

SOLOMON ISLANDS NATIONAL LAW AND POLICY REPORT

CONSULTATION DRAFT 2020

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 2019 (GPDRR)³ and the Asia Ministerial Conference on Disaster Risk Reduction (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 Guiding Principles on Internal Displacement 1998, 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 actors also contributes to transparency and accountability. Further, a human

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 27 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 27 October 2020.

4 Para. 1 of the *Ulaanbaatar Declaration* at the 2018 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 27 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".

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	0
Earthquake	3	14,225
Epidemic	2	7,912
Flood	5	90,080
Storm	5	46,086
TOTAL	16	158,303

Source: <public.emdat.be>.

The highest percentage of people displaced in any year relative to the national population was 2014, when 9,000 out of 575,504 people were displaced as a result of the 2014 flood disaster in Honiara.⁹ This accounted for 1.56 per cent of the total population of the country.¹⁰ This was followed in 2010, when 7,900 people were displaced because of an earthquake and a subsequent flood,¹¹ which corresponds to 1.5 per cent of the total population (527,790 people).¹²



Cyclone “Victor” hits the Solomon Islands in 2016 photo by onlinejournalism003.wordpress.com

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*.

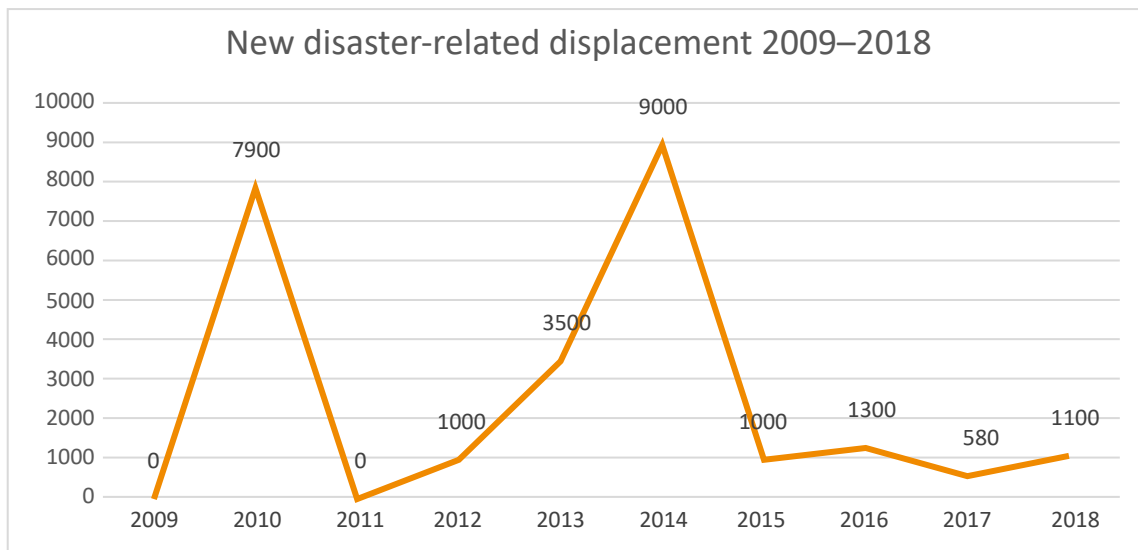
9 Source: Internal Displacement Monitoring Centre (IDMC), *Global Internal Displacement Database* (2018) <www.internal-displacement.org/database>, visited on 20 October 2020

10 Source: The World Bank, *World Bank Open Data: Population, Total: Solomon Islands* (The World Bank, 2014) <data.worldbank.org/indicator/SP.POP.TOTL?locations=SB&view=chart>, visited on 20 October 2020

11 Source: IDMC, *supra* note 10.

12 Source: The World Bank, *supra* note 11.

The annual number of new displacements over the last ten years is reflected below.



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

With substantial displacements triggered by a variety of hazards, how Solomon Islands 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 Solomon Islands' 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.



Flash Flooding in Honiara Solomon island photo by air-source.us

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.

Solomon Islands is party¹³ 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 (CESCR)
- Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW)
- Convention on the Rights of the Child 1989 (CRC).

The CERD¹⁴ and CESCR¹⁵ committees do not address disasters or climate change, or displacement in their Concluding Observations. The CEDAW¹⁶ Committee considers disasters and climate change somewhat briefly, but does not consider displacement. The CRC¹⁷ Committee and the Universal Periodic Review (UPR) Report of the Working Group (UPR Report) cover climate change and disasters more comprehensively. Additionally, the UPR Report briefly references displacement. These reports are addressed in turn below.

