularly community members from high-risk areas.The outcome of this dialogue may be an agreement on the priority gaps and

Participants in a workshop in the Cook Islands review their laws against the Checklist.

challenges, together with proposals of potential activities for addressing them. Such a workshop was held in the Cook Islands, where key stakeholders were brought together to review the outcome of the legal research that had been conducted by the Cook Islands Red Cross Society using the Checklist.

Step 5: Addressing recommendations emanating from the legal review

The recommendations resulting from the above steps may involve the proposal of various activities and initiatives. Examples of recommended action points that may be proposed to address the challenges and gaps revealed through the legal research may include:

- More in-depth research into a particular issue or area of law.

- Wider consultation with stakeholders, particularly at local levels.

- Awareness-raising activities to address implementation challenges, such as public information sessions, trainings, development of communication products and events or performances.

- Amendments to existing laws or regulations to address DRR concerns or to reduce overlap or conflict with the new DRM legal framework (e.g. Georgia and Vanuatu).

- Introduction of new laws or regulations in areas not currently covered by existing legislation.

The follow-up plan should set out priority issues and activities and delegate responsibilities to various stakeholders, taking into consideration existing legal mandates and available capacity.

Step 6: Drafting process (new laws, amendments and revisions of existing laws)

Should it be decided to introduce new (or revise existing) legislation, an individual or committee will need to be appointed to draft the bill/proposed amendments. While this process will greatly depend on country context, it may include individuals from the attorney general's office, parliamentarians or other individuals who were likely also involved in the legal review process. This draft can then be consolidated and comprehensively revised (upon the receipt of comments and requests of the ministries, branches of government, communities and relevant committees) in order to finalize the bill to be submitted to the legislature (parliament or national assembly).

During the drafting process, it is especially important to include groups who are particularly vulnerable to disasters or who tend to be marginalized in decision-making processes, including women, people with disabilities, geographically isolated groups and minorities. In the **Philippines**, a wide range of stakeholders were engaged through a series of public hearings. Participation can also be encouraged or facilitated through public awareness campaigns via the Internet, press and radio, or other contextually-relevant means of communication (which could include the solicitation of inputs, notification of public consultation events and publication of draft bills and reports for review). At the time of writing, **Georgia** intended to make use of a government-managed online system to facilitate stakeholder consultations for policy and law making. A similar approach was taken in **Vietnam**, where the draft DRM law was disseminated online, helping to facilitate broad public engagement and consultation with specific stakeholders (including the submission of 10 papers with comments from international organizations). In particular, the sensitization of relevant National Assembly members to gender awareness and capacity building of representatives of the Vietnam Women's Union helped introduce significant changes that addressed a number of gaps in the gender analysis of the draft DRM legislation.

The engagement of various interest groups, professional bodies and civil society actors can help to ensure that different voices are heard and a cross-section of issues are considered. Importantly, it also sensitizes the public to the requirements of the new legislation, which will support its implementation and foster social demand for compliance. Sufficient time and resources should be allocated to ensure that all submissions are considered and that comments are addressed, suggestions are incorporated accordingly and revisions shared publically.

Enactment of new, or revision of existing legislation

Depending on the legislative mechanisms and law-making process in the country, the creation of new (or revision of existing) legislation will need to pass through several stages of deliberation and approval. The bill may need to be formally introduced to parliament, referred to a committee for review, debated and voted upon in one or two houses of parliament, passed by a set quorum and criteria and finally referred to the executive for approval. The Indian DRM law was deliberated in an inter-ministerial committee before being approved by the cabinet. It was then adopted in both houses of parliament before being finally endorsed by the president.

It is often during this process that momentum can be lost due to political changes or competing priorities on the legislature's agenda. For example, in **Nepal**, initial discussions centred on whether to revise the existing *Natural Calamity Act* (1982), which focuses on rescue and response, or to develop a new DRM law. The latter approach was eventually decided upon and a number of relevant legislative provisions were revised as part of a structured and step-by-step approach. However, the process has remained extremely slow due to frequent changes in the government and prolonged political instability. The law has still not been adopted.

The legislative approval procedure in **Bhutan** also took several years longer than originally envisaged because the cross-sectoral nature of the act required the involvement of a very broad range of stakeholders. Following submission to the cabinet, the bill was returned on several occasions for further refinement, taking into account consultations with additional national and international stakeholders and the incorporation of lessons learned from floods and earthquakes that occurred in 2008 and 2009.

In the **Philippines**, despite the perceived urgency of the issue, the *Disaster Risk Reduction and Management Act* (2010) was eventually enacted 21 years after it was first introduced as a bill. The process lost momentum on a number of occasions because other competing bills were perceived to be more or equally important (depending on political priorities, particular preferences of the legislative authors and/or pressures from constituencies). Eventually, and although the law was intensely deliberated during the 2010 election year, this did not derail the final passage of the law.

Step 7: Developing supporting policy and regulations

It may also be necessary to make changes to existing policies or to develop new subsidiary legislation, regulations, guidelines, policies and plans to facilitate the implementation of the revised legal framework. Suggestions will likely have been articulated during the legal review process and the commitment of key stakeholders must be sustained for the development of legal and policy mechanisms for implementing the law. Securing this commitment is particularly important where the law mandates changes to existing institutional structures (which will affect individuals who may have an incentive to maintain the status quo).

For example, in **Indonesia**, immediately after the passage of the Law 24 on Disaster Management, additional technical support was provided by UNDP, IFRC and Palang Merah Indonesia (Indonesian Red Cross Society) to support the development and enactment of ancillary regulations. The law has been further clarified by government regulations regarding DRM arrangements at the national and subnational level; DRM funding and the management of relief aid; and the participation of international and non-government actors in all phases of the DRM cycle. The president issued a presidential regulation establishing the National Disaster Management Agency (BNPB) in 2008. Interestingly, even though the proposed legal reform would give rise to significant changes in the institutional set-up, the personnel of the affected institutions – aware of the constraints in the existing regulatory structure – were not only receptive to legal reform, but even enthusiastic about the prospect of being absorbed within a more proactive and functional structure. Their acceptance of these changes was largely because their commitment to the process had been secured in the early stages.

In the **Philippines**, a set of implementing rules and regulations were developed to operationalize the new DRM law and clarify ambiguities, followed by the formulation and adoption of the *National Disaster Risk Reduction and Management Framework and the National Disaster Risk Reduction and Management Plan* (NDRRMP). The latter provides further detail on the role of the newly re-constituted National Disaster Risk Reduction and Management Council (NDRRMC). The NDRRMP then guided the establishment of regional disaster risk reduction and management councils and local disaster risk reduction and management plans. The NDRRMC also issued supporting policies, circulars, local government units and local ordinances to facilitate budget preparation, allocation and expenditure for DRM.

Step 8: Monitoring the implementation

A well-drafted law is not sufficient in itself to achieve DRM objectives. Once a law is enacted (even after a comprehensive and consultative review process), it is critical to maintain stakeholder involvement in monitoring the law's implementation and enforcement. A monitoring and evaluation framework needs to be developed to keep track of whether the legal requirements are actually implemented (and to monitor the effectiveness of the legal provisions and their enforcement). In that respect, it may be necessary to look at issues of compliance and enforcement (including whether relevant authorities have the necessary capacity to enforce relevant rules) and whether the judiciary is playing, or needs to play, a significant role in compliance and enforcement.

A feedback mechanism should also be established to identify the need for further reviews and amendments to the legal framework so as to ensure it remains fit for purpose and in keeping with international standards. The legal review process in **Armenia** demonstrated the need to establish a permanent monitoring and evaluation process for the implementation of DRM legislation as well as to monitor its adherence to the Sendai Framework.

6.3 Lessons learned

Key lessons drawn from the experience of a number of countries that have undertaken DRM legal review processes include:

■ Effective planning is critical at the outset, so as to anticipate and pre-empt potential setbacks. As part of this planning, key actors should be identified and sensitized on the need for legal reform at an early stage to allow them to allocate time and resources to the process. As described above, the process for developing and enacting the DRM Act in **Bhutan** took much longer than the usual four years for legal development processes in the country because of the need for broader consultation as well as a number of disasters that delayed the process.

■ Strong and sustained commitment and political will from the government and focal DRM agencies has proven critical to driving the reform process in all the countries consulted. Political champions proved very important in all stages of the law-making process in the **Philippines**, but especially in the parliamentary stage, where the fate of the bill is ultimately decided. Changes in government can sometimes delay the process, as was the case in **Vanuatu**. Therefore, it is important to have support for the initiative amongst all political parties and in the upper echelons of the civil service.

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■ DRM is a complex issue, often involving cooperation between several ministries and agencies. Recognition of, and the mapping of, the skill sets of each actor and a clear delineation of roles and responsibilities for each is extremely important. In **Indonesia**, high levels of trust and a willingness to cooperate were fundamental to the success of the DRM legal reform, demonstrating the importance of effective coordination, cooperation and multi-stakeholder participation.

■ Broad consultation needs to underpin a new law-making process in order to capture inputs, policy and implementation issues, and to give voice to those who may otherwise be excluded from such processes. This consultative process may be conducted face-to-face (as in the **Philippines**) or online (as planned in **Georgia**) and should include a wide range of stakeholders – such as government ministries, technical line agencies, emergency services, private sector actors, civil society, development partners and representatives of various groups in society – to make the legislation as comprehensive as possible.

■ It may be helpful to draw on the experiences of other countries that have undergone DRR legal reforms. This can be done via the documentation of best practices (such as in **Uganda**), or by arranging visits for parliamentarians or other key stakeholders to exchange best practices (as happened in **Vietnam**). For this purpose, countries should be carefully selected based on similar risk profiles and/or governance arrangements.

■ It is important to draft a law based on on-the-ground realities and applicability, which can ensure easier enforcement during the implementation phase. Such context analysis proved extremely useful in **Bhutan**, as did the incorporation of lessons learned from disasters that occurred during the legal reform process.

■ Sufficient technical preparation – in terms of lessons learned and policy papers (existing or newly commissioned as necessary) – are invaluable for pinning down potential solutions and getting them right from the outset. An existing capacity analysis proved invaluable in providing a number of key insights to inform the legal review process in **Georgia**.
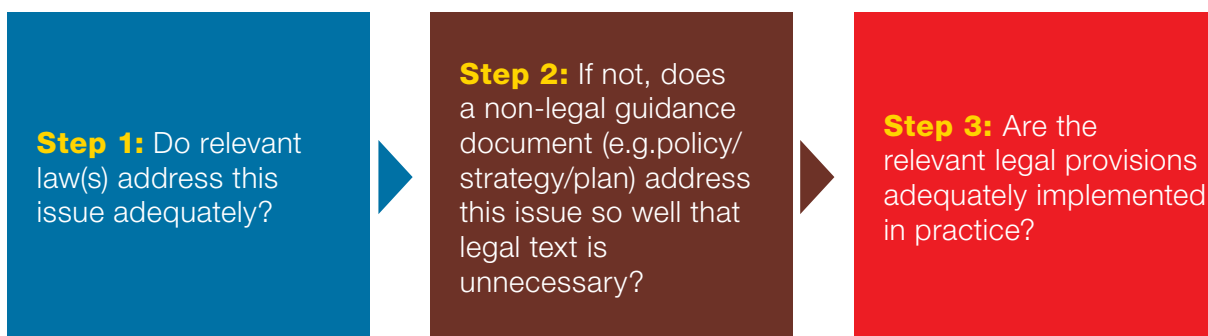
■ A thorough understanding of other relevant sectoral laws and their proper alignment with proposed DRM legislation helps to remove or avert any discrepancies or bottlenecks and create important synergies. The Checklist has proven to be an important tool for this purpose in **Armenia**.

7. Guidance for using the Checklist on Law and DRR

As set out in Part 6, the Checklist can be used as a tool to support the undertaking of a legal review or assessment process by providing direction on key issues to consider when analyzing the content of the legal framework and its implementation. This chapter provides the rationale for each Checklist question; the types of laws and regulations that need to be reviewed in order to answer the question; and examples of good practices. As the Checklist is designed to support the implementation of commitments made under the Sendai Framework, relevant paragraphs from the Sendai Framework are also listed for easy reference.

The list of 'issues to consider' set out under each of the 10 Checklist questions are designed to assist in making an overall assessment and response to the question in focus. They are intended as guidance for reflection, rather than a mechanical scoring system. It may be that some issues are assessed positively, and others negatively. In order to determine the overall assessment of the top-level questions, these issues will need to be weighed against each other in light of a particular country's context. Particular needs and gaps that are identified through the assessment of the issues can be flagged for further consideration.

As general guidance, it is recommended that the following steps be undertaken when addressing each of the 'issues to consider':

Step 1: Do relevant law(s) address this issue adequately?

Step 2: If not, does a non-legal guidance document (e.g.policy/strategy/plan) address this issue so well that legal text is unnecessary?

Step 3: Are the relevant legal provisions adequately implemented in practice?

In order to be able to identify existing strengths and gaps, and to prompt consideration of which issues are a priority within individual country contexts, a sample form has been developed in Annex 2. As set out above, an analysis will need to be undertaken of the relevant legislation, as well as any relevant policy documents, together with an assessment of current implementation and practice challenges.

In determining the priority areas to address, it may be helpful to consider where improvements of the legal framework and its implementation are likely to make the biggest impact to reducing risks and saving lives. As well as focusing on the 10 lead questions of the Checklist, consideration should also be given to specific gaps and weaknesses that may have been revealed through the analysis of the 'issues to consider'.

1 Does your country have a dedicated law for disaster risk management that prioritizes disaster risk reduction and is tailored to your country context?

Rationale:

With certain exceptions (discussed below), most countries have found that an overarching, dedicated national DRM law is important for setting out key DRR principles and priorities, promoting a multi-hazard approach, recognising the rights of individuals and clearly assigning responsibilities from the national to the local level. In countries with federal systems, it may be equally important to also have laws of this kind at the provincial level. When developing or revising a DRM law, consideration should be given to the country's risk profile, existing risk governance capacity and national development context (as discussed in Part 6) and how the law relates to and supports the implementation of other relevant sectoral laws.

What does the Sendai Framework say?

