

STRENGTHENING LAW AND DISASTER RISK REDUCTION (DRR) IN INDONESIA

Consultation workshop



**Monday 29 February, 2016
The Millennium Hotel, Jakarta, Indonesia**

WORKSHOP REPORT

Contents

Background and Purpose	3
Workshop Objectives.....	3
Workshop Report.....	5
1.1 Opening Ceremony	5
1.2 Introduction to Indonesia Law and DRR Project	5
1.3 Strengthening Law and DRR in Indonesia: Findings from DRR law research.....	6
1.4 DRR Law Checklist Exercise	6
Group 1	7
Group 2	7
Group 3	8
Group 4	9
1.5 Priorities for DRR and Law in Indonesia: Voting Exercise	10
1.6 Verification of Priorities and Next Steps	11
1.7 Closing	12
Annex 1: List of Participating Organizations	13
Annex 2: Results of DRR Law Checklist Voting Exercise	14

Background and Purpose

The Government of Indonesia and Palang Merah Indonesia (PMI) have been working closely together for many years to ensure that their country has a strong, robust legal framework in place to manage and respond to natural disasters. More recently, several processes have been underway in Indonesia to review and strengthen the relevant laws, regulations and guidelines for disaster management.

In line with key international commitments such as the recently adopted Sendai Framework for Disaster Risk Reduction 2015-2030 (SFDRR), increasing focus is also being placed on strengthening legal frameworks for disaster risk reduction (DRR). The Sendai Framework calls upon states to review and promote national laws and regulations for DRR across all relevant sectors. This includes, among other things, assigning roles and responsibilities, promoting community-level engagement and ensuring compliance with safety-enhancing regulations. The timing is therefore right for Indonesia to also consider how well its national legal framework addresses DRR.

Since 2012, the International Federation of Red Cross and Red Crescent Societies (IFRC) and the United Nations Development Programme (UNDP) have been working on a collaborative project aimed at supporting the strengthening of domestic legislation for DRR. The project has developed a “Checklist on Law and DRR” which was recently recognized at the 32nd International Conference of the Red Cross Red Crescent as a key tool to support DRR law making processes. A handbook has also been developed to support the use of the Checklist, both of which are available at www.drr-law.org

This Checklist¹ is now being used as a basis to analyze existing laws and regulations related to DRR in Indonesia, as part of a research project on ‘strengthening law and DRR in Indonesia’, led by PMI and IFRC. Key informant interviews and desk research have been undertaken to produce some preliminary analysis, and a summary report on these findings was shared with participants in advance of the workshop.

The consultation workshop held in Jakarta on 29 February 2016 was intended as an opportunity for key stakeholders to discuss the initial findings of the project and to verify information obtained during the desk research and informant interviews. Participants were also invited to contribute any additional information. The initial findings of the research, and the Checklist itself, formed the basis of the discussions at the workshop.

Workshop Objectives

The key objectives for the workshop were:

- To bring together key stakeholders in government, humanitarian and development actors, and civil society to identify strengths and opportunities for further

¹ The Checklist was originally released as a Pilot Version in March 2015. The pilot version was used as the basis for the research for this project and for discussion at the workshop. In October 2015 an updated version of the Checklist was published, which contains relatively minor amendments to the checklist questions.

improvement in the development and implementation of the legal framework for DRR in Indonesia.

- To provide participants with the opportunity to share additional insights to strengthen the results of the research, share their own views on priority issues and contribute ideas for addressing them.
- To solicit feedback from participants on how to take this work forward in Indonesia, as part of ongoing disaster law work.

An overview of the proceedings and key discussions at the consultation workshop is contained in this workshop report.

Workshop Report

1.1 Opening Ceremony

The workshop was opened by Pak Medi Herlianto, Director of Preparedness from BNPB, and Mr. Giorgio Ferrario, Head of the IFRC Country Cluster Support Team and Representative to ASEAN. Mr. Ferrario welcomed participants to the workshop on behalf of IFRC and PMI and praised the initiative of PMI and BNPB in providing a forum to discuss the legal framework for disaster risk reduction in Indonesia. He also provided an overview of the recent processes in Indonesia that have reviewed and strengthened the relevant laws, regulations and guidelines for disaster management. Mr. Ferrario took the opportunity to highlight the importance of the Sendai Framework for DRR 2015-30, noting that it calls upon states to review and promote national laws and regulatory frameworks for DRR across all relevant sectors. He emphasized that the time is now right for Indonesia to consider how well its national legal framework addresses DRR as well as response.