The CEDAW Committee, in its Concluding Observations, expresses concerns that:

“the impact of climate change, the rise in the sea level and other weather-related disasters affect rural women disproportionately in the State party”.¹⁸

The Committee

“recommends that the State party include an explicit gender perspective in national policies and its action plan on climate change, disaster response and risk reduction, targeting women not only as victims but also as active participants in the formulation and implementation of such policies”.¹⁹

13 Source: <indicators.ohchr.org/>, visited on 20 October 2020

14 CERD, Concluding Observations, CERD/C/304/Add.118 (27 April 2001), <tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2f304%2fAdd.118&Lang=en>, visited on 20 October 2020

15 CESCR, Concluding Observations, E/C.12/BGD/CO/1 (18 April 2018), <tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fBGD%2fCO%2f1&Lang=en>, visited on 20 October 2020

16 CEDAW, Concluding Observations, CEDAW/C/SLB/CO/1-3 (14 November 2014), https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/SLB/CO/1-3&Lang=En, visited on 20 October 2020.

17 CRC, Concluding Observations, CRC/C/SLB/CO/2-3 (28 February 2018), <tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fSLB%2fCO%2f2-3&Lang=en>, visited on 20 October 2020.

18 CEDAW, *supra* note 17, para. 40.

19 *Ibid.*, para. 41.

As will be demonstrated below, Solomon Islands has made gender equality a guiding principle in its disaster management and climate change policy framework since at least 2012. This perspective comes in most clearly in the National Disaster Management Plan 2018 (NDMP).

Noting that Solomon Islands is 'particularly vulnerable to climate change', the CRC Committee in its Concluding Observations expresses concern that:

"the State party has not included climate change adaptation and disaster risk reduction in the school curriculum and does not have school-based early warning systems in place, that more could be done to include the special needs of children, including children with disabilities, in planning disaster risk reduction preparedness, response and recovery, and that school infrastructure, particularly in remote areas, is not resilient and accessible in case of natural disaster".²⁰

The Committee makes a number of recommendations, invoking target 13.B of the Sustainable Development Goals on promoting mechanisms for raising capacity for effective climate change-related planning and management. Recommendations include:

- (a) Include children in the review of the National Disaster Management Plan, include climate change adaptation and disaster risk reduction in the school curriculum and establish school-based programmes such as early warning systems.
- (b) Develop a comprehensive disaster-sensitive social protection system and ensure that the special vulnerabilities and needs of children, as well as their views, are taken into account.
- (c) Improve data and assessments to have an evidence base for risk reduction and preparedness, particularly for the distinct needs and priorities of children with disabilities, and review emergency protocols to include assistance and other support to children with disabilities during emergencies and natural disasters.
- (d) Increase children's awareness and preparedness for climate change and natural disasters and increase physical safety and resilience of school infrastructure.
- (e) Ensure access to schools that are being or likely to be affected by severe weather events, especially for those in remote or rural communities, and consider alternative methods of teaching.
- (f) Seek regional and international cooperation in implementing these recommendations.²¹

In the Report of the Working Group on the Universal Periodic Review,²² a number of countries including Portugal, Trinidad and Tobago, Cuba, Djibouti, Italy, Jamaica, the Maldives, Morocco, Myanmar, Pakistan and the Philippines highlighted concerns about Solomon Islands' exposure and vulnerability to climate change and disasters, and welcomed some measures adopted by the country to address the challenges. Notably, Djibouti expressed concern about the possibility that people "might be forced to migrate from their ancestral

²⁰ CRC, *supra* note 18, para. 42, p. 9.

²¹ CRC, *supra* note 18, para. 43, pp. 9–10.

²² UPR Report, A/HRC/32/14 (13 April 2016), <documents-dds-ny.un.org/doc/UNDOC/GEN/G16/076/50/PDF/G1607650.pdf?OpenElement>, visited on 20 October 2019.

territories to other areas, which could result in tensions and conflicts with host communities”.²³ Djibouti recommended the creation of “a permanent national protection group responsible for addressing displacements caused by climate change or natural disasters”.²⁴ The Maldives highlighted “the vulnerabilities of small island developing States and national action taken to combat the effects of climate change and natural disasters”.²⁵ The Solomon Islands delegation’s response “referred to the challenges faced by persons living in coastal areas and by Solomon Islands in providing safer settlements inland with water supply and other services”.²⁶

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

- Adopt an express gender-equality approach to climate change adaptation and disaster risk reduction, including women in the formulation and implementation of policies.
- Integrate climate change adaptation and disaster risk reduction measures into the education system, including in relation to curriculum, infrastructure and so forth, with a particular focus on the situation of children with disabilities and addressing challenges faced in more rural locations.
- Address challenges relating to displacement, including the issue of relocation as a consequence of climate change.

