

**32nd INTERNATIONAL CONFERENCE
OF THE RED CROSS AND RED CRESCENT
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DRAFT ELEMENTS OF A RESOLUTION

STRENGTHENING LEGAL FRAMEWORKS FOR DISASTER RESPONSE, RISK REDUCTION AND FIRST AID

April 2015

Background

This document provides some of the rationale behind the resolution the IFRC would like to propose to the 32nd International Conference of the Red Cross and Red Crescent on “strengthening legal frameworks for disaster response, risk reduction and first aid,” as well as key elements the resolution would be expected to include (attached as Annex 1).

Readers are requested to bear in mind that research and consultations (particularly at the regional level) are still underway with regard to the three main themes to be addressed in the resolution. Background reports providing more detailed and updated information about the evidence base, stakeholder opinions and humanitarian importance of the themes of the draft resolution will be completed later this year.

Context

This resolution will be developed in the context of the consistent attention devoted to the issue of disaster law by the International Conference since 2003. In 2011, the components of the Movement and the state parties to the Geneva Conventions affirmed the ongoing role of the International Conference “as a key international forum for continued dialogue” on this issue.

Starting in 2003, one ongoing theme has been how to strengthen legal preparedness for the management of facilitation and regulation of international disaster response. The IFRC refers to this as “international disaster response laws, rules and procedures,” or “IDRL”. In 2011, the International Conference not only called for continuing work on IDRL, but also identified other important issues related to law and disasters for cooperation between National Societies and their governments. These included, but were not limited to, law and disaster risk reduction and resolving regulatory barriers to post-disaster shelter.

The IFRC has maintained a “Disaster Law Programme” (DLP) to assist National Societies in providing their advice and support to their authorities on disaster law issues since 2001. Information about the DLP’s programming and activities is available at www.ifrc.org/dl.

Background on the three main themes of the resolution

1. Accelerating progress in the facilitation and regulation of international disaster response

In 2007, [Resolution 4](#) of the 30th International Conference adopted the “Guidelines for the domestic facilitation and regulation of international disaster relief and initial recover assistance” (the “[IDRL Guidelines](#)”). These Guidelines were the result of [six years of research](#) and consultations showing that regulatory problems were plaguing international disaster response operations and that few states had comprehensive rules and procedures in place to address them.

Since then, National Societies have undertaken formal support projects for interested officials in over 40 countries and the IFRC has collaborated with partners in producing further tools for states, including a [model act](#) (together with OCHA and the IPU) and a [model emergency decree](#) (with OCHA) based on the Guidelines. In 2011, [Resolution 7](#) the 31st International Conference reiterated the urgency for states to build their legal preparedness.

To date, some [18 countries](#) have adopted new laws, rules or procedures drawing on the recommendations of the Guidelines and approximately a dozen more have draft bills or rules pending. The IFRC has also partnered with a number of global and particularly regional organizations, leading to additional dialogue, attention and approaches to resolving the issues. This is encouraging progress, but still means that the vast majority of states continue to lack comprehensive rules and procedures for managing international disaster response.

Moreover, the IFRC and its members have observed that regulatory problems of the types identified in 2007 continue to be an important issue in international disaster response operations today. As noted in a [desk review](#) recently commissioned by the IFRC of a representative sample of operations since 2007, these include problems with visas for relief personnel, customs clearance for relief items and restrictions on access to affected communities but also problems in the quality, coordination and complementarity of some international efforts. A forthcoming study jointly commissioned by the IFRC and WHO points out many similar problems in the deployment of foreign medical teams. These findings will be further validated by a practitioner survey to be launched this month by the IFRC together with OCHA, UNDP, WCO, WTO and the Logistics Cluster.

The IFRC has begun consultations on options for accelerating progress in achieving an effective management of such regulatory problems. Initial consultations were undertaken for experts in the Americas region hosted by the Mexican government and Red Cross in [Toluca](#) in November 2014 and by the Colombian government and Red Cross in [Bogota](#) in January 2015, and at an expert meeting hosted by the IFRC and Swiss Government in [Geneva](#) in March 2015. Similar consultations will continue at the regional level in other parts of the world in the first half of 2015.