Pak Medi welcomed all participants to the workshop and reaffirmed BNPB's commitment to strengthening law and DRR in Indonesia. In particular, his opening speech emphasized the need for combined efforts from the government and its partners, as well as the importance of contributions from all stakeholders, including communities and civil society. He expressed BNPB's appreciation for the support of its international partners like IFRC in strengthening Indonesia's legal framework and reducing the risks it faces from disasters. Pak Medi also highlighted recent improvements in coordination between different line Ministries as important steps in implementing risk reduction measures in Indonesia.

1.2 Introduction to Indonesia Law and DRR Project

An introduction and overview of disaster law developments in Indonesia and the law and DRR project was presented by the IFRC's Regional Disaster Law Delegate for Southeast Asia, Ms. Lucia Cipullo. Ms. Cipullo's presentation provided participants with background information on disaster law themes and the Red Cross' role in developing this area of law globally. The presentation also covered important international frameworks and obligations relevant to Indonesia's framework for DRR, including the Sendai Framework and the ASEAN Agreement on Disaster Management and Emergency Response (the 'AADMER'). In order to provide some background on the current DRR law research project in Indonesia, Ms. Cipullo explained the development of IFRC and UNDP's Global Study on Law and DRR, and the recently developed Checklist on Law and DRR. The presentation concluded with an overview of disaster law in Indonesia, noting the shift in focus from response towards a broader disaster risk management framework that includes DRR.

1.3 Strengthening Law and DRR in Indonesia: Findings from DRR law research

The IFRC legal researcher, Mr. Ewan Powrie, delivered a presentation which summarized the preliminary findings of a research project on the legal framework for DRR in Indonesia. His presentation provided an overview of the main hazards and risks in Indonesia as well as some key points regarding the Indonesian context for law and policy making. Mr. Powrie pointed out that Indonesia has one of the most comprehensive legal frameworks for disaster management in the region, if not the world, and that the main focus of the workshop should be less about proposing new laws, and more about strengthening the implementation of the many good laws that already exist.

The main content of the presentation focused on the following thematic areas:

- DRR in Disaster Management law and institutions
- Accountability and responsibility for DRR
- Financing DRR
- Early Warning Systems and Risk Mapping
- DRR in Education
- Engagement of communities, civil society and other stakeholders
- Sectoral laws, including environment, climate change, forestry, water, land use planning, and construction

Overall, the presentation showed that a number of comprehensive laws and regulations exist that are relevant for DRR, and indeed in some areas such as environment and forestry a huge amount of legislation has been passed, including from national to local level. Mr. Powrie explained that research conducted through stakeholder interviews has revealed, however, that a much greater focus on implementation and capacity is needed in order to realize the ambitions of the existing legal framework. The presentation concluded with an overview of the initial recommendations from the review, as a starting point for stakeholder discussion at the workshop. These ranged from highlighting the need for stronger and clearer institutional links between sectors on DRR, to emphasizing the need for greater public participation in DRR planning and decision-making, especially at local level.

1.4 DRR Law Checklist Exercise

In line with the objectives of the workshop, a key part of the activities involved organizing the participants into four groups to consider specific Checklist questions. The objectives of the exercise, as described in a short presentation by Ms. Cipullo, were to provide the participants with an opportunity to share and discuss their thoughts on the existing legal framework for disaster risk reduction Indonesia, using the Checklist questions as a guide. Their feedback will be used to supplement the background research that was conducted in 2015, and to identify priorities for action.