It is important to:

27 (a) *Promote the coherence and further development, as appropriate, of national and local framework of laws, regulations and public policies, which, by defining roles and responsibilities, guide the public and private sectors;*

27 (i) *Encourage parliamentarians to support the implementation of disaster risk reduction by developing new or amending relevant legislation.*

Country example: In 2012, **Colombia** adopted Act 1523, establishing the "National System for Disaster Risk Management" – placing a new national emphasis on DRR. The law clearly defines the roles of government entities from the national to the local level and civil society actors and community representatives in DRR decision-making, planning and activities, as well as prioritizes capacity building and training. It also seeks to:

- Promote better mainstreaming by addressing how hazard risks should be considered in land use planning and other aspects of development.
- Ensure sufficient resources for local authorities by establishing territorial funds to be administered by mayors and governors.
- Promote better accountability by introducing a set of penalties and sanctions.[14]

Check the broadest law relating to disaster risk management, which may cover:

- *DRM/emergency management/civil defence law (as applicable)*
- *Specific hazards (such as laws on storms and floods, seismic protection/earthquakes, fires, droughts)*
- *The establishment of dedicated DRM agencies*

Issues to consider:

(1.1) Tailoring your approach to your country's natural hazards risk profile and disaster risk governance capacity

14 Martinez and Granger, 'New disaster legislation in Colombia emphasizes prevention and preparedness' (29 June 2012), at *http://www.ifrc.org/en/what-we-do/idrl/latest-news/disaster-law-newsletter-june-2012/new-disaster-legislation-in-colombia-emphasizes-prevention-and-preparedness-58027/.*

There is no 'one-size-fits-all' when it comes to how to draft DRM laws. Some laws may attempt to address all sectors and set out detailed actions and responsibilities, whereas others may be successful with much less detail, seeking only to make connections with other sectoral laws that address DRR. In most cases, countries have found that a single, overarching DRM law (whether detailed or not) is a critical foundation for their legislation and policy structures. However, some countries have preferred to divide this function among several laws. For example, **Japan** and **New Zealand** have a set of laws that are strongly coordinated and aligned with each other, rather than a single overarching law.[15]

If a country is considering drafting a new DRM law, experience has shown that a transition from a response-focused system to a risk reduction-focused system is a long-term process. Therefore, it may be necessary to adjust the pace of any law reform to advances made in a country's overall governance capacity, and to focus on introducing incremental changes that can be more realistically adopted and implemented. Some countries face much greater challenges than others in law reform due to factors such as size, federal structures, population density and national income, all of which may also shape the process and duration of any law reform process.[16]

Research on the characteristics of DRM laws has illustrated that there is considerable variation on how DRR may be addressed within general DRM laws, based on a country's exposure to natural hazards and their disaster risk governance capacity in other sectors and at the local government level.[17] Despite the variation, however, certain patterns have started to emerge that may be helpful for countries to be aware of when embarking on the process of developing a new law, noting that different types of DRM laws may serve different purposes within a country's DRM system.

The typology and matrix below may provide guidance on the type of DRM law suitable for different country contexts and may be helpful in prioritising and setting out the level of detail on DRR activities within a DRM law. The typology groups DRM laws into four main types: type 1 laws focus on preparedness and response; type 2 laws have a broad DRM focus; type 3 laws give DRR priority with a high level of detail; and type 4 laws give DRR priority with a low level of detail.

Figure 2 and the Box below depict the different types of DRM laws across a range of country contexts. As set out in the matrix, while DRM laws may be the primary instrument to address natural hazards in some country contexts, in other contexts sectoral laws that address building, planning and environmental management may be contributing substantially to disaster risk governance, and therefore, reduce the amount of detail that may be needed within the national DRM law (i.e. DRR priority law – low detail).[18]

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15   See *supra* note 3, at 20.

16   *Ibid.*

17   *Ibid*, at 41.

18   For further detail on this matrix, and the typology of DRM laws, see *supra* note 3, at 42.

Figure 2: Matrix of DRM law typology and country context

Country exposure to natural hazards

	Low	**Medium**	**High**
High	DRR priority law (high detail)	DRR priority law (high detail)	DRR priority law (low detail)
Medium	DRR priority law (high detail)	Broad DRM law	DRR priority law (low detail)
Low	Broad DRM law	Broad DRM law	Preparedness and response law

Country disaster risk governance capacity through sectoral laws

Explanation of Typology

Type 1 – Preparedness and response law: These laws focus on emergency response and elements of preparedness, early warning and recovery. These kinds of laws may be appropriate for countries that have a low level of risk and/or those that address disaster risk comprehensively through other sectoral laws and have high levels of implementation.

Type 2 – Broad DRM law: This type of law covers prevention, preparedness, mitigation and response, and establishes institutions at the national level as well as some allocation of responsibilities at the sub-national level. DRR is not a specific focus or priority in the law, and generally there are no references to financing DRR, risk mapping or DRR education. This could be appropriate if other sectoral laws are handling these issues.

Type 3 – DRR priority law (high detail): These laws cover the same elements as a broad DRM law but give a higher priority to DRR by specifying clear local responsibilities for DRR, providing for cross-sectoral coordination, resourcing, training and education on DRR, as well as risk assessment and mapping.

Type 4 – DRR priority law (low detail): This type of law is part of an ensemble of laws that are designed to link together to comprehensively address DRM and DRR (e.g. laws on specific hazards, on natural resource management, building and construction, and local governance). This law may play a co-ordination role in linking these other laws. Generally they will be found in countries with high governance capacity (e.g. **Japan** and **New Zealand**).

(1.2)   Setting out principles and priorities that guide your country's approach to risk reduction

If a country is exposed to a medium or high level of natural hazards, establishing DRR as a clear priority of the DRM law is important for steering a national focus towards risk reduction. An important starting place to assess whether DRR is a priority is to look at the objectives, principles and institutional mandates set out within the DRM law, and whether these continue to be reflected in the procedures, activities and responsibilities set out within the law.

In determining how well DRR is prioritized within the law, it is important to assess intention and impact rather than terminology. For example, **Mexico** and **New Zealand** have strong DRR-focused laws, but use the terms 'civil protection' and 'civil defence'. Likewise, **Vietnam** uses 'prevention and control'.[19] Many national jurisdictions have other preferred terminology, particularly where DRR is not easily translatable into the local language.

> **What does the Sendai Framework say?**
>
> Part III of the Sendai Framework lists a number of important Guiding Principles that can be drawn from, including:
>
> 19 (b) *Disaster risk reduction requires that responsibilities be shared by central Governments and relevant national authorities, sectors and stakeholders, as appropriate to their national circumstances and systems of governance;*
>
> 19 (c) *Managing the risk of disasters is aimed at protecting persons and their property, health, livelihoods and productive assets, as well as cultural and environmental assets, while promoting and protecting all human rights, including the right to development.*

> **Country example**: The **Philippines'** *Disaster Risk Reduction and Management Act* of 2010 commences with a statement that it is the policy of the state to "adopt a disaster risk reduction management approach that is holistic, comprehensive, integrated and proactive in lessening the socio-economic and environmental impacts of disaster including climate change, and promoting the involvement and participation of all sectors and stakeholders concerned at all levels, especially the local community." This objective is then complemented by associated provisions throughout the Act promoting a whole-of-society approach to risk reduction through good governance, risk assessment, early warning, knowledge building, awareness-raising and the reduction of underlying risk factors.[20]

(1.3) Establishing links to legislation and institutions related to climate change adaptation

Because climate change is one of the most important drivers of disaster risk, linking climate change adaptation efforts to DRR is essential (as is avoiding contradictions and duplication between climate change adaptation and DRR efforts). To promote the inter-disciplinary approach that is needed for both effective DRR and climate change adaptation, DRM laws can include specific mechanisms for better coordination and integration (such as through institutional mandates or activities) with climate change institutions and policies. In **Algeria** for example, the National Committee on Major Risks, established by the DRM law, is mandated to coordinate all activities for both DRR and climate change adaptation.[21] Additionally, provisions may require "taking into account the requirements of adaptation to the adverse impacts of climate change"[22] when establishing responsibilities or activities, to ensure that due consideration is given to climate change-related risks.

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19   See *supra* note 3, at 9.
20   *National Disaster Risk Reduction and Management Act* (The Philippines, 2010), in particular, s 2.
21   See *supra* note 3, at 66.
22   See recommendation in UNEP, *Guidebook on National Legislation for Adaptation to Climate Change* (2011), at 169.

(1.4) Ensuring coordination with key sectoral laws

DRR needs to be perceived and pursued as a whole-of-government priority and not just a stand-alone responsibility of nodal DRM institutions or agencies. One of the key findings of the DRR Law Report is that there needs to be far greater integration between laws and institutions for DRM and those related to development planning, building and construction and environmental and natural resource management. While the integration of DRR considerations within sectoral laws is addressed below (Checklist Question 4) provisions may be included within the DRM law to promote better linkages with sectoral laws and regulations and the institutions responsible for their implementation. This may be done through various means, such as including the department of urban planning (or the equivalent) as a member of national and local committees for DRM, referring to provisions of other laws regarding the environment or natural resource management, or including provisions seeking to ensure risk-informed development and planning. For example, **Colombia's** law addresses how hazard risks should be considered in land use planning and other aspects of development.

(1.5) Measuring success and implementation

Drafting and adopting a DRM law is just the first step; bigger challenges may arise during its implementation. Full implementation of DRM laws (especially in the first years following their adoption) often presents many challenges, particularly concerning a lack of necessary human and/or financial resources. Including provisions for statutory reporting, oversight or review mechanisms may assist in overcoming key implementation challenges. For example, **Namibia's** DRM law requires reports to be submitted to the executive government or cabinet, and the **Philippines'** law requires parliamentary oversight by a high-level Congressional Oversight Committee as well as a 'sunset review' of the law within five years or as the need arises.[23]

What does the Sendai Framework say?

19 (b) *Disaster risk reduction requires that responsibilities be shared by central Governments and relevant national authorities, sectors and stakeholders, as appropriate to their national circumstances and systems of governance;*

19 (e) *Disaster risk reduction and management depends on coordination mechanisms within and across sectors and with relevant stakeholders at all levels, and it requires the full engagement of all State institutions of an executive and legislative nature at national and local levels;*

19 (f) *While the enabling, guiding and coordinating role of national and federal State Governments remain essential, it is necessary to empower local authorities and local communities to reduce disaster risk, including through resources, incentives and decision-making responsibilities, as appropriate;*

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23 *National Disaster Risk Reduction and Management* Act (the Philippines, 2010), s 27.

2 Do your country's laws establish clear roles and responsibilities related to risk reduction for all relevant institutions from national to local level?

Rationale:

To be effective, laws must clearly assign roles and responsibilities to specific ministries and levels of government for their implementation. Mandating departments, agencies, committees and other institutions to carry out specific tasks related to risk reduction ensures that ambitions or principles that are set out within legislation are realized, as well as promotes accountability and transparency. As noted above, an overarching DRM law often sets out the main distribution of such roles and responsibilities, but as the wording of this question suggests, it is generally not the only legal document to do so. Likewise, policies rather than laws are sometimes relied on for this function, though this approach may provide less authority and certainty to the arrangements than legislation.

Check laws and regulations on:

- *DRM/emergency management/civil defence at the national, provincial and local levels (as applicable)*
- *Local government and decentralization*
- *Specific hazards (such as laws on storms and floods, earthquakes, fires and droughts)*
- *The establishment of DRM agencies or authorities*

Issues to consider:

(2.1)   Establishing a national inter-ministerial/multi-sectoral committee that meets frequently enough to be effective

Most DRM laws establish an inter-ministerial committee to bring together all relevant line ministries – and, in some cases, representatives from the private sector and civil society – to oversee and make major decisions concerning DRM. Having these inter-ministerial committees can promote better mainstreaming and a broader approach to risk governance while also ensuring the engagement of senior officials. Given the high-level nature of these committees, however, they may only meet following the occurrence of a disaster, which creates challenges for the effective mainstreaming of DRR into development and long-term planning. For this reason, some DRM laws (such as the new DRM law in the **Seychelles**[24]) require that the committee meet quarterly or at least twice a year.

(2.2)   Assigning a national focal point agency for disaster risk reduction with sufficient institutional authority to exercise effective leadership

As evidenced by considerable research on this topic, local level DRR will almost always be enhanced by a strong national entity to oversee, promote and coordinate DRM activities between different levels of government.[25] DRM laws often establish key national focal points for cultivating a whole-of-society approach to DRR, providing national leadership and policy direction. Ensuring that these nodal institutions are not only focused on emergency management, but carry out wider outreach to promote a more integrated risk reduction approach, is important to make sure they are 'fit for purpose'.[26] Although the precise institutional location and mandate of national DRM agencies/authorities will differ according to individual country contexts, experience has shown that the institution

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24   See the *National Disaster Risk Management Act* (the Seychelles, 2014) s 12(1), which requires the NDRM Committee to meet four times in the first year of being established and at least twice a year after that.

25   Iqbal and Ahmed, *Disaster and Decentralization* (2009), referred to in *supra* note 3, at 23.

26   UNISDR, *Global Assessment Report on Disaster Risk Reduction* (2015), at 128.

assigned to be the focal point agency should be situated at a high enough level to effectively coordinate and promote DRR activities with different departments or ministries.[27] For example, in **Namibia** the Directorate for Disaster Risk Management sits within the Prime Minister's Office,[28] and in **Colombia** the National DRM Unit reports directly to the president.

> **Country example**: In **Italy,** the DRM institutional framework comprises several authorities. The National Platform for Disaster Risk Reduction, established in 2008 by a decree of the prime minister, is the main instrument for the cross-sectoral coordination of DRR policies and programmes. It is a forum for technical cooperation as well as for strategic leadership of DRR. The Platform is a multi-stakeholder mechanism composed of representatives of national ministries, territorial authorities and volunteer organizations operating in the area of civil protection. Thanks to its inclusiveness, the Platform facilitates collaboration among the main public and private institutions that contribute to DRR. It also fosters collaboration with other national, sectoral and regional platforms, and with the global platform for DRR. Overall coordination is guaranteed by the National Italian Department of Civil Protection, which acts as a link to the whole Italian Civil Protection System.[29]

(2.3) Promoting cooperation and information exchange between relevant ministries and levels of government with the national focal point agency

In light of the leadership role often assigned to DRM lead agencies, relevant laws and regulations should also set out how they coordinate and share information with other sectors and stakeholders, especially those related to development planning, finance, the environment and climate change adaptation.[30] For example, **Namibia's** DRM law requires the appointment of 'national focal persons' from every governmental institution, association or organization to serve as a liaison with its national DRM agency (the Directorate: Disaster Risk Management) and take part in the 'national focal persons forum'.[31] It should be noted, however, that to be effective, such focal points will need to have the knowledge, resources and authority to be able to motivate and 'call the sector to account' for risk reduction. This requires dedicated support and training.[32]

(2.4) Consistently assigning institutions the necessary authority and resources to carry out their mandates and responsibilities

In many countries, primary responsibility for DRM is decentralized among local or municipal authorities.[33] While decentralization is broadly recognized as being a key component of effective governance and development, research undertaken on decentralization has demonstrated that the delegation of legal authority must be matched by sufficient resources and capacity.[34] A key finding of the 2015 *Global Assessment Report on Disaster Risk Reduction* (2015 Global Assessment Report) was that local government capacities – particularly in rural areas – still remain very limited, despite having important mandated responsibilities. To avoid issues of "uneven decentralization", responsibilities need to be assigned together with the necessary resources for implementation, and there should be no competing authorities at any level.[35]

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27   UNISDR, *Global Assessment Report on Disaster Risk Reduction* (2011), at 136.

