

Disaster Laws

SESSION 2

RESEARCH LINKING SGBV POLICY AND DISASTER LAWS

Pauline Caspellan - Arce
IFRC Regional Disaster Law Officer



SESSION 2: LINKING SGBV POLICY & DISASTER LAWS

32nd IC Resolution 3

SGBV: Joint action on prevention & response

Call to action to prevent and respond to SGBV

Reaffirms State IHR obligations to prohibit SGBV

Aligning domestic legal/policies to international obligations re SGBV

Calls States to assess domestic DRM procedures, policies, plans in terms of SGBV

32nd IC Resolution 6

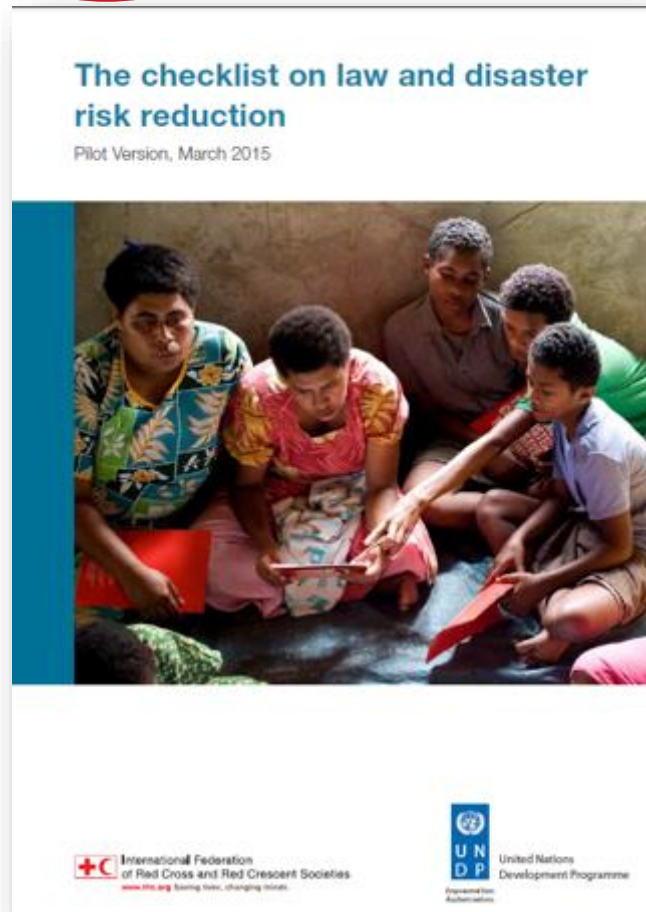
Strengthening legal frameworks for disaster response, risk reduction & first aid

gender, age, disability, cultural perspective in all risk reduction policies and practices

importance of women and their participation in resilience

RC and State cooperation to promote strong & well-implemented domestic DRR legal frameworks

SESSION 2: LINKING SGBV POLICY & DISASTER LAWS



- A succinct and easy to use assessment tool to support the strengthening of legal frameworks for DRR
- Handbook has been developed to provide more detailed guidance and examples
- It will help to identify:

The **strengths** in the legal framework

Where greater focus is needed on **implementation**


If **drafting** or revising legislation is needed

SESSION 2: LINKING SGBV POLICY & DISASTER LAWS

How were these Resolutions translated into research and advocacy?

- *Three country-level case studies which mapped and analyzed effectiveness of national laws and policies on:*
 - Protection and response to SGBV in disasters (disaster resilience of normal support systems through health and social welfare and community mechanisms, consideration of these issues in DRM laws and policies); and
 - Gender equality in DRM systems (gendered roles, avoiding sex discrimination in providing assistance, women's participation and voice, meeting the distinctive needs of women and girls affected by disasters).


SESSION 2: LINKING SGBV POLICY & DISASTER LAWS




Nepal Country Case Study

Effective law and policy on gender equality and protection from sexual and gender-based violence in disasters

www.ifrc.org
Saving lives, changing minds.

