



POLICY BRIEF
**LEGAL FRAMEWORKS FOR
EFFECTIVE AND INTEGRATED
DISASTER AND CLIMATE RISK
GOVERNANCE**

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Honduras 2020 Hurricanes Eta and Iota destroyed large parts of Honduras. Secundino Orellana shows what is left of his neighbourhood.
© Johannes Chinchilla / IFRC

The aim of this Policy Brief is to provide an overview of the role of legal frameworks in supporting the effective and integrated management of disaster and climate risks.

The Policy Brief adopts a question-and-answer format and focuses on the following four key topics: (1) the critical functions that laws can, and should, perform to enable effective disaster risk management (**DRM**); (2) the different types of legal and policy instruments that are required for effective DRM; (3) how legal frameworks can support an *integrated* approach to DRM and climate change adaptation (**CCA**); and (4) how to strengthen integration between general DRM laws and those specifically relating to public health emergencies. This Policy Brief adopts the IFRC's definition of DRM, which encompasses disaster risk reduction, preparedness, response, and recovery.¹

This Policy Brief has been prepared by IFRC Disaster Law for the seventh session of the Global Platform for Disaster Risk Reduction.² IFRC Disaster Law's mission is to reduce human vulnerability to disasters by promoting effective legal and policy frameworks for DRM. IFRC Disaster Law has 20 years of experience in providing technical advice to governments to strengthen disaster risk governance through laws and policies, and in building the capacity of domestic stakeholders on disaster law. IFRC Disaster Law is also a leader in conducting research and developing innovative guidance on domestic best practice.

To find out more about IFRC Disaster Law, please visit disasterlaw.ifrc.org/.

1 IFRC defines disaster risk management as '[t]he application of policies, strategies and other measures to prevent new disaster risk, reduce existing disaster risk and manage residual risk (through disaster preparedness, response and recovery), contributing to the strengthening of resilience and reduction of disaster losses': see IFRC, 'Disaster Risk Management Policy: From Prevention to Response and Recovery' (2020) <https://www.ifrc.org/sites/default/files/2021-07/20210127_IFRC-DRM-EN%5B1%5D.pdf>.

2 This Policy Brief was prepared by Rachel Macleod, Senior Disaster Law Officer at IFRC.



Madagascar 2022 Accommodation site for the victims of floods in Antananarivo, Madagascar. Volunteers are in charge of counting and assessing needs at twelve accommodation sites. © Caren Ramanantoanina / IFRC

1 / WHAT CRITICAL FUNCTIONS CAN LAWS PERFORM TO ENABLE EFFECTIVE DISASTER RISK MANAGEMENT?

Legal frameworks can establish the architecture for an effective DRM system. There are several critical functions that laws can and should perform, including the following:

- establishing the **general principles** that will guide DRM and the **protections and rights** available to at-risk communities and vulnerable groups;
- allocating **mandates** for DRM to relevant governmental actors, including not only DRM actors but also relevant sectoral departments;
- clearly outlining the respective **roles and responsibilities** of all governmental and non-governmental actors involved in DRM;
- establishing **coordination mechanisms** that permit all actors to meet regularly and share information;
- imposing **legal duties** on relevant actors to implement critical DRM tasks (e.g., risk assessment, prevention and mitigation measures, contingency planning, training and simulations, early warning, evacuation etc);
- establishing the legal arrangements that will apply in the event of a large-scale disaster, namely the declaration of a **state of emergency/disaster** and the enlivening of special **emergency powers**;
- **ensuring funding** for DRM through, for example, requiring regular budget allocations, establishing a dedicated DRM fund and/or establishing other risk financing mechanisms;
- mandating the actors responsible for disaster preparedness and response to implement measures to **mitigate the disproportionate impacts of disasters on women and girls**, including measures to prevent and respond to sexual and gender-based violence; and
- providing for first responders to benefit from special legal rights and protections to facilitate their work, commonly known as **legal facilities**.

While some of the above functions *may* be performed by policy and planning documents, the benefit of using laws to perform these functions is their binding and authoritative nature. Where the above functions are performed by legal instruments, they may create legal rights and duties that can be enforced, creating a strong incentive for implementation.



2 / WHAT DIFFERENT TYPES OF LEGAL AND POLICY INSTRUMENTS ARE NEEDED TO ENABLE EFFECTIVE DISASTER RISK MANAGEMENT?

Most countries around the world have a **main disaster law** that addresses disaster risk reduction, preparedness, response and recovery. Additionally, most countries have a series of related legal instruments, such as **implementing regulations or instruments** that address specific disaster-related topics in detail. In addition to these disaster laws, there are two key types of legal and policy instruments that are vital for effective DRM.

Firstly, **disaster policy and planning instruments** form a critical part of disaster risk governance. These instruments can supplement disaster laws by descending into a level of technical and operational detail that it would not be possible and/or appropriate to include in the law itself. Disaster laws can ensure that effective policy and planning documents are developed by identifying which actor(s) are responsible for preparing them, what topics they must address, and how regularly they must be updated.

Second, the mainstreaming of DRM into **sectoral instruments** (laws, policies, and plans) in areas such as development, health, education, the environment, construction and land use planning is essential. Land use planning laws can, for example, contain provisions effectively prohibiting, or limiting, new construction in high risk areas, thereby preventing the creation of new disaster risk. Environmental laws can promote the conservation, sustainable management and restoration of ecosystems in a manner that reduces disaster risk.

