

THE PHILIPPINES NATIONAL LAW AND POLICY REPORT

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Displacement in the Context of Disasters and Climate Change

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1 INTRODUCTION

As reflected in the *Sendai Framework for Disaster Risk Reduction* (SFDRR)¹ and the *Paris Agreement*,² and recent statements and declarations at the Global Platform on Disaster Risk Reduction (GPDRR)³ and the Asia Ministerial Conference on Disaster Risk Reduction 2018 (AMCDRR),⁴ displacement in the context of disasters and climate change is increasingly being seen by actors concerned with disaster risk management at international, regional and national levels as a phenomenon requiring concerted attention. The series of country reports of which this document is a part address the policy objective of further integrating displacement considerations into wider disaster risk management and climate change adaptation measures at the sub-national level.⁵ The reports present the results of a mapping exercise in which national law and policy was reviewed in order to identify existing references to different aspects of displacement, including prevention of and preparedness for displacement, protection during evacuation and throughout displacement, and facilitation of durable solutions. Setting out the extent to which sub-national law and policy presently addresses these different aspects of displacement provides a helpful starting point for future engagement with relevant actors on ways of further integrating displacement considerations.

Only documents that are expressly related to disasters, climate change and displacement are considered in this report. Due to the cross-cutting, whole-of-society impact of many disasters, a wide range of other legal and policy frameworks may well have relevance for specific kinds of engagements relating to disaster displacement or disaster risk management and climate change adaptation more generally. However, in order to retain the clear focus on addressing the extent to which displacement is already integrated into sub-national law and policy, a restrictive approach was taken in the review.

1.1. A human rights-based approach

In line with Paragraph 19(c) of the SFDRR,⁶ Paragraph 28 of the *Co-Chairs' Summary* of the GPDRR, and Paragraph 11 of the *Ulaanbaatar Declaration* at the AMCDRR, the reports embrace a human rights-based approach to disaster displacement. In brief, this approach sees states as having the primary responsibility for protecting persons from harm associated with displacement in the context of disasters and climate change. It recognises the Universal Declaration on Human Rights, Guiding Principles on Internal Displacement 1998 (Guiding Principles on Internal Displacement), as well as the wider body of international human rights law underpinning those Principles, as foundational. Having a legal and policy framework in place that incorporates core principles and defines roles and responsibilities of responsible

1 *Sendai Framework for Disaster Risk Reduction* (SFDRR), see for example paras. 28(d), 30(l), 33(h, j, m).

2 *Paris Agreement*, see Article 8, which references the Warsaw International Mechanism, under which a Taskforce on Displacement was created, <unfccc.int/wim-excom/sub-groups/TFD>, visited on 14 October 2020

3 *Global Platform on Disaster Risk Reduction 2019, Co-Chairs' Summary* (GPDRR), see paras. 6, 12 and 28, <www.preventionweb.net/files/58809_chairsummary.pdf>, visited on 14 October 2020

4 Para. 1 of the *Ulaanbaatar Declaration* at the Asian Ministerial Conference on Disaster Risk Reduction 2018 (AMCDRR) expresses "deep concern at the continuing impact of disasters in the region, resulting in recurrent loss of human lives and livelihoods, displacement of people, and environmental, economic, social and material damages", <www.preventionweb.net/files/56219_ulaanbaatardeclarationfinal.pdf>, visited on 14 October 2020

5 GPDRR, *supra* note 3, para. 28: "Governments and the international community must do more to reduce the risk of disaster displacement before disasters strike. Disaster risk reduction strategies and policies should address the drivers and consequences of disaster displacement and contribute to durable solutions."

6 SFDRR, *supra* note 1, para. 19(c) reads: "[m]anaging the risk of disasters is aimed at protecting persons and their property, health, livelihoods and productive assets, as well as cultural and environmental assets, while promoting and protecting all human rights, including the right to development".

actors also contributes to transparency and accountability. Further, a human rights-based approach recognises that disasters do not affect all persons in the same way, and highlights the differential exposure and vulnerability that manifests along intersecting gender, ethnicity, age, disability and other lines. The gendered nature of displacement is emphasised, as is the need to tackle structural barriers to equality in order to strengthen resilience to disaster risk. It follows that consultation, participation and equal access to information are cornerstones of the approach. The approach can be condensed into four elements, namely:

- governance: transparency and accountability
- procedural: participation, consultation and access to information
- substantive: express focus on fundamental rights
- non-discrimination and equality: focus on the particular situation of traditionally marginalised groups.