Each group discussed different questions from the DRR and Law Checklist, as listed below. This ensured that the stakeholders could focus on the relevant issues, and select areas for discussion were most relevant for their work and sector. Key issues for consideration in the group discussions included:

- Strengths in law, policy and in implementation
- Implementation challenges
- Gaps / areas to improve (whether in law or in implementation)
- Any additional information required

Each group nominated a rapporteur, who led a short presentation on the group's findings. The results are summarized below:

Group 1

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

Group 1 pointed out that a decent framework of laws and regulations already exists in Indonesia, but noted the need for revision and harmonization to improve the framework. They also noted that, although Law 24/2007 on Disaster Management provides a good foundation, the detail and explanations related to DRR as found in ancillary regulations need to be improved, perhaps through the development of technical guidelines.

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

Group 1 noted that roles and responsibilities could benefit from further clarity, especially in regards to DRR. They explained that there is also a need for better coordination among Ministries, especially with regards to institutional responsibility for DRR.

Question 4: Do your laws ensure that sufficient resources are budgeted for disaster risk reduction?

The group raised some concerns that the word "sufficient" is hard to define. They noted that there was no clear answer for the question but that it appears that DRR budgeting is not well explained under law. However, the group proposed that the 'Village Fund' (Dana Desa) (under the 'Village Law' 6/2014) could be one avenue for effective funding of DRR programmes at the local level.

Group 2

Question 3: Do your relevant sectoral laws include provisions to increase safety and reduce vulnerability?

Group 2 highlighted that, for the key sectors relating to DRR (environment, climate change, water, forestry, land use planning, building and construction), extensive

legal frameworks and procedures are already in place. In recent years, they explained that there has also been a much better understanding, and integration, of DRR considerations into sector-based activities and, to a limited extent, in law. Coordination between the various sectors has also been improving.

The key implementation challenge identified by the group was the relative lack of community participation in sectoral activities and procedures relevant to DRR – for example, public participation in environmental impact assessments or spatial planning procedures. The group also concluded that the current system of sanctions for infringement of relevant laws and regulations needs to be strengthened, and that perhaps an appropriate ‘rewards’ or incentive system should be considered in parallel. Several members of the group also noted that monitoring and evaluation is weak in several sectors, and needs to be improved in order to provide information on what works and what doesn’t, insofar as sectoral support for DRR is concerned.

The group also discussed the use of more general government mechanisms, such as the Village Fund, as a potential means for communities to determine local DRR and sectoral priorities, but noted that this needs extensive capacity-building and clarity on procedures to become more effective. Another area for improvement as identified by the group was the need for better coordination or synergy between different sectors, especially at local level. The group identified leveraging of the private sector as a potential means to build capacity, especially in the building and construction sector.

Group 2’s comments concluded with the acknowledgement that, while DRR is already part of the relevant sectoral work-streams, a more detailed sectoral review could be undertaken to identify relevant DRR components (and therefore start to understand how stronger links could be generated between sectors).

Group 3

Question 5: Do your laws establish clear procedures and responsibilities for risk assessments and ensure risk information is considered in development processes?

Group 3 highlighted the existence of key regulations (such as those issued by the Head of BNPB) as well as practical tools such as the Risk Index, and noted that general responsibility for risk assessments falls to regional governments under Law 23/2014. However, they noted that the law does not contain much practical or technical information or guidance and that there is a need for such guidance if agencies and regional governments are to properly fulfill their role. The group recommended that efforts be made to improve coordination and integration among ministries and government offices (dinas) in provinces, municipalities and districts to ensure that risk assessments are used in the development process.

Question 6: Do your laws establish clear procedures and responsibilities for early warning?

Group 3 pointed out that several ministries and agencies have issued guidelines for a number of hazards, however no legislation has been issued that properly authorizes or integrates these guidelines. The group recommended that a comprehensive law on the early warning system should be developed to overcome this.

Question 7: Do your laws require education, training and awareness-raising to generate a whole of society approach to disaster risk reduction?

The group highlighted the fact that legislation does exist in the education sector that is relevant to DRR, for example the Head of BNPB Regulation 4/2012 on safe schools, and the circular letter of the Minister for National Education on mainstreaming DRR in schools. To better address this issue, the group recommended that the Ministry of Education, the Ministry of Religious Affairs, the Ministry of Research and Technology and BNPB collectively develop a law that provides for effective mainstreaming of DRR in the education system, rather than a piecemeal approach.

Group 4

Question 8: Do your laws ensure the engagement of civil society, the private sector, scientific institutions and communities in risk reduction decisions and activities?

