

Displacements in the Philippines in a Post-COVID-19 World: A Recovery Focus

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ABSTRACT

Millions of internally displaced persons (IDPs) in the Philippines experience human rights issues during their displacement. Their rights and access to basic life-saving services are impacted by their forced movement and its resulting, often prolonged, displacement. Durable solutions are also less prioritised in displacement management. Though a legal framework on disaster governance exists, it lacked a human rights perspective that could integrate human rights standards into humanitarian support. With the coronavirus disease (COVID-19) spreading in the country, IDPs are at a higher risk of contracting the disease due to inadequate shelter conditions. As the government battles both the spread of the virus and the need to restart the economy in a post-COVID-19 pandemic scenario, IDPs must be included in the national and local frameworks for recovery. This article discusses the situation of IDPs in the Philippines and looks into the policy gaps that limit opportunities for effective displacement management. It also surfaces human rights issues that must be addressed by the government in its socio-economic revival agenda and discusses the accountability of state actors in providing opportunities for IDPs to achieve durable solutions. The article also establishes the need for an IDP law in institutionalising protection for IDPs post-COVID-19.

KEYWORDS: displacement, Philippines, COVID-19, IDP recovery

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1. INTRODUCTION: HUMAN RIGHTS-BASED APPROACH TO DISPLACEMENT

In 2019, about 4.1 million new displacements were recorded in the Philippines.¹ While some displaced communities are able to return to their areas of origin and way of life, durable solutions remained unattainable for ongoing displacements, thus making more people live in camp-like arrangements for a longer time. As natural and man-made disasters persist, more communities become prone to being displaced, where they might live in inadequate living arrangements.²

In an ideal situation, rights protection will be at the centre of humanitarian response undertaken by both government and non-government entities. As provided in the 1987 Philippine Constitution, and in performance of its obligation under international treaties,³ the Philippine government must ensure the respect, protection, and fulfilment of human rights of Filipinos and persons living in the Philippines,⁴ which would include persons in situation of disasters and complex emergencies. The ICESCR, to which the Philippines is a State Party, provides that all persons enjoy the right to an adequate standard of living.⁵ The enjoyment of this right, however, is greatly impacted when communities are forced to move out of their homes and live in inadequate shelter arrangements. The Geneva Conventions, which highlight rights in situations of armed conflict, prohibit the forcible movement of civilians in a non-international armed conflict, and that if such displacement takes place, the state must provide displaced civilian populations with satisfactory support to shelter, hygiene, health, safety, and nutrition.⁶ The UN Guiding Principles on Internal Displacement (UNGPID) also provides that national governments have the primary duty to provide humanitarian assistance to displaced populations.⁷

In practice, however, such notion of human rights-centred approach to humanitarian response does not translate well into policymaking and implementation. The Philippine Disaster Risk Reduction and Management Act (DRR Act) of 2010, the country's primary humanitarian legislation, institutionalised the government structure for disaster response and management of complex emergencies, including displacements caused by both disasters and armed conflict. This structure allowed swift local government action in addressing displacements, among others. The law, however, lacks in the use of human rights standards for adequate living into the

1 Internal Displacement Monitoring Centre (IDMC), *Global Report on Internal Displacement 2019*, Geneva, 2020, available at: <https://www.internal-displacement.org/sites/default/files/publications/documents/2020-IDMC-GRID.pdf> (last visited 28 Jul. 2020).

2 Commission on Human Rights of the Philippines (CHRP), *2019 Annual Report on the Human Rights Situation of Internally Displaced Persons (IDPs) in the Philippines*, 2020 (unpublished).

3 The Philippines signed the Universal Declaration on Human Rights in 1948, the International Covenant on Civil and Political Rights in 1966, the International Covenant on Economic, Social, and Cultural Rights in 1966, and the Geneva Conventions in 1949.

4 1987 Philippine Constitution, Art. XIII, s. 17.

5 ICESCR, Art. 11.

6 Geneva Conventions, Additional Protocol II, Art. 17.

7 UNGPID, Principle 25.

government's humanitarian agenda.⁸ It did not provide mechanisms for consultation with internally displaced persons (IDPs) or establish a clear referral pathway or grievance procedures in displacement sites. In implementing the DRR Act, local governments fail in allocating adequate funding to provide services to IDPs, especially for those in prolonged displacements.⁹

A remedy to such a lack of human rights-based standards in crisis management was a proposed IDP Bill filed before the Philippine Congress. An IDP law brings displaced communities at the centre of crisis mitigation and humanitarian response. It also lays out the responsibility of state actors, in compliance with the Constitution and human rights legal instruments, and holds said actors accountable in the event of abuse or non-performance of duties.