More details on the international standards and guidelines that reflect this approach are contained in the Background Brief on Key International Standards and Guidelines Relating to Displacement in the Context of Disasters and Climate Change, which accompanies this series of country policy reports.⁷

The report has four substantive sections. First, a snapshot of the numerical scale of disaster displacement in the country is presented, drawing on data from the Internal Displacement Monitoring Centre (IDMC) and the EM-DAT database. Next, in the interests of connecting the analysis to the relevant wider human rights law context, disaster-specific observations from human rights monitoring bodies and mandate holders under the UN system are highlighted. Then, the domestic law and policy framework is presented and analysed against a set of core principles concerning prevention of and preparedness for displacement, protection during evacuation and throughout displacement, and the facilitation of durable solutions. Finally, reflecting on this material, a concluding section summarises strengths and areas inviting closer engagement by relevant actors.

The intended audience of this report series includes domestic actors with responsibility for disaster risk reduction (DRR) and management (DRRM), climate change adaptation (CCA), and protection of persons in situations of climate- and disaster-related displacement at the national and sub-national level. It is hoped that these actors will find value in a consolidated overview of the domestic legal and policy framework from a human rights-based approach, read alongside the Background Brief on international standards and guidelines, not least in light of the imperative under the SFDRR to address disaster risk through “promoting and protecting all human rights”.

It is also hoped that civil society, UN, and intergovernmental and academic actors at (sub) national, (sub)regional and international levels will find the series of country reports of interest and value. The compendium of which this report is a part provides a depth of insight into how different countries across the region are working to address the pressing challenge of displacement in the context of disasters and climate change. It is hoped that the compendium of reports will provide material that contributes to an enhanced appreciation of the relevance of human rights to addressing disaster displacement, the exchange of good practices, and the further integration of displacement into existing disaster risk reduction and climate change adaptation initiatives.

⁷ Available at: <rwi.lu.se/disaster-displacement/>.

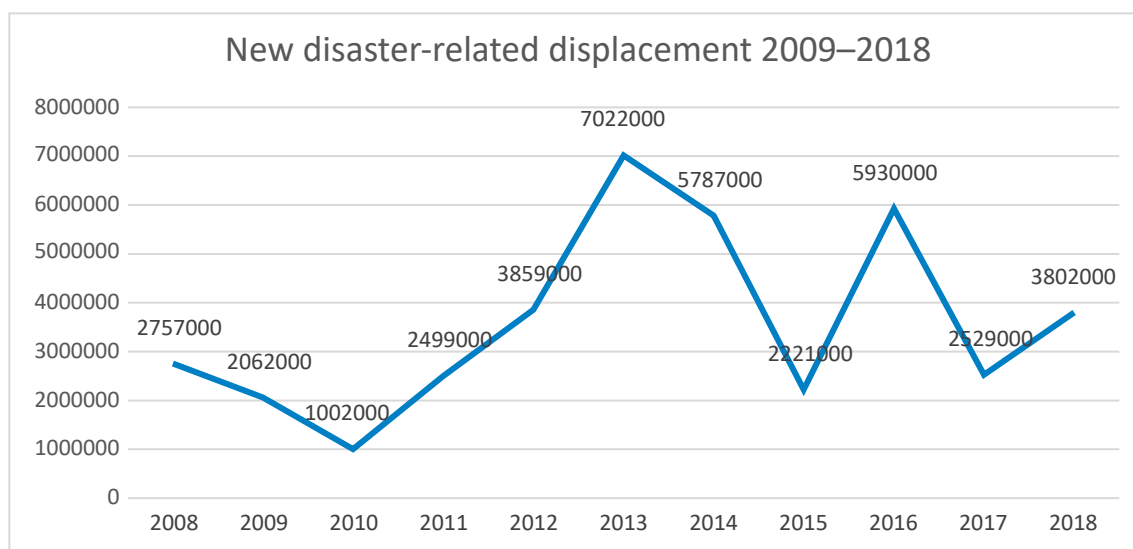
2 Displacement in Numbers

2.1. Number of disasters and people affected in the last ten years (2009–2018)

Hazard	Number	People affected ⁸
Drought	1	181,687
Earthquake	10	3,634,360
Epidemic	7	214,068
Flood	59	20,225,542
Landslide	6	1,855
Storm	89	83,341,192
Volcanic activity	6	241,831
TOTAL	178	107,840,535
Source: < public.emdat.be >.		