Some of these recommendations appear to find expression in the domestic legal and policy documents addressed below.

4 Legal and Policy Framework

Solomon Islands is a nation of islands, an archipelago comprised of a chain of volcanic islands and low-lying coral atolls²⁷ that “lies along the south-western boundary of the Pacific plate”.²⁸ Its total land area is 28,400 square kilometres, with a coastline of 5,310 kilometres.²⁹ Its population is approximately 642,000,³⁰ comprised of Melanesians (93 per cent), Polynesians (4 per cent), and Micronesians (about 1.5 per cent). It is located in the geographical zone known as the ‘Ring of Fire’ or ‘Earthquake Belt’.

While this zone is the pathway for most of the world’s earthquakes, it is also an area where cyclones form. Apart from earthquakes and cyclones, Solomon Islands is also vulnerable to

23 *Ibid.*, para. 59, p. 10.

24 *Ibid.*, para. 100.77, p. 23.

25 *Ibid.*, para. 73, p. 12.

26 *Ibid.*, para 78, p. 12.

27 See H.M. Laracy and S. Foster, ‘Solomon Islands: Islands and Nation, Pacific Ocean’, 2019, <www.britannica.com/place/Solomon-Islands>, visited on 27 October 2020.

28 See N. Zamora *et al.*, ‘01 April 2007 Solomon Island Tsunami: Case Study to Validate JRC Tsunami Codes’, *European Commission Joint Research Centre*, 2011 <publications.jrc.ec.europa.eu/repository/bitstream/JRC62983/regno_jrc62983_solomon2007report_final.pdf>, p. 10, visited on 20 October 2020

29 See The Commonwealth Secretariat, ‘Solomon Islands’, 2019, <thecommonwealth.org/our-member-countries/solomon-islands>, visited on 19 October 2020

30 See Solomon Islands National Statistic Office, <www.statistics.gov.sb/>, visited on 20 October 2020

other forms of hazards including high tides, floods, volcanic eruptions, landslides, droughts, tsunamis and sea level rise.³¹ As revealed by the World Risk Index 2014 and 2016, Solomon Islands (6th) with Vanuatu (1st) and Papua New Guinea (10th) are among the highest ranked countries in Oceania “very strongly exposed to natural hazards, and owing to their poor economic and social situations, particularly vulnerable”.³²

Solomon Islands gained political independence in 1978 and inherited a unitary system of parliamentary democracy from Great Britain. Its head of state is the Queen of England as represented by a Governor General (GG). The GG has a range of constitutional powers including the power to “declare that a state of public emergency exists and as soon as practicable shall publish such proclamation in the Gazette” (s 16(2)). The GG if it is reasonably justifiable “can make regulation for the purpose of dealing with the situation that exists”.³³



Solomon-islands-floods of 2014 photo by foodprepsundays.com

The constitution as the supreme law provides for equality, non-discrimination and protection from violence. Section 3 stipulates that “every person ... is entitled to the fundamental rights and freedoms of the individual”.³⁴ Such fundamental rights and freedoms include the “life, liberty, security of the person and the protection of the law” (Section 3), freedom from inhuman treatment (Section 7), freedom from deprivation of property (Section 8), and freedom of movement (Section 14). The constitutional protection provisions of civil and political human rights as part of the supreme law indicates a commitment by the state to the protection of these rights. Notably, the constitution does not address economic and social rights, such as the right to shelter and the highest attainable standard of health.

31 See World Vision, ‘Solomon Islands: Earthquakes, Tsunamis, Volcanoes, and Floods’, 2019, <www.worldvision.org/disaster-relief-news-stories/solomon-islands-earthquakes-tsunamis-volcanoes-floods>, visited on 20 October 2020

32 See Alliance Development Works and United Nations University, ‘Institute for Environment and Human Security World Risk Report 2016’, <collections.unu.edu/eserv/UNU:5763/WorldRiskReport2016_small_meta.pdf>, visited on 9 October 2020,

33 *The Constitution of Solomon Islands* (The Constitution), s. 2, *Emergency Power Act*.

34 See also *ibid.*, s. 15: “no law shall make any provision that is discriminatory either of itself or in its effect”.

Customary law is a recognised source of law in Solomon Islands.³⁵ It is defined as “rules of customary law prevailing in an area of Solomon Islands”.³⁶ Such recognition, on paper at least, integrated customary law into the formal legal system,³⁷ which then provides the legal basis for the recognition of customary rights. Custom, which is inextricably connected to customary law, provides the framework for governing basic patterns of social organisation, social relations generally, mode of production, distribution and exchange in various communities from island to island throughout Solomon Islands.³⁸ It involves “the traditional practices, norms and values of indigenous people”.³⁹ The indigenous population draw more on custom and traditional institutions such as chiefs, ‘big men’ and heads of families to resolve issues within their communities.