The group noted that this particular area of law requires revision and improvement. The role of the private sector in DRR needs to be further considered and improved, especially in terms of volunteer management. The group pointed out that the possible creation of risks through private sector activities should also be considered. They thought that the role of the private sector is not extensive in DRR at the moment, but there is potential for them to play a bigger role, and noted some interesting collaborations which already exist such as the Disaster Resource Partnership. The group also noted that involvement of the other groups mentioned in the question (e.g. civil society, scientific institutions etc.) was not well covered under law and could benefit from improvement.

Question 9: Do your laws adequately address gender considerations and the needs of particularly vulnerable categories of persons?

The group noted that gender considerations and the needs of particularly vulnerable categories of persons could be further strengthened in the existing framework. The integration of gender and other vulnerable categories into the legal framework has only been partially achieved, with some good national laws and Head of BNPB regulations - but little guidance on implementation. In terms of recommendations, it was suggested that national databases and statistics relating to more vulnerable populations (both physically and economically) need to be updated and improved. The group also suggested that laws and regulations in this area need to be improved and simplified for better implementation.

Question 10: Do you have adequate mechanisms to ensure that responsibilities are fulfilled and rights are protected?

Group 4 felt that the current mechanisms in place are not adequate to ensure the full protection of rights and fulfillment of responsibilities in relation to DRR in Indonesia. For example, audits are only conducted on financial data with no performance element. Most programmes relevant to DRR are still activity-based rather than process-based. Overall, citizens need and deserve more information than they currently receive, especially the disabled. To remedy this, it was suggested that an extensive public education/information campaign is needed on the right to obtain information and especially on the rights of people with disabilities.

1.5 Priorities for DRR and Law in Indonesia: Voting Exercise

Following the group discussions and feedback, Ms. Cipullo led an exercise where participants had an opportunity to 'vote' on priority areas to address in Indonesia, according to the questions and areas contained in the DRR and Law Checklist.

Each participant was provided with a set of coloured cards (red, yellow, green and blue) and was asked to vote on each Checklist question, on the basis of their own knowledge and experience, as well as the findings and discussions from the workshop. The possible responses for each question were as follows:

- No, this is currently a gap (red)
- To some extent, although further improvements are needed (yellow)
- Yes, this is a strength (green)
- Can't answer, further information required (blue)

A full breakdown of the voting results is provided in Annex 2. Based on the majority of votes cast for each question, the following trends were observed, which were validated by the participants in a discussion session following the voting exercise:

- For the majority of Checklist questions, participants felt that they were covered only "to some extent", and that further improvements are needed. Based on group discussions and feedback, this reflects widely held views that although a large amount of legislation is in place, it may not provide sufficient detail, and/or is not fully implemented.
- For each question, only small numbers of participants expressed the opinion that there were clear strengths. The highest number of such votes (7) was recorded for question 8, concerning whether laws ensure the engagement of civil society, the private sector, scientific institutions and communities in risk reduction decisions and activities. For several of the questions, some participants felt that they could not answer due to a need for further information on the topic.
- A relatively sizeable number of participants (13) felt that laws do ensure that sufficient resources are budgeted for DRR; whereas 18 participants felt this was only done to some extent.

- Similarly, 12 participants voted that current laws in Indonesia do adequately address gender considerations and the needs of particularly vulnerable categories of persons; whereas 19 voted that this was only covered to a limited extent.
- Many participants were of the opinion that adequate mechanisms to ensure that responsibilities are fulfilled and rights are protected are well provided under law, which was interesting given that this was raised as an area for further development during the group discussions.