From the above table it is clear that the Philippines is a country that is heavily impacted by sudden-onset natural hazard events, with millions of people affected by numerous hazards every year.

Displacement, as the below graph demonstrates, is a consistent consequence of disasters.



Source: <www.internal-displacement.org/database/displacement-data>.

Disaster displacement is a feature of life for many people living in the Philippines, with millions displaced annually, and over 35 million displaced in the last ten years.⁹ Mega-disasters, such as the 2013 Typhoon Haiyan, entail exceptionally high levels of displacement, with as

⁸ 'Affected' means "[p]eople requiring immediate assistance during a period of emergency, i.e. requiring basic survival needs such as food, water, shelter, sanitation and immediate medical assistance", source: *ibid*.

⁹ Source: Internal Displacement Monitoring Centre (IDMC), <www.internal-displacement.org/database>, visited on 14 October 2020

much as seven per cent of the population displaced.¹⁰ However, displacement in excess of five million persons does not appear uncommon from the above graph.



Flooding from Typhoon Ondoy (Ketsana), Philippines 2009. Photo AusAID flickr

With substantial displacements triggered by a variety of hazards, how the Philippines approaches the protection of persons from displacement, during evacuation and throughout displacement and the facilitation of durable solutions has implications for the enjoyment of a range of human rights, including the rights to life, shelter, property, food, health, physical security, livelihoods and many more. Section 3 considers what human rights treaty monitoring bodies and mandate holders have recommended in terms of the Philippines' approach to disaster risk reduction and climate change adaptation generally. Section 4 then considers in closer detail the legal and policy framework currently in force in the country, with a focus on measures that address all phases of the displacement cycle.

3 Recommendations from Human Rights Monitoring Bodies

A human rights and gender-equal approach to law, policy and practice on displacement in the context of disasters and climate change may benefit from a grounding in existing recommendations from human rights monitoring bodies. Based on a review of 'Concluding Observations' from the most recent periodic review before treaty monitoring bodies and other mechanisms within the UN system, a series of country-specific recommendations relating to climate change adaptation and disaster risk reduction and management has been consolidated.

The Philippines is party¹¹ to the following international human rights treaties of relevance to displacement in the context of disasters and climate change:

- Convention on the Elimination of Racial Discrimination 1965 (CERD)
- International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR)
- International Covenant on Civil and Political Rights 1966 (ICCPR)
- Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW)
- Convention on the Rights of the Child 1989 (CRC)
- Convention on the Rights of Persons with Disabilities 2006 (CPRD).

The Human Rights Committee (CCPR) does not address disasters or climate change, or displacement in those contexts, in its Concluding Observations,¹² and the CERD Committee only makes one reference to displacement, in the context of armed conflict.¹³ The CERD, ICESCR, CEDAW, CRC and CPRD committees consider disasters and climate change in important respects. Additionally, the Special Rapporteur on the human rights of internally displaced persons, Dr Chaloka Beyani, visited the Philippines in 2015, and reported on the situation of people displaced since Typhoon Haiyan in 2013. These reports are addressed in turn below.

The CESCR Committee, in its Concluding Observations,¹⁴ addresses displacement in the context of both conflict and disasters. Its first reference to disasters is in relation to the particular situation of indigenous people. The Committee expresses concern about a range of matters relating to indigenous people's rights in the country, including in relation to the implementation of the *Indigenous People's Rights Act 1997*, land demarcation issues and a lack of free, prior and informed consent in relation to the use of their lands and territories. In this context, the Committee calls upon the State Party to "[a]dopt appropriate measures to mitigate the impact of armed conflicts, including intertribal conflicts, and natural disasters on indigenous peoples".¹⁵

The second context in which disasters are referred to relates to violence against women. Here, the Committee expresses concern at "[t]he persistently high incidence of trafficking in women and children, which is exacerbated by natural disasters and armed conflict".¹⁶ The Committee calls upon the State Party to "[a]ddress the root causes of women's vulnerability to trafficking, in particular in the context of displacements related to natural disasters and armed conflict".¹⁷ The *Children's Emergency Relief and Protection Act 2016* (CERPA) appears to address some of these issues.

Third, the issue of food insecurity in the Philippines is raised by the Committee, with reference to the 13.7 to 15.6 million people who are undernourished in the Philippines,

11 Available at: <indicators.ohchr.org/>.

12 See CCPR/C/PHL/CO/4 from 2012.

13 CERD, Concluding Observations, CERD/C/PHL/CO/20 (23 September 2009), <tbinetnet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fPHL%2fCO%2f20&Lang=en>, visited on 14 October 2020

14 CESCR, Concluding Observations, E/C.12/PHL/CO/5-6 (26 October 2016), <tbinetnet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fPHL%2fCO%2f5-6&Lang=en>, visited on 14 October 2020.