The indigenous population tends to be more familiar with custom than state law. The pervasiveness of state law in communities is limited due to state capacity and logistical challenges.⁴⁰ There is an influx of people from rural to urban areas such as Honiara. Many settle in informal settlements. The governance arrangements in both rural and urban communities is shaped by social conservative norms and values. The governance structure is more patriarchal. Such leadership structure associated with other variables such as gender inequality raises serious concerns regarding the protection and security of women and children.⁴¹



Trees collapsing after Cyclone Harold hits Tonga Fiji pacific island photo by Wunderground.com

35 *Ibid.*, s. 3(1), Schedule 3.

36 *Ibid.*, s. 144 (1).

37 J.C. Corrin, 'Customary Law and Human Rights in Solomon Islands: A commentary on *Remisio Pusi v James Leni and Others*', *Journal of Legal Pluralism* (1999), pp. 135–144.

38 Bernard Narakobi, 'The Black Islands – Melanesia,' in R. Crocombe et al., (eds.), *Lo Bilong Yumi Yet*, Melanesian Institute for Pastoral and Soci-Economic Service and USP (Suva, 1989), p. 17.

39 J. Corrin, 'Ples Bilong Mere: Law, Gender and Peace-Building in Solomon Islands', *Feminist Legal Studies* 16, p. 171.

40 A. Jowitt, 'The Future of Law in the South Pacific', *Journal of South Pacific Law* 12(1), p. 44.

41 For discussion on some of these concerns, see Solomon Islands CEDAW Combined Initial, Second and Third Periodic Report, 2012, <www.mwycfa.gov.sb/resources-2/reports-assessments/20-solomon-islands-cedaw-combined-initial-second-and-third-periodic-report-2012/file.html>, visited on 05 February 2019.

While there is a *Family Protection Act 2014* that criminalises domestic violence, implementing this legislation is a challenge because of limited state resources. Also, domestic violence is traditionally “a topic that would not be addressed outside of the family setting”.⁴²

Traditional dispute resolution is more about restoring relationships and maintaining family togetherness rather than the victim’s rights and interests. Those who play the mediation role to resolve issues such as land disputes and gender-based violence are generally chiefs, heads of families, elders or outspoken individuals who are mostly men. Given this sociocultural context, the rights of women to land and their human rights as entrenched in the constitution could potentially be undermined.

Customary law is beyond the scope of this review, but could be highly relevant to the issue of displacement in the context of disasters and climate change, not least in light of the significant land tenure issues identified in the National Adaptation Programmes of Action 2008 (NAPA – described below) as barriers to resettlement and relocation, the gender inequalities highlighted above, and the realities of governance in a highly dispersed island nation.

In 2008, the Global Facility for Disaster Reduction and Recovery (GFDRR) funded the assessment of how Solomon Islands progressed DRR and CCA activities. The assessment report pointed out major gaps and barriers that needed to be addressed for effective DRR and CCA implementation.⁴³ It identified six priority areas the government should invest in to address the gaps and barriers:⁴⁴

- review of the volcanic hazard and establish volcano monitoring and early warning system
- establishment of an integrated hazards unit with information system, tools, and GIS capability
- development of the Guadalcanal flood plain management regime, as well as the monitoring and warning systems
- support of the Climate Change Division for development of a CCA policy, governance arrangements, and action plans
- support of the implementation and integration of the new institutional framework of the National Disaster Council, including CCA
- undertake DRR activities and investments within priority sectors and at the community level.

The National Disaster Council (NDC) functions are: “Partnership management, overview of disaster events and strategic management of planning and arrangements for” the National Disaster Management Office (NDMO) (Secretariat) and the Council Committees (Risk Reduction, Hazards, Disaster Management Arrangements and Recovery Rehabilitation Arrangements).⁴⁵

42 M.A. Ming *et al.*, ‘Domestic violence in the Solomon Islands’, *Journal of Family Medicine and Primary Care* 5(1), p. 18; see also P.C. Farrell *et al.*, ‘Hospital visits due to domestic violence from 1994 to 2011 in the Solomon Islands: A Descriptive Case Series’, *Hawaii Journal of Medicine and Public Health* 73(9), pp. 276–282.

43 The World Bank, ‘Reducing the Risk of Disasters and Climate Variability in the Pacific Islands: Solomon Islands Country Assessment’, p. 8.

44 *Ibid.*, p. 9.