The development of an effective legal and policy framework for DRM therefore requires attention to a very broad range of instruments spanning numerous sectors. IFRC Disaster Law has developed comprehensive guidance on how to assess and strengthen domestic disaster-related laws, policies and plans. This guidance includes the following key documents, each of which has been endorsed by a resolution of the [International Conference of the Red Cross and the Red Crescent](#):

- the Guidelines for the Domestic Facilitation and Regulation of International Disaster Relief and Initial Recovery Assistance (commonly known as the [IDRL Guidelines](#));
- the Checklist on Law and Disaster Risk Reduction (the [DRR Checklist](#));
- the Checklist on Law and Disaster Preparedness and Response (the [DPR Checklist](#)); and
- the Guidance on Law and Public Health Emergency Preparedness and Response (PHE Guidance).³

³ This document will be presented to the International Conference of the Red Cross and Red Crescent in 2023.



Fiji 2018 / Fiji Red Cross works with Wailotua village residents to ensure they understand weather warnings, have an emergency plan and kit and know where a safe place to evacuate is. © Hanna Butler / IFRC

3 / HOW CAN LEGAL FRAMEWORKS SUPPORT AN INTEGRATED APPROACH TO DISASTER RISK MANAGEMENT AND CLIMATE CHANGE ADAPTATION?

There is — both in theory and in practice — a large overlap between DRM and CCA, and between the effective management of disaster and climate risks. Accordingly, it is critical that legal and policy frameworks promote an integrated, rather than siloed, approach to DRM and CCA. In some countries, recognition of the overlap between DRM and CCA has led to the adoption of new instruments seeking to establish a single legal and institutional framework to address these challenges. In many countries, however, DRM and CCA remain within the domain of separate legal and institutional arrangements. Where this is the case, integration can nonetheless be promoted through measures such as the following:

- the adoption of shared objectives, performance indicators and assessment tools in DRM, CCA and other relevant instruments;
- the adoption of the same timelines for development, review and updating of legal, policy and planning documents in the DRM, CCA and other relevant sectors;
- the allocation of joint responsibility to DRM and CCA actors for activities critical to the management of disaster and climate risks;
- the creation of a single CCA-DRR national fund to facilitate integrated programming and project implementation;
- the establishment of coordination mechanisms enabling DRM, CCA and other relevant actors to meet regularly, share information and coordinate activities; and
- legal requirements for DRM actors to consider and address climate risks in the development and implementation of disaster risk reduction, preparedness, response and recovery activities.

The appropriateness of these measures will, of course, depend on each country's specific context, and the specific challenges that it may be facing in adopting an integrated approach to CCA and DRM. More detailed recommendations on the integration of CCA and DRM instruments can be found in the [IFRC's Global Synthesis Report on Law and Policies for Climate Resilience](#).

4 / HOW CAN INTEGRATION BE STRENGTHENED BETWEEN GENERAL DISASTER LAWS AND THOSE SPECIFICALLY RELATING TO PUBLIC HEALTH EMERGENCIES?

The domestic regulation of public health emergencies (**PHEs**) and biological hazards is inextricably linked to the regulation of other types of disaster and hazard. PHEs are usually governed *at least partly* by general disaster and emergency laws. However, it is also common for additional PHE-specific laws, policies and plans to be developed. The importance of integration between these two types of instruments is recognised by the Bangkok Principles for the Implementation of the Health Aspects of the Sendai Framework, which call for coherence and alignment between national DRM frameworks and those related to emergency and disaster risk management for health.

Whilst there is an identified need for integration, there is a lack of practical guidance about what exactly this means and how it can be achieved. IFRC's PHE Guidance seeks to fill this gap by providing practical guidance on the integration of DRM and PHE instruments. The PHE Guidance posits that integration is achieved when certain key features are present, including the following:

- the different instruments reflect the same overarching principles and approach to risk management;
- there is clarity about the leadership arrangements, roles and responsibilities, and coordination mechanisms for PHEs and non-PHE disasters;
- there are no conflicts or unnecessary duplication in the roles and responsibilities of public health and DRM actors either in a PHE or in a non-PHE disaster;
- there are no conflicts or unnecessary duplication (as between public health and DRM actors) in terms of the leadership arrangements for a PHE or non-PHE disaster;
- health actors have clear roles and responsibilities in the preparedness and response to non-PHE disasters;
- DRM actors have clear roles and responsibilities in the preparedness and response to PHEs;
- if different coordination mechanisms are used for PHEs and non-PHE disasters, then:
 - » public health actors are included in coordination mechanisms for non-PHE disasters; and
 - » DRM actors are included in coordination mechanisms for PHEs;
- when viewed collectively, DRM and PHE instruments provide a foundation for all key preparedness and response actions for PHEs and non-PHE disasters — that is, there are no gaps in terms of what actors are required to do to prepare and permitted to do to respond to PHEs and non-PHE disasters.

Governments may improve integration between DRM and PHE instruments by analysing whether the applicable instruments have the above key features and, subsequently, introducing legal and policy reforms to address any issues identified.



IFRC Disaster Law works with National Red Cross and Red Crescent Societies and governments to strengthen disaster risk governance, through the development and implementation of disaster and emergency-related legislation, policies and procedures. With 20 years of experience supporting the development and implementation of disaster law and policy around the world, we are the global leader in disaster law technical advice to governments.

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