28   *Disaster Risk Management Act* (Namibia, 2012), s 11.

29   Example provided by the by the National Platform for Disaster Risk Reduction during a discussion held on the Checklist in Rome in October 2015.

30   See *supra* note 3, 19.

31   *Disaster Risk Management Act* (Namibia, 2012), at s 12.

32   See *supra* note 25, at 138.

33   See *supra* note 22, at 123.

34   Iqbal and Ahmed, 'Disaster and Decentralisation: World Bank Working Paper' (2009), at 22.

35   See *supra* note 25, at 124.

Country example: Under **New Zealand's** DRM law, local governments hold primary responsibility for DRR along with other governance responsibilities, but they are coordinated under a national legal framework and coordination mechanism. The successful shift has required time to fall into place and for individuals and organizations to understand their new roles and responsibilities as they work with each other.[36]

(2.5) Clearly assigning responsibilities between different ministries and levels of government

Ambiguity in roles and responsibilities can create unnecessary challenges in implementation. Activities or procedures required by law, both at national and subnational level, should clearly be assigned to an institution for implementation. Some countries specifically list within their DRM laws the responsibilities of different institutions and ministries. For example, **Vietnam** lists the responsibilities of each relevant line ministry under its law, including the Ministries of Agriculture and Rural Development, Natural Resources and Environment, National Defense, Information and Communications, and Construction and Transport, as well as the 'People's Committees' responsible for implementing the law at the local level.[37] The role of planning and finance departments are also especially crucial to ensure an adequate focus on and investment in risk reduction. Specific responsibilities or mandates may need to be assigned to these departments to ensure their continued engagement.

36   IFRC, *New Zealand Country Case Study Report: How Law and Regulation Supports Disaster Risk Reduction* (2014), at 21.
37   *Law on Natural Disaster Prevention and Control* (Vietnam, 2013), art 42 and 43.

3 Do your country's laws ensure that adequate resources are budgeted for disaster risk reduction?

Rationale:

A lack of adequate resources is perhaps the biggest challenge to the successful implementation and enforcement of laws and regulations relevant to DRR. Funding for risk reduction often has to compete with funding for other government priorities, especially emergency response. Even if allocations are made, ensuring that funding reaches the local level and is distributed between all the different departments and actors responsible for risk reduction is extremely challenging. There are many ways to approach the issue of funding, and what will be determined to be 'adequate' funding for DRR will depend on national and local plans for DRR based on comprehensive risk assessments.

What does the Sendai Framework say?

30 (a) *Allocate the necessary resources, including finance and logistics, as appropriate, at all levels of administration for the development and the implementation of disaster risk reduction strategies, policies, plans, laws and regulations in all relevant sectors;*

28 (i) *Encourage parliamentarians to support the implementation of disaster risk reduction by developing new or amending relevant legislation and setting budget allocations.*

Check laws and regulations on:

- *DRM/emergency response/civil defence*
- *Local government*
- *Development planning*
- *National budgetary policies and processes*
- *Taxation*
- *Investment*

Issues to consider:

(3.1) Allocating sufficient resources for DRR through:

■ Development plans

Many countries integrate DRR within their development plans to ensure that it is given the necessary priority within funding allocations. For example, in **Mexico**, the *National Development Plan* states that it will prioritize preventive actions to reduce disaster risks and mitigate the adverse consequences caused by them.[38] The national development plans in **Indonesia** and **Ghana** incorporate DRR within considerations of development activities and include DRR in a strategy document that guides annual planning and budget allocations.[39] The *Disaster Management Act* in **India** also states that it shall be the responsibility of every ministry or department of the Government of India to integrate measures for the prevention or mitigation of disasters into its development plans and projects.

38 *National development plan (Plan Nacional de Desarrollo*, Mexico, 2013-2018) cited in UNDP, *Mexico Country Case Study Report: How Law and Regulation Supports Disaster Risk Reduction* (2014), at 27.
39 UNDP, *Strengthening disaster risk governance: UNDP support during the HFA implementation period 2005-2015* (2015), at 44.

■ **Earmarking percentages in annual budgets**

Specifying certain percentages of revenue, if not to DRR alone, then at least to the more general activities for DRM, can be a successful way of ensuring that DRR activities are supported.[40] The **Philippines**, for example, allocates 30 percent of its national annual budget for DRM to response activities, leaving 70 percent for areas such as risk reduction and recovery.[41] In **Nigeria**, the National Emergency Management Agency prepares the DRM budget as part of its functions for which the law guarantees 20 percent of the national budgetary allocation for mitigating ecological problems and underlying risk factors.[42]

■ **Dedicated budget lines**

Many countries have specific budget lines for DRM established by law, though very few make specific reference to risk reduction. In **China**, however, DRR has been included in the national and provincial budget lines for the implementation of regulations relating to prevention and control of geological disasters.[43] In some cases, such reference may not be necessary, as is in the case of **Japan** (see box). Establishing a budget line (especially for DRR) may be important if your country is seeking to transition from a more response-focused system to one that prioritizes DRR, as activities may just continue as normal (on preparedness, response and recovery) unless specific funding is allocated for risk reduction.

> **Country example**: In **Japan**, the DRM budget is allocated under the national budgetary process and, on average, has amounted to approximately 5 percent of general accounts (from 1994-2004), with prevention and preparedness making up 23.6 percent and national land conservation made up 48.7 percent of the DRM budget.[44]

■ **Establishing dedicated funds**

A number of countries have also decided to establish a dedicated fund for DRR projects under DRM laws or other laws outside of regular government budgeting, which can then receive revenue from government as well as non-government entities. This may be done within national legislation by establishing a national fund for DRM, including specific DRR criteria for the use of the fund. Examples include the **Dominican Republic**, **Guatemala**, **India**, **Mexico**, **Namibia**, **Uruguay**, **the Philippines** and **Vietnam**.[45] In countries that have a federal government system, funding programmes may also be established for the allocation of funding for DRR initiatives to states and local governments, as is done in **Australia**, for example.[46] In **India**, a National Disaster Response Fund has been established in addition to general DRM budgetary allocations in order to ensure support to state governments during major disasters/emergencies, and thereby allowing states to invest more in risk reduction.

(3.2) Ensuring available resources for subnational authorities to fulfil their responsibilities

As noted above in Checklist Question 2, many local authorities, particularly in rural areas, are not equipped with the resources to implement the responsibilities assigned to them by law.[47] For this reason, particular attention should be paid to ensuring that any responsibilities that are decentralized to local authorities are properly resourced

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40   See *supra* note 3, at 28.
41   *Ibid,* at 29.
42   *National Emergency Management Act* (Nigeria, 1999).
43   IFRC, *Background Report Law and Regulation for the Reduction of Risk from Natural Disasters in People's Republic of China: A National Law Desk Survey* (2013), at 29.
44   See *supra* note 3, at 26.
45   *Ibid.*
46   *Ibid.*
47   See *supra* note 25, at 123.

– including to develop local risk governance capacity, or have the means to generate their own resources (such as through local co-funding incentives). Additionally, budgets should provide for spending on risk reduction, and not just response, and not only be assigned but also accounted for. For example, a law or regulation could establish budget allocation tracking systems at the local level to oversee resource availability and spending, and could provide for the training and development of guidelines on the classification of DRR expenditure.[48]

> **Country example**: The **Philippines'** local disaster funds require local governments to allocate at least 5 percent of their estimated revenue from regular sources to the Local Disaster Risk Reduction and Management Fund. These local funds have strong DRR spending criteria.[49]

(3.3) Ensuring a sustained flow of financial resources for DRR and reduced competition with response funds

Even if funds are established, or mandatory percentages assigned, there are often huge challenges in implementation because of unsustainable funding sources, or because of competing funding priorities. In some countries, this will require external donors to supplement[50] or private sector contributions.

> **Country example**: **Mexico's** Natural Disaster Prevention Fund, established by law, has a specific focus on DRR and was established separately from the Natural Disaster Fund that is focused only on emergency response. To ensure the Disaster Prevention Fund has a sustainable flow of resources, the *Federal Budget and Fiscal Responsibility Law* includes a requirement that the national Expenditure Plan shall include a budget for this fund.[51]

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48   UN World Conference on Disaster Risk Reduction, 'Issue Brief on Public Investment in DRR', at 4.
49   See *supra* note 3, at 27.
50   *Ibid*, at 28.
51   UNDP, *Mexico Country Case Study Report: How Law and Regulation Supports Disaster Risk Reduction* (2014), at 21.

4 Do your country's relevant sectoral laws include provisions to reduce existing risks and prevent the creation of new risks?

Rationale:

No single law can fully address DRR. Sectoral laws – especially those for development planning, building, land use, environmental protection, resource management, climate change and education (whether at national, provincial or local levels) – also need to include provisions to reduce risk, make people safer and protect their assets. Sectoral laws are especially important because they can reduce exposure and underlying vulnerability, particularly by preventing the creation of new risks.

Check laws and regulations on:

- *Environmental management and protection (including those related to biodiversity and protected areas)*
- *Natural resource management*
- *Water resource management (including wetlands management)*
- *River basin or watershed management*
- *Coastal zone management*
- *Forest management*
- *Land use planning*
- *Urban development planning*
- *Building codes*
- *Environmental impact assessments and strategic environmental assessments*
- *Climate change adaptation and mitigation*
- *Social welfare*
- *Insurance*
- *Education*

What does the Sendai Framework say?

27 (d) *Encourage the establishment of necessary mechanisms and incentives to ensure high levels of compliance with the existing safety-enhancing provisions of sectoral laws and regulations, including those addressing land use and urban planning, building codes, environmental and resource management and health and safety standards, and update them, where needed, to ensure an adequate focus on disaster risk management;*

30 (c) *Strengthen, as appropriate, disaster-resilient public and private investments, particularly through structural, non-structural and functional disaster risk prevention and reduction measures in critical facilities, in particular schools and hospitals and physical infrastructures; building better from the start to withstand hazards through proper design and construction, including the use of the principles of universal design and the standardization of building materials; retrofitting and rebuilding; nurturing a culture of maintenance; and taking into account economic, social, structural, technological and environmental impact assessments.*

Issues to consider:

(4.1) Including provisions that address DRR

In many cases, laws regulating development planning, environmental and natural resource management, and climate change adaptation do not contain specific provisions seeking to address the reduction of natural hazard risks.[52] This is a missed opportunity to promote better mainstreaming of DRR into development, increase human

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52   See *supra* note 3, at 69.

safety and protect valuable economic and social assets. See below for some examples (listed under the specific sectors) of how countries have chosen to address risk reduction within sectoral legislation.

(4.2)   Avoiding duplication or conflicting provisions between laws

Care should be taken to avoid duplication, contradictory guidance or the establishment of conflicting mandates and between sectoral ministries and different levels of government (for instance, between climate change and disaster-related laws, or between national authorities and city governments). Cross-references between DRM laws and other legislation can promote better coordination and avoid difficulties in interpretation and implementation.

(4.3)   Ensuring sufficient financial resources are allocated for implementation of the DRR mandates set out in sectoral legislation

Major challenges exist in the implementation and enforcement of key sectoral laws on development planning in many lower- and middle-income countries, particularly at the local level,[53] large as a result of insufficient resources and capacity. In many cases, DRR has not been able to garner the political support and traction needed for it to be prioritized within different sectoral budgets.[54] When reviewing these laws, emphasis should, therefore, also be placed on whether any provision is made regarding funding mechanisms or the allocation of resources. This assessment should be undertaken under the background of funding mechanisms more generally for local government in DRR, as set out in Question 2.

Special considerations for different sectors

Environment:

There is a strong link between the environment and disasters. Degraded environments can increase the risk of disasters. For example, deforested slopes can cause landslides and reclaimed wetlands can exacerbate urban flooding.[55] Natural hazards can also significantly damage the natural environment, which in turn increases local vulnerability to future hazards.

Increasingly, there is recognition that investing in the sustainable use and management of ecosystems can reduce disaster risk and increase resilience, as articulated in the Sendai Framework.[56] Although laws on environmental management are generally related to the protection of the natural environment, they have considerable potential to support DRR and can be leveraged to engage the environmental sector and secure the environmental expertise needed to address the risk of disasters.

(4.4)   Addressing natural hazards and climate change

To effectively integrate DRR, it is important that environmental management laws explicitly refer to managing natural hazards (including climate change-related risks) and promote coordination with DRM systems and institutions. **Bolivia's** *Mother Earth Law,* for example, seeks to address environmental management, sustainable development, environmental rights and climate

What does the Sendai Framework say?

30 (n) *Strengthen the sustainable use and management of ecosystems and implement integrated environmental and natural resource management approaches that incorporate disaster risk reduction.*

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53   *Ibid.*

54   UNDP, *Strengthening Disaster Risk Governance: UNDP Support During the HFA Implementation Period 2005-2015* (2015), at 21, citing Christolplos et al. (2013).

55   UNEP, 'Applying eco-system based approaches to for Disaster Risk Reduction and Climate Change Adaption: Summary of statement delivered by Mr Ibrahim Thiaw, Director UNEP Division of Policy Implementation', General Assembly Thematic Debate on Disaster Risk Reduction, 12 April 2012, New York.