45 Disaster Risk Management Plan 2010 (DRMP), p. 25; see also *National Disaster Council Act 1989*, s. 3.

The NDMO operated under the Ministry of Home Affairs, and in 2010 was transferred to the Ministry of Environment, Conservation and Meteorology (MECM). MECM became the Ministry of Environment, Climate Change, Disaster Management and Meteorology (MECDM). In addition, the government created the Disaster Risk Management Plan (DRMP) 2010.

The institutional restructuring and DRMP 2010 reflected the government's commitment to addressing gaps and barriers to effectively implement DRR and CCA programs. Following on from this the government enacted law on gender violence and introduced several policies regarding climate change and disasters. Many of these policies address climate change adaptation, reduce risks and manage disasters. Lessons learned from the April 2014 floods provided the impetus for the government to pursue a review of the DRMP 2010.

With the support of regional and international actors, the government continued to introduce policies and programs to address disaster prevention, preparedness, response and recovery. It introduced a new Plan in 2018, which supersedes the DRMP 2010. This new National Disaster Management Plan 2018 (NDMP) is examined closely in Annex 1 of this report, and summarised below, along with other documents that make up the national legal and policy framework relating to disaster risk reduction and management, and climate change adaptation.

The following legal and policy documents were considered as part of the review:

- National Adaptation Programmes of Action 2008 (NAPA)
- National Climate Change Policy 2012–2017 (NCCP)
- National Development Strategy 2016–2035
- National Disaster Management Plan 2018 (NDMP)

The NAPA describes a planned relocation initiative for low-lying and artificially built-up islands in Malaita and Temotu Provinces. The following list of six outputs reflects elements of a human rights-based approach:

- Capacity-building for adaptation planning conducted.
- Vulnerable communities and government authorities consulted.
- Land and resources owners consulted.
- Plans for new settlements prepared and approved.
- Communities and/or villages relocated.
- Dialogue between the migrants and land and resource owners strengthened⁴⁶

In relation to the *governance* element, it first warrants noting that the Solomon Islands does not have a *legal framework setting out the national disaster management framework and detailing the roles and responsibilities of different actors. All guidance is provided in the form of policy documents, which has some relevance for questions of enforceability.*

The policy framework relating to disaster risk reduction and climate change adaptation in the Solomon Islands reflects a consistent focus on different forms of displacement in the context of disasters and climate change, including planned relocation and evacuation. The recently adopted National Disaster Management Plan 2018 stands out from the other policy documents for its clear emphasis on the development of standard operating procedures

46 DRMP, *supra* note 46, p. 86.

relating to different types of displacement. This document is also noteworthy for its express adoption of a human rights-based approach. It states at Paragraph 30 that “international humanitarian and human rights conventions are to be accommodated in arrangements and Standard Operating and Procedures (SOPs)”. Other documents in the legal and policy framework do not adopt an expressly human rights-based approach.

The NDMP 2018 is a high-level document that provides a comprehensive structure for disaster management, including prevention, response and recovery in the country. Whilst it contains a significant level of procedural and institutional detail, it also makes extensive provision for the development of specific sectoral and sub-national policies and procedures, and for such procedures to be incorporated as part of the NDMP upon approval under the procedure.⁴⁷ This approach may help to support integration of local plans with the national strategy, but there is potentially also a risk of varying standards.

The NDMP only makes four references to evacuation, but provides that local actors shall develop evacuation plans.

Overall, key elements of a human rights-based approach feature in the policy framework, although express recognition of the importance of key international standards and guidelines, including the Guiding Principles on Internal Displacement 1998, is only found in implementing documents, not the policy itself.

The NDMO draft template on SOP for the National Protection Committee includes the following:

“To ensure quality response, the PC will ensure members are briefed on the NDMP and relevant government policies, guidelines and technical standards. The PC will take account of international minimum standards and guidance for protection response, such as the Guiding Principles on Internal Displacement, and the IASC Guidelines on Protection of Persons in Situations of Natural Disasters.”⁴⁸

There are strong indications that, at the operational level, Sectoral Committees are already operating in accordance with a human rights-based approach, with a keen awareness of the particular challenges presented by displacement. For example, the website of the National Protection Committee, expressly invoking Goal 3 of the Framework for Resilient Development in the Pacific (FRDP) 2017–2030 described in Section 4.2, identifies the following priorities:

“the use of sex and age disaggregated data and data for vulnerable groups, inclusive and gender-responsive decision-making systems, human rights-based approaches, ensuring messaging on humanitarian services reaches vulnerable people, protection of individuals and communities, gender-sensitive disaster preparedness and response arrangements, addressing the specific needs of vulnerable groups, a culturally inclusive approach, and supporting the protection of individuals and communities most vulnerable to post-disaster displacement and migration”⁴⁹.