1.6 Verification of Priorities and Next Steps

The final session of the day gave participants time to reflect on the presentations, group exercise and voting exercise and to provide an opportunity for further feedback in plenary. Using the initial recommendations set out in the summary report as a starting point, participants confirmed the following priorities and recommendations for strengthening law and DRR in Indonesia:

- Participants agreed that one of the key areas for improvement was **coordination between multiple sectors** on DRR, as well as **coordination between national, regional, district and local levels**. Participant feedback also highlighted the need for **transparent sharing of information** on relevant matters between sectors as important for DRR decision-making.
- Participants agreed that, overall, **an increased focus on capacity, enforcement and implementation across all sectors relevant to DRR is required**.
- Participants were also concerned that **public participation in planning for DRR, and disaster management in general, has been limited**, and that public participation in procedures closely linked to DRR (including environmental impact assessments and land use planning applications) needs to be strengthened. Participants felt that **a much greater emphasis on capacity-building and implementation, as well as stronger enforcement of sanctions for failure to comply with relevant laws**, is required.
- Participants also agreed that the current **reporting and funding procedures for DRR provided under law are limited and could benefit from further detail and clarification**.
- Participants also agreed that **the Checklist on Law and DRR was a useful tool for analyzing the legal framework for DRR in Indonesia, and welcomed the forthcoming research report** and any further recommendations.

To conclude the session, Ms. Cipullo explained that the next steps for the project would be to integrate the discussions and feedback from the workshop into a revised draft of report on Law and DRR in Indonesia. Importantly, IFRC, PMI and

BNPB will collaborate on developing a 'Plan of Action' for law and DRR in Indonesia that will draw on the research findings and the priorities and recommendations identified by participants at the workshop.

1.7 Closing

Mr. Ferrario closed the consultation workshop on behalf of PMI and IFRC, thanking all the participants for their extremely useful contributions and reaffirming IFRC and PMI commitments to work together with BNPB and the government of Indonesia to strengthen the legal framework for DRR. He emphasized that this consultation workshop, and the ongoing research, is one part of a wider objective that seeks to reduce Indonesia's exposure to disaster risks through effective multi-stakeholder collaboration. He also explained these efforts in the context of implementing the Sendai framework and the many commitments that the government of Indonesia has made to promoting DRR in the country.

Annex 1: List of Participating Organizations

The workshop was attended by approximately 40 – 50 participants from the following organizations:

- ASEAN Coordinating Centre for Humanitarian Assistance (AHA Centre)
- Palang Merah Indonesia (PMI)
- Badan Nasional Penanggulangan Bencana (BNPB)
- Badan Standardisasi Nasional (BNS)
- Canadian Red Cross
- Care International
- International Federation of Red Cross and Red Crescent Societies (IFRC)
- Japan International Cooperation Agency (JICA)
- Karina Caritas Indonesia
- Karina Yogyakarta Indonesia (Partners for Resilience)
- Masyarakat Penanggulangan Bencana Indonesia (MPBI)
- Netherlands Red Cross
- PKPU Lembaga Kemanusiaan Nasional
- United Nations Children's Emergency Fund (UNICEF)
- United Nations Development Programme (UNDP)
- United Nations Educational, Scientific and Cultural Organizations (UNESCO)
- United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA)
- Wahana Visi Indonesia
- Wetlands International Indonesia
- The World Bank
- Zurich Flood Alliance

Annex 2: Results of DRR Law Checklist Voting Exercise

Question	No, this is currently a gap	To some extent, though further improvements are needed	Yes, this is a strength	Can't answer, further information needed
1. Do you have a dedicated law for disaster risk management that prioritizes risk reduction and is tailored to your country context?	0	33	3	0
2. Do your laws establish clear roles and responsibilities related to risk reduction for all relevant institutions from national to local level?	12	20	1	1
3. Do your relevant sectoral laws include provisions to increase safety and reduce vulnerability?	4	24	4	3
4. Do your laws ensure that sufficient resources are budgeted for disaster risk reduction?	13	18	0	4
5. Do your laws establish clear procedures and responsibilities for risk assessments and ensure risk information is considered in development processes?	0	32	0	3
6. Do your laws establish clear procedures and responsibilities for early warning?	7	20	1	6
7. Do your laws require education, training and awareness-raising to generate a whole of society approach to disaster risk reduction?	3	28	4	0
8. Do your laws ensure the engagement of civil society, the private sector, scientific institutions and communities in risk reduction decisions and activities?	6	22	7	0

9. Do your laws adequately address gender considerations and the needs of particularly vulnerable categories of persons?	12	19	2	3
10. Do you have adequate mechanisms to ensure that responsibilities are fulfilled and rights are protected?	19	12	3	1