 International Federation of Red Cross and Red Crescent Societies

Nepal 2015 Earthquake



Ecuador Country Case Study

Effective law and policy on gender equality and protection from sexual and gender-based violence in disasters

www.ifrc.org
Saving lives, changing minds.

 International Federation of Red Cross and Red Crescent Societies


Ecuador 2016 Earthquake



Zimbabwe Country Case Study

Effective law and policy on gender equality and protection from sexual and gender-based violence in disasters

www.ifrc.org
Saving lives, changing minds.

 International Federation of Red Cross and Red Crescent Societies

Zimbabwe 2013-2015 Drought

SESSION 2: LINKING SGBV POLICY & DISASTER LAWS

Objectives



- To map international norms, actors, research, tools on prevention, mitigation and response to SGBV in disasters & gender equality in DRM
- To understand how national laws and policies support SGBV protection and gender equality in disasters
- Identify and share good practices

Methodology



- Studied how effective law and policy frameworks for SGBV protection operate in practice in normal times, and during disasters.
- Looked at how DRM laws/policies support gender equality and SGBV protection during disasters

SESSION 2: LINKING SGBV POLICY & DISASTER LAWS

- **General Findings on SGBV in DRM laws and policies**
 - National SGBV policy frameworks already “fragile” and under-resourced in normal times
 - Reported increases in SGBV during disasters, but many SGBV survivors not able to access support
 - no mechanisms in place for coordination between the SGBV protection institutions and the disaster risk management (DRM) systems
 - States should look to include mandates for gender-sensitive DRM, SGBV protection, and a minimum representation of 30% women in all DRM system institutions, and to have this outlined in their DRM laws

SESSION 2: LINKING SGBV POLICY & DISASTER LAWS

RECOMMENDATIONS

Govt : SGBV Protection

Formal / legal mechanisms to ensure SGBV protection during disaster (CP)

Operational mechanisms & coord

Govt : DRM System

Clear objectives on gender & SGBV in DRM policy

Women's representations in DRM system decision-making

Post-disaster shelter policy - SGBV proof

NS, IFRC, humanitarian orgs

Internal review & monitoring

Support govts

SESSION 2: LINKING SGBV POLICY & DISASTER LAWS

Recommendations to Governments on SGBV protection frameworks

(1) Formal / legal mechanisms to facilitate effective disaster planning

- Disaster contingency plans - gov't agencies engaged w/ SGBV protection in normal times must plan to ensure continuity of SGBV protection services during major disasters
- Cross-sectoral national committees to undertake planning and coordination for SGBV protection during disasters

SESSION 2: LINKING SGBV POLICY & DISASTER LAWS

Recommendations to Governments on SGBV protection frameworks (cont'd)

(2) Operational mechanisms and coordination

- Develop gov't 'surge capacity' / resources for SGBV protection, particularly:
 - Coordination
 - SGBV survivor support
 - Law enforcement and access to justice
 - Health

SESSION 2: LINKING SGBV POLICY & DISASTER LAWS

Recommendations to Governments on national DRM systems

(1) Include clear objectives on gender and SGBV in DRM laws and policies

- Gender-inclusive DRM ; expressly prohibit gender discrimination in all phases
- Policy to prioritize SGBV protection / W&G needs, before and after a disaster
- Incorporate international / constitutional commitments on gender equality
- Mandate gender-disaggregated data collection and analysis
- Have resources for awareness-raising, training, policy and planning, M&E of gender mainstreaming & SGBV protection within DRM

SESSION 2: LINKING SGBV POLICY & DISASTER LAWS

Recommendations to Governments on national DRM systems (cont'd)

(2) Ensure representation of women in DRM system decision-making roles

- Women's representation in DRM structures (i.e. Women's ministries & advocacy orgs, SGBV service providers, local women's orgs)
- Implement and monitor adopted govt targets on women's participation in the civil service; include M&E of this target in DRM system
- Targeted training of women and girls in DRM