An IDP Bill was nearly adopted into law in 2013, but was vetoed by former Philippine President Benigno Aquino III on the grounds that the bill expands the powers of the Commission on Human Rights of the Philippines (CHRP) to award damages to displaced persons when only the courts could enjoy such power.¹⁰ The bill also allegedly provides the CHRP with powers beyond its recommendatory and investigative mandate as provided by the Philippine Constitution. As a National Human Rights Institution (NHRI), the CHRP is mandated by the Constitution to recommend to the Philippine Congress “effective measures to promote human rights and provide compensations to victims of violations of human rights”.¹¹ In pursuit of this mandate to advocate for the rights of IDPs, the Commission has since been involved in the passage of the bill. These issues that led to the bill's veto in 2013 have been rectified in proposed IDP Bills in the subsequent Congresses. As of August 2020, the bill remains pending before the House Committee on Justice and Human Rights.¹²

Policy gaps mire the conduct of humanitarian services to IDP communities. Due to this absence of an IDP law, and considering that the present DRRM Act lacks mechanisms in integrating community action into its implementation, local governments fail to fully consider IDP welfare with a long-term perspective. A good number of IDPs in Zamboanga City and Tacloban City who have been displaced in 2013 still stay in evacuation camps and transitory shelters or are living in permanent housing units that lacked basic provisions.¹³ In Marawi City, thousands of families remain in settlements three years after they were initially displaced. They are still prohibited from returning to their homes or accessing their properties located in the “most

8 R. Bermudez, F. Temprosa & O. Gonzalez-Benson, *A Disaster Approach to Displacement: IDPs in the Philippines*, Forced Migration Review No. 59, available at: <https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/bermudez-temprosa-gonzalezbenenson.pdf> (last visited 22 Jul. 2020).

9 CHRP, *Report and Recommendations on the Human Rights Situation of Internally Displaced Persons (IDPs) affected by the Marawi City Crisis (May 2018)*.

10 The Official Gazette, *Veto Message of President Aquino on Senate Bill No. 3317 and House Bill No. 5627*, 24 May 2013, available at: <https://www.officialgazette.gov.ph/2013/05/24/veto-message-of-president-aquino-on-senate-bill-no-3317-and-house-bill-no-5627/> (last visited 3 Sep. 2020).

11 1987 Philippine Constitution, Art. XIII, s. 17.

12 Proceedings from the House Committee Hearing on the IDP Bill, 10 Mar. 2020.

13 CHRP, *2019 Annual Report on the Human Rights Situation of Internally Displaced Persons (IDPs) in the Philippines*.

affected area” of the city.¹⁴ Those in evacuation camps also have limited opportunities for livelihood. Access to information is also difficult.¹⁵ As both national and local governments do not have a comprehensive framework in addressing displacements, the achievement of durable solutions remains bleak for IDPs, thereby exposing them to longer durations of displacement.

2. IDPS IN THE COVID-19 EMERGENCY IN THE PHILIPPINES

The difficulty faced by IDPs in enjoying dignified living conditions is exacerbated by the spread of the novel coronavirus disease or COVID-19. To curb the rise of COVID-19 cases, the Philippine government took a militarised approach in addressing the health emergency, which included the sudden imposition of community quarantines in the country.¹⁶ By end of August 2020, the Philippines reported at least 220,000 positive COVID-19 cases, with the numbers still rising.¹⁷ Regional and local governments also imposed their own quarantines. In Mindanao, where more than 340,000 IDPs reside,¹⁸ COVID-19 cases continue to rise. As of end of August 2020, at least 6,436 confirmed COVID-19 cases have been recorded in Mindanao regions.¹⁹

Due to local lockdowns, displaced communities experience movement restrictions, but without the proper protective mechanisms in place in their camps. During the first weeks of lockdowns, some local government units were yet to implement site-specific plans in containing a possible outbreak.²⁰ Poor living arrangements in camps make community infection more probable within a short period of time. Evacuation and transitory shelters usually lack spaces for physical distancing. They also do not have proper partitions or barriers that can isolate patients or persons with COVID-19 symptoms. Water access, which is necessary for hygiene and sanitation, is also a concern in camp and camp-like sites.²¹ These issues, together with the government’s lack of policy for mass testing and contact tracing,²² make it more challenging for IDPs to protect themselves from contracting the disease.