15 CESCR, *supra* note 14, para. 14(f).

16 *Ibid.*, para. 41(a).

17 *Ibid.*, para. 42(a).

“most of whom live in rural, conflict-affected and disaster-affected areas”.¹⁸ The Committee is similarly concerned “that the livelihood of small-scale fishers has been under threat owing to declining fish stocks in coastal areas as a result of climate change and the encroachment of commercial fishing vessels on fishing zones”.¹⁹ The issues of food and livelihood security are clearly in focus in the 2011–2028 National Climate Change Action Plan.

Finally, in relation to the right to adequate shelter, the Committee expresses concern about “the substandard living conditions in collective bunkhouses for persons who are internally displaced as a result of natural disasters and armed conflict” and urges the State Party to take steps to address the conditions.²⁰

The CEDAW Committee, in its Concluding Observations,²¹ makes multiple observations relating to climate change, disasters and displacement.

In its opening general observations, the Committee notes the “severe damage caused by a series of natural disasters, including typhoons and earthquakes”. The Committee recommended broad action to address the particular impact these and related phenomena, including armed conflict, have on women:

“The Committee recommends that the State party further accelerate its achievement of substantive gender equality and the full realisation of human rights for women, in particular by strengthening a gender-sensitive approach to development, peace and security, transitional justice, migration, disaster risk reduction, preparedness and response, and the mitigation of the negative impacts of climate change, with special attention paid to women facing multiple and intersecting forms of discrimination. The Committee also recommends that the State party ensure the active and meaningful participation of women and women’s rights organisations in such processes.”²²

The Committee then makes specific observations relating to the intersection of disasters, displacement and violence against women, highlighting at Paragraph 25(f) “the lack of disaggregated data on gender-based violence against women in the context of displacement, armed conflict, disaster, migration and trafficking situations, as well as on gender-based violence against women with disabilities”. The Committee makes a related observation concerning trafficking of women in this context, and called upon the State Party to “address the root causes of and women’s vulnerability to trafficking, in particular in the context of disasters, conflicts and displacements”.²³ Similarly, the Committee calls upon the State Party to “eliminate the root causes of child and forced marriage, including poverty, conflicts and insecurity, as well as vulnerability to the impact of natural disasters”.²⁴

18 *Ibid.*, para. 47.

19 *Ibid.*, para. 45.

20 CESCR, *supra* note 14, paras. 49–50.

21 CEDAW, Concluding Observations, CEDAW/C/PHL/CO/7-8 (25 July 2016), <tinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/PHL/CO/7-8&Lang=En>, visited on 14 October 2020.

22 *Ibid.*, para. 9.

23 CEDAW, *supra* note 21, para. 28(c).

24 *Ibid.*, para. 50(d).

After noting the particular impact of disasters on women in rural areas,²⁵ the Committee devotes an entire subsection of its report to ‘natural disasters and climate change’, which warrants quoting in full. It highlights the lack of effective translation of the legal and policy framework into practice, a key consideration of the overall ten-country research project of which this study forms a part:

“Natural disasters and climate change

“47. The Committee welcomes the fact that the legal and policy framework relevant to natural disasters and climate change mainstreams gender-sensitive responses across government agencies. It is concerned, however, that this framework has not been effectively translated into practice.

“48. The Committee recommends that the State party:

“(a) consistently prioritize the protection of women’s rights, in particular protection from gender-based violence, in situation analyses, needs assessments and interventions relating to disaster risk reduction, preparedness and response to natural disasters, as well as in the mitigation of the negative impacts of climate change;

“(b) Ensure the full and meaningful participation of women, including those who face multiple and intersecting forms of discrimination, in designing, implementing and monitoring relevant legal and policy frameworks;

“(c) Regularly assess the effectiveness of relevant legal and policy frameworks in protecting women’s rights with clear baselines and measurable indicators, and provide information on the achievements made in the next periodic report.”²⁶

As set out below, the Philippines does indeed have a robust, rights-based legal and policy framework that expressly and consistently addresses the issue of gender equality at different levels and in different contexts relating to disaster risk reduction and climate change adaptation. However, the question of implementation remains perennial.