SESSION 2: LINKING SGBV POLICY & DISASTER LAWS

Recommendations to Governments on national DRM systems (cont'd)

(3) Legal frameworks for post-disaster shelter

- Gender-sensitive shelter design (prevent SGBV risk factors)
- Allocate resources and training to ensure that implementers follow these standards

SESSION 2: LINKING SGBV POLICY & DISASTER LAWS

Recommendations to NS, IFRC and other humanitarian organizations

- **(1) Internal review and monitoring**
 - Ensure internal gender equality and anti-SGBV policy is in place
 - M&E of own disaster operations to measure gender-responsiveness and SGBV prevention
- **(2) Supporting Governments**
 - Create national level inter-agency initiatives on SGBV protection and survivor support in disaster
 - Assist govts to adapt for national implementation key international humanitarian quality standards & tools on SGBV prevention and gender equality
 - Community-based training & awareness on gender equality and SGBV prevention, as part of DRR efforts

SESSION 2: LINKING SGBV POLICY & DISASTER LAWS

- **Recommendations for further research**

- (1) Good practices on SGBV prevention in disasters**

- wider survey-style research across different disaster- affected countries, including higher income countries, to search for the most effective laws, policies and operational practices in SGBV protection during emergencies

- (2) Women's participation in DRM systems**

- national and/or comparative research to measure women's actual levels and type of participation in DRM systems

- (3) Research on post-disaster shelter standards / regulations**

Disaster Laws

SESSION 5

ADDRESSING SGBV ISSUES IN DISASTER LAWS



General Research Methodology

(1) Mapped national-level laws related to SGBV prevention and response, operational before, during and after a disaster

(2) Identified gaps / challenges to implementation

- Secondary sources
- Results of field-work (FGDs, KIIIs)

General Research Methodology

(1) Mapped national-level laws related to SGBV prevention and response, operational before, during and after a disaster

Scope of application:

applicable
in a
disaster
context

applicable
in normal
times

Categories of law:

Family
law

Human
rights

DRM /
Civil
Protect
ion

Criminal
law

Child
protect
ion

General Research Methodology

Categories of legal analysis

SGBV Prevention

- Mainstreams SGBV prevention, GAD, gender-sensitivity in planning
- Promotes participation / voice of women and girls in planning / policy
- Institutions, mandates, mechanisms, including those that regulate / prevent conditions conducive to SGBV
- Code of conduct / standard of behavior

SGBV Response

- Mechanisms for coordination and referral of SGBV incidents
- Recourse to criminal justice system, penalties

Support

- Immediate and long term assistance to SGBV survivors to regain normalcy or reintegration into society

CASE STUDY: PHILIPPINES



Source: Philippine Star, at <http://pbs.twimg.com/media/BZRJHBjCAAE16dx.jpg>

(1)(a) Laws and policies applicable to normal times and disasters

- **Constitution**
 - Role of women in nation building

- **Human rights laws**
 - Women in Development and Nation Building Act (RA 7192) & GAD Budget Policy
 - Magna Carta for Women (RA 9710)

- **Laws on family relations**
 - Family Code - SGBV as grounds for legal separation
 - Family Courts Act of 1997 – exclusive and original jurisdiction over “domestic violence” cases against women and children

(1)(a) Laws applicable to normal times and disasters (cont'd)

▪ ***Criminal law***

- Revised Penal Code – sexual abuse not amounting to rape
- Anti-Rape Law of 1997 (RA 8353)
- Rape Victims Assistance and Protection Act of 1998 (RA 8505)
- Expanded Anti-Trafficking in Persons Act of 2003 (RA 9208, RA 10364)
- Anti-Violence Against Women and Children Act of 2004 (RA 9262)

(1)(a) Laws applicable to normal times and disasters (cont'd)