56   Renaud, Sudmeier and Estrella (eds.), *The role of ecosystems in disaster risk reduction* (2013).

change in one holistic law. It requires the consideration of the prevention of and response to disasters in a system of integral planning; encourages the sustainable development of natural resources; and requires climate change trajectories to be considered when planning and zoning land use.[57] In **Tanzania**, *The Environmental Management Act* (2004) tasks the Minister for Environment with preparing guidelines for the management of environmental emergencies in relation to "natural and climate change related disaster such as floods, cyclones, droughts and major pest infestations or other intrusions of alien species of fauna and flora [and] fires".[58]

(4.5) Including DRR criteria in Environmental Impact Assessments for planned development (taking into account a changing climate)

Many countries now require environmental impact assessments (EIA) to be undertaken prior to proceeding with major development projects, and in some countries or regions (such as in the European Union[59]) strategic environmental assessments (SEA) may also be required before implementing certain programmes or plans that may impact the environment. In many cases, however, these assessments do not specifically include criteria related to the impact that development or specific programmes may have on the rise of natural hazard risks.

> **Country example**: In **Armenia**, the law on '*Environmental Impact Assessment and Expertise*' requires that the results of the EIA process should include an assessment of the level, size and potential impact of possible emergencies (including natural disasters), as well as means to reduce or remove the impact. The law also clearly defines the situations where an EIA is mandatory.[60]

EIAs (encompassing EIAs of projects and SEAs of sectors and programmes) can be expanded to incorporate natural hazard risks so that both public and private investments (including in post-disaster reconstruction contexts) consider disaster risks and encourage action to mitigate those risks in an environmentally sustainable manner. Integrating disaster risk in EIA processes may include the following:

- Identifying the potential environmental impacts of proposed development (e.g. projects, programmes or policies) and assessing how environmental impacts potentially exacerbate existing or create disaster risks;

- Identifying and assessing the multiple hazards that could potentially impact on proposed development investments, including potential climate change impacts;

- Identifying environmental mitigation options that also contribute to reducing disaster and climate change-related risks.

Including such requirements can result in safer development practices and prevent the creation of new risks. **Ukraine's** law on EIAs, for example, includes consideration of both risks to humans and the potential impact of known natural hazards on development/investment projects.[61]

(4.6) Adopting ecosystem approaches to DRR

Ecosystem-based approaches for DRR (also referred to as 'Eco-DRR') seek to manage the environment (through sustainable management, conservation and restoration of ecosystems) in such a way that it also builds the resilience of communities.[62] Ecosystems often serve as 'natural infrastructure' with important functions that influence

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57   Globe International, *The Globe Climate Legislation Study – Fourth Edition* (2014), at 70.

58   IFRC, *Tanzania Country Case Study Report: How law and regulation support disaster risk reduction* (2014), at 58.

59   *Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment* (known as the SEA Directive), Official Journal L 197, 21/07/2001 at pp. 0030 - 0037

60   Armenian Red Cross Society, *Law and regulation for DRR in Yerevan* (draft version 2015), at 32.

61   See *supra* note 3, at 62.

62   See *supra* note 55, 30.

all three dimensions of the disaster risk equation. This can happen by: regulating hazards (e.g. healthy forests can reduce the incidence of landslides and avalanches); acting as natural buffers and reducing people's exposure to hazards (e.g. mangroves, coral reefs and sea grasses protect coastal areas from storm surge impacts); and reducing local vulnerability to hazard impacts through the provision of key services (food, water, shelter, fuel) and livelihoods.[63]

Ecosystem-based approaches for DRR have gained widespread attention and acceptance internationally as a 'no regret' approach and is now promoted within the Sendai Framework.[64] To encourage the management and protection of different ecosystems in a way that also reduces the impact of disasters, environmental laws can propose the management of certain ecosystems (e.g. mountain forests, wetlands, river basins, mangroves, coral reefs and sand dunes) and natural infrastructure as a means of reducing risks from natural hazards. Note that such an approach may not only be set out in environmental laws, but also natural resource management, DRM and land use planning laws as well as other relevant policies on integrated environmental and resource management.

Natural resource management

(4.7)   Including provisions aimed to reduce the risk of water-related hazards

Floods are the most common hydrological hazards experienced globally, and the way in which water resources are managed (both in urban and rural areas) has a major impact on the risks of floods as well as on other water-related hazards (such as mud-slides and droughts).[65] Often a DRM law may only address short-term mitigation measures associated with flooding and flood warnings, whilst longer-term risk management approaches may need to be reflected in other laws and regulations related to water resource management.

Additionally, various human factors, such as water demand and water management, can exacerbate the impact that drought has on a region. Most DRM laws, however, do not address slow-onset disasters comprehensively, nor do many water resource management laws.[66] If a country is drought-prone, it may be important to include provisions aiming to reduce drought either within water management, agricultural or other legislation. In **Mongolia**, for example, the soil protection law includes measures to prevent drought and desertification as a result of the increase of agriculture, mining, road construction and urban land use, as well as climate change.[67]

Effective water and natural resource management legislation may also include provisions on the impact that certain planning, investment and distribution decisions will have on the risk of floods and droughts (e.g. a decision to improve the water supply in one area may result in flooding in another). Integrated approaches to water resource management that make DRR one of its explicit objectives can have a substantial impact on reducing the risk of floods and droughts, as it requires the involvement of many different actors and recognises the catchment area or river basin as the main unit for water resource management.[68] Such an approach, however, may require special legal mandates to manage resources across district or state boundaries, and the involvement of many different institutions as well as many pieces of legislation (on flood, water resource management, planning etc.). Integrated water resources management[69] is a complex governance and development process, and although not covered in detail in this Handbook, it can be a particularly useful tool for DRR.

63   See the Partnership for Environment and Disaster Risk Reduction (PEDRR) 'Input into Post-2015 Global Framework on Disaster Risk Reduction' (2015).

64   *The Sendai Framework for Disaster Risk Reduction 2015-2030*, para (28) (d), 30 (g), (n).

65   See *supra* note 55, at 248.

66   See *supra* note 3, at 68.

67   *Law on Soil Protection and Prevention of Desertification* (Mongolia, 2012) as referred to in *supra* note 56, at 374.

68   See *supra* note 3, at 68.

69   IWRM is defined as "a process which promotes the co-ordinated development and management of water, land and related resources, in order to maximise the resultant economic and social welfare in an equitable manner without compromising the sustainability of vital ecosystems" as cited in *supra* note 55, at 250.

70   See *National Integrated Water Resources Management Plan for Ghana* (2012).

Country example: In 1996, **Ghana** established the Water Resources Commission (WRC) by an Act of Parliament (Act 522 of 1996), bringing together relevant authorities and primary users and providing the commission with a mandate to regulate and coordinate the country's resources in an integrated way. Responding to this mandate, the Commission has developed a national *Integrated Water Resources Management* (IWRM) Plan to fit within the overall context of development planning within Ghana.[70]

(4.8)   Linking forest or urban fire prevention and management with DRM laws and institutions

Laws related to fire prevention and management are often completely separate from DRM and environmental laws.[71] These laws may address activities related to fire prevention, assign resources, establish fire-fighting institutions and include criminal sanctions for offences associated with fires. To avoid disconnect with other DRM provisions, it may be important to include references that promote better coordination, especially concerning early warning systems (EWS). Some countries are choosing to develop integrated fire management systems as a holistic approach to addressing the management of fire on all vegetation, and to integrate measures for prevention, preparedness and the restoration of forests. **Lebanon**, for example, adopted the *National Strategy for Forest Fire Management* in May 2009 to reduce the intensity and frequency of forest fires and to bring a more coordinated approach to the management of forest fires.[72]

Land use planning, urban development and building

Development planning laws are essential for achieving better DRG, as they have the best potential to reduce the exposure and vulnerability of populations and assets to hazards, and prevent the creation of new disaster risk through urban development. Having an integrated system in which land use planning decisions and building codes are based on risk mapping can greatly reduce risks. Some countries have building code regimes that integrate construction and spatial planning, and others take a further step by integrating physical planning with that of broader development planning.[73] The guiding questions below will help determine whether laws and regulations for land use planning, urban development and building are well integrated or connected.

What does the Sendai Framework say?

30 (f) *Promote the mainstreaming of disaster risk assessments into land-use policy development and implementation,*

30 (h) *Encourage the revision of existing or the development of new building codes and standards and rehabilitation and reconstruction practices at the national or local levels, as appropriate, with the aim of making them more applicable within the local context, particularly in informal and marginal human settlements, and reinforce the capacity to implement, survey and enforce such codes through an appropriate approach, with a view to fostering disaster-resistant structures;*

27 (k) *Formulate public policies, where applicable, aimed at addressing the issues of prevention or relocation, where possible, of human settlements in disaster risk-prone zones, subject to national law and legal systems.*

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71   See *supra* note 3, at 67.
72   Kanwar and Thummarukudy, 'Disaster Risk Reduction Is An Integral Objective Of Environment Related Policies And Plans, Including For Land Use, Natural Resource Management And Adaptation To Climate Change' (2014), at 42-43.
73   See *supra* note 3, at 53.

(4.9)   Promoting coordination with disaster risk management institutions and mechanisms

Land use planning regulations are particularly important, as they can prevent construction or limit the type of land use in areas exposed to natural hazards (such as flood plains, coastal areas, unstable or contaminated land, or areas of especially high seismic risk). Responsibility for land use and development planning is often distributed between different levels of government, and is not necessarily governed by a single law, so it might be necessary to review several laws and regulations at both the national and subnational level, including those regulating the zoning of coastal areas.

To avoid poor planning and unsustainable development decisions, effective land use planning regulations should include specific criteria related to natural hazards. When undertaking an analysis, consider existing implementation challenges and how they could be addressed through dedicated resources, training and awareness raising initiatives.

Country example: The **Kyrgyzstan** *Land Code* sets out functional planning requirements that include clear DRR criteria for the "provision of safety of populated settlements from natural and manmade impacts" as well as the "fulfilment of environmental, sanitary and hygienic requirements in accordance with norms of legislation." The Kyrgyz law also requires municipalities to develop and approve land use plans, programmes for the rational use of land and certification of design and survey works. A part of this regime establishes plans for infrastructure facilities, including water supply, sewage and groundwater drainage in newly developing areas. The legal framework, therefore, establishes high-level DRR and safety objectives, and clearly allocates responsibility to the local government for implementation.[74]

(4.10)   Updating building codes and land use planning regulations and ensuring that priority is given to critical infrastructure such as schools, hospitals and other public buildings and structures

If implemented effectively, a system of building regulation that is tailored to relevant hazards can greatly reduce risks from natural hazards. Indeed, the Sendai Framework encourages states to revise or develop new building codes, "with the aim of making them more applicable within the local context".[75] Most countries have building codes of some form, but it is important to check that they are updated according to new building technologies, as well as relevant hazard information, especially in light of any recent disasters. It is rare that building codes refer specifically to DRR, and it may, therefore, be necessary to look closely at the purpose and the content of the codes to ascertain whether disaster risk issues are considered, and determine whether more explicit reference may be necessary.

Country example: In **Namibia's** capital, Windhoek, the national building law and codes are made highly effective and well-resourced through the Building Control Division of the City Council. The Division requires documented planning approval of all buildings and has an inspection regime. Although the Namibian law overtly sets out only a few criteria relevant to DRR – in particular, ensuring that buildings are resistant to floods and safe from "other injurious factors" – in practice the criteria applied by the Windhoek Building Control Division include soundness of building structure, public safety, risk of flooding, drainage and access for emergency vehicles. The building code's implementation system thus provides a model that could be replicated in other

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74   *Ibid,* at 54.
75   *The Sendai Framework for Disaster Risk Reduction 2015-2030,* para 30 (h).

urban centres in Namibia as well as in other countries. However, its effectiveness is dependent upon having a group of trained staff and dedicated funding within the local government budget. In practice, this system does not extend to rural villages, where small traditional dwellings are constructed with local materials.[76]

The implementation of building codes remains a major challenge for many countries, especially low- and middle-income countries. As mentioned above, in most cases, responsibility for building code enforcement is delegated to local governments, but often without the necessary resources or capacity to allow for full implementation. For example, in Nepal, while a number of initiatives to improve implementation had been underway before the Earthquake in 2015, the Kathmandu Municipality (with a staff of 25 people) only had the capacity to approve newly constructed buildings over three stories and no capacity to assess the existing building stock.[77] In addition to resource constraints, for many countries excessive bureaucracy, issues of corruption and a weak 'culture of compliance' can exacerbate challenges in implementation and enforcement of building codes and standards.[78]

Country example: In **New Zealand** the *Building Act* is one of four primary pieces of legislation addressing disaster risk reduction. Not only does it regulate building work, and set building standards, it also seeks to promote accountability of all those involved – including owners, designers, builders and building consent authorities. Everyone is given a responsibility, and that aspect has been essential to ensuring its proper implementation.[79]

While these implementation challenges cannot be overcome by simply adopting a new code, certain measures can still be taken to improve compliance and increase safety. The following steps may be considered:

- Strengthen government capacity to enforce the codes and provide training to relevant authorities.[80]

- Check whether building codes reflect customary building techniques and take into account local capacity and resources availability.[81]

- Ensure that particular attention is given to certain types of public buildings, including schools, hospitals and other public buildings as well as large commercial developments where significant numbers of people gather.

- Undertake public education and awareness-raising (in particular with local artisans and semi-skilled labourers) on the importance of building code compliance for public safety.

- Introduce and ensure implementation of enforceable legal sanctions for a lack of compliance, as appropriate.

(4.11) Establishing incentives or legal sanctions, where appropriate, in cases of non compliance leading to unsafe buildings or developments

To promote better accountability and ensure a minimum standard of public safety, incentives and legal sanctions should be included within laws and regulations on building and construction. In **Nicaragua**, for example, building permits in the Municipality of Villa Nueva are granted free of charge in order to encourage people to work within the system.[82] In terms of legal sanctions, in both **Indonesia** and **Algeria**, criminal sanctions apply to companies that negligently or illegally construct high-risk developments.

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76   See *supra* note 3, 50.
77   IFRC, *Regulatory Barriers to Emergency and Transitional Shelter in Nepal* (2014), 76.
78   See *supra* note 3, chapter 14.
79   See *supra* note 35, at 19.
80   *The Sendai Framework for Disaster Risk Reduction 2015-2030,* para 30 (h)
81   See *supra* note 3, at 53.

