

Submission of the Asia Pacific Academic Network on Disaster Displacement to the UN High Level Panel on Internal Displacement

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In 2017, the Raoul Wallenberg Institute of Human Rights and Humanitarian Law initiated a regional thematic study on internal displacement in the context of disasters and climate change across Asia and the Pacific as part of its wider programme on human rights and environment.¹ Focusing on law, policy and practice in ten countries, and collaborating with academic partners from China, Cambodia, Thailand, Myanmar, the Philippines, Indonesia, Nepal, Bangladesh, the Solomon Islands and Vanuatu, the study adopted an expressly human rights-based approach grounded in the 1998 Guiding Principles on Internal Displacement.

Academics involved in the regional thematic study have formed the Asia Pacific Academic Network on Disaster Displacement, in whose name this submission is made. The following submission is based on insights gained from the study, including through consultations with international, regional and national actors. Some of the insights highlighted in this submission were also presented in various regional and national fora to validate them and gather feedback.

The focus of this submission is therefore on internal displacement in the context of disasters and climate change.

The submission addresses the points highlighted in the submission guidelines. The core of the submission emphasizes the importance of *systematically* integrating displacement into national and sub-national law, policy and practice through a combination of technical cooperation, capacity strengthening, targeted research, and institutional engagement that promotes a human rights-based approach whilst prioritizing measures that are practical, relevant and achievable in local context.

Recommendations

1. **Research** examining displacement in the context of disasters and climate change should be promoted and facilitated, prioritizing support for academics working in countries with high levels of exposure and vulnerability to the phenomenon and carried out in a manner that is inclusive of diverse voices and sources of knowledge

Our ten country research initiative identified a number of issues relating to the integration of displacement into disaster risk reduction and management (DRRM) and climate change adaptation (CCA) legal and policy frameworks, and also showed some of the barriers to the implementation of these frameworks in particular local contexts. Although there have been initiatives to map the integration of displacement into national legal and policy frameworks,²

¹ Details of the study together with a suite of research products are available at <https://rwi.lu.se/disaster-displacement>. For more information on the wider programme on human rights and environment see <https://rwi.lu.se/where-we-work/offices/jakarta/>. The research and the wider regional programme on human rights and environment is supported by Sida, the Swedish international development cooperation agency.

² See for example IOM (2018), Mapping Human Mobility and Climate Change in Relevant National Policies and Institutional Frameworks

there is a need for more in-depth research that examines *how* displacement is addressed (i.e. whether it reflects human rights principles as provided for under the 1998 Guiding Principles). Adopting a systematic approach examining governance, procedural, substantive and cross-cutting non-discrimination and equality elements of a human rights-based approach, our research found that human rights principles are widely reflected in national legal and policy approaches to DRRM and CCA, even if the concept of human rights is not always expressly included in the text. Country specific findings are included in our series of national law and policy reports available at <https://rwi.lu.se/disaster-displacement>.

The review also found examples, both in legal and policy frameworks as well as in practice, where a human rights based approach would help to avoid adverse outcomes relating to, for example:

- Limited consideration of measures that can be taken to prevent displacement³
- Forced evacuation, which fails to balance the risk to life against the right to freedom of movement and residence
- Relocation without inclusive consultation and without respect for the principle of free, prior and informed consent
- Evacuation measures that fail to address the particular situation of persons with disabilities or others in situations of vulnerability who may require additional support
- In evacuation centres and temporary shelters, limited consideration of substantive rights issues relating, for example, to accessibility, acceptability and quality of relief assistance, as well as protection from sexual and gender-based violence, and limited integration of international standards and guidelines, such as the Sphere Standards, the IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters, and the IASC Framework on Durable Solutions, amongst others.⁴ Adhering to key international standards and guidelines is all the more important when disaster- and climate change-related displacement intersects with the covid-19 pandemic, as crowded, unsanitary evacuation centres and temporary shelters can increase the risk of infection
- The need to tailor interventions to address gender, age, disability, ethnicity and other intersecting characteristics that can affect individual exposure and vulnerability is often reflected in national legal and policy documents, but can readily be overlooked in practice

Systematic human rights-based research into national and sub-national legal and policy frameworks provides important insight into good practices, facilitates comparison across countries and regions, and establishes a foundation for technical collaboration and cooperation.