- ***Child protection laws***
 - **Special Protection of Children Against Abuse, Exploitation and Discrimination Act (RA 7610)**
 - Criminalizes prostitution, other forms of sexual abuse of children, trafficking of children
 - Mandates creation of inter-agency program to combat child abuse
 - Provides remedial procedures and penalties, protective custody, confidentiality

(1)(b) Laws applicable to disasters

- ***DRM / Civil protection laws***
 - **DRRM Act of 2010 (RA 10121) and IRR**
 - Establishes State responsibility to prioritize needs of women, children and breast-feeding mothers
 - Mainstreams gender sensitivity in DRR and CC, data collection, PDNA / early recovery assessment
 - GAD officers represented in local DRM councils

(1)(b) Laws applicable to disasters

- ***Child protection laws***
 - **Children's Emergency Relief and Protection Act of 2015 (RA 10821) and IRR**
 - Addresses needs not only of children but also of pregnant women and lactating mothers
 - Mainstreams gender sensitivity (mothers and girls) in DRM preparedness, response and recovery through a comprehensive emergency program for children
 - Code of conduct

(2) Identified gaps / challenges to implementation

- **Insufficient collection and management of SGBV data in disasters**
 - Insufficient publicly-available info on efficacy of implementation of anti-SGBV laws and regulations in disaster context; no basis to evaluate or compare implementation pre- and post-Haiyan
 - No way to evaluate if gender-disaggregated data from Haiyan response and recovery was used to inform policy change or improve implementation of SGBV prevention and response

(2) Identified gaps / challenges to implementation (cont'd)

- **Legal referral pathways and psychosocial support**
 - scarcity of local “rape crisis centres” limits sources of support for victims of rape and other forms SGBV

- **Funding and programming**
 - Minimum 5% GAD budget insufficient to fully support programs on GAD (including SGBV prevention and response, strengthening LGU / service provider capacities) or establish necessary facilities

Recommendations (laws and policies)

- Ensure implementation of Section 13 of the 2008 Magna Carta for Women (Republic Act 9710) on “Women Affected By Disasters, Calamities, And Other Crisis Situations”
- Operationalize Department of Social Welfare (DSWD) Guidelines on the Establishment of Women Friendly Spaces (WFS)

CASE STUDY: INDONESIA



Case study: Indonesia

(1)(a) Laws and policies applicable to normal times & disasters

- ***Human rights / laws on violence against women and children :***
 - **Law on Child Protection (2002)**

 - **Law on the Elimination of Domestic Violence (Law No. 23/2004)**
 - Defines “domestic violence” - any act against anyone particularly woman, bringing about physical, sexual, psychological misery or suffering, and/or negligence of household including threat to commit act, forcing, or seizure of freedom in a manner against the law within the scope of household

Case study : Indonesia

(1)(a) Laws and policies applicable to normal times & disasters (cont'd)

- ***Human rights / laws and policies on violence against women and children (cont'd) :***
- **Law on Anti-Trafficking (2007)** – accompanied by:
 - Establishment of a “National Task Force on Anti-Trafficking in Persons” in 2008, consisting of all government agencies, community organisations and academia, and
 - National Plan of Action on Anti-Trafficking in Persons for 2015-2019
- **Law Regarding Elimination of Violence in Household, No.23/2004**
 - see article 1(1)

Case study: Indonesia

(1)(a) Laws and policies applicable to normal times & disasters (cont'd)

- ***Human rights / laws and policies on violence against women and children (cont'd) :***
 - **Presidential Decree No. 18/2014 on the Empowerment and Protection of Women and Children in Social Conflicts**
 - Based on the National Action Plan (RAN) for Protection and Empowerment of Women and Children in conflict situations (*Perlindungan dan Pemberdayaan Perempuan dan Anak dalam Penanganan / Konflik or P3APK*)
- **Social Welfare Law (No. 11/2009), Public Service Law (No. 25/2009), and Law on Health (No. 36/2009)**
 - Address multi-sectoral services and stronger referral pathway