The CRC Committee, in its Concluding Observations,²⁷ does not devote the same level of scrutiny as the CEDAW Committee did in 2016, but does take note of the particular challenges the Philippines faces as a consequences of being exposed to multiple natural hazards.²⁸

The Committee calls for the development and implementation of an action plan or strategy on the assistance and protection of children affected by natural disasters,²⁹ and for the definition of strategic budgetary lines for disadvantaged and particularly vulnerable children, including in situations of disaster.³⁰ The 2016 Children’s Emergency Protection and Relief

25 *Ibid.*, para. 43.

26 CEDAW, *supra* note 21, para. 48

27 CRC, Concluding Observations, CRC/C/PHL/CO/3-4 (22 October 2009), <[tinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/PHL/CO/3-4&Lang=En](http://internet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/PHL/CO/3-4&Lang=En)>, visited on 14 October 2020

28 *Ibid.*, para. 7.

29 *Ibid.*, para. 60(d).

30 *Ibid.*, para. 20(b).

Act, discussed below, takes significant steps towards fulfilling these recommendations.

The Committee does not expressly draw the connection between climate change, disasters and displacement.

The CRPD Committee, in its Concluding Observations,³¹ recognises that the legal and policy framework relating to disaster risk reduction, and specifically the PDRRMA, addresses the particular situation of persons with disabilities, but expresses concern about lack of information regarding implementation. It makes three specific recommendations at Paragraph 23:

“(a) Adopt an effective mechanism in accordance with the Sendai Framework for Disaster Risk Reduction 2015–2030 in order to have an accessible communication strategy (e.g. hotlines, a text message-warning application, general manuals in sign language and Braille, etc.) and a comprehensive emergency strategy and protocols for situations of risk;

“(b) Ensure that disaster risk reduction strategies are inclusive and accessible for persons with disabilities, and comply with the commitments of the Charter on Inclusion of Persons with Disabilities in Humanitarian Action, and the 2016 World Humanitarian Summit;

“(c) Enact legislation and enforce measures requiring all public services to develop individual and local plans for the safe evacuation of persons with disabilities during situations of risk, in close consultation with persons with disabilities, through their representative organizations.”³²

The National Disaster Response Plans of 2018 and 2019, described below, provide a framework for the development of local level plans, including in relation to early warning and evacuation. However, it is beyond the scope of this study to examine local level policies and plans.

Although displacement is referred to in relation to conflict at Paragraph 22, no reference is made to displacement in the context of disasters and climate change.

The visit of the Special Rapporteur on the human rights of internally displaced persons, Dr Chaloka Beyani, took place from 21 to 31 July 2015.³³ The first part of his report focuses on his assessment of the post-disaster conditions experienced by persons displaced during or in the aftermath of Typhoon Haiyan (known locally as Yolanda), which struck the Philippines in December 2013. His focus was on Tacloban, the regional capital of Leyte Province, which was heavily impacted with over one million homes damaged or destroyed.³⁴ He also reports on conditions for IDPs in Mindanao.

31 CRPD, Concluding Observations, CRPD/C/PHL/CO/1 (16 October 2018); <tbiinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD%2fC%2fPHL%2fCO%2f1&Lang=en>, visited on 14 October 2020.

32 *Ibid.* para 23

33 Report of Special Rapporteur on the human rights of internally displaced persons on his mission to the Philippines (Special Rapporteur), A/HRC/32/35/Add.3 (5 April 2016).

34 *Ibid.*, para. 20.

In relation to Tacloban, Beyani considers efforts taken by local and national authorities to address the massive shelter needs of the population displaced in the context of Typhoon Haiyan. He describes in particular the situation of people who, more than 18 months since Haiyan made landfall, continued to reside in temporary ‘bunkhouses’, which he describes as “overcrowded, lacked privacy and prone to gambling, alcohol and drug abuse, and violence”.³⁵ He reports that over 1000 people remained in such housing at the time of his report, more than two years since Haiyan.

He identifies a number of gender-specific challenges in relation to this kind of accommodation, and recounts the common concern expressed about the exposure of women and girls to sexual violence.³⁶ Additionally, women faced more generalised intimate partner violence, early marriage due to poverty, and challenges relating to land title. Cramped living conditions in close proximity to strangers made parents, and particularly female heads of households, concerned about leaving their children in order to seek livelihood opportunities. He also notes how bunkhouses may pose particular challenges for elderly people, persons with disabilities or ‘other vulnerable people’,³⁷ but does not describe the predicament of such people in the report.