Dwindling relief support from the local government is already a concern for the IDPs even prior to the pandemic. Some IDP communities were documented to have not received adequate relief support from their local governments.²³ With the

14 *Ibid.*

15 CHRP, *Report on the COVID-19 Emergency Situation in IDP Areas in Region VIII and Mindanao Regions* (4–8 May 2020).

16 CHRP, *Consolidated COVID-19 Reports from Region VIII and Mindanao Regions* (16–20 Mar. 2020).

17 Laging Handa COVID-19 Dashboard, available at: <https://covid19.gov.ph/> (last visited 2 Sep. 2020).

18 UN High Commissioner on Refugees, *Mindanao Displacement Dashboard*, 30 Jun. 2020, available at: <http://www.protectionclusterphilippines.org/?p=2566> (last visited 31 Aug. 2020).

19 Aggregated number from information bulletins posted by Department of Health offices in Regions IX, X, XI, XII, and Caraga, and Ministry of Health – Bangsamoro Autonomous Region in Muslim Mindanao.

20 CHRP, *Report on the COVID-19 Emergency Situation in IDP Areas in Region VIII and Mindanao Regions* (6–10 Apr. 2020).

21 CHRP, *Report on the COVID-19 Emergency Situation in IDP Areas in Region VIII and Mindanao Regions* (4–8 May 2020); *Ibid.*; CHRP, *2019 Annual Report on the Human Rights Situation of Internally Displaced Persons (IDPs) in the Philippines*.

22 CHRP, *Report on the COVID-19 Emergency Situation in IDP Areas in Region VIII and Mindanao Regions* (1–12 Jun. 2020).

23 CHRP, *Annual Report on the Human Rights Situation of Internally Displaced Persons (IDPs) in the Philippines*.

pandemic and its resulting lockdowns happening, local governments are duty-bound to provide relief assistance to their constituents. The approach to IDP support, however, varies from one local government to another – some units continue to provide timely support to displaced families, while others have irregular provisions and schedules in reaching communities.²⁴ As livelihoods were also affected by the lockdowns, IDPs lost their sources of income and had to rely on government support for their provision. The national and local amelioration programmes, however, excluded IDPs as a vulnerable sector in their implementation.²⁵

These lapses in implementation could be traced to the lack of general displacement management framework that could help local governments to identify IDP needs and include communities in planning activities to combat the spread of the pandemic. Instead of employing a sector-specific plan of action, the national government's rigid top-down approach to pandemic management was implemented. This lack of policy for IDP protection meant exposing displaced communities to the harms of the pandemic, and moving forward, leaving IDPs out of the recovery agenda to be instituted by the government at the national and local levels.

3. IDP RECOVERY POST-COVID-19

Considering the already present gaps prior to COVID-19, and how these gaps affect the COVID-19 responses of both national and local governments, it is important that post-COVID-19 policies take into consideration the rights of IDPs in coming up with an inclusive recovery agenda. The post-COVID-19 recovery discussion in the country is limited to revitalisation of the economy. The Department of Finance (DOF) has recommended the Philippine Program for Recovery with Equity and Solidarity (PH-PROGRESO) as the country's blueprint for economic recovery at the national level.²⁶ The plan, however, is yet to lay out the programmes for socio-economic recovery of marginalised sectors.

The inclusion of IDPs into the national and local recovery agenda warrants an understanding of the above-mentioned challenges faced by displaced communities during the COVID-19 pandemic. At the policy level, both national and local governments must institute a general framework for displacement management that includes short-, medium-, and long-term plans to move IDPs from camp-like settings to permanent housing, in view of the achievement of durable solutions. This must be in consideration of the standards of adequate living and the requirements of the "new normal": social distancing, improved hygiene practices, and unhampered access to medical support. This must be done with proper consultation with affected communities. Local governments must also integrate pandemic response in the construction or identification of shelters. Proper zoning in housing locations, and establishing

24 CHRP, *Report on the COVID-19 Emergency Situation in IDP Areas in Region VIII and Mindanao Regions* (13–17 Apr. 2020).

