



SNAPSHOT 2018

## Protection, Gender, Inclusion and Disaster Law

**Disasters have devastating impacts, some of which are more obvious than others. The immediate aftermath of disasters often leave behind visible destruction, damage and human suffering. Additionally, they create major economic losses and long-term effects on a country's sustainable development outcomes. At the same time, there can be other invisible impacts that go unnoticed and unaddressed.** Existing gender and power inequalities and sexual and gender-based violence (SGBV) are among the somewhat 'invisible' risks that increase during and after disasters.

In addition, the distinct needs of marginalized groups often go unnoticed. Someone's gender and other diversity factors, including age, ability, sexual orientation, health status, including HIV/AIDS and other chronic illnesses, social status, ethnicity, etc. shape the extent to which people are at risk and affected by emergencies. Having strong disaster laws and policies in place provides a powerful basis for managing and reducing disaster risk, as well as for enabling resilience of disaster-affected populations including those most at risk.

Although most countries have reflected international commitments on equality and equity in National Constitutions or Bills of Rights, these obligations are often not translated into Disaster Risk Management (DRM) systems. Research has found that national disaster risk management laws and policies which do contain provisions on marginalised groups, including women, are often aspirational statements without specific implementation mechanisms.

DRM frameworks often tend to focus on the importance of addressing the needs of these groups, but without ensuring active participation in decision-making processes. Women make up about 50% of the world's population; 15% of the world's population have disabilities and around 26% of the world's population are under the age of 14 years old.<sup>1</sup>

If these groups are not adequately and meaningfully included in all aspects of disaster risk management, including decision-making processes, a disaster-resilient community can never be achieved.

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The International Federation of Red Cross and Red Crescent Societies (IFRC) assists National Societies to support their authorities in developing and applying state-of-the-art disaster-related legislation, policies and procedures.

By harnessing their unique auxiliary role, National Societies have successfully strengthened new disaster laws and implementing rules in over 30 countries since 2007. National Societies with their strong community-based links and outreach throughout their countries, play a critical role to solidify linkages between community engagement and national level policy development and planning processes.

IFRC and National Societies have a mandate and a responsibility to persuade, engage with and support decision-makers and opinion-leaders in disaster law and policy to ensure that dignity, access, participation and safety for all women, men, girls and boys is included in the drafting, implementation and monitoring of domestic legislation, policies and procedures.

## IFRC Disaster Law Programme Protection, Gender and Inclusion Recommendations

Recognizing that disasters are not gender-neutral, and disproportionately affect marginalised groups,<sup>2</sup> the IFRC provides the following recommendations to support gender equality, protection and inclusion in disaster-related legislation, policies and procedures:

- Ensure relevant **constitutional provisions and/or international obligations on equality and non-discrimination**, e.g. the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of Persons with Disabilities (CRPD) among others, are adequately reflected and imbedded in disaster-related legislation, policies and procedures.
- Ensure disaster-related legislation, policies and procedures are **gender and diversity sensitive and reflect international humanitarian standards**. This includes:
  - Requiring that sex and age (and disability, as far as possible) **disaggregated data**<sup>3</sup> be collected and analyzed as a minimum for risk assessments, needs assessments, disaster impacts (death, injury, livelihoods, property), delivery of emergency assistance, allocation of recovery and reconstruction assistance. Such data collection could be gathered with the use of standardized guidance annexed in Standard Operating Procedures etc. A Red Cross Red Crescent National Society, as auxiliary to government, can support the standardization of data collection. Data should be stored, centralized and accessible as relevant.
  - Specifying measures that ensure **accessibility of information**, i.e. considerations of languages, visual/hearing/intellectual impairments, communication channels etc. For example, the Samoa National Disaster Management Plan allocates specific responsibilities and key indicators to ensure accessible communication channels at community-level are established in the preparedness phase.
  - Ensuring that any implementation plan adequately reflects **international standards in each sector** (Health, WaSH, Shelter etc) with regards to diverse needs, protection concerns and accessibility. Guidance such as the Sphere Handbook and the IFRC Minimum Standard Commitments to Gender and Diversity in Emergency Programming are useful resources that can be utilised.
  - Integrating **human mobility** (migration, displacement and planned relocation) aspects – as relevant. This includes steps to identify persons and communities at risk of forced displacement, and to anticipate and address the needs of persons displaced and to support the realization of durable solutions to displacement.
- **Mandate minimum demographically proportional representation**, assigning as appropriate clear responsibilities and tasks, in all DRM system governance bodies and management committees from national to local level **through a 30% legislative quota**.<sup>4</sup> This includes representation of women, religious/ethnic minorities, persons with disabilities, the elderly etc. **Mandated participation will also need to be accompanied by procedural and/or practical solutions** (for instance, the provision of financial incentives to address loss of livelihood when time is dedicated to partake in decision-making processes, the organization of safe and accessible transport and ensuring that cultural barriers to participation are addressed).
- Require that government agencies or officials regularly **consult representatives of communities (proportional representation of women, men, boys and girls) and marginalised groups**;
- **Strengthen the disaster-resilience of “normal time” laws, systems and institutions** protecting the rights of women and marginalised groups to ensure that they continue to function in times of disasters, including **the provision of adequate information and funding** for health, psychosocial, legal and protection services;
- Require adequate **resource allocation to address equality, equity and non-discrimination** within DRM frameworks at national and local level, including participatory awareness-raising, training and capacity-building;
- **House, Land and Property Rights** issues that may impede or hinder effective disaster risk management should be addressed in legislation, policies and procedures, and include adequate consideration for those most vulnerable;
- Include the **provision of post-disaster shelter** in disaster-related legislation, policies and procedure, including adequate consideration for protection issues. Existing guidance, such as the chapters on protection and shelter and settlement included in the Sphere Handbook, can be utilised to ensure international standards.
- Support public authorities to review roles and responsibilities in anticipation of future disasters, to ensure predictable, timely and accountable leadership and funding in supporting durable solutions for climate and disaster displaced persons.