47 National Disaster Management Plan 2018 (NDMP), paras. 22–23.

48 NDMP, *supra note* 48, p. 8.

49 See <www.mwycfa.gov.sb/what-we-do/national-protection-committee.html>, s. 4.2, visited in ???..

The NDMP is further expressly aligned with the FRDP.⁵⁰ The alignment of the NDMP with the FRDP is significant, as displacement features prominently in the regional document. However, although integrated implicitly by the alignment with the FRDP, displacement does not feature prominently in the NDMP.

One point that warrants closer consideration relates to the ‘self-help’ approach adopted in the NDMP. The NDMP emphasises that responsibility for its implementation lies with ‘everyone’,⁵¹ and that “the driving philosophy for this plan is supporting self-help and avoiding dependence at whatever level is being dealt with – national, provincial, village and individual”.⁵² Although this philosophy is motivated by a recognition of the “strengths and the difficulties of implementing disaster management and risk reduction across the widely dispersed and largely rural communities of Solomon Islands”,⁵³ there is a risk that this emphasis on self-reliance may undermine the principle of accountability under human rights law. It is one thing to encourage resilience at different levels, but a policy of self-reliance, particularly when combined with the principle at Paragraph 17(n) that “Everyone is responsible for the implementation of the Plan”,⁵⁴ appears to shift responsibility from those with a legal duty under international law to respect, protect and fulfil human rights, onto individuals themselves.

Whilst a human rights-based approach does not require the state to provide goods and services to persons who can provide for themselves, this ‘self-reliance’ principle warrants revisiting from a rights-based approach, and in particular in light of guidance from the Committee on Economic, Social and Cultural Rights (CESCR), to which Solomon Islands is party. General Comment No. 12 emphasises that states have an obligation to provide a minimum core of economic and social rights, even in situations of disaster.⁵⁵

A similar principle of ‘self-sufficiency’ is reflected in the legal and policy framework for Vanuatu (see the Law and Policy Report for that country), suggesting that the realities of geography and the limitations of governance cannot be overlooked when adopting a human rights-based approach that focuses primarily on the responsibilities of state actors.

The National Adaptation Programmes of Action 2008 (NAPA) is the core document setting out Solomon Islands’ national climate change adaptation policy, in accordance with the United Nations Framework Convention on Climate Change (UNFCCC).

Displacement features prominently in the NAPA, which highlights that “[c]limate change and sea level rise is likely to displace a number of communities and/or villages”, and many low-lying atolls and artificially-built islands communities. The NAPA recognises that people will have to “relocate or resettle”, but recognises the lack of a legal and policy framework to facilitate this process. The NAPA declares:

50 NDMP, *supra* note 48, pp. 6–8.

51 *Ibid.*, p. 12.

52 *Ibid.*, para. 8, p. 12.

53 *Ibid.*, para. 9, p. 13.

54 *Ibid.*, para. 17(n), p. 16.

55 CESCR, *supra* note 16, General Comment No 12: The Right to an Adequate Standard of Living, E/C.12/1999/5 (12 May 1999), para. 6.

“The impacts of climate change and sea-level rise on human settlements pose serious questions regarding adaptation options. One of the key options will be through relocation and resettlement schemes. Thus, it will require legislative and structural changes to the land tenure and land management systems in the country to facilitate such actions.”⁵⁶

Indications are, however, that by June 2019, such relocation guidelines and assessment tools have yet to be developed, as confirmed in a recent study:

“Although Solomon Islands government views climate relocation as a critical issue, there is currently no effective policy or legislation to guide relocation of human settlements.”⁵⁷

The National Climate Change Policy 2012–2017 (NCCP) builds on the NAPA by addressing the issue of planned relocation, including through the provision requiring the government to

“develop a relocation guideline and assessment tools, build capacity and implement relocation of communities as an adaptation action where and when necessary”.⁵⁸

The National Development Strategy 2016 (NDS) includes elements of a rights-based approach to evacuation, focusing on the development of community risk management plans that address the “needs of all vulnerable groups”.

In relation to the *procedural* element, widespread consultation is envisaged in the NAPA, reflecting not only the general procedural element of a human rights-based approach, but also specific good practice guidelines related to planned relocation, as summarised in the Background Brief.

The National Climate Change Plan 2012–2017 (NCCP) also addresses planned relocation:

“The Government of Solomon Islands considers it vital and urgent to develop the capacity of the country to assess risks and vulnerabilities associated with climate variability and change and to reduce climate change risks and adapt to the predicted impacts of climate change. This includes short term disaster risk reduction measures for climate variability and episodic extreme events, and long term adaptation to climate change including, inter-alia, enhancing ecosystem and social resilience, climate proofing infrastructure and relocating communities as a last resort.”⁵⁹

Specific measures within this section reflect a participatory and inclusive approach:

“Undertake risk reduction and vulnerability assessments of rural communities and implement adaptation actions targeting prioritized vulnerable communities”⁶⁰

56 *Ibid.*, p. 42.