(4.12) Improving the safety of people living in informal settlements, consistent with their human rights

Residents of informal settlements are especially vulnerable, not only to natural hazards, but to a range of health and safety risks. It is estimated that by 2050, 66 percent of the world's population will be urban,[83] and in many countries rapid urbanization has already outpaced the urban planning and development capacity of national or city administrations. This gives rise to highly vulnerable and risk-blind informal settlements susceptible to a range of natural hazards. Mass eviction or demolition is not a durable solution for informal settlements, as it fails to address root causes, can result in serious human rights violations and often ends up being expensive, with people returning to their original homes regardless. Instead, many countries are taking measures to 'upgrade' the conditions of informal settlements, firstly through improvements to the physical environment (including installing basic infrastructure for water, sanitation, waste collection, storm drainage etc.), and secondly through 'regularising' land tenure and seeking to improve access to basic health and social support services. Introducing the necessary legal measures, and seeking to fulfil rights to housing and a healthy environment, may reduce risks in these communities and generate incentives within the community to invest in safer building and maintenance practices. In the event that relocation has been deemed the only safe and durable option, procedures for undertaking relocations should be consultative and consistent with a human rights-based framework that safeguards the rights of individuals and communities.[84]

> **Country example**: **Brazil** has been a pioneer in 'regularisation'. Its *Statute of the City of 2001* aims to address urban growth, avoid negative effects on the environment and ensure safety by improving the physical safety of informal settlements, providing social services and bringing them under city administration. This law is then complemented by laws on social housing.[85]

Climate change

Climate change adaptation and DRR share a common objective of reducing the vulnerability of people and assets exposed to climate related hazards. Therefore, it is not surprising that that measures taken for climate change adaptation can often be classified as DRR measures (see above Q 1.3). Extensive cross-sectoral coordination and a more integrated approach between the two areas can be promoted through relevant legislation and policy.

(4.13) Promoting coordination and integration with disaster risk management institutions and systems

Many laws on climate change are currently focused on mitigation (actions to reduce or remove greenhouse gases) rather than adaptation (measures to adjust natural or human systems to changes in the climate and reduce the impact of those changes).[86] In most countries, climate change law (or more often policy) can promote better linkages with DRM policies or institutions, for example, by referring to relevant laws on DRM, or by ensuring that institutions responsible for adaptation (often ministries of environment) and DRR/DRM work in close coordination. Currently, integrated legal frameworks addressing both DRR and climate change adaptation are rare, although there are some models emerging where both CCA and DRR are integrated with development planning and resource management legislation, such as in **Algeria**, the **Dominican Republic**, **Mexico** and **Uruguay**.[87] Uruguay, for

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82   *Ibid.*
83   United Nations, Department of Economic and Social Affairs, Population Division, *World Urbanization Prospects: The 2014 Revision* (2014).
84   UNHCR, *Planned relocation, disaster and climate change: consolidating good practices and preparing for the future* (2014).
85   Se e *supra* note 3, at 59.
86   *Ibid*, at 64.
87   *Ibid,* at 65-66.

example has a special decree on *National Response to Climate Change and Variability* that aims to prevent risks throughout the whole territory by coordinating actions among all relevant institutions.[88]

> **Country example**: The **Federated States of Micronesia** have a *Nationwide Integrated Disaster Risk Management and Climate Change Policy* that seeks to establish a "multi-hazard" risk management approach integrating DRM, climate change adaptation and greenhouse gas emissions reduction, in particular by promoting strong horizontal and vertical coordination between sectors, national, state and community levels.[89]

(4.14) Utilising disaster insurance and/or other risk finance mechanisms

Insurance or similar risk-sharing mechanisms are increasingly being used to support economic resilience to disasters, but also as a means to encourage a risk reduction approach (by requiring the insured to take certain measures to reduce risks). Some countries may consider compulsory disaster risk insurance, such as **Mexico**, which requires states to utilize disaster insurance and other risk management and transfer mechanisms.[90] Many high-income countries either have compulsory general insurance for property owners or have incentives to insure against risk; for example, **Japan**

> **What does the Sendai Framework say?**
>
> 30 (b) *promote mechanisms for disaster risk transfer and insurance, risk-sharing and retention and financial protection, as appropriate, for both public and private investment in order to reduce the financial impact of disasters on Governments and societies, in urban and rural areas.*

has penalties in mortgage costs, and the **United States** subsidizes home insurance.[91] Additionally, a new institutional trend is developing relating to the establishment of 'national risk boards' that include insurance supervisors, DRM agencies and other line ministries that are tasked with analyzing risks and risk management policies, looking at disaster risk financing within a broader context of DRM and providing recommendations to relevant departments.[92] This has already been implemented in **Singapore** and is being considered for **Jamaica**, **Morocco** and **Rwanda**.[93]

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88   *Ibid,* at 66.
89   See *supra* note 56, at 7.
90   *See supra note 3, at 80.*
91   *Ibid.*
92   World Bank, *World Development Report 2014* (2014), at 279.
93   See *supra* note 26, at 195.

5

Do your country's laws establish clear procedures and responsibilities for conducting risk assessments and ensure risk information is considered in development processes?

Rationale:

A clear and current understanding of specific hazards is indispensable, both to government authorities as well as to the private sector, communities and individuals. A comprehensive risk assessment provides the foundation for risk-informed development[94] and enables the development of effective measures to prevent and reduce disaster risks. As recognised in the first priority of the Sendai Framework, laws, policies and practices "should be based on an understanding of disaster risk in all its dimensions of vulnerability, capacity, exposure of persons and assets, hazard characteristics and the environment."[95] Ensuring that there is accurate baseline data on risk in each locality, and that this information is used to guide decision-making about planning and construction, can have an enormous impact on the safety and sustainability of livelihoods, homes and infrastructure.

Check laws and regulations on:

- *DRM/emergency response/civil defence*
- *Land use planning*
- *Building and construction*
- *Water management*
- *Meteorology*
- *Climate change*
- *EIAs*

What does the Sendai Framework say?

24 (a) *Promote the collection, analysis, management and use of relevant data and practical information and ensure its dissemination, taking into account the needs of different categories of users, as appropriate;*

24 (b) *Encourage the use of and strengthening of baselines and periodically assess disaster risks, vulnerability, capacity, exposure, hazard characteristics and their possible sequential effects;*

24 (e) *Make non-sensitive hazard-exposure, vulnerability, risk, disaster and loss-disaggregated information freely available and accessible, as appropriate;*

30 (g) *Promote the mainstreaming of disaster risk assessments into land-use policy development and implementation;*

30 (h) *Promote the mainstreaming of disaster risk assessment, mapping and management into rural development planning*

Issues to consider:

(5.1) Requiring regular hazard and vulnerability mapping and risk assessments, including both disaster and climate risks, and clearly assigning these tasks to appropriate authorities

Legislation should provide for regularly updated risk mapping, of both disaster and climate risks (i.e. historical and projected risks), as well as putting in place measures to improve required technical and institutional capacities at all

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91   *Ibid.*
92   World Bank, *World Development Report 2014* (2014), at 279.
93   See *supra* note 26, at 195.
94   GFDRR, *Understanding disaster risk; a policy note* (2014).
95   *Sendai Framework for Disaster Risk Reduction 2015-2030*, para 23.

levels. Some DRM laws include provisions about risk mapping. For example the laws in **Algeria**, the **Philippines** and **New Zealand** identify the undertaking of risk assessments as an integral part of the development process. Many risk assessments, however, are currently still regarded as "linear models with limited capacity to identify and manage complex and interconnected risks."[96] As such, legal provisions on risk assessment or mapping should promote holistic, multi-hazard assessments that look at how different risk drivers (such as climate change, urbanization, etc.) may interact or build upon each other and thus increase or create new risks.

Country example: **Mexico** places a strong emphasis on risk mapping within its legal framework, assigning a national institution to be responsible for the preparation of Risk Atlases at the national, state and local level. A Risk Atlas incorporates databases, geographic information systems and tools for analysis and simulations, as well as the estimation of losses caused by disasters. The law requires the Risk Atlases to be updated regularly, provides that they constitute the main reference for the development of policies and programmes for DRR and, very importantly, requires authorities to consider the Risk Atlases in the authorization of any type of construction or human settlement. In 2014, 28 of 32 states and 175 municipalities had already developed their own Risk Atlas.[97]

(5.2) Providing for at-risk communities, civil society as well as the private sector to be involved in the risk assessment process and to be informed of the outcomes

Communities themselves are often a vital source of information for understanding hazards, vulnerability, capacity, and exposure of persons and assets in a particular locality. The Sendai Framework recognizes this and calls for states to ensure the use of traditional, indigenous and local knowledge and practices to complement risk assessment processes. At the same time, ensuring that communities are involved in risk assessments also helps to enable ownership of subsequent efforts to mitigate risk, particularly if drastic measures (such as relocation) are required.[98] In a similar way, promoting the involvement of the private sector in undertaking risk assessments means private actors may be more likely to use risk information to inform their own plans and activities.

Encouraging clear and transparent communication and dissemination throughout the risk assessment process is equally important. Communication will be essential for translating the information into action.[99] Making risk information publicly available also increases transparency and is recognised as being an important means of prompting individuals to take their own measures to reduce risks.[100]

(5.3) Requiring risk information to be considered in development planning, budgetary allocations and construction

To reduce underlying risk, development planning must be informed by comprehensive risk mapping and assessments. Laws and regulations can require the consideration of risk information in investment decisions concerning development planning and construction to prevent the creation of new risks and to better manage existing risks. Risk information could also be used to initiate the retrofitting of buildings (especially for essential infrastructure, like schools and hospitals) to withstand the assessed hazard levels, drafting new land use planning guidelines or regulations, and designing financial protection measures.[101] While laws or regulations may not contain extensive

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96 See *supra* note 25, at 211, citing OECD (2014).
97 See *supra* note 50, at 26.
98 See *supra* note 93, at 10.
99 *Ibid,* 11.
100 See *supra* note 3, at 33.
101 See *supra* note 93, at 7.

detail on procedures, a link may still be made between the information obtained from risk mapping/assessments and decisions related to development planning and construction, including actions and decisions taken by the private sector.

Country example: **Algeria's** *Law on the Prevention of Major Risks and Disaster Management in the Context of Sustainable Development of 2004* (DRM law) takes an integrated approach to DRR. It not only makes DRR a high priority, but also integrates it with development planning and local government functions. This law includes requirements for risk assessment and risk mapping, land use planning and building safety, and integrates the work of the National Committee on Major Risks and a Directorate-General on Civil Protection (based in the Ministry of the Interior) with decentralized local governance structures.[102]

102 See *supra* note 3, at 13.

6 Do your country's laws establish clear procedures and responsibilities for early warning?

Rationale:

Early warning is one of the most crucial functions of any DRM system, given its life-saving impact. This is recognised in one of the seven targets of the Sendai Framework to "substantially increase the availability of and access to multi-hazard EWS and disaster risk information and assessments to people by 2030."[103] To ensure that accurate information reaches people in time to save lives, it is important that procedures are clear and roles and responsibilities of all those involved are well understood, including by those who are at the receiving end of the information.

Check laws and regulations on:

- *DRM/emergency response/civil defence*
- *Disaster management and response plans*
- *Contingency plans*
- *Climate change*

What does the Sendai Framework say?

33 (b) *Invest in, develop, maintain and strengthen people-centred multi-hazard, multisectoral forecasting and early warning systems, disaster risk and emergency communications mechanisms, social technologies and hazard-monitoring telecommunications systems; develop such systems through a participatory process; tailor them to the needs of users, including social and cultural requirements, in particular gender; promote the application of simple and low-cost early warning equipment and facilities; and broaden release channels for natural disaster early warning information.*

Issues to consider:

(6.1)   Assigning responsibilities for all steps of the early warning process from assessing the hazard, to making decisions to issue warnings, to initiating early action

Many aspects of effective EWS do not require legislation, but rather, technical capacity and good plans and systems. Where laws and regulations can add value is in ensuring clear legal mandates are assigned to assess hazards and risks, and to make timely decisions to issue warnings.[104] Procedures may appear to be clear on paper, but under the pressure of deciding whether to issue a disaster warning, it may become evident that roles are not as practical or as clear as intended.[105] Additional consideration needs to be given to include accountability mechanisms within legislation for failure to fulfil responsibilities or for misuse of EWS. For example, the **Philippines** and **India** have criminal offences for interfering with early warning equipment, and India and Italy also establish offences for issuing false warnings that lead to panic.[106]

103 *The Sendai Framework for Disaster Risk Reduction 2015-2030,* para 18 (g).
104 *The Sendai Framework for Disaster Risk Reduction 2015-2030*, para 18 (g).
105 See *supra* note 3, at 36.
106 *Ibid,* 36.

Country example: **Nicaragua** is one of the few examples with a legislatively mandated EWS that includes a bottom-up mechanism that requires communities to contribute to risk information (in addition to more traditional top-down mechanisms). The DRM law that establishes the national system for DRM allocates a range of EWS-related tasks to the community level to be carried out by volunteers. These tasks include: risk surveillance, informing and receiving guidance based on EWS, and facilitating communication between communities and higher levels.[107]

(6.2) Establishing roles for technical ministries as well as communities, local authorities, scientific institutions, private media companies and civil society organizations in early warning systems

Legislation can foster end-to-end[108] and multi-hazard EWS that can also generate stronger partnerships and inter-institutional cooperation in information dissemination and the management of EWS. Legal provisions can require institutional cooperation by bringing technical data and expertise from different national research and monitoring systems into the EWS, and also set out the role of the media.

The Sendai Framework calls on states to develop EWS through "participatory processes" and to make sure they are tailored to the "needs of users, including social and cultural requirements, in particular gender."[109] Indeed, research has also indicated that community involvement in the management of EWS can be crucial to their effectiveness.[110] This can be achieved, for example, by consulting with community members in the design and development of EWS, integrating community-based EWS with official/national EWS and assigning community representatives with maintenance or oversight responsibilities for local warning equipment, such as sirens or drums.

(6.3) Ensuring EWS exist for the most frequent and serious hazards

While it is important to have multi-hazard EWS, if a country is particularly prone to a specific type of natural hazard then it may be necessary to include reference to accurate EWS required for this particular type of hazard, and to ensure it is linked with subsequent and necessary early action. For example, as **Armenia** has a high level of seismic risk, its Law on Seismic Protection contains detailed provisions on the seismic EWS and methods of notification as well as overall priorities for the system. [111]

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107 *Ibid,* at 77.

108 The expression "end-to-end warning system" is used to emphasize that warning systems need to span all steps, from hazard detection to community response.

109 *The Sendai Framework for Disaster Risk Reduction 2015-2030*, para 33 (b).

110 See IFRC, *Community Early Warning Systems: Guiding Principles* (2012), at 26-27, 55.

111 See *supra* note 59.

7   Do your country's laws require education, training and awareness-raising to promote a whole-of-society approach to DRR?