These consultations are taking note of the fact that the International Law Commission (ILC) has adopted the first reading of its “[Draft articles on the protection of persons in the event of disasters](#)” and has solicited written comments from states, the IFRC, ICRC and the United Nations to be provided as of January 2016. Accordingly, the possibility of further strengthening global and/or regional normative frameworks is being discussed, along with other options.

2. Strengthening laws for disaster risk reduction

In 2011, [Resolution 7](#) the 31st International Conference called on states to examine the extent to which their existing laws support disaster risk reduction (DRR), particularly at the community level, with support from National Societies, the IFRC and UNDP. A number of potential gap areas were identified based on consultations and preliminary case study research.

In 2012, the IFRC and UNDP launched an ambitious [multi-country research project](#) in order to provide further evidence of best practice and common gaps in domestic law for DRR. This project closely examined the laws of 31 countries, as well as detailed case studies of 14 countries. This was the largest study on this topic undertaken to date. The results were summarized in a [synthesis report](#) launched in 2014.

That report found that there has been significant global progress in updating disaster management acts to include more focus on DRR and that a number of states had good examples to show of legal enhancements improving their effectiveness in reducing risks. However, there were also gaps, including with regard to the mismatch of significant responsibilities for the implementation of DRR activities mandated to local authorities without corresponding funds, lack of rules to ensure the engagement of communities and civil society organizations in decision-making about DRR, and a lack of inclusion of DRR approaches in key sectoral laws, including those related to land use, building permits, environmental protection and natural resource management. The report further found significant gaps in the implementation of existing laws and a few formal mechanisms available to ensure accountability and oversight when rules and mandates were not followed.

Concurrent with the research project, the IFRC and UNDP have led consultations for the development of a [“Checklist on law and disaster risk reduction.”](#) The Checklist provides a prioritized and succinct list of ten key questions that lawmakers, implementing officials, and those supporting them need to consider in order to ensure that their laws provide the best support for DRR. The Checklist will be accompanied by a detailed Handbook drawing on the above study and consultations to provide further support to domestic actors.

After ten regional and global consultation meetings on the draft from 2012 to 2014, a pilot version of the Checklist was launched at the World Conference on Disaster Risk Reduction in Sendai. The governments and National Societies of several governments have volunteered to pilot the use of the Checklist in the next few months, and comments and suggestions on the Checklist are still being welcomed. A final version of the Checklist will be presented to the 32nd International Conference.

It is noteworthy that the [Sendai Framework on Disaster Risk Reduction](#) adopted at the World Conference included a number of references to the importance of strong legal and policy frameworks for DRR, and elevated the “strengthening disaster risk governance to manage disaster risk” to one of its top four priorities.

The IFRC intends to continue its partnership with UNDP and others in providing its support in this area. These efforts will be articulated with its [“One Billion Coalition for Resilience”](#) initiative, also announced at the Sendai Conference and scheduled for a fuller launch at the 32nd International Conference.

3. Providing supportive legal frameworks for saving lives through first aid

First aid is a central aspect of disaster preparedness – as well as a core element of health response. National Societies have long placed first aid training and practice at the centre of their humanitarian work, training more than 14 million persons in 2012 alone (based on responses from 77 National Societies to a 2013 survey).

While generally not receiving headline attention, the life-saving benefits of first aid are clear. For example, it has been shown that effective bystander cardiopulmonary resuscitation provided immediately after cardiac arrest can double a person's chance of survival. Moreover, it has been reported that more than 50 per cent of the deaths after car accidents occur in the first few minutes after the crash – whereas the response times for professional emergency personnel and are often much greater, even in wealthy countries. Promoting first aid training is a cost-effective way to ensure that someone with life-saving skills is on hand at the right time when a crisis arises.