57 See for example S. Albert *et al.*, ‘Heading for the Hills: Climate-Driven Community Relocations in the Solomon Islands and Alaska Provide Insight for a 1.5 °C Future’, *Regional Environmental Change* 18(8), p. 2267. An internet-based search in June 2019 revealed no guidelines, policies or other documents issued by the government of the Solomon Islands concerning planned relocation.

58 National Climate Change Policy 2012–2017 (NCCP), s. 8.3.1 3(m), p. 22.

59 NCCP, *supra* note 59, s. 8.3.1 3(l).

60 *Ibid.*, s. 8.3.1 3(j), p. 22.

and

“Undertake gender analysis and integrate gender considerations as part of vulnerability and disaster risk assessments as well as adaptation actions. Inclusive participation of women and youth should be actively encouraged at all levels in order to build the capacity of vulnerable groups”.⁶¹

The concept of ‘community inclusiveness’ is also recognised as a guiding principle at Paragraph 17 of the NDMP. This concept aims for the inclusion of “marginalised groups, those in remote locations, those with disabilities and the elderly”.⁶²

Paragraph 17(m) of the Plan recognises:

“community and individual rights and is based on a concern for equity and fairness and for gender and minority group issues”.⁶³

The gender equality principle is further developed under the heading “role of women” at Paragraph 60:

“Arrangements and plans established under this Plan shall provide for the effective involvement of women in operational processes and decision-making.

“This shall be particularly provided for in relation to welfare, relief distribution, protection and shelter where women will be expected to be taking leading decision-making roles.”⁶⁴

The principle of the involvement of women in preparedness and response arrangements is again highlighted in the context of “relief activities”, which include measures relating to displaced people, particularly in evacuation centres.⁶⁵

These provisions, envisaging not only ‘active participation’ but also establishing an expectation that women also take the lead on decision-making in some contexts, goes some way towards addressing the concerns raised by the CEDAW Committee in 2014, described earlier in this report. However, although one may seek to discern the motivation behind singling out specific sectors where women’s leadership should be particularly promoted, such an approach risks falling short of a genuine gender equality approach, which seeks equal representation of women and men across society as a whole.

Under the NDMP, at the national level, the disaster coordinator may “order evacuations, road closures or closures of public spaces where such action is deemed necessary for the immediate maintenance of public safety or the avoidance of risk to life”.⁶⁶ The Guiding Principles on Internal Displacement establish the principle that displacement should not be arbitrary, and must therefore balance the rights and interests of people who do not wish to evacuate against the imperative to protect lives. Further treatment of this provision is found in the Background Brief. The Plan does not expressly require authorities to consider the principle of proportionality and free, prior and informed consent when reaching a decision to

61 *Ibid.*, s. 8.3.1 3(i).

62 NDMP, *supra* note 48, para. 17(i), p. 16.

63 *Ibid.*, para. 17(m), p. 16.

64 NDMP, *supra* note 48, para. 60, p. 30.

65 *Ibid.*, para. 91, p. 41.

66 *Ibid.*, para. 105, p. 46.

issue such an order, although further guidance may follow in the form of standard operating procedures.

The NDMP also provides for dissemination of information to the public, for sharing of information between agencies, and for the collection and storage of data, including “population information”, but does not contain any provision relating to the collection, storage, access and use of such information in accordance with human rights principles.

The focus is heavily on information dissemination in the build up to and during a disaster, without focus on information that can help to reduce displacement risk, and in relation to durable solutions.

The *substantive* element can be broken down into aspects relating to the prevention of and preparedness for displacement, protection during evacuation and throughout displacement, and durable solutions. Each of these aspects are addressed in turn.

4.1. Prevention of and preparedness for displacement

Under the NAPA, adaptation initiatives are prioritised according to a range of considerations, including those understood as root causes of displacement, such as poverty and climate-related pressures on agriculture, water availability, infrastructure and so forth.⁶⁷

In its concluding section on Human Settlements, the NAPA declares

“The impacts of climate change and sea-level rise on human settlements pose serious questions regarding adaptation options. One of the key options will be through relocation and resettlement schemes. Thus, it will require legislative and structural changes to the land tenure and land management systems in the country to facilitate such actions.”⁶⁸

The NDMP contains measures that can contribute to the prevention of displacement. In particular, and again expressly in alignment with Goal 1 of the FRDP, Paragraphs 76–77 identify addressing underlying causes of vulnerability and supporting risk and vulnerability assessments, amongst a series of measures that Provincial Climate and Risk Resilience Committee have responsibility for. Part 3 goes on to identify a number of “preparedness functions” at Paragraph 89. However, apart from the indirect incorporation of a displacement focus through the FRDP, the NDMP does not expressly address the root causes of displacement risk.