Rationale:

To be resilient, communities must be informed about and engaged in reducing their own risks. As referred to in the Sendai Framework, laws and regulations can be important for responsibilities and requiring public awareness-raising and training initiatives.[112] More specifically, and as set out below, legislation can: establish or promote special training facilities and education through various means for public sector workers and professionals; mandate training on disaster risk reduction and response in school curricula; and require disaster preparedness drills in high-risk areas.

Check laws and regulations on:

- *DRM/emergency response/civil defence*
- *Education*
- *Local government*
- *Specific hazards*

Issues to consider:

(7.1)   Mandating training on DRR in the school curricula

Children and youth, as 'agents of change' can help to build a culture of understanding and awareness, especially if DRR is integrated into education. At the same time, children in schools can be made much safer if they have participated in disaster preparedness drills. Either the DRM law or other laws and codes on education may include a requirement to address DRR and preparedness as part of the school curricula,[113] although the content of such requirements may of course differ depending on a country's risk profile. There is a growing trend of legal provisions requiring the inclusion of DRR in school curricula or conducting disaster preparedness drills in schools.[114]

> **Country example**: **Mexico's** legal framework mandates two main types of formal DRR education initiatives: (1) the inclusion of civil protection (and DRR) in the school curriculum at all levels with a requirement for the Ministry of Interior to coordinate and develop the content for it; and (2) the establishment of a civil protection professionalization system to strengthen the public sector, especially the National Civil Protection School for training, accreditation and a certification system. The school offers both academic education and job level certification. This is then complemented by the General Law on Education of 1993, which requires each municipality and public primary school to operate a community council for public awareness and school emergency planning, including drills and simulations.[115]

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112 *The Sendai Framework for Disaster Risk Reduction 2015-2030,* para (27) (a) .
113 *The Sendai Framework for Disaster Risk Reduction 2015-2030,* para 36 (a) (ii).
114 See *supra* note 3, at 39.
115 *Ibid,* at 38.

(7.2) Promoting training for public officials and relevant professionals on DRR

Even though responsibilities may be assigned under the law, relevant public officials often lack the technical capacity to fulfil their responsibilities. Requiring public officials and other relevant professionals to undergo training or take a university degree can promote fulfilment of these important responsibilities and hence lead to better implementation of laws and regulations. The DRM laws of **Mexico** and the **Philippines**, for example, provide for the establishment of special training facilities for public sector workers and other interested trainees.[116]

(7.3) Including specific provisions on promoting public awareness and understanding of DRR

Many countries have legal provisions on increasing public awareness by conducting community education on DRR.[117] To be effective, however, they need to be complemented by clear guidance and direction for implementation. Without this specific direction identifying responsible institutions (including the media and even the private sector), activities expected, resources to be allocated, and/or information to be disseminated, well-intentioned legislative provisions may remain aspirational statements.

Additionally, where relevant, attention should be paid to the possibility of building upon or formally recognizing existing customary laws that promote community understanding and ownership of DRR initiatives. For example, in **Madagascar**, customary laws known as *"dina"* that are developed with community consensus have had a significant impact on the awareness and understanding of communities on how to prepare for natural disasters.[118]

> **What does the Sendai Framework say?**
>
> 24 (m) *Promote national strategies to strengthen public education and awareness in disaster risk reduction, including disaster risk information and knowledge, through campaigns, social media and community mobilization, taking into account specific audiences and their needs;*
>
> 36 (a) *Civil society, volunteers, organized voluntary work organizations and community-based organizations to participate, in collaboration with public institutions, to […] contribute to and support public awareness, a culture of prevention and education on disaster risk.*

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116 *Ibid,* at 38.
117 *Ibid,* at 37.
118 IFRC, *Madagascar: Country Case Study Report, How Law and Regulation Supports Disaster Risk Reduction* (2014), at 27.

8 Do your country's laws mandate the engagement of all relevant stakeholders, including civil society, the private sector, scientific institutions and communities in risk reduction decisions and activities?

Rationale:

It is now widely recognized that DRR is a multi-stakeholder task that needs the involvement of many stakeholder groups. However, well-meaning efforts to be more inclusive of civil society and private sector actors in DRR, and to seek better representation of communities, women and vulnerable groups, have often proven insufficient to ensure their sustained engagement in decision-making processes and in the implementation of risk reduction activities. Legislation needs to guarantee this engagement by assigning clear roles and responsibilities. Specific provisions may be needed to ensure meaningful engagement of women, minorities, people with disabilities and older persons, as set out below.

What does the Sendai Framework say?

19 (d) *Disaster risk reduction requires an all-of-society engagement and partnership. It also requires empowerment and inclusive, accessible and non-discriminatory participation, paying special attention to people disproportionately affected by disasters, especially the poorest;*

27 (f) *To assign, as appropriate, clear roles and tasks to community representatives within disaster risk management institutions and processes and decision-making through relevant legal frameworks, and undertake comprehensive public and community consultations during the development of such laws and regulations to support their implementation;*

36 (a) *Civil society, volunteers, organized voluntary work organizations and community-based organizations to participate, in collaboration with public institutions, to, inter alia, provide specific knowledge and pragmatic guidance in the context of the development and implementation of normative frameworks, standards and plans for disaster risk reduction; engage in the implementation of local, national, regional and global plans and strategies.*

Check laws and regulations on:

- *DRM/emergency response/civil defence*
- *National Red Cross/Red Crescent Society*
- *National DRR Platform*
- *Civil Society and NGOs*
- *Local government*
- *Insurance*
- *Taxation*
- *Investment*

Issues to consider:

(8.1)   Requiring community representation in DRR decision-making bodies and processes

One of the challenges identified in relation to the implementation of the HFA was the effective implementation of DRR programmes at the community level. Legislation that requires the participation of communities in DRM and

DRR is one way to encourage or require national and local governments to be more inclusive in practice.[119] In particular for communities, a specific legal mandate should recognize their right to be involved in managing the risks they are exposed to. Accordingly, the Sendai Framework calls for states "to assign, as appropriate, clear roles and tasks to community representatives within disaster risk management institutions and processes and decision-making."[120]

> **Country example**: In the **Philippines**, civil society and/or communities are specifically included in DRM institutions. The DRM law mentions in its objectives "promoting the involvement and participation of all sectors and stakeholders concerned at all levels, especially the local community." The Office of Civil Protection is charged with creating an enabling environment for substantial and sustainable participation of civil society organizations (CSOs), private groups, volunteers and communities, and recognizing their contributions to the government's DRR efforts, while the local civil protection offices and *barangay* (neighbourhood) committees have similar responsibilities. This is matched by mandated representation of CSOs and the Philippines National Red Cross on the national and local councils established by the DRM law. Even more locally, the *barangay* committees are required to "facilitate and ensure the participation of at least two CSO representatives from existing and active community based people's organizations representing the most vulnerable and marginalized groups in the *barangay.*"[121]

There is, however, a great variety in approaches for community involvement. Different countries have different interpretations and definitions of what constitutes a 'community'. For example, in the Western tradition the elected local government usually represents the 'local community' in decision-making, including for DRM, based on consultation with its constituency.[122] In the socialist traditions of **Vietnam** and **China**, community participation is sought through the Local People's Committees that represent both local government and the community. In many countries, the locally-elected representative bodies lead the formulation or approval process for local development plans and their implementation. This provides a tangible opportunity to address DRR concerns in local development planning and implementation.

There are also different methods to ensure community involvement in decision-making. In the **Philippines**, the Office of Civil Defence and the local *barangay* (neighbourhood) committees are tasked by legislation to ensure that there is an enabling environment for participation of volunteers and communities (see box). Another method can be drawn from environmental law processes, in particular EIA legislation that requires comprehensive public participation procedures.[123] For example, **Trinidad and Tobago's** *Certificate of Environmental Clearance Law of 2001* addresses both the environmental and human impacts of different development activities. The law requires the publication of a notice of a planned project within the daily newspapers followed by a period of 30 days for the public to submit comments. This procedure is then supplemented with government-held public consultations, depending on the nature of the activity.[124]

(8.2) Requiring representation of civil society organizations and your National Red Cross/ Red Crescent Society in decision-making institutions and processes

While many laws may set out general obligations to be inclusive of non-government stakeholders, in order for them to be implemented, further detail and guidance is generally needed. One way to ensure inclusion is to mandate

119 See *supra* note 3, at 29.
120 *The Sendai Framework for Disaster Risk Reduction 2015-2030,* para 27 (f).
121 See *supra* note 3, at 30.
122 See discussion in *supra* note 3, at 29.
123 See Environmental Rights Database,'Public Participation in Environmental Impact Assessment Procedures', *http://environmentalrightsdatabase.org/public-participation-in-environmental-impact-assessment-procedures/.*
124 *Ibid.*

the participation of civil society and National Red Cross/Red Crescent Societies in DRM committees both at the national and subnational level. The **Dominican Republic**, **Nigeria**, **Italy**, **Iraq**, **Namibia**, **Nicaragua** and the **Philippines** all have such legal provisions.

What does the Sendai Framework say?

7. While recognizing their leading, regulatory and coordination role, Governments should engage with relevant stakeholders, including women, children and youth, persons with disabilities, poor people, migrants, indigenous peoples, volunteers, the community of practitioners and older persons in the design and implementation of policies, plans and standards;

36 (i) Women and their participation are critical to effectively managing disaster risk and designing, resourcing and implementing gender-sensitive disaster risk reduction policies, plans and programmes; and adequate capacity building measures need to be taken to empower women for preparedness as well as to build their capacity to secure alternate means of livelihood in post-disaster situations;

36 (ii) Children and youth are agents of change and should be given the space and modalities to contribute to disaster risk reduction, in accordance with legislation, national practice and educational curricula;

36 (iii) Persons with disabilities and their organizations are critical in the assessment of disaster risk and in designing and implementing plans tailored to specific requirements, taking into consideration, inter alia, the principles of universal design;

36 (iv) Older persons have years of knowledge, skills and wisdom, which are invaluable assets to reduce disaster risk, and they should be included in the design of policies, plans and mechanisms, including for early warning;

36 (v) Indigenous peoples, through their experience and traditional knowledge, provide an important contribution to the development and implementation of plans and mechanisms, including for early warning;

36 (vi) Migrants contribute to the resilience of communities and societies, and their knowledge, skills and capacities can be useful in the design and implementation of disaster risk reduction.

(8.3) **Assigning specific roles or duties for civil society organizations and National Red Cross/ Red Crescent Societies**

Assigning specific tasks or responsibilities to community and civil society organizations can be an effective way to ensure their active and sustained engagement, as well as promote better understanding and ownership of DRR and preparedness measures within the community (e.g. as explained in the question relating to early warning). A number of countries designate the management of natural resources to community associations for the management and enforcement of DRR activities. For example, **Namibia** and **Tanzania** both have water resource management legislation that provide for water user associations, comprised of local users to manage and oversee the sustainable use of water. Tanzania's legislation on forests also allows for the formation of community forest management groups,[125] as well as a Tanzania Forest Fund[126] to support community forestry management. Some countries also assign their National Red Cross or Red Crescent society with specific functions concerning DRR, such as public awareness-raising activities and preparedness drills. The **Vietnam** Red Cross, for example, is mandated to engage in DRR activities through Vietnam's *Law on Red Cross Activities.* An associated Memorandum of Understanding with the Ministry of Agriculture and Rural Development outlines its role and responsibilities specifically in regard to the implementation of a government decision on community-based DRM.[127]

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125 IFRC, *Country Case Study Report: Tanzania, How law and regulation supports disaster risk reduction* (2014), at 66.

126 *Ibid.*

127 IFRC, *Country Case Study Report: Vietnam, How law and regulation support disaster risk reduction* (2013), at 24.

(8.4) Ensuring meaningful engagement and representation of women, minorities, people with disabilities and older persons

The Sendai Framework recognizes the contributions and knowledge that can be provided by many different groups, in particular women, children and youth, persons with disabilities, older persons, indigenous peoples and migrants.[128] Unfortunately, the explicit inclusion of women and vulnerable groups is not a significant practice in DRM-related laws.[129] Explicitly including these groups in decision-making processes can help ensure that DRR measures take account of their specific needs (as addressed in Question 9) and draw on their particular experiences and capacities in DRR. This may be done by ensuring that organizations or associations seeking to represent these groups are given a seat within decision-making committees and institutions. For example, the **Philippines's** NDRRMC includes a representative from the National Commission on the Role of Filipino Women and the Local Disaster Risk Reduction and Management Councils include the Head of the Gender and Development Office as a member. Additionally, laws can require consultation with these specific groups in the development and implementation of new DRM laws, policies, strategies and plans.

What does the Sendai Framework say?

19 (d) *A gender, age, disability and cultural perspective should be integrated in all policies and practices;*

19 (g) *Disaster risk reduction requires a multi-hazard approach and inclusive risk-informed decision-making based on the open exchange and dissemination of disaggregated data, including by sex, age and disability;*

33 (b) *To invest in, develop, maintain and strengthen people-centred multi-hazard, multi-sectoral forecasting and early warning systems, disaster risk and emergency communications mechanisms, social technologies and hazard-monitoring telecommunications systems; develop such systems through a participatory process; tailor them to the needs of users, including social and cultural requirements, in particular gender.*

Country example: **Japan's** Basic Disaster Management Plan calls for the need to expand women's participation in the DRM policy/decision-making process, as well as the need to establish a DRM system that promotes gender equality and gives proper consideration to the different perspectives of men and women.[130]

(8.5) Including private sector actors in both decision-making bodies as well as DRR activities

Whilst unregulated private sector activities have a potential to increase disaster risk levels, it is widely recognized that the private sector can also play a key role in reducing risks through the technical expertise and resources it can offer, as well as by contributing to safer development practices. The Sendai Framework calls on the private sector to integrate DRR within its activities and plans, and calls for its engagement in the development of "normative standards and technical standards"

What does the Sendai Framework say?