However, as first described in a 2010 IFRC report "[First aid for a safer future](#)", the legislative environment for first aid is not as supportive as might be expected. There is significant variability among states as to whether and in what circumstances first aid training is mandated. This leads to massive differences in the numbers of persons trained (over 80% of citizens in some countries, less than 1% in others). Particular concern has been raised by gaps in first aid training in schools, including with regard to school personnel and in school curriculum for children. Moreover, few states provide any legal protections to trained first aiders in the event that they are unsuccessful in saving persons in crises.

Subsequent polling of first aid trainers from National Societies around the world by the IFRC's Global First Aid Reference Centre has shown that volunteers and members of the public are concerned about their legal exposure. Peer reviewed studies in a number of countries have shown that trained volunteers have hesitated to provide support because of this lack of protection. Additional comparative law research commissioned by the IFRC has confirmed that few states formally provide for liability protections, though the actual incidence of prosecutions or lawsuits appears to be modest. Moreover, this research shows that while many states have mandate first aid training requirements in at least some workplaces, very few have clear standards for the content and quality of that training, allowing for abuse or ineffectiveness. In this respect, the IFRC's 2011 "[International First Aid and Resuscitation Guidelines](#)" developed by Red Cross/Red Crescent experts together with scientific partners on the "International Liaison Committee on Resuscitation" after several years of research and consensus building, could be a useful reference.

Work is underway on an updated report with comprehensive research, consultations and polling results on these issues to be shared with the members of the International Conference. Additional consultations will also be taking place at the regional level on national experience of these issues.

Annex 1: Elements of the resolution on “strengthening legal frameworks for disaster response, risk reduction and first aid”

The following key elements are proposed. In this presentation, no differentiation is made between “preambular” and “operative” sections of the text. The phrasing used is merely indicative and is not intended to represent final language.

1. Accelerating progress in the facilitation and regulation of international disaster response

- Recollection of prior resolutions on this topic
- Recognition of the progress to date in strengthening IDRL, particularly for those states that have adopted comprehensive national rules and procedures
- Acknowledgement that gaps still remain in domestic laws and that international operations continue to be experience regulatory problems
- Renewed call for states that have not yet adopted rules and procedures to do so as soon as possible
- Welcoming the support provided so far by National Societies, the IFRC and other partners and renewed invitation for them to continue their help
- Welcoming the IFRC’s initiative to foster dialogue on further options to accelerate progress, including the potential for further strengthening the global and regional frameworks, and inviting it to continue consultations

2. Strengthening laws for disaster risk reduction

- Recollection of the Sendai Framework for Disaster Risk Reduction and its references to the importance of legal frameworks
- Noting the findings of IFRC/UNDP multi-country research on law and disaster risk reduction and of the consultations and piloting of the Checklist on Law and Disaster Risk Reduction
- Adoption of the Checklist as a useful reference tool and encouragement to states to use it, with support from National Societies, the IFRC, UNDP and other partners
- Invitation to National Societies and states to cooperate in generating public awareness of relevant national and international law on risk reduction as a measure to enhance implementation

3. Providing supportive legal frameworks for saving lives through first aid

- Acknowledgment of the importance of first aid as a cost-effective means to save lives and noting the findings of the IFRC background report
- Encouragement to states to consider mandating first aid training in certain circumstances, such as for school children, school employees, and driver’s license applicants, to the degree that capacity allows
- Encouragement to states to promote standards to ensure the quality and content of first aid training programmes, taking into account standards already in use, including those of the Red Cross and Red Crescent

- Encouragement to states to take all necessary steps to encourage the provision of first aid by persons with appropriate training, including by providing them certain liability protections for their good faith efforts
- Invitation to National Societies and other partners to support interested states in assessing and, as needed, strengthening their existing legal frameworks related to first aid

4. Additional elements

- Acknowledgment of progress to date in reducing regulatory barriers to post-disaster shelter
- Encouraging dissemination of the resolution
- Requesting a progress report at the next International Conference