<https://unfccc.int/sites/default/files/resource/20180917%20WIM%20TFD%20I.1%20Output%20final.pdf> and Michelle Yonetani (2018), Mapping the Baseline – To What Extent Are Displacement and Other Forms of Human Mobility Integrated in National and Regional Disaster Risk Reduction Strategies? <https://disasterdisplacement.org/portfolio-item/drrmapping-summary>

³ On which see UNDRR (2019), Words into Action: Disaster Displacement: How to Reduce Risk, Address Impacts and Strengthen Resilience. <https://www.undrr.org/publication/words-action-guidelines-disaster-displacement-how-reduce-risk-address-impacts-and>

⁴ A summary of key international standards and guidelines relating to displacement in the context of disasters and climate change is available here: <https://rwi.lu.se/background-brief-key-international-standards-and-guidelines-relating-to-displacement-in-the-context-of-disasters-and-climate-change/>

There is also significant scope for further research at the intersection of displacement and the Sustainable Development Goals (SDGs), particularly in relation addressing the ‘root causes’ of displacement, as well as durable solutions to displacement, which often relate to entrenched poverty and inequality. The nexus with climate change and related international obligations under the UN Climate Change Convention also merits further research.

Crucially, there is also a need to further explore the factors that impact on the implementation of these frameworks. Although Orchard⁵ has considered implementation barriers in the context of primarily conflict-related internal displacement, how states address displacement in the context of disasters and climate change has both similarities and significant differences. What combination of law, policy, funding, capacity strengthening and, potentially, international or regional support frameworks contribute to effective prevention, preparedness, protection and durable solutions in this context? What obstacles recur in different national and sub-national contexts, and what strategies have been used to overcome them?

To promote engagement by national actors, financial and other forms of support should be made available to encourage academics and other researchers working locally in countries most exposed and vulnerable to displacement in the context of disasters and climate change to engage, either individually or collaboratively, in this kind of research, thereby enriching the range of insights too often dominated by actors from the Global North.

2. *Technical cooperation supporting the systematic integration of displacement considerations into national and sub-national legal and policy frameworks should be promoted*

Integrating displacement considerations into DRRM, CCA and sustainable development law and policy has been included among lists of recommendations for addressing displacement for many years,⁶ and remains an important priority. Paragraph 28 of the Co-Chairs’ Summary from the 2019 Global Platform for Disaster Risk Reduction recorded the view that:

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.⁷

All ten of the national legal and policy frameworks relating to disaster risk reduction and climate change adaptation addressed, to some extent, displacement in the context of disasters and climate change. However, apart from Vanuatu and Bangladesh, the only two countries in our study to have developed policy documents specifically addressing this form of displacement, legal and policy frameworks failed to *systematically* integrate displacement considerations. Consequently, frameworks tended to focus predominantly on measures to protect people during evacuation and throughout displacement, with less attention paid to the measures that can be taken to prevent and prepare for displacement, and to facilitate durable

⁵ Phil Orchard, ‘Implementing the Guiding Principles at the Domestic Level’ 59 (2018) Forced Migration Review 10, <https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/orchard.pdf>

⁶ See for example Paragraph 33 (h) of the Sendai Framework for Disaster Risk Reduction 2015-2030 and paragraph 81 of the 2015 Agenda for the Protection of Cross-Border Displaced Persons in the Context of Disasters and Climate Change – available at <https://www.preventionweb.net/publications/view/61735>

⁷ The report is available at https://www.preventionweb.net/files/58809_chairsummary.pdf

solutions. The systematic integration reflected in the Bangladesh and Vanuatu frameworks reflects their express grounding in the 1998 Guiding Principles on Internal Displacement.

Using the evaluation tool developed as part of our research initiative helps to identify strengths and limitations in existing frameworks that can be addressed according to priorities of national and local actors. Enhancements to the treatment of displacement in national and sub-national law and policy can be achieved through the development of a stand-alone policy identifying specific measures to be taken to integrate human rights-based displacement considerations into disaster risk reduction, climate change adaptation, land use planning and other sectoral policies. It can also be achieved gradually as legislation, action plans, strategies and similar documents are updated from time to time.