36 (c) *Business, professional associations and private sector financial institutions to integrate disaster risk management, including business continuity, into business models and practices through disaster-risk-informed investments… and actively participate, as appropriate and under the guidance of the public sector, in the development of normative frameworks and technical standards that incorporate disaster risk management.*

128 *The Sendai Framework for Disaster Risk Reduction 2015-2030,* para 36.
129 See *supra* note 3, at 33.
130 See *supra* note 3, at 32.

for DRM.[131] Laws can promote better private sector engagement by ensuring the representation of private sector associations or bodies within decision-making committees (as required in the **Philippines**)[132] and their consultation in the development of relevant laws, rules and standards. Laws and regulations can also clearly articulate responsibilities of both the public and private sector to promote better accountability[133] (as discussed below), including by requiring that DRM is addressed within business models and practices.[134]

> **Country example**: In **Tanzania,** when preparing an emergency preparedness plan, the Minister is to consult not only the Disaster Management Department and government ministries, but also private institutions and relevant organizations as well as individual persons.[135]

(8.6) Ensuring that the best available scientific resources and analysis inform development and DRR decisions

There is an enormous amount of important research and knowledge contained within scientific institutions and academia on risk reduction. Unfortunately, this has not yet resulted in more informed development decisions.[136] At the international level – particularly in the discussions concerning the Sustainable Development Goals – there has been wide recognition of the need for a greater "science-policy interface", whereby "scientists, policy-makers and others link up to communicate, exchange ideas, and jointly develop knowledge to enrich policy and decision-making processes and/or research."[137] At the national level, legislation can play a role in promoting a better science-policy interface by ensuring coordination and information-exchange platforms between scientific institutions and decision-making committees and authorities. For example, *Japan's* *Act on Special Measures Concerning Countermeasures for Large-Scale Earthquakes* sets out the responsibilities for collating and analyzing research from universities and other research bodies, contributing to the development of policies as well as to the dissemination of information to the public.[138]

What does the Sendai Framework say?

36 (b) *Academia, scientific and research entities and networks to focus on the disaster risk factors and scenarios, including emerging disaster risks, in the medium and long term; increase research for regional, national and local application; support action by local communities and authorities; and support the interface between policy and science for decision-making.*

131 *The Sendai Framework for Disaster Risk Reduction 2015-2030*, para 36 (c).
132 *National Disaster Risk Reduction and Management Act* (The Philippines, 2010), s 2 (d).
133 *The Sendai Framework for Disaster Risk Reduction 2015-2030,* para 19 (e).
134 *The Sendai Framework for Disaster Risk Reduction 2015-2030,* para 36 (c).
135 *The Environmental Management Ac*t (Tanzania, 2004), s 229 (2).
136 Gall, Cutter, and Nguyen, *Incentives for Disaster Risk Management* (IRDR AIRDR Publication No. 2) (2014).
137 *UN Global Sustainable Development Report* (2015 advance version), at 27.
138 IFRC, *Background Report Law and Regulation for the Reduction of Risk from Natural Disasters in Japan. A National Law Desk Survey (2012),* at 119.

9 Do your country's laws adequately address gender considerations and the special needs of particularly vulnerable categories of persons?

Rationale:

It is now widely acknowledged that disasters have disproportionate impacts on certain categories of persons, either due to their special vulnerabilities and/or the influence of social structures and practices. These categories may vary between countries and localities, but they commonly include women, the very poor, older persons, children and people with disabilities, among others. In most cases, these groups may not have strong political voices or positions, so their needs may not be a focus of governmental planning for disasters unless it is required by law.[139]

Check laws and regulations on:

- *DRM/emergency response/civil defence*
- *DM and response plans*
- *Disability*
- *Human rights and equal opportunity*
- *Health*
- *Social welfare*
- *Family law*
- *Constitution*

Issues to consider:

(9.1) Ensuring a proper analysis of which categories of persons may be most vulnerable or exposed to disaster risks

The laws that refer to the particular needs of vulnerable groups usually do so in a general way. To ensure that the necessary attention is directed towards addressing the needs of the most vulnerable, the first step is to identify who the most vulnerable are. In that sense, relevant laws, plans and policies can require that an adequately disaggregated analysis is undertaken to determine the more vulnerable categories of persons within a specific risk context. To gain a proper understanding of those most vulnerable, data and analysis should be disaggregated according to key factors such as gender, age, disability, ethnicity and socio-economic status. The DRM law of the **Philippines**, for example, refers to a *Disaster Risk Reduction and Management Information System* maintaining data on vulnerable groups.[140]

(9.2) Assigning specific responsibilities to institutions to take the needs of these groups into account

To ensure that active steps are taken to increase the safety and protection of vulnerable groups, specific authorities (or even individual officials) need to be explicitly assigned to do so. This could include ensuring that DRM plans

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139 Hoffman, 'Preparing For Disaster: Protecting Tie Most Vulnerable In Emergencies', *UC Davis Law Review*, Volume 42 No 5 (June 2009), at 1491.

140 *National Disaster Risk Reduction and Management Act* (The Philippines 2010), s 2 (p).

are developed in consultation with vulnerable groups and include measures to address their needs and reduce their vulnerability. The **United States'** Disability Coordinator (see box) provides a good example of specifically allocating tasks to one person or authority.

> **Country example**: Learning from the experience of Hurricane Katrina, in 2006 the **United States** Congress adopted the *Post-Katrina Emergency Management Reform Act,* establishing the new position of Disability Coordinator to be responsible for planning for individuals with disabilities. The Coordinator is tasked with a number of specific duties, including interacting with relevant government agencies regarding the needs of the disabled; consulting with organizations representing the interests of the disabled; disseminating best practices and model evacuation plans; developing training material concerning the needs of individuals with disabilities in a disaster; and promoting the availability of communication and transport mechanisms.[141]

(9.3)   Ensuring gender specific needs or considerations are taken into account

The Sendai Framework notes the importance of implementing gender-sensitive DRR policies and plans, particularly in light of the slow progress observed in the implementation of the HFA when it came to mainstreaming gender considerations in DRR at the national level.[142] To ensure more concrete progress in mainstreaming gender considerations, legislation can require gender-sensitive risk assessments,[143] EWS,[144] and indicators for measuring progress of any DRM initiative.[145] The **Philippines'** DRM law, for example, requires the Government to ensure that both DRR and climate change measures are gender responsive. Legislation can also provide for the establishment of task forces/working groups to oversee the mainstreaming of gender considerations, and/or require specific authorities to develop gender strategies or plans.[146]

A particular consideration to bear in mind is the growing evidence of gender-based violence in disasters and other emergencies. Relevant laws and policies can recognise gender-based violence as a risk and seek to prevent and prepare for it, including by considering special mechanisms for reporting of abuse in disaster situations. The local government of the Macedon Ranges in **Australia**, for example, has developed a specific yearly action plan to prevent violence against women in emergencies based on a recognition of its responsibilities under state and national legislation.[147]

(9.4)   Ensuring that the specific needs of other groups with particular vulnerabilities are taken into account

Groups identified as being particularly vulnerable may have additional or different needs in terms of modes of communication, educational materials, shelters, technology, transportation, medical supplies and other resources.[148] Legislation can make sure that these needs are identified and addressed within DRM planning, including by requiring that government agencies or officials regularly consult representatives of these groups (for example advocacy groups/councils and other organizations). As stated above in Question 8 (iv), legislation may also mandate the engagement of representatives from specific groups to ensure that their voices are heard and their needs addressed.

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141 *Department of Homeland Security Appropriations Act of 2007* (Post-Katrina Emergency Management Reform Act, United States of America, 2006).

142 UNDP, UNISDR and IUCN, *Making Disaster Risk Reduction Gender-Sensitive: Policy and Practical Guidelines* (2009), at 3.

143 *Ibid,* at 52.

144 *Ibid,* chapter 4.

145 *Ibid,* chapter 5.

146 See *supra* note 3, 32.

147 *Action Plan for Prevention of Violence Against Women in Emergency Management* (Macedon Ranges Shire Council, 2015-1016), *http://www.mrsc.vic.gov.au/files/assets/public/people_family/plan-pvaw-in-emergencies-action-plan-2015.pdf.*

148 See *supra* note 138, at 1543.

Some laws refer to addressing the needs or strengthening capacities of vulnerable groups. For example, the Philippines' DRM law aims to "develop and strengthen the capacities of vulnerable and marginalized groups to mitigate, prepare for, respond to, and recover from the effects of disasters," and Ethiopia's formal policy provides that "DRM systems will give due attention to especially vulnerable groups such as women, children, the infirm, people living with HIV/AIDS, the disabled and the elderly."[149] As previously stated, however, to promote higher chances of implementation it may be important to assign specific responsibilities or tasks to certain authorities.

149   See *supra* note 3, 32.

10 Does your country have adequate mechanisms to ensure that responsibilities are fulfilled and rights are protected?

Rationale:

Weak implementation of existing regulatory frameworks and accountability is a key reoccurring issue in many countries and has been identified as a major challenge in the *Global Assessment Report to Global Assessment Report on Disaster Risk Reduction 2015*. To address this challenge, legislation can set out enforceable incentives and disincentives to ensure that officials fulfil their responsibilities related to DRR and to dissuade individuals and the private sector from putting themselves or others at unacceptable risk. Indeed, the possibility of being held to account for decisions or actions that result in avoidable disaster losses can be an effective incentive for DRR.[150] To enhance accountability, legislation can also set out pertinent rights – including the right to disaster information, the right to development and the right to a safe and healthy environment – and provide necessary and accessible mechanisms for their protection and fulfilment.

Check laws and regulations on:

- *Constitution*
- *DRM/emergency response/civil defence*
- *Criminal law*
- *Civil liability*
- *Tort law/negligence*
- *Administrative law*
- *Human rights*

What does the Sendai Framework say?

27 (a)(iii) *Enhancing relevant mechanisms and initiatives for disaster risk transparency, which may include financial incentives, public awareness-raising and training initiatives, reporting requirements and legal and administrative measures.*

27 (d) *To encourage the establishment of necessary mechanisms and incentives to ensure high levels of compliance with the existing safety-enhancing provisions of sectoral laws and regulations.*

Issues to consider:

(10.1) Establishing public reporting or parliamentary oversight mechanisms for government agencies tasked with DRR responsibilities and ensuring such information is made publicly available

Limited accountability of decision-makers to the people they represent has been identified as an underlying driver of risk.[151] Legislation is a useful tool for establishing stronger accountability and monitoring mechanisms, such as parliamentary oversight and transparency requirements, public reporting and anti-corruption measures. For example, the **Philippines'** law requires parliamentary oversight by a high-level Congressional Oversight Committee to monitor and oversee the implementation of the provisions of the *National Disaster Risk Reduction and Management Law,*[152] and also provides for an evaluation or sunset review of the law and the institutions it

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150 See *supra* note 26, at 141.
151 *Ibid,* at 126.
152 See *supra* note 3, at 75.

establishes within five years to determine whether any remedial legislation is needed.[153] The Philippines National Disaster Risk Reduction and Management Council also has a website specifically about transparency to provide publically accessible information on the expenditure of donated funds.[154]

(10.2) Recognising the role for the judiciary in enhancing accountability for DRR

The role of the judiciary is often neglected in DRR discussions, but it can play an important role in promoting implementation, compliance and accountability, and reducing corruption. A number of DRM laws – such as those in **India**, **Indonesia** and **Vietnam** – set out offences and penalties that can be brought before the court system. The judiciary may also play a role in determining the scope of rights and responsibilities. For example, the Supreme Court of India recently took up the case of *Vasundhara Pathak Masoodi vs. Union of India,* a public interest lawsuit that involved a determination of government duties relating to relief and recovery following floods in the Kashmir Valley. Further detail on the types of liability the judiciary may adjudicate is provided below.

(10.3) Establishing legal and/or administrative sanctions (as appropriate) for public officials, individuals and businesses for a gross failure to fulfil duties

Legal and/or administrative sanctions for particularly egregious failures to fulfil responsibilities can be another useful tool to promote stronger accountability and transparency. Though there is some divided opinion about liability when it comes to DRR, many countries do use some form of administrative/civil or criminal liability to promote compliance, as set out below:

- **Civil liability:** In many countries, private individuals and corporations may be liable to pay damages under civil law if they have caused damage to others through negligence. Although most countries provide whole or partial immunity from such civil claims for government officials when acting in their official capacity, there are exceptions. For example, **Kenya's** *General Law on Government Civil Liability* allows for liability for breach of a statutory (legislative) duty.

> **Country example**: In **Algeria** the decentralization law makes the *wilayas* (regional authorities) responsible under civil law for errors or negligence in implementing DRR measures by any of their members. Such liability is based on negligence, when a government official or agency has a general duty of care towards the population because of the nature of their role, and when they act negligently and cause damage. In terms of criminal liability, government officials are given immunity when acting in their official capacity, but it is a criminal offence to construct high-risk developments .[155]

- **Criminal liability:** DRR-related actions by the government, private persons and corporations may be criminally sanctioned in general law, as well as under some DRM laws. For example, Indonesia's DRM law sets out penalties for anybody (including corporations) who undertake high-risk developments without a disaster risk analysis and consequently cause a disaster. In **Colombia**, mayors have been held responsible for preventable deaths resulting from disasters.[156]

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153 *National Disaster Risk Reduction and Management Act* (the Philippines, 2010), s 27. At the time of writing, the sunset review was underway in the Philippines.

154 See website of the National Disaster Risk Reduction and Management Council of the Philippines, *http://www.ndrrmc.gov.ph/index.php/2014-09-05-05-34-29/ndrrmc-donated-funds.*

155 See *supra* note 3, at 76.

156 See *supra* note 26, at 142.

■ **Administrative sanctions:** Additionally, legislation may set out procedures for administrative actions to be brought against government agencies or officials for failure to fulfil statutory obligations under the law. **China** and **Kyrgyzstan** both have internal administrative sanctions for government officials or agencies that have failed to fulfil their statutory duties.

Countries address the issues of liability and sanctions differently according to their legal systems and cultures. In determining effective means of liability or appropriate sanctions, it is important to consider available capacity to oversee and enforce such liability, and to prioritize particularly gross failures to meet obligations under legal frameworks.

> **Country example**: In **France**, the mayor of the town La Faute-sur-Mer was sentenced to four years in jail in 2014 (and other officials are still on trial) for suppressing flood risk information to allow for the construction of more than 200 new dwellings. When Storm Xynthia hit in 2010, it killed 28 people, most of whom lived in the newly developed area.[157]

(10.4) Creating incentives for compliance with laws and regulations for DRR

In addition to sanctions, incentives can also be used to promote better implementation and compliance with relevant laws and regulations. Examples include the provision of free building permits to promote compliance, as used in **Nicaragua**.[158] Incentives may also be provided through law or regulation in the form of tax waivers, subsidies, micro-insurance products and educational benefits.[159]

(10.5) Establishing rights relevant to DRR, including the right to disaster information, and providing enforcement mechanisms

Ensuring an understanding of individual rights and responsibilities is important for generating a whole-of-society approach to DRR.[160] Rights relevant to DRR may be set out in either the constitution, human rights laws, DRM or environmental laws, and may include the right to life or security of the person, to a safe environment, to protection of property, to food, shelter and health, and to information. The right to access information on disaster risk, for example, has been recognised as a first step in reducing disaster losses.[161] Laws in **Algeria**, **Serbia** and **El Salvador** include specific rights to disaster information and consequently require authorities to provide this information to the public.[162]

Laws may also establish procedural obligations on the part of the government relating to rights, including ensuring public participation in decision-making (especially concerning the environment), access to information about the implementation of laws and decisions, and access to legal remedies.[163]

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157 See discussion in *supra* note 25, at 126.
158 See *supra* note 3, at 52.
159 See *supra* note 135, at 9
160 *Ibid.*
161 See *supra* note 26, at 141.
162 *Ibid,* at 142.
163 See for example, the description of procedural obligations related to the environment set out in Human Rights Council, *Report of the Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment* (A/HRC/22/43, 24 December 2012).