The Special Rapporteur is also careful to highlight the good work that was underway or had been completed since Haiyan, noting the scale of initial damage and the pace of reconstruction, taking particular note of the initiative to ‘Build Back Better’.³⁸ He also describes the domestic legal framework relating to disasters, and notes how a draft law on internally displaced persons had been vetoed after over ten years of debate, but considered that if such a law were to be passed it would “provide a valuable domestic legal statement of the rights of internally displaced persons and the primary responsibility of the Government to protect and assist them”.³⁹ At the time of writing this national law and policy report in 2020, the Philippines had not adopted a national law or policy on internal displacement.

The Special Rapporteur makes six recommendations to the government of the Philippines in relation to the ongoing displacement of people in the aftermath of Typhoon Haiyan:⁴⁰

1. Recognizing that durable solutions require multisectoral approaches, the Government must intensify its attention to ensuring that permanent housing and livelihood restoration are completed as quickly as possible for all affected persons.
2. The immediate needs of internally displaced persons remaining in bunkhouses or transitional shelters must be assessed and service provision to them improved and guaranteed, including water and sanitation, electricity, medical services and access to education. Protection concerns must be addressed, including for women, children and other vulnerable persons.
3. National Government and local government units must work in closer cooperation based on national legal and policy requirements and in the interest of all affected persons and reach a common understanding regarding priorities, roles and responsibilities, with adequate funding provided.

35 *Ibid.*, para. 34.

36 *Ibid.*

37 Special Rapporteur, *supra* note 31, para. 25.

38 *Ibid.*, para. 20.

39 *Ibid.*, para. 10.

40 *Ibid.*, paras. 98–103.

4. A deficit in genuine consultation with and participation of internally displaced persons in planning and decision-making has resulted in frustration and anxiety among some communities for which progress has been slow. Consultation and information provision is a right of internally displaced persons and allows them to realize the right to choose durable solutions that best meet their needs.
5. Culturally appropriate and gender-sensitive livelihood programmes should be implemented, including for women heads of households, as an essential component of durable solutions. Those dependent on coastal-based livelihoods should be assisted to resume such activities.
6. A rights-based and inclusive approach should be taken to ensure that all affected persons are addressed and that criteria for assistance do not unfairly exclude any person. Profiling, a full needs assessment and verification exercises are required during this crucial transition period between early recovery and the attainment of durable solutions.

Clearly, a human rights-based approach to displacement in the context of disasters and climate change in the Philippines should take into account relevant recommendations from treaty monitoring bodies. These recommendations are summarised as:

- Improve implementation of law and policy relating to disaster risk reduction, with a particular focus on addressing the particular situation of potentially vulnerable groups, including persons, children, and women
- Increase levels of participation, including in decision-making, in relation to disaster risk reduction, particularly amongst women and persons with disabilities
- Take general and specific, short term as well as longer term steps to address displacement in the context of disasters and climate change, taking into account immediate needs relating to shelter, Water Sanitation and Hygiene (WASH) and security in temporary accommodation, but also facilitating durable solutions to displacement in accordance with international standards.

As noted above, some of these recommendations appear to find expression in the domestic legal and policy documents addressed below, whereas other issues, particularly in relation to durable solutions, would benefit from further consideration.

4 Legal and Policy Framework

The Constitution of the Philippines 1987 commits to upholding human rights. The Declaration of Principles and State Policies provides that “[t]he State values the dignity of every human person and guarantees full respect for human rights”.⁴¹ The Philippines also recognises “the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature”,⁴² which has been declared as a self-executing right that does not need any further legislation for it to be demandable and enforceable.⁴³

⁴¹ Constitution of the Republic of the Philippines 1987, Art. II, s. 11.

⁴² *Ibid.*, Art. II, s. 16.

⁴³ See generally: *Oposa v. Factoran*, G.R. No. 101083 (30 July 1983).