3. *Capacity strengthening initiatives focusing on human rights-based approaches to disaster risk reduction, climate change adaptation and land use planning should be promoted*

With millions of people displaced every year in the context of disasters and climate change, and taking into account the well-grounded predictions that the scale of this phenomenon will increase as the climate emergency intensifies, the need to strengthen the capacity of international, regional, national and local actors is apparent. Although modalities will clearly differ according to context, core elements of the capacity strengthening include a focus on how procedural,⁸ governance⁹ and cross-cutting non-discrimination and equality (leaving no one behind) principles, together with substantive principles relating to the right to life, and rights to food, shelter, health, social security and others, apply in contexts relating to the prevention of and preparedness for displacement, protection during evacuation and throughout displacement, and the facilitation of durable solutions. In addition to international standards, existing good practices from local to international level need to be continuously collected, consolidated, communicated and compared, and opportunities for peer-to-peer exchanges at national, regional and international levels should be created and promoted.

It is important to acknowledge that international-level policy documents such as the Sendai Framework¹⁰ and the Paris Agreement¹¹ expressly endorse a human rights-based approach, as do regional declarations and frameworks, such as the Ulaanbaatar Declaration of the Asia Ministerial Conference on Disaster Risk Reduction¹² and the Framework for Resilient Development in the Pacific,¹³ and this perspective is increasingly reflected in national legal

⁸ Participation, consultation, free, prior and informed consent, access to information

⁹ Transparency, accountability, rule of law, access to justice

¹⁰ Paragraph 19(c) declares: “Managing 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.”

¹¹ The Preamble declares: “Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity”

¹² Paragraph 11 calls on states to: “Ensure a human rights-based, people-centred and whole-of-society approach in development, implementation and monitoring of national and local disaster risk reduction strategies inclusive of women and girls, children and youth, persons with disabilities, older persons, displaced and migrant populations, and those in vulnerable situations such as the poor and marginalized. Available at: <https://www.preventionweb.net/english/professional/policies/v.php?id=59168>

¹³ Amongst the many expressly human rights-based priorities in the Framework, Priority 1(i)(f) calls upon national and subnational governments and administrations to: “Strengthen capacities at all levels of government,

and policy documents relating to DRRM and CCA. However, our research found that human rights principles did not significantly inform the practice of local actors. We therefore recommend that local level capacity strengthening initiatives work to promote a human rights-based approach, whilst respecting the fact that other ways of framing interventions can achieve the same ends.

Other actors who play a role in different phases of displacement include civil society and faith-based organizations, the private sector and the military. Capacity strengthening initiatives should also address and include these actors. In this regard, capacity strengthening also entails the identification and development of partnerships where respective capacities of different actors can be leveraged to optimize human rights-based outcomes. Where the private sector is involved, a focus on the Guiding Principles on Business and Human Rights can add an important perspective.¹⁴

Finally, capacity strengthening should also focus on empowering people who are exposed to disaster- and climate change-related displacement. The work of the International Federation of Red Cross and Red Crescent Societies is particularly relevant in this regard,¹⁵ as is work relating to community-based disaster risk reduction.¹⁶ Further, in several countries we also noted low levels of awareness and capabilities amongst affected people of their legal rights, for example in relation to property and land issues that arise in the context of displacement. Supporting legal assistance schemes, for instance in partnership with bar associations, advocacy groups, or national human rights institutions, can help secure access to justice for people (at risk of being) displaced in the context of disasters and climate change.

A recognition of how intersecting factors such as gender, age, disability, class, and ethnicity contribute to differential exposure and vulnerability to displacement risk, as well as the ability of people to meaningfully participate in and contribute to processes that affect their lives, needs to guide all interventions.