> **Country example**: **Vietnam's** *Law on Disaster Prevention and Mitigation 2013* sets out a collection of rights and obligations of both households and individuals, including the right to access information, to participate in the development of local DRM plans as well as education and awareness-raising activities. Obligations include upgrading and taking measures to ensure the safety of houses; not residing in areas determined to be high-risk; and supporting the implementation of any local DRM plans.[164]

(10.6) Do your country's laws establish individual responsibilities relevant to DRR?

Disasters are often seen as being a government responsibility, with individual citizens not realizing that they too have a part to play in reducing disaster risks. Laws can support a shift away from this thinking by spelling out individual responsibilities, as is the case in **Vietnam** (see box). **Tanzania's** laws on the environment and water resource management both provide that every person "shall have a stake and a duty to safeguard and enhance the environment (and water resources) and to inform the relevant authority of any activity and phenomenon that may affect the environment significantly."[165]

Relevant laws should provide for both individual rights and responsibilities, and include methods to promote their application. In addition, awareness-raising and dissemination initiatives should be conducted to improve understanding and implementation of these rights, obligations, incentives and disincentives and to build a culture of respect for them.

164 *Law on Natural Disaster Prevention and Response* (Vietnam, 2013), art 34.
165 *The Environmental Management Act* (Tanzania, 2004) s 6, as cited in IFRC, *Country Case Study Report: Tanzania, How law and regulation support DRR* (2014), at 61.

8. Conclusion

Laws and regulations can have a profound impact on policies and initiatives to reduce disaster risks. They can ensure a more predictable, sustainable and consistent approach to DRR at both the national and local level, as well as provide long-term guidance to key stakeholders. IFRC and UNDP research has demonstrated that laws can play an important role in ensuring community engagement and defining the rights and responsibilities of all actors in building more resilient communities and promoting a whole-of-society approach.

This Handbook provides an introduction to the key issues to consider when using the Checklist and reviewing the strength of laws and regulations for DRR purposes. By drawing from country experiences in legislative reform, explaining the rationale for the Checklist questions and setting out the issues raised under each Checklist question, this Handbook aims to provide guidance on how to assess and improve domestic legal frameworks for DRR. This Handbook is not intended to be an exhaustive manual, but rather a tool to stimulate research and discussion in a legislative review or reform process.

The IFRC and UNDP welcome feedback on how to improve this handbook and/or how it is used in legal review or research. Further information on law and DRR, including the DRR Law Report and the case studies and desk surveys upon which it was based, is available for download at drr-law.org. Organizations, agencies or individuals interested in using the Checklist are encouraged to contact IFRC or UNDP at *disaster.law@ifrc.org.*

Annex 1: Further Guidance Material

This Handbook provides an overview of many complex issues to consider when reviewing laws and regulations for DRR. The suggestions and key issues raised within the handbook are drawn primarily from the DRR Law Report and other relevant resources, such as the Global Assessment Reports. For further guidance on all of the questions and issues raised, it is recommended that the following resources be consulted.

Question 1:

■ IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014)*,* Chapter 5 and 13

■ Interworks, 'Model for a National Disaster Management Structure, Preparedness Plan, and Supporting Legislation' (1998)

Question 2:

■ IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), Chapter 7

■ UNISDR, *Global Assessment Report on Disaster Risk Reduction* (2015), chapter 6.4 on Uneven Decentralization

■ UNDP, 'Strengthening Disaster Risk Governance: UNDP Support During the HFA Implementation Period 2005-2015' (2015), chapter 3.3

■ Iqbal and Ahmed, 'Disaster and Decentralisation' World Bank Working Paper (2009)

■ UNISDR, *Global Assessment Report on Disaster Risk Reduction* (2011), Chapter 7 on Reforming Risk Governance

■ UNDP (Aysan and Lavell), 'Disaster Risk Governance during the HFA Implementation Period: UNDP thematic review' (2014), Parts III and V

Question 3:

■ IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), Chapter 8

■ ODI and UNDP, 'Financing disaster risk reduction: towards coherent and comprehensive approach' (2014)

■ UNISDR, Global Assessment Report on Disaster Risk Reduction (2015), Chapter 6.3

■ UNDP (Aysan and Lavell), 'Disaster Risk Governance during the HFA Implementation Period: UNDP thematic review' (2014), Part 3.1.4

Question 4:

■ IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), Chapter 20

■ FAO (Trujillo and Bass), 'Mainstreaming disaster risk reduction in agriculture: an assessment of progress made under the Hyogo Framework for Action' (2014)

■ UNEP (Kanwar and Thummarukudy), 'Disaster Risk Reduction Is An Integral Objective Of Environment Related Policies And Plans, Including For Land Use, Natural Resource Management And Adaptation To Climate Change' (2014)

Environment

■ IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), Chapter 17

■ Renaud, Sudmeier and Estrella (eds.), *The role of ecosystems in disaster risk reduction* (2013)

■ IUCN (Sudmeier and Ash) 'Environmental Guidance Note for Disaster Risk Reduction (2009)

- Shaw and Tran (eds.), *Environment Disaster Linkages. Community, Environment and Disaster Risk Management,* Volume 9. (2012)
- UNEP WCMC, 'In the Front Line. Shoreline Protection and Other Ecosystem Services From Mangroves and Coral Reefs' (2006)

Natural resources

- IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), Chapter 19
- Renaud, Sudmeier and Estrella (eds.), *The role of ecosystems in disaster risk reduction* (2013) Part III Water resources management for disaster risk reduction
- Associated Programme on Flood Management 'Legal and Institutional Aspects of Integrated Flood Management' (2006)

Land use planning

- IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), Chapter 14-16
- UNISDR, *Global Assessment Report on Disaster Risk Reduction* (2015), chapter 6.5
- UNHABITAT (Lewis and Purcell) From *Disaster Risk Reduction To Resilience: A New Urban Agenda For The 21st Century* (2014)
- ADPC Regional Consultative Committee on Disaster Management, *Guideline 3.2: promoting use of disaster risk information in land-use planning* (2011)

Informal settlements

- IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), Chapter 16
- British Red Cross, *Learning from the City: British Red Cross Urban Learning Project Study* (2012) p 37-40
- UNHCR, *Planned relocation, disaster and climate change: consolidating good practices and preparing for the future* (2014)
- Farham, *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context* (2014)

Climate change

- IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), chapter 18
- Globe International, *The Globe Climate Legislation Study – Fourth Edition* (2014)
- Globe International, *The 2015 Global Climate Legislation Study – Summary for Policy Makers* (2015)
- UNEP, *Guidebook on National Legislation for Adaptation to Climate Change* (2011)

Question 5:

- IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), Chapter 11
- GFDRR, *Understanding disaster risk in an evolving world; a policy note* (2014)
- World Bank Group and Government of Mexico, *Improving the assessment of disaster risks to strengthen financial resilience: A Special Joint G20 Publication by the Government of Mexico and the World Bank* (2012)

Question 6:

- IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), Chapter 11
- IFRC, *Community Early Warning Systems: Guiding Principles* (2012)

Question 7:

- IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), Chapter 8
- IFRC, *Public awareness and public education for disaster risk reduction: a guide* (2011)

Question 8:

- IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), Chapter 9 and 10
- IFRC, *Framework for Community Resilience* (2014)
- Overseas Development Institute and Climate and Development Knowledge Network, *Equity and inclusion in disaster risk reduction: building resilience for all* (2014)

Question 9:

- IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), Chapter 10
- UNDP, UNISDR, IUCN, *Making Disaster Risk Reduction Gender-Sensitive Policy and Practical Guidelines* (2009)
- IFRC, *A practical guide to Gender-sensitive Approaches for Disaster Management* (2012)
- Overseas Development Institute and Climate and Development Knowledge Network, 'Equity and inclusion in disaster risk reduction: building resilience for all' (2014)
- *IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters* (2011)
- *IASC Guidelines for Integrating Gender-based Violence Interventions in Humanitarian Action: Reducing risk, promoting resilience and aiding recovery* (2015)

Question 10:

- IFRC and UNDP, *Effective law and regulation for disaster risk reduction: a multi-country report* (2014), Chapter 21-22
- UNISDR, *Global Assessment Report on Disaster Risk Reduction* (2011), chapter 7.4
- Gall, Cutter and Nguyen, *Incentives for Disaster Risk Management* (IRDR AIRDR Publication No. 2) (2014)
- *IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters* (2011)

Annex 2: Sample Assessment Form

The below form provides an example of how the answers to the Checklist questions could be recorded in a systematic manner to ensure each issue is addressed and an overall assessment provided. The full version of this assessment form is available for download on *www.drr-law.org.*

1. Do you have a dedicated law for disaster risk management that prioritises disaster risk reduction and is tailored to your country context?			
Issues to consider	**Does the text of the relevant law(s) address this adequately?**	**If not, does the text of a non-legal guidance document (e.g. policy/strategy/plan) address the issue so well that legal provisions are unnecessary?**	**Are the relevant textual provisions adequately implemented in practice?**
i. Tailoring your approach to your country's natural hazards risk profile and disaster risk governance capacity	☐ Yes ☐ No Comments:	☐ Yes ☐ No Comments:	☐ Yes ☐ No Comments:
ii. Setting out principles and priorities that guide your country's approach to risk reduction	☐ Yes ☐ No Comments:	☐ Yes ☐ No Comments:	☐ Yes ☐ No Comments:
iii. Establishing links to legislation and institutions related to climate change adaptation	☐ Yes ☐ No Comments:	☐ Yes ☐ No Comments:	☐ Yes ☐ No Comments:
iv. Ensuring coordination with key sectoral laws	☐ Yes ☐ No Comments:	☐ Yes ☐ No Comments:	☐ Yes ☐ No Comments:
v. Including ways to measure success and implementation	☐ Yes ☐ No Comments:	☐ Yes ☐ No Comments:	☐ Yes ☐ No Comments:

Bearing in mind your answers to the issues above and any others that seem relevant to you, provide an overall assessment to the question above by selecting the most appropriate answer set out in the boxes below.

☐ **No, this is currently a gap**	☐ **Yes, but only to a limited extent, and further improvements are needed**	☐ **Yes, to a significant extent, but some aspects should still be strengthened**	☐ **Yes, this is already a strength**
If so, please note below which aspects are in most urgent need of attention	If so, please note below what improvements are needed	If so, please note below what aspects are strong now and which need to be strengthened	If so, please note below why this area is a strength

Comments:

Annex 3: Consultations on the Checklist on Law and DRR

The initial consultations on the content and structure of the Checklist started in 2012 are listed below:

- Session at an "International disaster law workshop for West African stakeholders", September 2012
- Expert "inception" workshop, Geneva, Switzerland, October 2012
- Permanent missions group, Geneva, Switzerland, May 2013
- Session at the Annual National Red Cross and Red Crescent Societies Legal Advisers Meeting, Geneva, Switzerland, June 2013
- Expert workshop, Panama city, Panama, October 2013 (considering a "zero draft")
- Expert workshop, Kuala Lumpur, Malaysia, February 2014 (considering "draft 1")
- Pre-conference Consultation at 5th Africa Regional Platform on Disaster Risk Reduction, "Consultation on DRR Legislation – Towards a Checklist for Lawmakers" (considering "draft 2"), Abuja, Nigeria, May 2014
- Regional consultation meeting on Law and Disaster Risk Reduction, Dakar, Senegal, October 2014
- Regional consultation meeting on Law and Disaster Risk Reduction, Nairobi, Kenya, November 2014
- Regional consultative meeting on Law and Disasters, Toluca, Mexico, November 2014

Consultation sessions were also conducted on the Pilot Version of the Checklist during the following meetings:

- The South East Asia/ East Asia international humanitarian law conference, Kuala Lumpur, Malaysia, March 2015
- IASC briefing on developments in international disaster law, Geneva, Switzerland, May 2015
- Technical briefing and consultation: law, disasters and emergencies and the 32nd International Conference of the Red Cross and Red Crescent , Geneva, Switzerland, June 2015
- Webinar: Group of experts on risk management in regulatory frameworks, Geneva, Switzerland, June 2015
- National workshop on disaster and climate change law, Vientiane, Lao PDR, July 2015
- Validation workshop on IDRL in Madagascar and project launching on law and DRR, Antananarivo, Madagascar, July 2015
- Workshop on legal frameworks for disaster response and risk reduction in Nigeria, Abuja, Nigeria, July 2015
- Law and disasters consultation meeting with the African Union, June/July 2015 Addis Ababa, Ethiopia
- International humanitarian law commonwealth conference, Canberra Australia, July 2015
- Workshop on legal frameworks for disaster risk reduction in Armenia, Yerevan, August 2015
- ICRC's 15th annual regional international humanitarian law seminar, Pretoria, South Africa, August 2015.
- Central Asian consultative workshop on law and disasters, Almaty, Kazakhstan, September 2015
- Belarussian disaster management summer school, Minsk, Belarus, September 2015
- Workshop on law and disasters, Flic en Flac, Mauritius October 2015
- Meeting of the National Platform for DRR, Rome, Italy, October 2015
- Strengthening legal frameworks for disasters in the Pacific: training workshop, Suva, Fiji, October 2015

The Fundamental Principles of the International Red Cross and Red Crescent Movement

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

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

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

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

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

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

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

This initiative is part of a partnership between the International Federation of Red Cross and Red Crescent Societies and the United Nations Development Programme on the role of legislation in disaster risk reduction. The development of the Checklist on Law and Disaster Risk Reduction and the Handbook on Law and Disaster Risk Reduction was made possible through the generous support of:
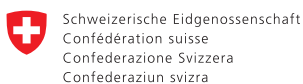
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