4.2. Protection during evacuation and throughout displacement

The NDMP identifies a number of ‘response functions’ in Part 3, which include addressing ‘internally displaced persons (IDPs) within the context of evacuation centres and camp management. Setting the issue of IDPs within the wider context of ‘relief activities’ including public health and hygiene, water and sanitation, shelter, gender- and child-specific issues of welfare and safety, and the needs of vulnerable or marginalised groups, promotes consideration of a range of substantive human rights, including the rights to health, food, water, security and so forth, informed by a gender-equal and non-discrimination perspective.

67 See National Adaptation Programmes of Action 2008 (NAPA), Ch. 4 in particular.

68 NAPA, *supra* note 68, p. 42.

In terms of protection throughout displacement, a designated National Disaster Operations Centre (N-DOC) Sector Committee on Camp Management is established as part of the operational arrangements in Part 3.⁶⁹ The Sector Committee is to develop a Camp Disaster Plan as part of its preparedness responsibilities. In the response phase, functions include establishment, management, coordination, protection and security.⁷⁰ The Health and Education Sector Committees also have functions concerning, respectively, health and education in camps. A separate ‘emergency shelter’ function is allocated to the Infrastructure Sector Committee, although the precise distinction between emergency shelter and camp is not clarified in the Plan. More detailed treatment of the SOPs developed or referred to is provided in the *governance section of this report*.

The NDMP provides a framework that has the potential to incorporate detailed, sector-specific, targeted national and sub-national guidance relating to the protection of persons during evacuation and throughout displacement. As relevant SOPs are drafted, there is a clear potential to integrate international guidelines and standards in a manner relevant to the particular local context. Just as the Plan expressly incorporates rights-based frameworks such as the FRDP and the PDNA, key international standards and guidelines such as the Guiding Principles on Internal Displacement, the MEND Guide on evacuations and the IASC GBV Guidelines provide tools that can be used to enhance the protection of persons during evacuation and throughout displacement. The Plan provides the framework, and anticipated detailed SOPs and other guidelines should deliver the substance.

4.3. Durable solutions

Although Part 4 of the NDMP calls attention to the particular situation of displaced persons,⁷¹ it does not address the concept of durable solutions, with no provisions relating to resettlement, return or local integration. Only indirect references to the issue of durable solutions to displacement can be found in the Plan, with the Recovery Coordination Committee (RCC) charged at Paragraph 140 for establishing policies for areas of support for the various Elements of Recovery and Rehabilitation in Paragraph 135. One of those ‘elements of recovery’ includes ‘transition from camps and re-instatement of shelter’. Again, from this high-level plan emerges the opportunity to incorporate good practice guidelines into more detailed policies and plans. The policy relating to transition from camps and re-instatement of shelter may benefit from consideration of the international standards and guidelines relating to durable solutions, such as the IASC Durable Solutions Framework, which is summarised in the Background Brief.

Research examining the role of law and policy in addressing displacement in the context of the 2014 floods in Honiara, led by Dr Joseph Foukona of the University of the South Pacific and supported by the Raoul Wallenberg Institute, revealed an appreciation within the government of the relevance of core international standards and guidelines. The Recovery Action Plan (finalised 2015) emphasised “agreed recovery principles and international guidelines including: the UN Guiding Principles on Internal Displacement, and the Inter-Agency Standing Committee (IASC) Framework for Durable Solutions for Internally Displaced

69 NDMP, *supra* note 48, para. 97, p. 43.

70 See N-DOC Committee Functions (Outline), Figure 5, p. 45.

71 NDMP, *supra* note 48, para. 136.

persons”.⁷² There is, therefore, every reason to anticipate robust incorporation of international standards in forthcoming SOPs, as envisaged in the NDMP.

In relation to the *non-discrimination and equality* element, a clear commitment to addressing the particular situation of marginalised groups is found in the policy framework (as reflected in other sections of this report), with multiple references to addressing vulnerability, and also promoting the participation of different groups, including in the context of displacement. However, the term ‘vulnerable groups’ is used extensively throughout the policy framework, with only occasional clarification of who these groups might be. Being aware of potential vulnerability is important, but it is also important to recognise that different people within these groups will have different vulnerabilities and capabilities.

72 RCC Recovery Action Plan, finalised 2 March 2015, p. 9.



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