Case study: Indonesia

(1)(a) Laws and policies applicable to normal times & disasters (cont'd)

- ***Human rights / laws and policies on violence against women and children (cont'd) :***
 - **Ministry of Women's Empowerment & Child Protection Decree on Manual for Male Involvement in Elimination of Domestic Violence**
 - **Policy to provide minimum services for elimination of violence against women and girls**
 - through existing service provider in all provinces, Centre for Integrated Services for Women and Children's Empowerment (*Pusat Pelayanan Terpadu Pemberdayaan Perempuan dan Anak or P2TP2A*), National Commission on Anti-violence Against Women (*Komnas Perempuan*) and network forum of services provider for female survivors of violence coordinated by Komnas Perempuan

Case study: Indonesia

(1)(a) Laws and policies applicable to normal times & disasters (cont'd)

- ***Other sectoral laws:***
 - **Social Welfare Law (No. 11/2009), Public Service Law (No. 25/2009), and Law on Health (No. 36/2009)**
 - These laws address SGBV prevention services and stronger referral pathway in their respective sectors

Case study: Indonesia

(1)(b) Laws and policies applicable to disasters

- ***DRM / civil protection laws :***
 - **Law on Disaster Management (Law No.24 of 2007)**
 - Principle “equality before the law” (Art. 3)
 - Principle of “non-discrimination” (Art. 4)
 - Mandates regional governments to include “guarantee of disaster affected community members and refugees’ rights in a fair manner and in accordance with minimum service standard (Art.8)
 - Requires protection of vulnerable groups (Art. 48);
 - Expressly includes pregnant women and nursing mothers in “vulnerable groups” (Art. 55(2))

Case study: Indonesia

(1)(b) Laws and policies applicable to disasters (cont'd)

- ***DRM / civil protection laws (cont'd):***
 - **Government regulation No.21 (2008) concerning disaster management**
 - Defines members of “vulnerable groups” - infants, pre-schoolers, children, pregnant women or breast-feeding mothers, the disabled and elderly (article 1(15))
 - Addresses the protection of vulnerable groups, stating such groups shall be prioritised through “rescue, evacuation, protection, healthcare, and psychosocial services” (Art. 53)

Case study: Indonesia

(1)(b) Laws and policies applicable to disasters (cont'd)

- ***DRM / civil protection laws (cont'd):***
 - **BNPB Perka (Regulation) No.13 of 2014 on Gender Mainstreaming in Disaster Management.**
Objectives:
 1. To implement principles of justice and gender equality in every component of the organisation of DM;
 2. To encourage gender mainstreaming by preparing gender responsive planning & budgeting in DM; and
 3. To encourage realization of protection and fulfilment of the rights of women and men in DM

Case study: Indonesia

(2) Challenges and gaps in implementation

- No dedicated legal framework which addresses SGBV prevention and response during disaster time (similar to PH)
- Both DM Law No.24/2007 or its accompanying Govt. Regulation No.21/2008 do not establish guidelines for a group-specific response towards women and girls or PWDs or older persons
- 2016 research report on “Integrating Gender into Disaster Management in Indonesia” - at the provincial government level there was a low awareness on both Perka No.13 on gender mainstreaming in DM and what “gender” means (Siahaan, 2016)

Case study: Indonesia

Recommendations (laws and policies)

- Operationalise BNPB Perka No.13/2014 on Gender Mainstreaming in DM, in coordination with stakeholders (e.g. Ministry of Women's Empowerment and Child Protection, women's groups, LGBTQI groups, other govt agencies)
- BNPB, in coordination with the Ministry of Women's Empowerment and Child Protection, should hold awareness sessions and share good practices with provincial level government actors, women's groups, LGBTQI groups, communities.
- As a key aspect of Perka No. 13/2014 is the **engagement of women** in decision-making, planning and implementation, the involvement of established groups within the women's sector and other key stakeholders will be imperative for its effective implementation and national and sub-national levels.