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## Red Cross Red Crescent Commitments

In addition to supporting and committing to international standards, the Red Cross Red Crescent has taken proactive steps to ensuring that dignity, access, participation and safety are at the forefront of disaster risk management. Relevant commitments include:

### 32nd International Conference, 2015

#### **Resolution 6: Strengthening legal frameworks for disaster response, risk reduction and first aid**

Recognizing that women and their participation are critical to effectively managing disaster risk and building resilience. It welcomes the Sendai Framework for Disaster Risk Reduction 2015-2030, to strengthen the content and implementation of their laws, regulations and policies related to disaster risk reduction, which underlines that a gender, age, disability and cultural perspective should be integrated in all risk reduction policies and practices and that women's and youth leadership should be promoted, and recognizes the IFRC tools such as the Checklist on Law and Disaster Risk Reduction and the IDRL Guidelines can support the review process of domestic legal frameworks at the national, provincial and local levels.

### 31st International Conference, 2011

#### **Resolution 7: Strengthening normative frameworks and addressing regulatory barriers concerning disaster mitigation, response and recovery**

Calls on States, the components of the International Red Cross and Red Crescent Movement and relevant humanitarian organizations to make every effort to assure equitable shelter assistance as between all persons in need, including as between those who possess formal legal title to land or real property and those who do not, as well as between women and men;

The **IFRC Policy on Migration**, endorsed at the General Assembly in 2009, establishes a strictly humanitarian approach to migration based on the recognition of each migrant's individuality and aspirations. It focuses on the needs, vulnerabilities and potential of migrants, irrespective of their legal status, type, or category.

The **Red Cross Red Crescent Movement Policy on Internal Displacement**, adopted at the Council of Delegates in 2009, consist of ten principles, including the importance of preventing displacement, impartially serving all those affected by displacement and supporting the realisation of durable solutions to displacement.

The **IFRC Global Migration Strategy 2018-2022** sets a global direction and benchmark for National Societies and the IFRC to reduce vulnerability and enhance the resilience of migrants. Beyond meeting humanitarian needs and mitigating risk, the Strategy also focuses on supporting the resilience of migrants by integrating assistance, protection and advocacy.

### 32nd International Conference, 2015

#### **Resolution 3: Sexual and gender-based violence: Joint action on prevention and response**

Reaffirms States' obligations under applicable international human rights law to prohibit acts of sexual and gender-based violence; Calls upon States to review and strengthen, if necessary, their domestic legal frameworks, to fully implement applicable international obligations related to sexual and gender-based violence, and to assess, as relevant, whether domestic procedures, policies and contingency and preparedness plans related to disasters and other emergencies in their territory ensure that adequate attention is paid to sexual and gender-based violence;

### 31st International Conference, 2011

#### **Resolution 3: Migration: Ensuring access, dignity, respect for diversity and social inclusion**

Calls upon States, within the framework of applicable international law, to ensure that national procedures include adequate safeguards to protect the dignity and ensure the safety of all migrants, to grant migrants appropriate international protection and to ensure their access to relevant services. It strongly encourages enhanced cooperation between public authorities and National Societies to pursue practical action to promote respect for diversity, non-violence and social inclusion of all migrants.

The **Strategic Framework on Disability Inclusion**, adopted by the International Red Cross and Red Crescent Movement in December 2015, includes the three strategic objectives:

- All components of the Movement adopt a disability inclusive approach;
- Persons with disabilities have equal access to the services and programs the Movement provides, thereby enabling their inclusion and full participation; and
- All components of the International Red Cross and Red Crescent Movement endeavour to change mindsets and behaviour in order to promote respect for diversity, including disability inclusion.

