Checklist on Law and Domestic Preparedness and Response

ASEAN Disaster Risk Governance Academic Seminar
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1. Context
Context

- DLP mandate: using law to reduce human vulnerability to disasters

- Existing DLP guidance documents
  - Model Act on IDRL (2013)
  - IDRL Checklist (2017)

- Gap = lack of comprehensive guidance on domestic disaster preparedness and response (DPR)
2. Checklist Methodology
Checklist Methodology

1. Desktop Reviews (complete)
   - 20 countries
   - Pro bono assistance from local law firms

2. Literature Review (complete)
   - International legal materials
   - Guidelines, standards, recommendations
   - Academic sources (books, journal articles)
   - Reports from UN actors and leading INGOs
   - Based on Desktop Reviews and Literature Review
   - Provides recommendations for domestic decision-makers

4. Checklist
   - Translates recommendations from the Multi-Country Synthesis Report into questions
   - Subject to consultation with experts from the humanitarian community
1. **Institutional framework**
   - Existence of DPR institutions
   - Existence of sub-national institutions
   - Participation of all stakeholders
   - Coordination between actors
   - Principles and protections
2. Funding and resources

- Dedicated funding for:
  - all phases of DM cycle
  - all levels of government
- Legal facilities for cash transfer programming
- Risk-financing mechanisms (e.g., forecast-based financing)
- Capacity to apply for, receive and manage external funding
3. Risk information and contingency planning
   ▪ Risk mapping and risk assessments
   ▪ Contingency planning
   ▪ Education and drills

4. Early warning, early action
   ▪ Risk monitoring and information sharing
   ▪ Early warnings
   ▪ Evacuation of people and livestock
   ▪ Other forms of early action
5. Initiation of disaster response

- Clear process for declaration
- Safeguards (e.g., time limits)
- Rapid needs and damages assessments
Checklist Items

6. Legal facilities
   - Licensing of professionals
   - Licensing of UAVs
   - Tax exemptions for DPR
   - Liability protections
   - Regulation of volunteers

7. Quality
   - Minimum standards
   - Ongoing needs and damages assessments
8. Emergency shelter assistance
   - Legal guarantee of shelter
   - Limiting use of schools as shelters
   - Non-discrimination on the basis of tenure status
   - Procedures for expedited replacement of documents
   - Conduct of relocations (when unavoidable)
9. Protection and inclusion of vulnerable groups
   ▪ Protection and inclusion of 9 vulnerable groups
   ▪ Child protection; SGBV protection
   ▪ Mental health and psychosocial support

10. Accountability
   ▪ Monitoring and evaluation of response
   ▪ Prevention of diversion, misappropriation and fraud
3. Initial Findings
Institutional Frameworks

1. Institutional mandate
2. Existence of sub-national Institutions
3. Participation of all stakeholders
4. Coordination
1. Institutional mandate

- Three components; numerous configurations
  - **jurisdiction** (eg, national, regional, municipal, community)
  - **subject matter** (eg, DRR, response, recovery)
  - **function** (eg, policy, operations, technical advice)

- Shaped by constitutional structure, political environment, history and disaster risk profile etc

- Should be comprehensive: all jurisdictions, all hazards and all functions need to be addressed
2. Sub-national institutions

- Most countries surveyed have dedicated DPR institutions at sub-national levels
- Variation in the degree of *autonomy* and *responsibility* granted to sub-national institutions
- Sub-national institutions may provide more responsive and targeted governance but *asymmetrical devolution* is a key challenge
- Sub-national institutions should be granted sufficient powers and resources to implement their DPR mandates
3. Participation

- Variation between countries regarding:
  - breadth of stakeholders permitted to participate
  - type of participation granted to stakeholders

- Decision-makers should adopt all-of-society approach that allows all stakeholders to participate in institutions
Initial Findings: Institutional Frameworks

3. Participation (continued)

- Stakeholders should be granted *highest degree* of participation that is appropriate to their resources and capacity

- Stakeholders should have *rights to participation*, rather than leaving this at the discretion of government

- Law should protect stakeholder *independence*
Institutional Frameworks

4. Coordination

- Two types of domestic coordination required:
  - coordination between government actors (i.e., sectoral agencies; different levels of government)
  - coordination between government and non-government actors

- Desktop Reviews indicate:
  - coordination mechanisms often include a range of government actors; coordination mechanisms are common
  - but non-government actors are sometimes excluded
4. Coordination (continued)

- Coordination mechanisms should include representatives from:
  - all sectoral agencies
  - all levels of government
  - all types of non-government stakeholder

- Coordinating bodies should:
  - meet regularly
  - assign participants clear roles and responsibilities
  - designate one actor with overall control of a response
Vulnerable groups
- women and girls
- children (including unaccompanied and separated children)
- older persons
- persons with disabilities
- displaced persons
- persons at risk of displacement
- migrants and refugees
- indigenous groups
- ethnic and racial minorities
- sexual and gender minorities
Common causes of vulnerability

- **Economic marginalisation**: vulnerable housing and livelihoods creates increased exposure to disaster impacts.

- **Pre-existing discrimination and social marginalization** leads to direct and indirect discrimination in DPR.

- **Impairments** (physical, sensory etc) make it more difficult to escape or take shelter from physical hazards.

- Some groups are at heightened risk of **harmful and exploitative behaviours** (eg, SGBV, child trafficking, physical violence).
Key Findings

▪ Domestic laws and policies in the countries surveyed do not sufficiently protect vulnerable groups

▪ Protection and inclusion is often uneven, by addressing the needs of *some* but not *all* groups

▪ No need to ‘reinvent the wheel’ → for most vulnerable groups, there is a comprehensive body of principles, guidelines, standards and tools
Protection & Inclusion

1. Prohibition on discrimination

2. Accessible and adapted DPR activities
   - Removing barriers to access
   - Meeting specific and additional needs
   - Risk and needs assessments
   - Contingency planning

3. Collecting disaggregated data
   - Risk and needs assessments
   - Disaster impacts, SGBV, participation
4. Training and awareness raising for all emergency responders

5. Participation
- Representation in institutions
- Active recruitment
- Direct consultation
- Training opportunities
- Monitoring and evaluation

6. SGBV protection
- Contingency planning
- Post-disaster shelter
- Training and awareness raising
FOR MORE INFORMATION, PLEASE VISIT:

http://www.ifrc.org/dl

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Questions & Comments