Key law and policy documents relevant to adherence to human rights principles, internal displacement, climate change adaption, and disaster risk reduction and management include the following:

- The Constitution of the Republic of the Philippines 1987 (The Constitution)
- Magna Carta of Women (MCW) (Republic Act No. 9710, 2009)
- *Indigenous People's Rights Act 1997* (IPRA)
- *Climate Change Act 2009*
- Strategic National Action Plan for Disaster Risk Reduction 2009–2019 (SNAPDRR)
- National Framework Strategy on Climate Change 2010–2022 (NFSCC)
- National Climate Change Action Plan 2011–2028 (NCCAP)
- *Philippine Disaster Risk Reduction and Management Act 2010* (PDRRMA)
- National Disaster Risk Reduction and Management Framework 2011 (NDRRMF)
- National Disaster Risk Reduction and Management Plan 2011–2028 (NDRRMP)
- Child and Youth Welfare Code (CYWC)
- *Children's Emergency Relief and Protection Act 2016* (CERPA)
- National Disaster Response Plans 2018 and 2019 (NDRPs)
- National Disaster Preparedness Plan (NDPP), 2016.

These documents were systematically reviewed using the RWI's human rights-based legal and policy analysis tool. The detailed results of this review are found at Annex 1 of this report, which is available at <rwi.lu.se/disaster-displacement/>. Key insights relating to each of the four elements of the human rights-based approach adopted for this study are set out briefly below.



Flood damage in Manila, Philippines 2012. Photo AusAID 2 flickr

In terms of governance, the legal and policy framework in the Philippines clearly addresses different aspects of displacement, and consistently adopts a human rights-based and gender-equal approach. Multiple legal and policy documents – including the National Climate Change Action Plan, the Strategic National Action Plan, the National Disaster Risk Reduction and Management Framework, and the National Disaster Risk Reduction and Management Plan – address different aspects of displacement, which are considered in more detail in relation to the substantive element.

The legal and policy framework includes express invocation of international human rights treaties, such as the Convention on the Rights of the Child, as well as key international standards and guidelines, including the Guiding Principles on Internal Displacement and the Sphere Standards.

However, although displacement is addressed in detail, there are no provisions requiring displacement considerations to be *mainstreamed* throughout the legal and policy framework. Adopting a bespoke legal or policy document addressing internal displacement in the context of disasters and climate change would promote a more systematic approach to the issue.



Flood damage in Manila, Philippines 2012. Photo AusAID flickr

Considering the procedural aspect, although much of the legal and policy framework calls expressly for active and meaningful participation, there is a risk that some provisions do not adequately protect people from arbitrary displacement. In particular, provisions relating both to forced evacuation and to resettlement do not expressly require free, prior and informed consent. In relation to forced evacuation, the PDRRMA and the NDRPs provide for forced evacuation without engaging with questions of necessity and proportionality. The Indigenous People's Rights Act provides for resettlement of populations in the context of disasters, but does not expressly invoke the principle of free, prior and informed consent.

Participation is very clearly in focus in the legal and policy framework, and the National Climate Change Action Plan makes express provision for mainstreaming of gender and promoting the role of women as agents of change. Similarly, the PDRRMA makes specific provision for active participation of ‘marginalized groups’ in local (barangay)-level DRRM. Meanwhile, the Strategic National Action Plan asserts that “the need to be inclusive in making decisions that will affect them [‘disaster-affected households’] cannot be overemphasized”. The Children’s Emergency Relief and Protection Act provides for the participation of children in community disaster risk reduction. There are no specific references to participation in the context of displacement. International standards and guidelines are not invoked in this specific context.

Having systems in place to communicate with at-risk and affected people, including different groups within society, is clearly in focus in the legal and policy framework in the Philippines. The National Climate Change Action Plan makes provision for gender-sensitive information and education campaigns, with specific reference to resettlement. The Strategic National Action Plan recognises access to information as essential for “supportive decision-making for an enlightened citizenry”. The Plan also considers in detail matters relating to communication, including during disasters. The Children’s Emergency Relief and Protection Act provides for access to age-appropriate information for children. However, international standards and guidelines relating to access to information are not expressly invoked.



Flooding from Typhoon Ondoy (Ketsana), Philippines 2009. Photo AusAID2 flickr

The legal and policy framework of the Philippines contains extensive measures relating to the substantive element, designed to prevent and prepare for displacement, protect people during evacuation and throughout displacement, and facilitate durable solutions to displacement. The framework could, nonetheless, be strengthened by the adoption of a bespoke legal or policy document that promotes the *systematic* mainstreaming of displacement considerations across DRRM, CCA and sustainable development law, policy and practice.

The legal and policy framework of the Philippines focuses heavily on disaster risk reduction and management, and climate change adaptation. Inevitably, good DRRM and CCA will help to prevent displacement.

The following insights emerged from the review:

The framework contains specific measures designed to prevent displacement, including the design under the National Climate Change Action Plan of climate change-adaptive human settlements and services and the development of “a long term plan for adaptation of highly CC vulnerable population and climate refugees”. The National Framework Strategy on Climate Change emphasised climate-proofing infrastructure and ‘Building Back Better’.