4. *Identify, develop, promote and disseminate effective practices for ensuring the **meaningful and effective participation** of different groups of people (at risk of being) displaced in the context of disasters and climate change in decisions and processes that affect their lives*

Participation is one of the concepts that featured most prominently in the legal and policy frameworks reviewed as part of our research. However, we noted a lack of guidance on how to practically ensure that different groups of people in society, including people marginalized on account of their gender, age, disability, ethnicity and so forth, have an equal opportunity to meaningfully and effectively shape decisions and processes that affect their lives. In the context of displacement, participation begins with assessments of risk and vulnerability at the local level, informs land use planning as well as measures for emergency preparedness for response. Participation needs to be ensured during displacement, such as in the management

administration and community through inclusive gender analysis, responsive decision-making systems and human rights-based approaches to ensure effective delivery of development initiatives.” Available at <https://www.preventionweb.net/english/professional/policies/v.php?id=50272>

¹⁴ https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf

¹⁵ See IFRC (2018), Climate Change and Disaster Displacement Report.

<https://media.ifrc.org/ifrc/document/2018-ifrc-climate-change-disasters-displacement-report/>

¹⁶ See for example the Global Network of Civil Society Organizations for Disaster Reduction (GNDR) <https://www.gndr.org/>

of evacuation centres, and is also crucial for the achievement of durable solutions.

5. *Promote a human rights-based approach to data*

Data, particularly when disaggregated according to characteristics that can reflect differential exposure and vulnerability to internal displacement, is a critical component of any national, regional or international strategy to address the phenomenon. However, in the drive to gather more and better data, relevant actors should be reminded of human rights principles relating to the collection, storage, access and use of any data collected.

6. *Universities should integrate displacement considerations into courses on disaster risk reduction, climate change adaptation, sustainable development, land use planning and other related fields*

To promote a widespread awareness and adoption of human rights-based approach to addressing displacement in the context of disasters and climate change, universities should consider integrating modules on human rights and displacement into curricula. Students who graduate from these programmes will be well-placed and informed to scale up legal, policy and practical measures to address displacement when they enter positions of responsibility in their fields of expertise.

7. *National human rights institutions should be encouraged and supported to address issues relating to internal displacement*

There are currently 114 national members of the Global Alliance National Human Rights Institutions (GANHRI).¹⁷ As displacement is a human rights issue, and taking into account the need for national and local-level responses that take into account international standards and guidelines, supporting national human rights institutions to develop capacity to research, monitor and address human rights issues relating to this phenomenon should be a priority.

The joint African Union Commission / Network of African National Human Rights Institutions (NANHRI) Action Plan on National Human Rights Institutions' Contribution to Durable Solutions on Forced Displacements in Africa¹⁸ provides a strong example of the potential role these actors can play in addressing all forms of internal displacement. The Philippines Commission on Human Rights recently monitored the evacuation response to the 2020 Taal volcano eruption,¹⁹ and the Nepal National Human Rights Commission conducted an in-depth monitoring exercise in the immediate aftermath of the 2015 earthquakes.²⁰

8. *Regional and international human rights monitoring procedures should be encouraged to systematically address internal displacement*

Relevant procedures include:

¹⁷ <https://ganhri.org/membership/>

¹⁸ See African Union, Joint Press Release: Third Auc-Nanhri Policy Forum On The State Of Human Rights In Africa (5 September 2019) <https://au.int/sw/node/37379>

¹⁹ Available at: <http://chr.gov.ph/wp-content/uploads/2020/04/Human-Rights-Standards-on-Internally-Displaced-Persons-IDPs-Affected-by-the-Taal-Volcano-Eruption.pdf>

²⁰ Available at: http://www.nhrcnepal.org/nhrc_new/doc/newsletter/Earthquake-Monitoring%20Pre-%20English-Report%202072.pdf

- Regional human rights courts, intergovernmental, and quasi-judicial bodies, such as the African Court and Commission on Human and Peoples' Rights; the Inter-American Court and Commission on Human Rights; the European Court of Human Rights; the ASEAN Intergovernmental Commission on Human Rights and the Arab Commission for Human Rights
- Periodic review procedures of human rights treaty monitoring bodies, such as the Committee on Economic Social and Cultural Rights, the Committee on the Rights of the Child, the Committee on the Elimination of Discrimination against Women and so forth
- Universal Periodic Review procedure under the UN Human Rights Council
- UN Special Procedures mandate holders

Examples of how these institutions are already engaging with the issue are found in the series of national law and policy reports prepared as part of the ten country regional thematic study on internal displacement in the context of disasters and climate change.²¹

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²¹ <https://rwi.lu.se/disaster-displacement>