CASE STUDY: LAO PDR



Source: Laotian Times

Case study: Lao PDR

- **The 2004 Law on the Development and Protection of Women**
- addresses overall advancement of women (including educational and professional opportunities)
- the protection of women's rights and monitoring and documenting how these rights are protected, wherein the Lao Women's Union play the central coordination role.

Case study: Lao PDR

- **The 2004 Law on the Development and Protection of Women (cont'd)**
- Chapter 2 - combatting domestic violence against women and children, defining it as an act or omission by a family member against women or children in the family which causes physical and/or mental harm as well as causes damage to assets
- Rights of a DV survivor - right to seek assistance (Article 33), right to counselling, including legal advice & advice on health issues, to be provided by organisations with counselling services (Article 38)

- **Law on Preventing and Combatting Violence against Women and Children**
- Defines violence against women and children as ‘any behaviour that results in or is likely to result in danger; harm, physical, psychological, sexual, property or economic suffering to women and children’.
- Highlights the advancement of gender equality, research and data collection, public awareness and the capacity strengthening of concerned stakeholders as key preventative measures
- Commits the State to provide human resources, transportation, equipment & budget to combat violence against women and children.

Case study: Lao PDR

- **Law on Preventing and Combatting Violence against Women and Children**
- Provides incentives and disincentives for individuals, legal entities and organisations
- Defines forced sex within the marriage, forced marriage, sex with a person between 15-18 years old, as criminal acts.
- Establishes roles and responsibilities in reporting, referrals, protection and assistance including social welfare, counselling, safe temporary shelter, care of children, medical, legal, economic, education and vocational training and reintegration into family and society.

Case study: Lao PDR

Laws on disaster management:

- DRM System Laws, Decrees and Regulations at the National Level
- 2013 Prime Minister Decree 220/PM and Prime Minister Decree No. 291/GOV 2013
- DRM System Guidelines, Policies, Plans and Strategies at the National Level
- 2010 Strategic Plan on DRM
- 2017 Draft National Preparedness and Response Plan

NOTE: A proper gender analysis has not been conducted for these laws, decrees and regulations, however the Lao Women's Union is a member of the new National Disaster Management Committee (NDMC) and the Decree on Social Welfare (No. 169) (not yet available in English) reportedly provides the Social Welfare Fund for the Ministry of Labour and Social Welfare, which is to be used for relief assistance for 'vulnerable groups' once it is established.

Case study: Lao PDR

Recommendations (laws and policies)

- Context: drafting process for new laws on DM and CC 2018-2019
- Vital that the Law drafting committee consult and work together with the NCAW and the Lao Women's Union to ensure gender mainstreaming
- Add express legal provision on addressing the needs of SGBV survivors during disasters

Disaster Laws

OVERALL POLICY RECOMMENDATIONS FOR THE 3 CASE STUDIES



OVERALL RECOMMENDATIONS

- Increase understanding on how to translate sex, age and disability disaggregated data into more socially inclusive disaster preparedness and response programming.
- Increase disaster resilience of SGBV protection frameworks, by focusing on resources and contingency planning, ensuring continuity of services during disasters (and having information on a referral pathway before a disaster).

OVERALL RECOMMENDATIONS

- Increase / strengthen cross-sectoral planning mechanisms with DRM institutions, to improve coordination during disasters (across ministries and humanitarian actors in the Cluster system)
- National DRM systems, laws and policies should be gradually reviewed & changed to include clear policy objectives to achieve gender equality and SGBV protection in all aspects of DRM.

FOR MORE INFORMATION, PLEASE VISIT:

<http://www.ifrc.org/dl>

OR CONTACT:

Priyanka Bhalla
Regional SGBV Advisor
priyanka.Bhalla@ifrc.org

Pauline Caspellan-Arce
Regional Disaster Law Officer
Asia Pacific

pauline.caspellan-arce@ifrc.org

[**www.ifrc.org**](http://www.ifrc.org)
Saving lives, changing minds.