## Red Cross Red Crescent Resources

The **IFRC Minimum Standard Commitments to Gender and Diversity in Emergency Programming** is a framework which draws upon a wide range of Red Cross Red Crescent Movement resources and best practices, as well as other international standards, to provide a simple but comprehensive guide for addressing the gender and diversity core actions in Red Cross Red Crescent emergency programming across sector including Health and WASH, Disaster Risk Reduction, Shelter, livelihoods, Non-Food Items, Food Security and Cash. The Minimum Standard Commitments are framed around four specific areas of focus: Dignity, Access, Participation and Safety (DAPS). These four areas of focus provide a useful framework which can be applied to any disaster-related legislation, policy or procedure, to ensure an inclusive disaster risk management framework that adequately engages and provides for all people.

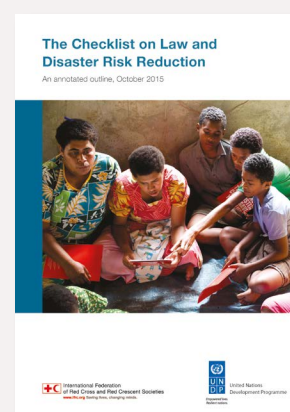
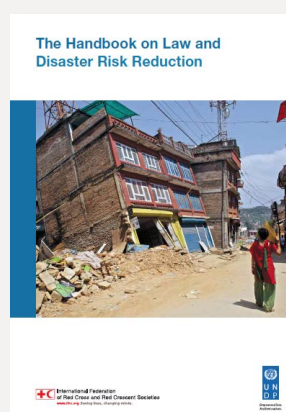
The **Checklist on Law and Disaster Risk Reduction** and accompanying **Handbook**, provides a practical assessment tool, with a list of ten key questions, to guide a review process of national and local level laws and regulations that can enhance DRR and provide guidance on how to bring national legal frameworks in line with existing international standards, in particular the Sendai Framework for Disaster Risk Reduction 2015-2030. The list of ten questions include:

- Do your laws ensure the engagement of civil society, the private sector, scientific institutions and communities in risk reduction decisions and activities?
- Do your laws adequately address gender considerations and the special needs of particularly vulnerable categories of persons?

Research for a new Checklist on Law and Disaster Preparedness and Response analyses if questions around 'Rights to assistance, security and protection of vulnerable groups' are adequately addressed in disaster-related legislation, policies and procedures.

The global report on **Effective law and policy on gender equality and protection from sexual and gender-based violence in disasters**, launched in November 2017 and drawing on case studies from **Nepal, Ecuador and Zimbabwe**, examines the effectiveness of national laws, policies and institutional frameworks in supporting gender equality in disaster risk management and in preventing and responding to sexual and gender-based violence (SGBV) in disasters.

The report provides recommendations for governments, the Red Cross Red Crescent Movement and the humanitarian sector more broadly on how to strengthen gender equality in disaster risk management as well as within its internal operations, to prevent, mitigate and respond to sexual and gender-based violence in disasters.



<sup>1</sup> Data sourced from World Bank and based on 2016 estimates of age/sex distributions of UN Population Division's World Population Prospects. Disability estimates are taken from the WHO and World Bank 2011 World Report on Disability

<sup>2</sup> Marginalised people/groups is understood to include older people, people with a disability and people living with HIV AIDS or other chronic illnesses. In different contexts, other forms of diversity, including ethnicity, migration, religion, caste, class, lesbian, gay, bisexual, transsexual or intersex (LGBTI) people, will be key issues to be considered when talking about marginalised groups. It is therefore important to first identify which people and groups may be included in 'marginalised groups' in any country context. See IFRC, Minimum Standard Commitments to Gender and Diversity in Emergency Programming, 2015, p. 13

<sup>3</sup> Suggested age brackets based on the IFRC Technical Note on Counting People Reached and the SPHERE guidelines on best practice age disaggregation: 0-5, 6-12, 13-17, 18-29, 30-39, 40-49, 50-59, 60-69, 70-79, 80+ (years). The Washington Questions on Disability is a useful resource to guide the collection of disability data.

<sup>4</sup> The 30% quota for women and marginalised group in all DRM system governance bodies and management committees from national to local level refers to a long-standing international target for women in decision-making positions, as iterated in the Beijing Declaration and Platform for Action (para 181 onwards) at the Fourth World Conference on Women in 1995, which makes reference to a target from the UN Economic and Social Council in 1990. The 30% is chosen on the grounds that it is enough to create a 'critical mass of women leaders, executives and managers in strategic decision-making positions' (Beijing Declaration, para 192) and is an uncontroversial target in comparison to full gender equality commitments made under the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), the Sustainable Development Goals and national constitutions. Important to note as that representation membership of women, religious/ethnic groups and persons with disabilities should be accompanied by an eligibility criteria, ensuring e.g. there is diversity in the types of women who participate. This eligibility criteria should also include consequences for individuals who choose not to include members of socially vulnerable groups in decision-making processes.

### FIND OUT MORE

Visit the IFRC Disaster Law Programme website: <http://media.ifrc.org/ifrc/what-we-do/disaster-law/>

Visit the IFRC Protection, Gender and Inclusion website:

<http://media.ifrc.org/ifrc/what-we-do/inclusion/inclusion-gender-and-diversity/>