25 Department of Social Work and Development (DSWD), *Memorandum Circular No. 4 Series of 2020. Special Guidelines on the Provision of Social Amelioration Program*, available at: https://www.dswd.gov.ph/issuances/MCs/MC_2020-004.pdf (last visited 25 Jul. 2020).

26 DOF, *The Duterte Administration's Philippine Program for Recovery with Equity and Solidarity (PH Progreso) Brochure*, 17 May 2020, available at: <https://www.dof.gov.ph/wp-content/uploads/2020/05/We-Will-Rise-As-One-brochure-as-of-May-17-2020.pdf> (last visited 13 Sep. 2020).

of adequate access to clean water must be prioritised in the post-pandemic land use planning. Site-specific epidemiological risk assessments must also be conducted to inform post-quarantine policies.

IDP concerns that must be addressed in post-COVID-19 recovery include the expansion of opportunities for IDPs to become financially self-reliant and to integrate themselves in the local economy. Stimulus packages must also be extended to IDPs so they can facilitate their own livelihood endeavours. As provided in the UNGPID and other instruments, the responsibility of improving IDP welfare lies with the state actors; thus, the government must prioritise the provision of basic services, health, and education to IDP communities. Political rights and participation, such as engagement in electoral activities and opportunity for IDPs to organise themselves, should also be part of the displacement recovery framework.

In supporting this initiative for a recovery framework for IDPs, the CHRP, as an NHRI, must assist IDPs in realising their socio-political involvement through the facilitation of dialogue with communities and state actors. The CHRP could also conduct investigations and inquiries on the acts of state agents in relation to displacement management, in view of resolving human rights issues faced by IDPs. Through such avenues, state actors could be held accountable for their abuse or non-performance of duties towards affected population. Non-government entities such as civil society groups, international organisations such as the United Nations agencies, and financial institutions could also support community-building initiatives to improve IDP capacities towards self-reliance.

While a recovery agenda that includes IDP welfare is a practical solution to address the issues of displacement post-COVID-19, the legislative approach to institutionalising IDP protection remains as the most sustainable solution in creating a rights-centred displacement management framework in the country. The lack of human rights language in the current DRRM Act could be supplemented by an IDP law that utilises human rights standards in displacement management. The IDP law should also adopt a whole-of-state approach, where both government and non-government entities are included in supporting IDP communities towards their achievement of durable solutions. This framework shall also strengthen current accountability mechanisms to include penalisation of acts that lead to arbitrary displacement, as well as the abuse or non-performance of duties of duty-bearers.

4. CONCLUSION

Policy gaps prior to the COVID-19 pandemic have rendered it difficult for IDP communities to live in dignified conditions and reach their durable solutions. The lack of a national rights-centred displacement management framework has resulted in short-sighted programmes and policies that do not fully address IDP issues. With these inadequate programmes and policies in place, humanitarian response to displacement does not translate to improved human rights conditions for IDPs in the long run, as the response is limited to addressing present needs without an organised approach to cover the short-, medium-, and long-term displacement issues.

These gaps are further magnified by the spread of COVID-19. The pandemic expanded the vulnerabilities already being experienced by displaced communities.

While both state and non-state entities act on improving the living arrangements for IDPs during the pandemic, much remains to be addressed. The proposed recovery agenda of the government lacks a holistic approach in addressing the human rights issues experienced by the public during the pandemic. There remains a need to broaden the scope of the agenda to include social and community recovery. The inclusion of marginalised sectors, including IDPs, in this agenda, is in line with the state's obligation laid down by the Constitution and human rights frameworks to assist vulnerable persons in accessing dignified living.

The inclusion of IDPs in post-COVID-19 recovery warrants the creation of a national framework to support IDP's achievement of durable solutions. A law focused on the protection of IDPs shall ensure that while IDPs enjoy their rights and freedoms even in situations of displacement, the state, among others, could be held primarily accountable for any abuse or non-performance of the duties of its agents towards IDPs. Granted the gaps in both pre-pandemic and pandemic phases, the IDP law must be responsive to the new challenges that will arise in a post-COVID-19 situation and ensure the protection of IDPs as the country recovers from the pandemic.