The constitutional right to property is invoked under the Philippine Disaster Risk Reduction and Management Act, which aims to address “root causes of vulnerabilities to disaster” and mainstreaming disaster risk reduction into development planning. The Framework calls for adherence to and adoption of “universal norms, principles and standards”.

Other documents, including the Strategic National Action Plan and the National Disaster Risk Reduction and Management Framework, situate disaster risk reduction within broader poverty alleviation and sustainable development, with the latter highlighting the important role to be played by the Comprehensive Land Use Planning Process.

Protection during evacuation and throughout displacement

The PDRRMA makes specific provision for a mechanism for immediate delivery of food, shelter and medical supplies, and specifically addresses the situation of internally displaced mothers. Provision is also made for preventing overpricing of commodities, medicines and petroleum products.

The expressly human rights-based Children’s Emergency Relief and Protection Act requires the protection of the ‘fundamental rights’ of children before, during and after disasters, in accordance with the Convention on the Rights of the Child and the Children’s Charter for Disaster Risk Reduction. Provision is also made for transitional shelters prioritising orphaned, separated and unaccompanied children, and the creation of child-friendly spaces. Minimum standards for family tracing are also provided.

The Child and Youth Welfare Code provides a role of the Department of Social Welfare and Development to take immediate custody of displaced children.

Detailed objectives relating to Camp Coordination and Camp Management are provided under the NDRPs, with specific reference to the Sphere Standards, and provisions relating to food, shelter, water, sanitation, hygiene, medication and other essential elements of a human rights-based approach to displacement. The Plans also provide for gathering sex- and age-disaggregated data, monitoring, and needs assessments. A specific IDP cluster is identified within the Plans, with a particular role in addressing the situation of children and the risk of gender-based violence.

Operational Guidelines on IDPs under the NDRPs put child protection at the forefront. There is a framework for reporting for children in need of special protection, disaggregated according to the categories of children in need of special protection, including displaced children, street children and children with disabilities. The end goal is family and community reintegration when appropriate/possible.

Durable solutions

The Inter-Agency Standing Committee (IASC) Framework on Durable Solutions for Internally Displaced Persons (2010) identifies eight elements of a durable solution, namely:

1. safety and security
2. adequate standard of living
3. access to livelihoods
4. restoration of housing, land and property
5. access to documentation
6. family reunification
7. participation in public affairs
8. access to effective remedies and justice.

Long term safety and security, and access to effective remedies and justice, are two elements that are not clearly addressed in the legal and policy framework. Other elements are addressed to a certain extent, although not systematically.

The National Climate Change Action Plan provides for the development and implementation of a settlement adaptation and resettlement plan in consultation with affected communities, the private sector and civil society, and the identification and implementation of gender-responsive sustainable livelihood and social protection programmes for resettled and vulnerable poor families. These provisions resonate well with the IASC Durable Solutions Framework and the UNHCR/Georgetown University/Brookings Institutions Planned Relocation Guidelines.

Similar provisions focusing on the rights of indigenous peoples can be found in the Indigenous People's Rights Act, although more express invocation of the principle of free, prior and informed consent could avoid ambiguity here.

The Strategic National Action Plan identifies relocation as a task for local government units, with provision for "properly designed houses and infrastructure" and "promotion and implementation of social services and economic livelihoods".

The Children's Emergency Relief and Protection Act provides for the restoration and reconstruction of civil registry documents and registration of children born during disasters, as well as for minimum standards relating to family reunion.

The NDRPs also address the goal of family unity.

Participation, as noted under the procedural element, permeates the national legal and policy framework.

The legal and policy framework consistently emphasises the non-discrimination and equality element by focusing on the duty of authorities to address the rights of persons in situations of vulnerability, including women (and in particular pregnant women and lactating mothers), children, persons with disabilities, older persons, sick people and indigenous peoples. The framework does not focus substantial attention on the situation of prisoners and others deprived of their liberty, stateless persons, (irregular) migrants, or members of minority ethnic or religious groups.

The framework is noteworthy because numerous provisions are expressly grounded in international human rights law and reflect key international standards and guidelines. In addition, the call under the National Climate Change Action Plan for gender to be mainstreamed across planning and policy making, as well as capacity strengthening, provides a strong impetus for widespread engagement with the rights of women in the context of disaster- and climate change-related displacement.



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